

A Study of Law Provisions in Prison Management with Reference to Haryana

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Abstract

Prison management is the essential feature of a welfare State. Prisons are institutions owned and managed by the State through its government servants. The Prison represents a unit of the prison system. It is a permanent place of detention of those who are condemned to imprisonment by the Courts. The existence of prisons in our society is an ancient phenomenon since Vedic period. John Locke expressed that men were basically good but laws were still needed to keep down ‘the few desperate men in society’ Prisons’ were considered as a ‘house of Captives’ where prisoners were kept for retributory and deterrent punishment. Lord McCauley, the then Law member of the Supreme Council of India stated that ‘the best criminal code can be of very little use to a community unless there be a good machinery for the infliction of punishment’. This was the “deterrence theory” upon which the prisons in those days were based. The aim of the society as expressed in its criminal law is to safeguard its own existence to maintain order and to make it possible for all citizens to lead a good life as prison is quite a powerful deterrent and effective instrument of social control. The law enforcement agencies have been given the powers by the society to curtail the freedom of its citizens by taking them into custody in connection with their deviant conduct.

As far as prisons in Haryana are concerned, their references can be found from the earliest times. References to “karagriha” are found in Ramayan, Mahabharat and even in Manu Smriti. They are perhaps as old as the civilization itself. As per Hindu Scriptures the main aim of imprisonment was to keep away the wrong doers so that they might not defile the members of social order. In Punjab/Haryana as also in India as such, Prisons in the modern sense are product of the last century, a legacy of British rule, Punjab was the last territory to become part of the British India in 1849, earlier to that, no regular prisons were in existence in Sikh rule. The prison system developed by British is followed by Haryana. Many amendments were made in these provisions time to time by Government for the betterment of the prisoners.

In Haryana prison administrations and management are generally under the control of public authorities which come under the control of State Government ministry. In Haryana prison administration and management is a State subject and under the control of Home Department of the State Government. As per Punjab Jail Manual “ an Inspector General shall be appointed for the territories subject to each Local Government and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under the such Government.” The Superintendent of the prison is incharge of the executive management of the prison in all matters relating to economy, discipline, labour, expenditure,

punishment and control in general. The Superintendent is responsible for developing leadership in every aspect of prison management.

Keywords: Prison, Superintendent, Amendments, Imprisonment

Introduction

The prison system is one of the very complex systems to understand. In general three phases may be distinguished in the history of prisons. During the first, which lasted until the middle of the 16th century, penal institutions were chiefly dungeons of detention rooms in secure parts of castles or city, in which prisoners awaiting trial or execution of sentences were kept. The second phase was one of experimentation with imprisonment a form of punishment for certain types of offenders, mostly, Juveniles. The third phase was the universal adaptation of imprisonment as the substitute for all capital punishments. Prisons in the shape of the dungeons had existed from the time immemorial in all the countries of the world. In his book, 'The Future of imprisonment', Norvel Morris refers to punitive imprisonment used extensively in Rome, Egypt, China, India, Assyria and Babylon and firmly established in Renaissance Europe. But prison sentence, as a specific punishment, is relatively recent origin. The prison as we know it has now come into existence largely as an interim house of detention of an offender pending trial and punishment.

In Haryana, the early prisons were only places of detention where an offender was detained until trial and judgment and the execution of the latter. The structure of the society in ancient India was founded on the principles enunciated by Manu and explained by Yagnavalkya, Kautilya and others. Among various types of corporal punishments – branding, hanging, mutilation and death, the imprisonment was the most mild kind of penalty known prominently in ancient Indian penology. The main aim of imprisonment was to keep away the wrong doers, so that they might not defile the members of social order. These prisons were dark dens, cool and damp, unlighted. There was not proper arrangement for the sanitation and no means of facility for human dwelling. Fine, imprisonment, banishment, mutilation and death sentence were the punishments in vogue. Fine was for the most common and condemned person who could not pay his bill to bondage until it was paid by his labour. Though the Indian law gives a little description of jail life, even then historical account gave a clear picture after the analysis of the available data. A few Smiriti writers supplied some information concerning with the jail.

Constitutional Provisions for Prison Management

A society that believes in the worth of the individuals can have the quality of its belief judged, at least in part, by the quality of its prisons and prove services and of recourses made available to them. It is the human life that necessitates the human rights. Being in the civilized society, organized with law and a system as such, it is essential to ensure for every citizen a reasonably dignified life. Thus every right is considered as a human right as that helps a human to live like a human being. Even if the person is deprived some of his rights dye to

