
NEED OF PRISON REFORMS

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“Every saint has a past and every sinner has a future” – Oscar Wilde

ABSTRACT

Prison as a place where treatment takes precedence over custody is said to be the foundation for Prison Reform. The main obstacle to Prison Reform in India is Overcrowding. It is first recommended that prison populations be reduced by establishing Local Custodial facilities for unconvicted offenders and by using community treatment alternatives to minimize short term prison sentences .If these steps are taken, the prisons can devote their efforts to organizing and planning for long term inmates. The constitution of India instituted equality, provides right to freedom of speech and expression, peaceful assembly, freedom from arbitrary arrest, protection of life and liberty right against exploitation, freedom of conscience and free profession, practice and propagation of religion and educational and cultural rights. It also provided teeth to those rights by making them enforceable by direct access to the Supreme Court of India. In the comprehension of the Supreme Court the right to life and liberty includes, right to human dignity, right to privacy, right to speedy trial, right to free legal aid, right to be prisoner to be treated with dignity and humanity, right to bail, right to compensate for custodial death, right of workers to fair wage and human conditions of work, right to security, right to education and right to health environment. In this paper would attention on the concept of prison constitutional provision related to prisoner at the end would be suggestion and conclusion.

This paper argues for a new vision of prison reform. It argues that reform arguments should couple humanitarian impulses with pragmatic concerns. Almost all prisoners are eventually released. Poor prison health care is increasingly creating public health risks to the general population, and in particular to the communities to which prisoners return. Failure to treat chronic conditions and mental illness creates strains on community health providers and families, and causes recidivism. Failure to properly treat communicable diseases such as tuberculosis, HIV disease, hepatitis C, and syphilis harms the public more directly by exposing them to infection and the recent outbreak of Covid-19 has further intensified the need of amended reform for prisoners.

Keywords- Preamble, Imprisonment, Prison, Administration, Custodial.

1.Introduction

Prison, an institution for the confinement of persons who have been remanded (held) in custody by a judicial authority or who have been deprived of their liberty following conviction for a crime. A person found guilty of a felony or a misdemeanor may be required to serve a prison sentence. The holding of accused persons awaiting trial remains an important function of contemporary prisons, and in some countries such persons constitute the majority of the prison population. In the United Kingdom, for example, generally about one-fifth of the prison population is unconvicted or unsentenced, while more than two-thirds of those in custody in India are pretrial detainees.

Until the late 18th century, prisons were used primarily for the confinement of debtors; persons accused of crimes and awaiting trial, and convicts awaiting the imposition of their sentences—usually death or transportation (deportation) overseas. A sentence of imprisonment was rarely imposed—and then only for minor crimes.

As the use of capital punishment began to decline in the late 18th century, the prison was increasingly used by courts as a place of punishment, eventually becoming the chief means of punishing serious offenders. The use of imprisonment subsequently spread worldwide, often by means of colonial empires that brought the practice to countries with no indigenous concept of prisons. By the early 21st century a majority of countries had abolished the death penalty (in law or in practice), and imprisonment was consequently the most severe form of punishment their courts could impose.

Though the prison has been a very sensitive issue in all the countries of the world but the systems and treatment varies from nation to nation governments along with the non - government organizations, institutions are trying to improve the conditions of inmates. Various attempts have been made to protect the rights of the prisoner through constitutional and other statutory provision at both national and international level.

In various cases The Supreme Court of India interpreted Art 21 of the Constitution and shows much interest on prison reforms. The Supreme Court all the time balanced the reformatory theory and retributive theory of punishment, i.e., the Apex Court maintaining the severity of

punishment wherever necessary and considering the gravity of crime and circumstances in which it is committed

2. Concept and meaning of prison

A well organized system of prisons is known to have existed in India from the earliest time. It is on record that Brahaspati laid great stress on imprisonment of convicts in closed prisons. However Manu was against this system. It was a common practice to keep the prisoners in solitary confinement so as to afford them an opportunity of self introspection.

