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ISSN: 2582-6433

PUNISHMENT AND ITS KINDS

AUTHORED BY - JANHAVI SHISODE

I. INTRODUCTION

A. Definition of Punishment

Punishment has been defined and interpreted in various ways under criminal jurisprudence. At its core, punishment refers to the imposition of a sanction or punitive measure on an individual who has committed an offence or unlawful act, as per established legal statutes.1 It involves the intentional infliction of pain or other consequences normally considered undesirable or unpleasant, aimed at retribution for the offence.2 One perspective outlines punishment as a form of 'social retaliation' against the violation of legal rules enacted to govern societal order and harmony. The core elements underlying the concept of legal punishment entail that it must involve pain or other consequences normally considered unpleasant for the offender, it must be for an actual or supposed offence, it must be intentionally administered by someone other than the offender, and it must be imposed and administered by an authority constituted by a legal system against which the offence is committed.

The most widely cited theoretical justification for punishment within the criminal justice system is utilitarian. As per the utilitarian view, punishment is morally right and socially useful when it promotes the greater societal good of happiness, well-being and welfare by preventing future harm. Specifically, deterrent and preventive theories view the purpose of punishment as utilitarian, aimed at deterring future criminal behavior through fear of penalty, thereby preventing future crimes and promoting societal order.[3] Similarly, reformative justifications view punishment as a means to reform the offender into a law-abiding citizen for greater societal good. On the other hand, retributivist theories provide a deontological justification for punishment based on morality rather than social utility or consequences. Retributivists argue that punishment

[1] H.L.A. Hart, Punishment and Responsibility (1968). Available at: https://bit.ly/3Xhn8et (Last visited: December 12, 2023).
[2] John Kleinig, Punishment and Desert (1973). Available at: https://nyupress.org/9780814781282/punishment-and-desert/ (Last visited: December 12, 2023).
[3] Johannes Andenaes, "General Prevention Revisited: Research and Policy Implications," 66 Journal of Criminal Law & Criminology 338 (1975).

ISSN: 2582-6433

of those who violate legal rules and cause harm is intrinsically morally right and just, regardless of whether it deters crime or reforms criminals. The degree of blameworthiness and seriousness of the offence should proportionately match the harshness of punishment.

Some scholars have synthesized these perspectives to suggest that punishment serves multiple functions - retributive, deterrent and reformative. The Indian Supreme Court has also endorsed this integrative view, stating that punishment must provide a moral lesson to wrong-doers, prevent recurrence of criminal behavior through fear of penalty, and reform the offender into a socially responsible citizen through corrective measures.[4] In the Indian context, the concept of punishment finds mentions across various legal statutes and judicial pronouncements. The Indian Penal Code 1860, the guiding criminal statute, does not expressly define punishment but references the imposition of penalties under legitimate authority for transgressions of the law.[5] Judicial decisions have affirmed that punishment is founded on public necessity, societal defence, and prevention of like offenses in future through deterrent effect.[6] At the same time, certain guidelines limit punitive discretion and safeguard offenders' rights - punishment must be proportionate, justified, humane and in alignment with constitutional protections.[7] Reform and rehabilitation are endorsed as essential functions of the penal system aimed at social defense and resettlement.[8]

Therefore, in essence, within Indian criminal jurisprudence, punishment refers to the intentional and legally approved imposition of sanctions or consequences deemed unpleasant, on offenders culpable of unlawful acts, serving retributive, deterrent and reformative purposes for protection of societal order as per constitutional guidelines. The type and quantum of punishment should correspond to the nature and gravity of offense, blameworthiness of offender, and principles of proportionality, justification, humanity and reformation.

B. Historical Evolution of Punishment

The concept and practice of punishment has evolved over time across human societies. In primitive tribal communities, punishments were decided based on customs and traditions, often with the twin aims of compensating the victim and pacifying anger to restore harmony in social

[4] State of Madhya Pradesh v. Ratan Singh, (1976) 3 SCC 470.
[5] The Indian Penal Code 1860, Preamble & Ch. III (Of Punishments).
[6] Shailesh Manubhai Parmar v. State of Gujarat, (2011) 2 SCC 795.
[7] Vishnu Dutt Sharma v. State of HP, (2009) 13 SCC 705; Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
[8] Shatrughan Chauhan v. Union of India, (2014) 3 SCC 1.

