



ROLE OF EXECUTIVE AND JUDICIARY IN HIGHLIGHTING THE RIGHTS OF PRISONERS

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ABSTRACT

The effective functioning of the criminal justice system relies heavily on prison management. Through the jail manuals, states have the main duty and power to bring about reforms in the prison system. The lives of inmates are primarily controlled by the decision-making powers of the Superintendent of Jails, which are based on jail manuals and the Prisons Act of 1849. Whether such abilities are uncontrolled or not is an open question. The sole avenue for remedy is via the courts, either through writ petitions or breaches of basic rights. However, the purpose of this study is to determine if the broad range of powers granted and the lack of accountability created are arbitrary. The role of the government and judiciary in protecting the basic rights of prisoners is the subject of this article. It also seeks to demonstrate that when it comes to powers, accountability should be created not just via the court, but also through the executive branch.

KEYWORDS: Administration, Criminal, Jail, Prisoners, And Rights.

INTRODUCTION

For the objectives of rehabilitation and reformation, prison is one kind of institution that criminal systems primarily depend on. The jail system has existed in civilizations since the dawn of time. In the early 18th and 19th centuries, prisons were seen as more of an institution to advance the goal of deterrent; however, regulations have evolved through time, and prisons have become a component of rehabilitation. After then, the overwhelming majority of people adopted the retributive idea, which was later followed by the restorative approach. A function termed as discipline refers to the methods and regulations recommended to guarantee that prisoners are reformed under the prison system so that they may return to society as reformed members.

The Prisons Act of 1894 is the main law governing the administration of prisons; but, since "prisons" is a state issue under the Indian Constitution's Seventh Schedule, state governments' jail manuals and regulations are also observed. The Ministry of Home Affairs formed the All India Model Prison Manual Committee, which produced a Model Prison Manual that was sent to all states and union territories in 2003. This handbook is distributed as a guideline, and several states have chosen not to use it in their jail systems. In addition, in 2014, the ministry [1] met with an expert group to revise the Model Prison Manual. This group was made up of

officials from different jurisdictions in order to get a comprehensive picture of the issues that each state has when it comes to the operation of prisons. Again, governments were hesitant to accept this agreement since it lacks the ability to be made legally enforceable.

It is essential to highlight that the majority of changes to India's jail system have been achieved via the court, since the judiciary has the responsibility and power to protect people's basic rights, including those of inmates. When it comes to protecting basic rights, India's Supreme Court is regarded as one of the most independent and trustworthy tribunals in the world. The Supreme Court has issued a number of directives to prison administrators, as well as banned cruel acts that violate inmates' basic rights. These instructions, on the other hand, are issued when such instances come before the court on a particular issue, and it is up to the court to determine whether or not such acts are in violation of basic rights. It's likely that many of these incidents get unreported to the authorities[2].

LITERATURE REVIEW

The Model Prison Manual 2016 is a document formulated by the Home Ministry's special Model Prison Manual Committee for expert opinion and recommendations for the better and more humane operation of prisons, by officials from various states who are familiar with the ground realities of prison operation and issues. This handbook covers a broad range of issues, including prisoner rights and responsibilities, services that inmates should have access to, legal objectives for uniformity, the institutional framework, and suggestions that satisfy International Standards, among others. Because this document is a comprehensive guide given by the Ministry of Home for the direction of states and is not a binding document, not all states and union territories have implemented it. As a result, there is no responsibility for failure to apply.

The Comprehensive Advisory on Prison Administration 2009 asks state governments and union territories to follow different committee recommendations, model prison manuals, court decisions, and the many advisories issued by the Centre from time to time. The goals for achieving a more humane prison administration have been defined in Annexures III and IV, together with a policy work frame that governments may use to execute and accomplish such objectives. It's worth noting that this document clarifies what's been said in the previous papers, including a request for States and Union Territories to complete and a work plan. This text is non-binding, and it is up to the states to determine whether or not to adopt it. These papers call for a variety of services to be given and reforms to be made, but there is no institutional or financial analysis of states in these studies.

In the article, Shaikh Ali discusses the wide range of international obligations and standards concerning prisoner's rights, Indian jail reforms, and an overview of the Prisons Act 1894 and its origin. It also briefly describes the Model Prison Manual, the Mulla Committee, the Krishna Iyer Committee, and later advances in prison reforms, as well as significant issues like as overcrowding, corruption and extortion, insufficient living conditions, and so on. This research discusses the issues and inadequacies of prisons as a result of the failure to follow international standards and the recommendations of different committees.