The object of punishment during Hindu and Mughal period in India was to deter offenders from repeating crime. The recognized modes of punishment were death sentence, hanging, whipping, flogging, branding or starving to death. The prisoners were ill-treated, tortured and subjected to most inhuman treatment. They were kept under strict control and supervision. Thus prisons were places of terror and torture and prison authorities were expected to be tough and rigorous in implementing sentences.

The British colonial rule in India marked the beginning of penal reforms in this country. The British prison authorities made strenuous efforts to improve the condition of Indian prisons and prisoners. They introduced radical changes in the then existing prison system keeping in view the sentiments of the indigenous people. The prison administrators who were mostly British officials, classified the prisoners into two heads namely, violent and nonviolent prisoners. The Prison Enquiry Committee appointed by the Government of India in 1836 recommended for the abolition of the practice of prisoners working on roads. Adequate steps were also taken to eradicate corruption among the prisons staff. An official called Inspector General of Prisoners was appointed for the first time in 1855, who was the Chief Administrator of prison in India. His main function was to maintain discipline among the prisoners and the prison authorities.

Conditions of prisoners were harsher than animals in India and prisoners were treated with hatred. There was no uniform civil code to give punishment. The meaning of the punishment itself was to crush the prisoner. Jailors were cruel persons. But in 1835, some thought of reformation arose.

The *Second Jail Enquiry Committee* in 1862 expressed concern for the insanitary conditions of Indian Prisoners which resulted into death of several prisoners due to illness and disease. It

emphasized the need for proper food and clothing for the prison inmates and medical treatment of ailing prisoners.

Prisoners Act was enacted to bring uniformity in the working of the prisoners in India. The Act provided for classification of prisoners and the sentences of whipping was abolished. The medical facilities which were already available to prisoners in 1866 were further improved and better amenities were provided to women inmates to protect them against contagious disease. It must be stated that the freedom movement had a direct impact on prison conditions in India.

2.1 Why promote Prison Reform?

A sentence of life imprisonment deprives a person from his right to liberty. Imprisonment affects the prisoner and also his family living in poverty. When a income generating member of the family is imprisoned the whole family has to suffer and adjust to the loss of income. The family has to suffer financial loss because they have to engage a lawyer, arrange food for the prisoner, transport to prison to visit the prison etc.

Prisons have very serious health implications. There are some prisoners who are suffering from various diseases before entering to the prison or they get effected after coming in the prison. Hence there is no healthy atmosphere in the prison. It is overcrowded; there is no fresh air, absence of proper and nutritious food etc.

Imprisonment disrupts relationships and weakens social cohesion, since the maintenance of such cohesion is based on long-term relationships. When a member of a family is imprisoned, the disruption of the family structure affects relationships between spouses, as well as between parents and children, reshaping the family and community across generations. Mass imprisonment produces a deep social transformation in families and communities

Taking into account the above considerations, it is essential to note that, when considering the cost of imprisonment, account needs to be taken not only of the actual funds spent on the upkeep of each prisoner, which is usually significantly higher than what is spent on a person sentenced to non-custodial sanctions, but also of the indirect costs, such as the social, economic and healthcare related costs, which are difficult to measure, but which are immense and long-term.

The size of the pre-trial prisoners is higher than that of the convicted prisoner. Pre-trial detention period is the most open period for the abuse of criminal justice process. Although pre-trial detainees should be presumed innocent until found guilty by a court of law, and treated

as such, conditions in pre-trial detention are often much worse than those of prisons for convicted prisoners