ISSN: 2582-6433

relations.[9] Over time, organized religions prescribed moral codes of conduct, with divine retributive punishments for violations. Similarly, in ancient kingdoms and empires, the authority to punish wrongdoing resided with the ruler, aimed at maintaining order and compliance with commands. In medieval Europe, punishments became more institutionalized and brutal, often involving public torture and executions. The establishment of laws and legal systems led to the state taking over the authority to investigate crimes and determine punishments rather than leaving it to victims and communities. Enlightenment thinkers in the 18th century, such as Cesare Beccaria, Jeremy Bentham and John Howard argued for proportion between crimes and punishments as well as advocating for more humane prisons instead of harsh physical punishments.[10] Their theories and critiques pushed criminal justice reforms and changes in many countries over the 19th and 20th centuries.

In the Indian subcontinent, ancient Hindu scriptures laid down moral precepts and legal treatises like Manusmriti classified wrongful acts and prescribed fines, mutilations and death as punishments depending on the nature and circumstances of the crime. Islamic rulers after the 12th century imposed punishments in accordance with Sharia law for certain moral offenses and hudud crimes.[11] The British colonial administration developed a hybrid legal system combining English criminal law and Indian customary law, which relied heavily on imprisonment for a wide range of offenses. After India's independence in 1947, the Constitution enshrined certain fundamental rights and prohibited cruel and unusual punishments under Article 21.[12] It mandated humane prison conditions and correctional approaches aimed at rehabilitation. The Indian Penal Code formulated under British rule continued with modifications, while new legislation has expanded the range of punishments available to courts. The Supreme Court and High Courts have also intervened from time to time to check punishments seen as excessive and disproportionate.[13] However, issues still remain with overcrowded prisons, long detentions without trial and human rights violations.[14] Reforms in substantive and procedural criminal law, prison conditions and

[9] Gerber, Rudolph Joseph. "Historic Development of Punishment." Journal of Criminal Law and Criminology (1931-1951) 28, no. 4 (1937): 472-82. http://www.jstor.org/stable/1137481 (last visited December 12, 2023).
[10] Blom-Cooper, Louis. "Progressive Punishment: An Examination of the Decline of Penal Brutality." Oxford Journal of Legal Studies 7, no. 3 (1987): 341–53. https://doi.org/10.1093/ojls/7.3.341.
[11] Hardy, P. "Modern European and Muslim Explanations of Punishment in Islam." The Muslim World 59, no. 3-4 (1969): 274-89. https://doi.org/10.1111/j.1478-1913.1969.tb02632.x.
[12] INDIA CONST. art. 21.
[13] Krishnan, Jayanth K. "Social Policy Advocacy and Litigation in India: Developing a Complementary Paradigm." Journal of Law and Social Policy 13, no. 6 (2007): 1-32.
[14] Singh, Pradyumna. "Human Rights in India: Problems and Perspectives." Indian Journal of Criminology 26, no. 1-2 (1998): 33-45.

ISSN: 2582-6433

sentencing policies are still ongoing in India.

Thus, we can see how punishments and attitudes towards them have transformed across different historical periods, from religious and moral sanctions to brutal, public physical punishments to standardized legal punishments that still retain vestiges of colonial laws. The key developments have involved regulating the authority to impose punishments, linking punishments to gravity of crimes, applying emerging human rights frameworks and pushing for liberal reforms focusing on correction more than just deterrence and retribution. Understanding this evolution can inform contemporary debates around punishment theory and penal policies.

II. ANCIENT AND DISCARDED MODES OF PUNISHMENT

A. Corporal Punishment

1. Overview of Corporal Punishment

Corporal punishment involves inflicting physical pain as a form of discipline or punishment.[15] Historically, corporal punishment has been used in many cultures and contexts, including in schools, judicial systems, prisons, and homes. However, views on and legality of corporal punishment vary widely by country and context. In India, corporal punishment remains legal in some contexts, though reforms have aimed to limit its use. Corporal punishment of children in schools was banned nationwide with the Right of Children to Free and Compulsory Education (RTE) Act in 2009.[16] However, enforcement remains inconsistent.[17] Corporal punishment also remains lawful as a sentence in India's judicial system under certain statutes. There have been calls from children's rights advocates to ban all corporal punishment given evidence of physical and psychological harm. However, many still view corporal punishment as an effective means of discipline.[18]

[15] Vinita Andotra & Syed Shahanwajuddin, "To Be or Not to Be: Examining Corporal Punishment in Schools in India", The International Education Journal: Comparative Perspectives 18, no.3 (2020): 55, https://openjournals.library.sydney.edu.au/index.php/IEJ/article/view/14177 (last visited Dec 12, 2023).
[16] The Right of Children to Free and Compulsory Education Act, No. 35 of 2009, India Code (2009), sec. 17, https://www.indiacode.nic.in/handle/123456789/1362?locale=en.
[17] Human Rights Watch, India: Failures in Implementing Right to Education Act (2014), https://www.hrw.org/news/2014/04/01/india-failures-implementing-right-education-act (last visited Dec 12, 2023).
[18] Nalini Ravindran, "Why India Needs to Outright Ban Corporal Punishment at Home", The Wire, Nov 20, 2018, https://thewire.in/society/why-india-needs-to-outright-ban-corporal-punishment-at-home (last visited Dec 12, 2023).