commission of some wrongs, he is entitled to their rights unaffected by the punishment for wrongs. Especially, when the principles and objectives of criminology and penology are acquiring a human face the enforcement of the human rights assume a very great relevance. Simply because a person is “under a trial or convicted”, his rights cannot be discarded as a whole. A man on becoming a prisoner, whether convict or under trial, doesn’t cease to be human being. Though the prisoners can’t be treated as animals yet the barbarous treatment sometimes given to them in the prisons is not qualitatively human compared to the one given to the caged inmates. The grim scenario of prison justice assumes in human misanthropic fragrance when the intellect of prisoners is blemished, personhood of prison is fortified and they are forced to lose their integrity and individuality and thereby compelling them to become the right less slaves of the of the state It become gruesome indeed and calls for interference of judicial power as the constitutional sentinel, when the jurisprudence of prison justice becomes an escalating torture and the violent violation of the human rights is perpetrated by agencies of the state. The mandates of the preamble, fundamental rights and Directive Principles Provisions of the Indian Constitution seem to be outlawed from the security bound prohibited areas of high walled jails.

Human rights are founded in the heart and mind of every citizen who in common effort should labor to gather to create a world in which fundamental rights and freedoms can be realized for all citizens. The people of the world in the chart of U.N. have reaffirmed the faith in the Fundamental Human Rights, in the dignity and work of human person. One of the purposes laid down in Article 1 of the United Nations Organization is to promote and encourage respect for human rights and for fundamental freedoms of all. Article 3 of the declaration provides to everyone the right to life, liberty and security of perso. Article 5 outlaws the tortures, or cruel, in human degrading treatment or punishment. Article 8 provides person that no one shall be subjected to arbitrary arrest, detention or exile. Article 10 provides arrest, detention or exile Article 10 provides for fair public hearing by impartial tribunals. Accused shall be presumed to be innocent unless proved the guilty and he shall not be punishment under ex post facto lows. Arbitrary interference with his privacy, family, home or correspondence or attack on his honor or reputation shall not be allowed. Article 21 of Indian Constitution, among others, is the embodiment of wide range of human rights a single sentence of that Article - “No person shall be deprived of his life and personal liberty except according to procedure established by law” become a perennial source of human law. Article 21 guarantees about the right to human dignity even to the prisoners. In fact right to human dignity belongs to all the human beings inside and outside the prison in India. Whether prisoners are entitled to fundamental rights guaranteed by the constitution was one of the important issues examined by the supreme court immediately after the commencement of the constitution The Court declared that when a person loses his right to personal liberty by way of detention under a valid law enacted by a competent legislature, and so long as long he remains under such detention, he ceases to be entitled to enjoy his other fundamental freedoms. The courts have recently viewed third degree methods and custodial deaths in police custody as the serious violations of human rights and constitutional provision of right to life and liberty.

Under the Indian Constitution, there is no such provision in part III which can safeguard the discretionary and sometimes brutal treatment given to the prisoners. But the supreme court of India, by interpreting Article 21 of the Constitution has developed human rights jurisprudence for the preservation and protection of prisoners' right to human dignity.

Conviction for a crime does not reduce the person into a non-person whose right are subject to the whim of prison administration and therefore the imposition of any major punishments within the prison system, are conditional upon the observance of procedural safeguards freedom behind bar is part of Indian constitution trust and the index of our collective consciousness. Supreme court of India recognized several rights and protection for the prisoners, like as:

- 1) Right for the free legal aid.
- 2) Right for the speedy trial
- 3) Right against the hand cuffing
- 4) Right against the inhuman treatments
- 5) Right against the public hanging
- 6) Prisoner's Grievances

No doubt about the democratic legitimacy which characterizes our present time. Liberty and freedom are the elements of prisoner's human right and democracy. In so far as developing countries are concerned, it has to be observed that, one must believe in one's country's democracy and human rights of prisoners.

Statutes for prison management in State Haryana

The main statutes which have a bearing on regulation and management of prisons in the State Haryana are:

1. The Indian Penal Code, 1860.
2. The Prisons Act, 1894.
3. The Prisoners Act, 1900.
4. The Identification of Prisoners Act, 1920.
5. Constitution of India, 1950
6. The Transfer of Prisoners Act, 1950.
7. The Representation of People's Act, 1951.
8. The Prisoners (Attendance in the Courts) Act, 1955.
9. The Probation of the Offenders Act, 1958.
10. The Code of the Criminal Procedure, 1973.
11. The Mental Health Act, 1987.

12. The Juvenile Justice (Care & Protection) Act, 2000.
13. The Repatriation of the Prisoners Act, 2003.
14. Model Prison Manual (2003).

Prisoners' rights: constitutional provisions

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 in the prison, his status is much different from that of an ordinary person. A prisoner, in India, cannot claim all the fundamental rights that are available to an ordinary person. The Supreme Court of India and various High Courts in India have discussed flue scope various decisions. Before discussing these decisions it is very much necessary to see various constitutional provisions with regard to prisoners' rights.