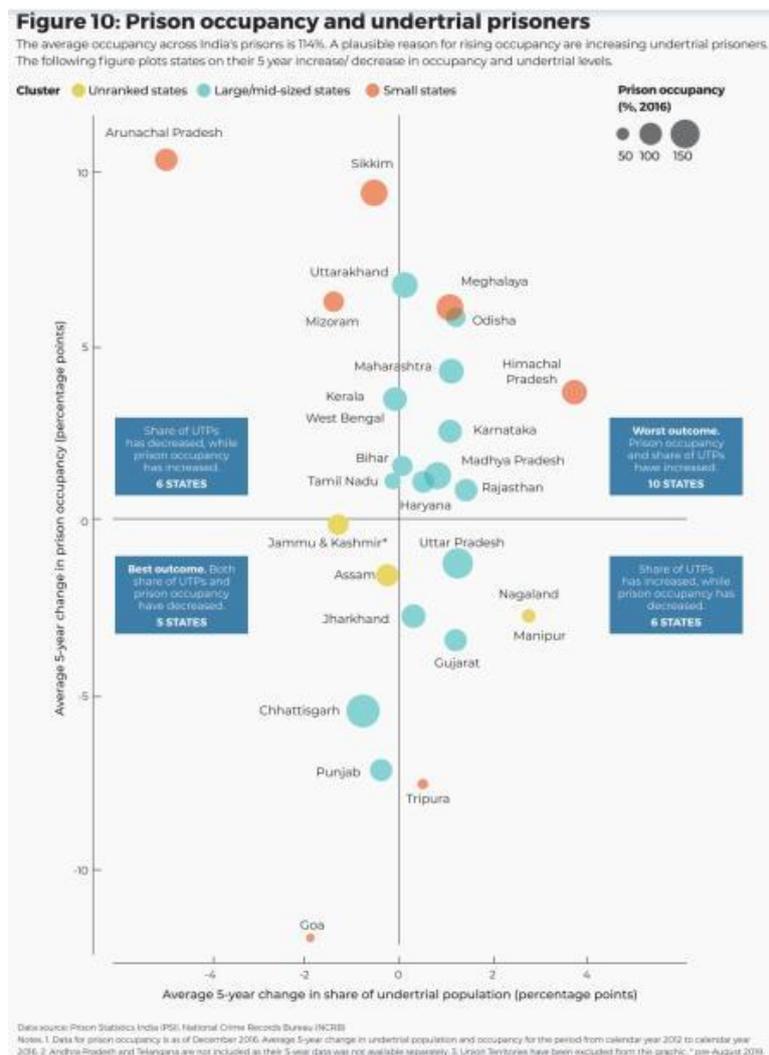
3.Problems which needed immediate attention

- **Over Crowding**

Congestion in jails, particularly among under trials has been a source of concern. *Law Enforcement Assistance Administration National Jail Census* in 1970 had revealed that “52% of the jail inmates were awaiting trial. Obviously, if prison overcrowding is to be brought down then under-trial population has to be reduced drastically.” Of course, this cannot be happened without the courts and the police work together. The three wings of the criminal justice system would have to act harmonically. Speedy trials are frustrated by a heavy court workload and complicated procedures, police’s inability to produce the witnesses promptly and a recalcitrant defense lawyer who was bent upon seeking adjournments, even if such tactics harm his/her client. Fast track courts have helped to the much extent, but it has not made any measurable differences to the problem of pendency. Increasing the number of courts could not bring about a desired difference as long as the current ‘adjournments culture’ continues (Raghavan 2004)¹ Overcrowding is a menace that strikes the most populated states the worst. At the end of December 2016, the nationwide occupancy rate at Indian prisons stood at 114%, according to the *India Justice Report 2019*, the first-ever state-wise ranking of the police, judiciary, prison, and legal aid systems. The report was prepared by a collective of Indian non-profit institutions and supported by the Tata Trusts.

Twelve of the large and mid-sized states included in the study had occupancy of over 100%. Chhattisgarh (222.5%), Madhya Pradesh (208%), and Uttar Pradesh (168%) were especially overburdened.