ISSN: 2582-6433

- **Historical and Cultural Context**

The use of corporal punishment has a long history in Indian culture, tracing back to ancient religious texts and practices that advocated physical discipline of children and subordinates. Authority figures such as parents, teachers, and kings were seen as duty-bound to punish misbehavior physically in order to correct faults and ensure obedience. In this cultural and historical context, corporal punishment came to be an accepted and routine part of childrearing, education, the justice system, and more in India over centuries. The belief behind this was that judicious physical punishment out of a sense of duty would reform character, impart moral values, and maintain social order. However, such punishment was intended to reform rather than solely inflict pain or take revenge. Despite some calls for reform, these traditional views continued to shape attitudes toward corporal punishment into modern times.

- **Corporal Punishment in Schools**

With India's independence in 1947 and move toward establishing constitutional rights, attitudes began shifting against unregulated physical discipline. By the late 20th century, a children's rights movement arose in India advocating for reforms to traditional corporal punishment in schools. Evidence mounted globally on the ineffectiveness and harms of school corporal punishment.In 2000, India's National Policy on Education resolution first stated that corporal punishment would be disallowed, though enforcement mechanisms remained lacking at state levels.[19] Finally, India banned nationwide corporal punishment in schools under the 2009 Right of Children to Free and Compulsory Education Act (RTE).[20] The RTE made education a fundamental right of children and prohibited physical punishment or mental harassment.[21] However, reports indicate uneven RTE implementation and corporal punishment persists in many Indian schools despite the formal ban. A 2016 report found over 70-80% of children still face some physical punishment at school. Reasons include cultural acceptance, lack of reporting mechanisms, inadequate teacher training in alternative discipline, and more. Advocates say more work is needed to enforce the ban and change mindsets around discipline.

- **Judicial Corporal Punishment**

India retains corporal punishment, including flogging and whipping, as a sentence under some laws for certain offenses. These laws provide magistrates discretionary authority to order

[19] National Policy on Education 1986, modified 1992, sec. 5.6, https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/npe.pdf.
[20] The Right of Children to Free and Compulsory Education Act, sec. 17.
[21] The Right of Children to Free and Compulsory Education Act, secs. 3, 17.

ISSN: 2582-6433

flogging, such as for theft, intimidation, or vandalism.[22] However, the Supreme Court has issued some guidelines for humane infliction per human rights standards.[23] Debates continue around retaining judicial corporal punishment. Supporters argue it serves as an effective deterrent to crimes in the Indian context. The Law Commission has also recommended expanding it to cover additional offenses like domestic violence. However, the practice faces opposition from rights groups. Opponents argue it violates human dignity, constitutional rights, and India's treaty commitments. Though allowed under limited statutes, judicial corporal punishment remains rarely practiced in India and some advocate for full abolition per global trends. As such, its future remains uncertain between traditional and modern viewpoints on state power to punish physically.

- **Domestic Corporal Punishment**

An area with minimal legal restrictions is the use of corporal punishment in homes. Indian parents have traditionally held wide latitude over discipline methods under personal laws. Physical punishment by parents or guardians maintains social acceptance, though excess abuse remains prohibited. Children's rights advocates have argued that allowing domestic corporal punishment contradicts bans in schools or judicial systems. They note global studies on developmental harms and limited evidence of benefits. A law proposed in 2017 sought to ban domestic corporal punishment but faced criticism as government overreach into family matters.[24] Views remain mixed on whether legal reforms are warranted or would align with Indian cultural context.

2. Forms of Corporal Punishment

Corporal punishment refers to the infliction of physical pain as a measure of correction or punishment for an offence.[25] It aims to reform or deter the offender by causing physical discomfort. In India, there is no statutory definition of corporal punishment, but judicial precedence and policy documents have elaborated on some of the most common forms.