DISCUSSION

Legislation and Prisons

Any jail or place used permanently or temporarily for the detention of prisoners under the general or special orders of a State Government, and includes all lands and buildings appurtenant thereto, but does not include—

- Any place for the confinement of prisoners who are exclusively in the custody of the police;

- Any place specially appointed by the State Government unto the detention of prisoners under section 541 of Cr.P.C.
- Any location designated as a subsidiary prison by the State Government by general or specific order;

A structure to which individuals are lawfully confined as a punishment for a crime or while awaiting trial,” according to another definition. Following independence, the Indian Constitution's Seventh Schedule included "prisons" to the State List of subjects. As a result, the Central Government had no responsibility for establishing India's jail system in those early days. As a result, state governments were entirely responsible for the operation of prisons, which they did by producing prison manuals.

The following are all of India's laws pertaining to prisons and prisoners:

- The 1894 Prisons Act
- The Identification of Prisoners Act, which was enacted in 1920.
- The 1950 Prisoner Transfer Act
- The Prisoners (Attendance in Courts) Act, which was enacted in 1955.
- The Model Prison Manual of 2003, and so forth.

When it comes to prison administration, the Prisons Act of 1894 is the most significant piece of law on the list. States and union territories of India have created jail manuals that include rules, regulations, and directives. In India, the evolution of legislation related to prisons and inmates has a lengthy history, and many committees and proposals have been implemented to bring the jail system from its formerly medieval condition[3].

As previously said, prisons are institutions that hold different types of offenders, undertrial inmates, detainees, and other individuals. It is essential that such institutions be controlled by a clear set of authorities, rules, and regulations, as well as a system of accountability. The British Government drafted the Prisons Act of 1894 in the pre-independence period.

This Act was written with the intention of amending the laws governing prisons at the time. Since its commencement, this Act has rarely seen any significant modifications.

The State Governments' Role

When it comes to prison management, the Prisons Act of 1894 allows the state government to establish rules, regulations, and directives on a broad range of issues. The executive body has the authority to determine whether a certain conduct of a prisoner can be classified as an offence, as well as what type of crime it should be classified as and what penalty should be imposed. The application of giving marks and awards and for sentence shortening, rewards for good behavior of a prisoner, appointment and selection of prisoners as prison officers, release of prisoners for transfer and delay on which accord, regulating writs and petitioners from prisoners, and deciding on their conversations with friends and relatives are all decisions made by prison officials. As a result, the executive wing, which is susceptible to lawsuits filed against maltreatment of inmates, has complete control over all matters related to prisoners and prison administration, with the exception of the order to send a person to jail[4].

The Judiciary's Role

The Supreme Court has spent a lot of time looking at the inner workings of the jail system. In the case of Ramamurthy v. State of Karnataka¹², the Supreme Court emphasized the necessity for a Model Prison Manual to provide direction and, most importantly, some appearance of consistency. The Model Prison Manual Committee was established as a consequence of this decision to include the rights of inmates as laid forth by the Mulla

Committee and clarified by different Supreme Court decisions. This paper sets out different rights of inmates and suggests actions that States and Union Territories could take to improve the running of prisons and adopt a more compassionate approach to the process.

The following are some of the many instances and provisions established by the Supreme Court for the betterment of prisons and the protection of inmates' basic rights:

1. Sunil Batra V. Delhi Administration Is The First Case.

The Supreme Court recognized the basic rights of prisoners, notwithstanding their imprisonment, in this historic decision. The court determined that a person does not cease to be a person just because he is incarcerated, and that he is entitled to basic rights that may be granted concurrently with his imprisonment.

2. D.K. Basu v. State of West Bengal-

In this case, it was decided that the accused's friends or relatives must be notified about the arrest while the accused is being detained.

3. Rudal Shah v. State of Bihar-

In this decision, the Supreme Court ruled that once an accused in custody has been acquitted, he or she is entitled to be freed and cannot be kept any longer.

4. Mohd. Giasuddin v. State of Andhra Pradesh-

The Supreme Court found that punishing him with three years of hard labor was not appropriate because he was a well-educated white-collar government employee convicted of cheating, and instead ordered an 18-month sentence with suitable work that included both mental and manual labor. Unpaid employment, according to the court, is humiliating to the prisoner and constitutes bonded labor. The court's goal was to demonstrate that employment should be given in accordance with the prisoner's ability in order to rehabilitate them[5].

5. Dharambir v. State of Uttar Pradesh-

In this case, the Supreme Court stated its support for open prisons as a rehabilitation institution, particularly for young inmates, since it has benefits and shields them from the vices of regular jails.

6. Sanjay Suri v. Delhi Administration-

The Supreme Court ruled that jail officials must be more sensitive to inmates and adopt a more compassionate attitude.

7. Dharambir v. State of Uttar Pradesh-

The court issued orders for state governments to enable inmates' relatives to see them at least once a year, and to allow convicts to visit their families under guarded circumstances.