¹ RAGHAVAN R.K. The hell that is prison Volume 21 - Issue 26, Dec. 18 - 31, 2004 front line



● **Unhealthy Living Conditions**

The overcrowding in the prisons leads itself to unsatisfactory living conditions. Although the several jails have reformed outlined earlier have focused on issues like diet, clothing and cleanliness, unsatisfactory living conditions continue in many prisons around the country. A special commission of inquiry, appointed after the 1995 death of a prominent businessman in India’s high-security Tihar Central Jail, reported in 1997 that 10,000 inmates held in that institution endured serious health hazards, including overcrowding, “appalling” sanitary facilities and a shortage of medical staff.² *“No one wants to go to prison however good the prison might be. To be deprived of the liberty and family life and friends and home surroundings is a terrible thing.” “To improve the prison conditions what does not mean that prison life should be made soft; it means that it should be made human and sensible for prisoners”³*

² Human Rights Watch 2006

³ Pandit Jawaharlal Nehru wrote in India and the World Prison Land (pp.108-129)

On 23 March 2020, Apex Court Bench comprising of **CJI Bobde, Justice Nageswara Rao and Justice Surya Kant** has issued series of directions to State Governments taking into consideration the possibility of transmission of Coronavirus in the prisons, directions are as follows:

- The physical presence of all the under-trial prisoners before the Courts must be stopped forthwith and recourse to video conferencing must be taken for all purposes.
- The transfer of prisoners from one prison to another for routine reasons must not be resorted except for decongestion to ensure social distancing and medical assistance to an ill prisoner.
- There should not be any delay in shifting sick person to a Nodal Medical Institution in case of any possibility of infection is seen.
- Prison specific readiness and response plans must be developed in consultation with medical experts. “Interim guidance on Scaling-up COVID-19 Outbreak in Readiness and Response Operations in camps and camp like settings” jointly developed by the International Federation of Red Cross and Red Crescent (IFRC), International Organisation for Migration (IOM), United Nations High Commissioner for Refugees (UNHCR) and World Health Organisation (WHO), published by Inter-Agency Standing Committee of United Nations on 17 March, 2020 may be taken into consideration for similar circumstances.
- A monitoring team must be set up at the state level to ensure that the directives issued with regard to prison and remand homes are being complied with scrupulously.

The Supreme Court Bench stated that *“issue of overcrowding of the prisons was a serious matter of concern particularly in the present context of the pandemic of COVID-19. Bench having regard to the Article 21 of Constitution added that it has become imperative to ensure that the spread of Coronavirus within the prisons is controlled.”*

Apex Court Bench directed that *“each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate.”* For instance, the State/Union Territory could

consider the release of prisoners who have been convicted or are undertrial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum.

SC Bench further clarified that *“it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.”*

- **Inadequate prison programmes**

Despite the problems of overcrowding, manpower shortage and other administrative difficulties, innovative initiatives have been undertaken in some prisons. For example- the Art of Living is carrying out a *SMART programme* in Tihar Jail. It includes two courses per month with follow up of the sessions every weekend. Two courses are annually conducted for prison staff. But these may be more by way of exceptions and experiments. A *Srijan project* is aimed at providing social rehabilitation there. Still, such programmes are few and far in from Indian Prison. In India, many prisons having the vocational training activities, but these are often outdated even. Hardly any of the prisons have well planned prison programmes providing the daily structured activities, vocational training, pre-discharge guidance and post-prison monitoring.

- **Insufficient Legal Aid**

In India, legal aid to those who cannot afford to retain the counsel which is only available at the time of trial and not when the detainee is brought to the remand court. Since the majority of prisoners, those are in lock up as well as those in prisons have not been tried, the absence of legal aid until the point of trial reduces greatly the value of the country's system of legal representation to the poor. The lawyers are not available at the point when many of them need such assistance. The lack of good and efficient lawyers in the legal aid panels is also a concern.