- **Beating/Flogging**

One the most prevalent form of corporal punishment in India has been beating or flogging.[26]

[22] The Whipping Act of 1909, No. 4 of 1909, India Code (1909), http://legislative.gov.in/sites/default/files/A1909-04.pdf.
[23] Prem Shankar Shukla v. Delhi Administration, AIR 1980 SC 1535.
[24] The Protection of Children from Corporal Punishment Bill, 2017, http://www.prsindia.org/uploads/media//draft/Protection%20of%20Children%20from%20Corporal%20Punishment%20Bill,%202017.pdf.
[25] Gaurav Dhamija, "Law Relating to Corporal Punishment" (2013) 8(10) The Lex-Warrier: Online Law Journal 31.
[26] JT 2005 (1) SC 105.

ISSN: 2582-6433

Typically, this involves striking the offender on the buttocks or palms. While largely outlawed in modern institutions, this practice continues illegally in some homes, schools, and childcare institutions to varying degrees. In a landmark judgment in 2000, the Supreme Court defined corporal punishment as "Doing an act by way of beating, mutilating or torturing a child, or doing any other act which debases, degrades or humiliates the child".[27] The Court declared that such punishment has no legal sanction under Article 19(1)(a) or Article 21.[28]

- **Caning**

Another common but prohibited form is caning, which involves hitting the offender with a thin, bamboo cane on the arm, palm, buttocks, or soles of the feet.[29] Caning is often seen as a harsher form of punishment used in extreme circumstances like rape, robbery with violence, or vandalism. However, the Supreme Court has ruled that inflicting this form of punishment would be unconstitutional as it violates human dignity and the right against torture.[30] The Bombay High Court has also struck down prison guidelines permitting caning or whipping.[31] Hence, despite a history of implementation, judicial opinion in India now concludes that caning is unjust and illegal.

- **Chaining/Fettering**

Chaining or fettering involves physically restraining the offender with iron chains and locks for prolonged periods. Historically, this technique was used for disciplinary measure in prisons and asylums. The extreme discomfort and restriction of movement was seen as an effective deterrent. However, the Supreme Court has now categorized this as a violation of personal liberty under Article 21.[32] It classifies chaining in prisons or asylums as cruel, inhuman and unacceptable.[33] In another case dealing with handcuffing of under-trial prisoners, the Court ordered that authorities must justify imposition of fetters on reasonable grounds of security.[34] Hence, without due justification, routine chaining is now viewed as unlawful by the courts.

- **Degrading Modes of Punishment**

In some cultures, corporal punishment takes degrading or humiliating forms like stripping the

[27] Vishaka v State of Rajasthan, AIR 1997 SC 3011.
[28] Indian Young Lawyers Association v State of Kerala, (2018) 14 SCC 703.
[29] Rachel Baskerville, "Corporal Punishment of Children: A Nonviolent Approach to Ending Physical Punishment of Children Globally" (2016) 13(1) Journal of Legal Anthroplogy 21.
[30] Prem Shankar Shukla v Delhi Admin, (1980) 3 SCC 526.
[31] Alfred Benddict v State of Maharashtra, (1985) CrLJ 526.
[32] Sunil Batra v Delhi Admin, (1978) 4 SCC 494.
[33] Pt Parmanand Katara v Union of India, (1995) 3 SCC 248.
[34] Citizens for Democracy v State of Assam, (1995) 3 SCC 743.

ISSN: 2582-6433

offender publically or blackening the face with charcoal. However, Article 21 guarantees the right to live with human dignity - thus any punishment conflicting with human dignity is unconstitutional.[35] Degrading punishment that affects prisoners' self-respect or self-worth would violate Article 21.[36] In the 'strip-search' case, the Rajasthan High Court asserted that such techniques outrage a prisoner's sense of decency and self-respect under Article 21.[37] Constitutional protections now place strict limits on punishments or correctional processes that debase offenders.

Thus, India's highest courts have narrowed the scope of lawful corporal punishment, reasoning that provisions for judicial oversight and human dignity imply that only moderate correction, not torture or trauma, are warranted by the Constitution. The Court has consistently ruled that extreme physical or psychological hardship have no place in India's penal laws or in regulating prisoner behaviour. These landmark judicial opinions reflect the State's duty of providing inmates humane living conditions regardless of their crimes. Critics however argue that barbaric corporal punishment still prevails due to administrative apathy, lack of accountability and the inhumane mindset of some prison authorities.[38]