Statutory Provisions for Prisoners

There is no guarantee of prisoner's right as such in the Constitution of India. 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 right to the personal liberty has now been given very wide interpretation by the Supreme Court. This right is available not only for free people but even to those behind bars. The right to speedy trial⁴, free legal aids, right against torture, right against in human, and degrading treatment accompany a person into the prison also. One of the important provisions of the Constitution of India is generally applied by the courts, which 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. Originally the treatments of prisoners inside the prisons were cruel and barbarous. 'When a person was convicted, it was thought that he lost all his rights. The prison community was treated as the closed system and there was no access for outsiders in the affairs of the prisoners. The authorities, under the guise of disciplines, were able to inflict any injury upon the inmates in the prison. The courts, in India, were reluctant to interfere in the affairs of the prisoners: it was completely left to the discretion of the executive. But gradually, a change was visible.

Judicial approach towards prison system

Prison is a place where the criminal justice system put its entire hopes. The correctional mechanisms, if fails will make the whole criminal procedure in vain. The doctrine behind the punishments for a crime has been changed a lot by the evolutions of new human rights jurisprudence. The concept of the reformation has become the watchword for prison administration these days. Human rights jurisprudence advocates that, no crime should be punished in a cruel, degrading or in an inhuman manner. On the contrary, it is held that any

punishment that amounts to cruel, degrading or inhuman should be treated as an offence by itself. The transition caused to criminal justice system and its correctional mechanism has been adopted worldwide. Here, the inquiry is made to know the extent of inclusion of these human rights of prisoners into Indian legislations. Internationally, it has become a well-accepted rule that the correctional mechanism in criminal justice administration should comply with reformative policies. It has also declared that all the prisoners shall be treated with respect due to their inherent dignity and value as human beings. There are a set of rights identified by the international legal system so as to save the human dignity and the value of the prisoners and there by the reformative theme of correction. In this preview, the rights guaranteed that the under the international legal system is to be looked into and legislative concern for the same in India.

Free from torture and cruel treatment

Supreme Court in many instances made it clear that the prison treatments in the prison should not be caused any kind of torturous effect over the inmates. Even the practice of the separate confinement and the solitary confinement was deeply discouraged by courts at many instances. The court clearly has pointed out that the prison authorities cannot make prisoners to solitary confinement and hard labor. As to ensure the prison practices the Supreme Court in this judgment also directed the district magistrates and the sessions' judges to visit the prisons in their jurisdiction and afford effective opportunities for ventilating legal grievances. Discussing the same premise the court vehemently criticized that the practice of using bar fetters unwarrantedly. The court held the treatment of a human being which offends human dignity, imposes avoidable torture and reduces the man to the level of the beasts, would certainly be arbitrary and questionable under Article 14. Thus putting bar fetters for a usually long period, day and night, and that too when the prisoner is confined in secure cells from where escape is somewhat inconceivable without any due regard for the safety of the prisoner and the security of the prison is not justified. Judicial interferences of this kind have coined many rights for the prisoners what would not be unless ever possible.

Maladministration in prison

Prisoner has the right to enjoy all the rights entrusted to a normal human being subjected to reasonable restrictions by the international human rights law. The prison authorities are bound to look after the management of prisons with this outlook. So it can be powerfully argued that any lapses in the management of prison will also cause infraction over the human rights of prisoners. The view of Indian judiciary also accompanies this view to a greater extent. Talking about the mismanagement in prison, apart from the official lapses the maintenance of discipline between the prisoners will also be of high concern. The court in many instances stressed on the need to provide proper atmosphere, leadership, environment situations and circumstances for re-generation and a reformatory approach. Illegal accomplice between criminals and prison officials make all these aims in vein.

Right of Freedom of speech and expression

Prisoners, alike others, can access many human rights made in Universal Declaration of Human Rights and international covenants. Indian judiciary had also recognized that the right of the prisoners to enjoy the right to freedom of speech and expression. It is much interesting to note that the judiciary took such a view before the *Kesavanada Bharathi* judgment came and evolution of the concept of justice as fairness. Alongside with this, it is worthwhile in discussing about the judicial declarations of the right of press to interview prisoners. This judgment has certain implications over the right of the prisoners in exercising their right to the freedom of speech and expression.

Educational facilities in prison

There is a proven correlation between illiteracy, innumeracy and offending. Most of the prisoners have access to educational courses and training while in prison. The objective is to enable them to gain the skills and the qualifications that will help them to find employment on release. Research shows that the prisoners who gain the employment after their release are far less likely to re-offend.

Conclusion

In over all view of Law Provisions of Prison Management in Haryana covering historical evolution of prisons in Haryana, Present position of prison administration including the applicability of modern management principles in prison management and various other issues of administration. The modern prison management system had become increasingly a complex system. It appears that prison management has traditionally been overlooked, or bypassed, when theories of organizational structure and management principles have developed faster. The state government is making healthy environment for prisoners by following the provisions. Changes are being made by the authorities by time to time for better environment for the prisoners. Although a lot of work is to be done in this field.

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