- **Custodial Tortures /Deaths**

The torture brutal physical treatment in custody by police official is another major Problem of jails in India. Third degree tortures within four walls of prison occur frequently and many times

they remain unnoticed, such cases come to light when media or human rights commission gives any attention on it. The proper treatments of inmates mentioned in the prison acts and in various manuals along with the guidelines of the apex courts are neglected by the police staff and sometimes it leads to deaths of prisoners under the custody. These tortures make victims suffer mentally and physically and sometimes it gets long time for them to recover from that trauma. The Reports of national human rights commission and state human rights commission depict growth of such incidents in last two decades. The real stigma behind these custodial treatments is that the police official picks up any person from any time from any place and keeps them for long durations without showing any sufficient reasons for arrest.

4. Constitutional provisions for protecting prisoner's rights

The fundamental rights guaranteed under the Constitution are not absolute and many restrictions have been imposed on their enjoyment. Right to freedom of the person is one of the most important rights among the fundamental rights. When a person is convicted or put behind the prison his status is different from that of an ordinary person. A prisoner cannot claim all the fundamental rights that are available for an ordinary person. However, certain rights which have been enumerated in Part III of the Constitution are available to the prisoners also because a prisoner remains a "person" inside the prison. The Supreme Court of India and various High Courts in India have discussed various decisions.

Constitution of India does not expressly provide the provisions related to the prisoners' rights but in the case of *T.V. Vatheeswaran v. State of Tamil Nadu*,⁴ it was held that "*the Articles 14, 19 and 21 are available to the prisoners as well as freemen. Prison walls do not keep out fundamental rights.*"

RIGHT TO EQUALITY: ARTICLE 14

"The state shall not deny to any person equality before law or the equal protection of laws within the territory of India" This is one of the important provisions of the Indian Constitution which is generally applied by the courts is Article 14 in which the principle of equality is embodied. The rule that "*like should be treated alike*" and the concept of reasonable classification as contained in the Article 14 has been a very useful guide for the courts to determine the category of prisoners and their basis of classification in different categories. This

⁴1983 AIR 361, 1983 SCR (2) 348

article is very useful guide and basis for the prison authorities to determine various categories of prisoners and their classifications with the object of reformation.⁵

RIGHT TO FREEDOM- 19⁶

Article 19 of the Constitution deals with the Rights to Freedom which includes six freedoms and all these are under reasonable restriction under various sub-clauses of the same Article. Among these freedoms right to freedom of speech and expression and freedom to become a member of an association are available to prisoners, but all other freedoms like right to movement, right to reside and settlement anywhere in India, right to profession occupation, trade or business cannot available to the prisoners. To handcuff is to hoop harshly and to punish humiliatingly. The minimum freedom of movement, under which a detainee is entitled to under Article 19, cannot be cut down by the application of handcuffs. Handcuffs must be the last refuge as there are other ways for ensuring security.⁷

PROTECTION AGAINST CONVICTION OF OFFENCES: ARTICLE 20(1)

Article 20(1) of the constitution,, protect the person from ex post facto laws or no person shall be convicted of any offence except for the violation of law in force at the time of the commission of the act charged as an offence, nor be subject to penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

PROTECTION AGAINST DOUBLE JEOPARDY: ARTICLE 20(2)

Article 20(2) this article is based on one principle *Nemo Debet Bis Vexari* that means no person should be put behind bars twice for the same offence. If a person is prosecuted twice for same offence then the person can take defence for acquittal.⁸

PROHIBITION AGAINST SELF INCRIMINATION: ARTICLE 20(3)

It provides that “*No person accused of any offence shall be compelled to be a witness against himself.*” General rule in criminal law is that accused must be presumed to be innocent unless

⁵Chowdhury Roy Nitai, “Indian Prison Laws and Correction of Prisoners”, Deep and Deep Publications, New Delhi, 2002, p.75.

⁶ Constitution Of India ,1950 article -19

⁷ .K. Sarkar’s. Public Interest Litigations and Public Nuisances (Second Edn.) 761. Orient Publishing Company: Allahabad, 2009.