8. Reintroduction Of Inhumane Conditions At 1382 Prisons

The Supreme Court took up this issue suo moto after the then Chief Justice of India received a letter from the previous Chief Justice of India. Justice Lahoti, the former Chief Justice of India, has previously raised concerns about the state of India's jails. As a result, the court was asked to examine the subject of jail changes under Article 32. The Model Prison Manual 2016 was created in response to the Supreme Court's orders in this case.

The court has clearly taken a proactive role in protecting the rights of inmates, as shown by the few of many instances listed above. However, India's jails remain in appalling condition. When compared to the number of cases submitted, the Apex Court hears relatively few, resulting in a backlog of cases. Because of this pendingness, the suffering of the inmates is often ignored, if they ever make it to the Apex Court at all[6].

Analyse the Situation

It's important to remember that prisons aren't like other institutions in that they don't have a regular environment or way of life. These institutions rob people of their liberty and serve as correctional and reformatory facilities for individuals who have been sentenced to detention. According to Prison Statistics India, 3,30,487 undertrial inmates and 1,44,125 convicted prisoners made up the country's total of 4,78,600 prisoners in 2019. All of this highlights the importance of not only having adequate rules, regulations, and laws in place to meet International Standards as well as the recommendations of various expert committees, but also having a system of checks and balances in place to ensure that prisons in India function properly.

The parent legislation, The Prisons Act 1894, governs the administration of prisons in India. It provides the government broad authority to make laws and control the administration of prisons in India. The state jail manual, created to offer a framework of rules and regulations for the workings of prisons, is the most significant and binding document for jails. The Ministry of Home Affairs has established expert groups and published Model Prison Manuals that are revised on a regular basis. However, in reality, these guidelines are not legally enforceable, and they are seldom followed in most states[7].

The sole remedy open to inmates whose fundamental rights have been infringed by prison officials is to file writs with the High Courts and Supreme Courts, which will defend the prisoners' basic rights. The Supreme Court has held in a number of instances that the provisions of Part III of the Constitution must be read broadly. In place of cases being brought before the court, the Supreme Court issued a number of historic directions[8].

The fundamental problem with how prisons are now run is that the administration has been granted much too much authority to rule on all issues concerning inmates. The legislature's law, The Prisons Act 1894, has remained mostly unchanged since then, and the executive branch now makes virtually all decisions. Jail manuals issued by state governments are the most important pieces of law regulating prisons. When it comes to accountability and functioning, the scope of rule-making under this heading is a source of worry.

Clause I of the Delhi Declaration, under Report of Committee II- The Executive and the Rule of Law, states that transfer of authority to the executive should be limited to the greatest extent feasible, with no space for arbitrary use of such powers. However, in the instance of prison administration, prison authorities are granted a great deal of authority to make important decisions about inmates and prison management. The whole operation of the criminal justice system is dependent on the effective running of prisons, as stated before and repeated here[9].

CONCLUSION

In the Indian criminal justice system, incarceration is the most frequent penalty for a broad range of offenses. The effective management of prisons and the rehabilitation of prisoners are critical to the criminal justice system's operation. The regulations governing the administration of prisons are administered by state governments and union territories via prison officials selected by them, as shown by the debates in this article.

The legislative wing is responsible for creating laws; nevertheless, rule-making responsibilities are often assigned to the executive wing for a variety of reasons, including the executive's knowledge of the ground reality, flexibility, and so on. However, such abilities must be assigned in such a way that they cannot be misused arbitrarily. The Superintendent of Jails exercises authority over the prisons, which is mainly governed by jail manuals. However, the only way to ensure responsibility is to bring cases in court for violations of basic rights or to submit writ petitions.

Since years, the Supreme Court of India has been actively hearing issues involving jail rights, but the top court is also afflicted by the vices of case pendency. The Supreme Court had almost 3.5 crore cases outstanding in August 2019.²⁴ The quantity of cases pending plus the number of inmates in prisons constitute a disaster for the criminal justice system. In a broad range of instances, undertrial inmates have remained in prisons longer than they would have if they had been convicted of the crime for which they are charged, which is both upsetting to the criminal justice system and a violation of the prisoners' basic rights.

There are several ideas that may help to offer a solution for increased accountability by authorities and increased checks by the court. It's essential to emphasize that these recommendations are just for checks and balances, not for jail changes in general.

- More official accountability- A process of responsibility must be created, as well as a system of punishment or penalties for officials who violate the law.
- Regular transfers of officials will assist in reducing corruption practices by keeping a check on their activities.
- Judicial surveillance, such that District Judges visit the prisons in their jurisdiction to verify that laws are applied humanely. This would also aid in monitoring the authorities' treatment of the detainees.

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