⁸ Maqbool Hussain vs State of Bombay AIR1953SC325

contrary is proved. In other words police and jail authorities cannot force the prisoners to give testimony.⁹

Article -21 of the Constitution of India says that “*No person shall be deprived of his life or personal liberty except according to procedure established by law.*” This Article stipulates two concepts i.e., right to life and principle of liberty. By Article 21 of the Indian Constitution it is clear that it is available not only for free people but also to those people behind the prison. Following are the rights of prisoners which are implicitly provided under the Article 21 of the Constitution of India:-

- *Right of inmates of protective homes,*¹⁰
- *Right to free legal aid,*¹¹
- *Right to speedy trial,*¹²
- *Right against cruel and unusual punishment*¹³
- *Right to fair trial*¹⁴,
- *Right against custodial violence and death in police lock-ups or encounters*¹⁵,
- *Right to live with human dignity*¹⁶,

Apart from these rights of prisoners Constitution of India also provides following rights to the prisoners:-

- *Right to meet friends and consult lawyer*¹⁷,
- *Rights against solitary confinement, handcuffing & bar fetters and protection from torture,*¹⁸
- *Right to reasonable wages in prison.*¹⁹

⁹Constitution Of India,1950 Article -20

¹⁰Upendra Baxi v. State of U.P., (1983) 2 SCC 308

¹¹ M.H. Hoskot v. State of Maharashtra, (1978) 3 SCC 544.

¹² Sunil Batra v. Delhi Administration, AIR 1980 SC 1579

¹³ Prem Shankar Shukla v. Delhi Administration, AIR 1980 SC 1535.

¹⁴ Rattiram v. State of M.P., (2012) 4 SCC 516

¹⁴ D.K. Basu v. State of W.B., (1997) 1 SCC 416

¹⁵ Rattiram v. State of M.P., (2012) 4 SCC 516

¹⁶ Jeeja Ghosh v. Union of India, (2016) 7 SCC 761

¹⁷ Sunil Batra v. Delhi Administration, AIR 1980 SC 1579

¹⁸Prem Shankar Shukla v. Delhi Administration, AIR 1980 SC 1535.

¹⁹People’s Union for Democratic Rights v. Union of India, AIR 1982 SC 1473.

This provision has been used by the Supreme Court of India to protect certain important rights of the prisoners. After *Maneka Gandhi case*, this article has been used against the arbitrary actions of the executive especially the prison authorities. After that decision it has been established that there must be a fair and reasonable procedure for the deprivation of the life and the personal liberty of the individuals.

In *Maneka Gandhi v. Union of India*²⁰ the Supreme Court held that “*the personal liberty of an individual can be restrained only on the basis of a law and a procedure established by that law*”. *The procedure established by law should be just fair and reasonable.*

In *A.K. Gopalan case*²¹ the court mentioned the ambit of personal liberty by Article 21 of the constitution is wide and complete. It includes both substance rights to personal liberty and the procedure prescribed for their deprivation.

In *Prem Shankar v. Delhi Administration*²² the Supreme Court held that “*Handcuffing should be resorted to only when there is clear and present danger of escape from the police control. Handcuffing is held to be prima facie inhuman and therefore unreasonable and thus violative of Article 21.*”

In *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*²³ the Supreme Court held that “*the Right to Life protected under Article 21 is not confined merely to the right of physical existence but it also includes within its broad matrix the right to the use of every faculty or limb through which life is enjoyed as also the right to live with basic human dignity.*”

In *Kartar Singh vs. State of Punjab*²⁴, it was observed that “*The concept of speedy trial is read into Article 21 as an essential part of the fundamental right to life and liberty guaranteed and preserved under our Constitution. The right to speedy trial begins with the actual restraint imposed by arrest and consequent incarceration and continues at all stages, namely, the stage of investigation, inquiry, trial, appeal and revision so that any possible prejudice*

²⁰ 1978 AIR 597, 1978 SCR (2) 621

²¹ 1950 AIR 27, 1950 SCR 88

²² 1980 AIR 1535, 1980 SCR (3) 855

²³ 1981 AIR 746, 1981 SCR (2) 516

²⁴ 1961 AIR 1787, 1962 SCR (2) 395

that may result from impermissible and avoidable delay from the time of the commission of the offence till it consummates into a finality, can be averted.”

5. Judicial pronouncement for protecting prisoners in India

In *D.K. Basu vs. State of West Bengal*²⁵, the Supreme Court had increased the purview of Art.21 of the constitution of India by saying that it includes *the right to get free legal aid* at the state expenses. And the same was reiterated in *Dipak Shubashchandra Mehta v. Central Bureau of Investigation*²⁶ saying that “*when the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the constitution is violated.*”

In *Sheela Barse v. Union of India*²⁷, the petitioner was a journalist who interviewed 15 women prisoners wherein they disclosed that they were assaulted in the police custody and they were not even adequately represented by the legal practitioners. On this, the Supreme Court observed that “*failure to provide legal assistance to the poor and impoverished persons violates constitutional guarantees.*” Article 39-A [Directive Principle of State Policy] casts a duty on the State to secure the operation of a legal system that promotes justice on the basis of equal opportunity. The right to legal aid is also a fundamental right under articles 14 and 21. Thus, the Supreme Court issued the following directions: -

1. Female suspects must be kept in separate lock-ups under the supervision of female constables.
2. Interrogation of females must be carried out in the presence of female police persons.
3. A person arrested without a warrant must be immediately informed about the grounds of arrest and the right to obtain bail.
4. As soon as an arrest is made, the police should obtain from the arrested person, the name of a relative or friend whom she would like to be informed about the arrest. The relative or friend must then be informed by the police.
5. The police must inform the nearest Legal Aid Committee as soon as an arrest is made and the person is taken to the lock-up.

²⁵ AIR 1997 SC 610

²⁶ 2012 AIR (SC) 949

²⁷ (1986) 3 SCC 596

6. The Legal Aid Committee should take immediate steps to provide legal assistance to the arrested person at State cost, provided such person is willing to accept legal assistance.
7. The magistrate before whom an arrested person is produced shall inquire from the arrested person whether she has any complaints against torture and maltreatment in police custody. The magistrate shall also inform such person of her/his right to be medically examined.

In *Hussainara Khatoon v. Home Secretary, State of Bihar*²⁸, the petition was filed before the Supreme Court for claiming relief for a large number of people who had been languishing in jail for years awaiting trial in courts of law. It was brought to the notice of the Supreme Court that “*most of the under trials even after undergoing the punishment for the offence for which they were charged were kept in jail. Even the people charged with trivial offences were undergoing imprisonment for too long.*” The Supreme Court after considering the matter ordered immediate release of the prisoners and observed that “*the state cannot be permitted to deny the constitutional right of speedy trial to the accused on the ground that the state has no adequate financial resources to bear the expenditure.*”

In *M. H. Hoskot v. State of Maharashtra*²⁹, the accused was convicted by the session court and the appeal filed to the high court was also dismissed. He was sent to the jail. Thereafter he filed a Special leave petition along with petition for the condonation of the delay to the Supreme Court contending that he did not receive the certified copy of the judgement through the jail authorities. The Supreme Court observed that “*if a person is imprisoned then because of being a prisoner he is unable to exercise his constitutional and legal right for the want of legal assistance so it is the responsibility of the state to provide legal assistance to the prisoner who is indigent and disabled in securing legal services for doing complete justice.*”

6. Suggestions

Undoubtedly, the condition of modern prison system is far better than that in the past but still much remains to be done in the direction of prison reforms for humane treatment of prisoners.

²⁸ (1980) 1 SCC 98

²⁹ 1979 SCR (1) 192

The following modification in prison administration can be suggested for improving the efficiency of these institutions:

- The maintenance of prison establishment is an expensive affair. It is in fact a burden on the public. Therefore the offender should be confined to the prison for only a minimum period which is absolutely necessary for their custody. The elimination of long term sentences would reduce undue burden on prison expenditure. It is further suggested that where the term of imprisonment exceeds one year, a remission of one month or so per year be granted to the inmate so as to enable him home town and meet his relatives. This will help in his rehabilitation and after his release he can face the outside world courageously casting aside the stigma attached to him on account of imprisonment.
- The women prisoners should be treated more generously and allowed to meet their children frequently. This will keep them mentally fit and respond favourably to the treatment methods. The woman who fall prey to sex offence should be treated with sympathy and their illegitimate children should be assured an upright life in the society. Women prisoners should also be allowed to meet their sons and daughters more frequently, particularly the attitude in this regard should be more liberal in case of under-trial prisoners. Women prisoners should be handled only by women police or prison officials. The idea of setting up separate women jails exclusively for women prisoners, however does not seem to be compatible keeping in view the heavy expenditure involved in the process.
- The prisoners belonging to peasant class should be afforded an opportunity to go to their fields during harvesting season on temporary 'ticket on leave' so that they can look after their agriculture. This would enable them to keep in touch with their occupation and provide means of living to the other members of their family. Thus the unity of family life can be maintained which would help rehabilitation of the prisoner after his release from jail.
- The existing rules to the restrictions and scrutiny of postal mail of inmates should be liberalized. This shall infuse trust and faith among inmates for the prison officials.
- The prison legislation should make provision for remedy of compensation to prisoner who are wrongfully detained or suffer injuries to callous or negligent acts of the prison personnel. It is gratifying to note that in recent decades the Supreme Court has shown deep concern for prisoners right to justice and fair treatment and requires prison officials

to initiate measures so that prisoners basic right are not violated and they are not subjected to harassment and inhuman conditions of living.

- The education in prisons should be beyond three R's and there should be greater emphasis on vocational training of inmates. This will provide them honourable means to earn their livelihood after release from jail. The facilities of lessons through correspondence courses should be extended to inmates who are desirous of taking up higher or advanced studies. Women prisoners should be provided training in tailoring, doll making, embroidery etc. The prisoners who are well educated should not be subjected to rigorous imprisonment, instead they should be engaged in some mental cum manual work.
- On completion of term of sentence, the inmates should be placed under an intensive 'After Care'. The process of After Care will offer them adequate opportunities to overcome their inferior complex and save them from being ridiculed as convicts. Many non penal institutions such as SevaSadans, NariNiketans and Reformation Houses are at work in different places in India to take up the arduous task of After Care and rehabilitation of criminals.
- Last but not the least, the existing Prison Act, 1894 which is more than a century old, needs to be thoroughly revised and even re-stated in view of the changed socioeconomic and political conditions of India over the years. Many of the provisions of this Act have become obsolete and redundant.

7. Conclusion

To ensure good discipline and administration, an initial classification must be made to separate male from females, the young from the adults, convicted from the unconvicted prisoners, civil from criminal prisoners and from casual from habitual prisoners. The main object of prison labour is prevention of crime and reformation of the offenders. And the other main object was to engage them so as to prevent mental damage and to enable them to contribute to the cost of their maintenance. The under trial prisoners constitute a majority of population in prison than convicted prisoners. The under trial prisoners are presumed to be innocent and most of them are discharged or acquitted after immeasurable physical and mental loss caused to them by detention due to delay in investigation and trial.

The courts have in recent years been giving serious thought to the of human rights of prisoners and have, on that ground, interfered with the exercise of powers of superintendents of jails in respect of measures for safe custody, good order and discipline.

Research into crime and the criminal is still in its infancy. The immediate need of research is to evaluate the existing methods of treatment and to suggest new approaches to the prevention of crime. The value of probation, open prisons, parole and home leave as reformatory measures need to be established.

Prisoners constitute important institutions which protects the society from criminals. The obstacles in prison reforms are resource allocation, the deterrent functions of punishment, the notion of rehabilitation, and internal control.