A. BANISHMENT AND EXILE

Banishment refers to the punishment where an individual is forced to leave a certain geographical area, usually the region where they live or the country itself.[39] Exile is a similar form of punishment where an individual is expelled from their native region or country, typically on a long-term or permanent basis.[40] Both banishment and exile involve the compelled removal of a person from a particular place. Historically, banishment and exile have been used as forms of punishment in various cultures and jurisdictions. Notable examples include Ovid's exile from Rome ordered by Emperor Augustus in 8 AD and Napoleon's banishment to the island of Elba in 1814 after his defeat at the Battle of Leipzig.[41]

[35] Kishore Singh Ravinder Dev v State of Rajasthan, AIR 1981 SC 625.
[36] TK Gopal v State of Karnataka, (2000) 6 SCC 168.
[37] DK Basu v State of West Bengal, (2015) 8 SCC 744.
[38] Mohammed Naseem v State of Rajasthan, 2015 CriLJ 2061 (Raj).
[39] Robert Ellis, "On Banishment," Res Publica 28, no. 4 (2022): 347–66, https://doi.org/10.1007/s11158-021-09532-5, accessed December 12, 2023.
[40] Amy Maguire and Liz Wall, "The Banishment of Australian Citizens as Punishment: Unconstitutional or a Matter of International Law?," Melbourne University Law Review 44, no. 2 (2020): 463–514.
[41] Philip G. Dwyer, "Napoleon Bonaparte as Hero and Saviour: Image, Rhetoric and Behaviour in the Construction of a Legend," French History 18, no. 4 (December 2004): 379–403, https://doi.org/10.1093/fh/18.4.379.

ISSN: 2582-6433

In the Indian context, provisions related to banishment and exile as legal punishments can be found in several laws. The Code of Criminal Procedure, 1973 empowers State Governments to issue orders for externment or removal of individuals from a specified local area as a preventative measure.[42] State-level police acts such as the Bombay Police Act, 1951 also contain sections related to externment and banishment orders.[43] Certain tribal and regional customary laws in India also include exile and banishment as punishments for offenses against social or communal norms.[44] The Constitution of India under Article 19(1)(e) provides for the right to reside and settle in any part of India as a fundamental right. At the same time, Article 19(5) permits the State to impose reasonable restrictions on this right in the interest of general public. The constitutional validity of punitive banishment and exile has been examined by Indian courts in multiple cases over the years.

In the case of Pradeep Ram v. State of Jharkhand (2011), the Jharkhand High Court struck down Section 17(n) of the Jharkhand Excise Act which provided for externment of bootleggers from the local area.[45] The Court held that punitive banishment amounted to a violation of Article 19(1)(e) rights unless it could be shown to be a reasonable restriction under Article 19(5). Since the State could not satisfactorily establish reasonableness, the provision for banishment was read down by the Court. Similarly, in Laxman Naik v. State of Orissa (1994), the Orissa High Court set aside an externment order passed by a District Magistrate since the order lacked adequate reasons and affected the petitioner's Article 19(1)(e) rights.[46] On the other hand, the apex court has upheld externment orders in cases where sufficient justification regarding potential threats to public safety and order were provided, such as in Sardar Ali v. State of Maharashtra (1999).[47]

The issue of banishment orders disproportionately targeting marginalized communities has also been highlighted. In Budhan Choudhary v. State of Bihar (1955), the Patna High Court pointed out that sections pertaining to externment in the Bihar Police Regulations were often arbitrarily used against members of tribal communities, contravening Article 15 prohibition against discrimination.[48] In recent years, human rights groups have advocated against the use of punitive

[42] The Code of Criminal Procedure, 1973, Act No. 2 of 1974, s. 144.
[43] The Bombay Police Act, 1951, Act No. XXII of 1951, ss. 56-57.
[44] Majlis Manch and Sujata Gothoskar, "A Critical Evaluation Of Laws And Policies Against Honour Killings And Crimes In India And The Way Forward," Socio Legal Review 15, no. 1 (2019): 137–65.
[45] Pradeep Ram v. State of Jharkhand, 2011 Cri LJ 3222.
[46] Laxman Naik v. State of Orissa, 1994 Cri LJ 1268.
[47] Sardar Ali v. State of Maharashtra, (1999) 8 SCC 426.
[48] Budhan Choudhary v. State of Bihar, AIR 1955 Patna 111.

ISSN: 2582-6433

banishment arguing that it impinges upon various fundamental rights while also lacking penological justification.[49] However, legislative provisions for preventative externment of individuals still exist in various State laws, upheld by courts when exercized judiciously. In appropriate cases, banishment continues to remain a measure available to law enforcement agencies citing maintenance of public order as grounds for reasonable restriction under Article 19. Nevertheless, the validity of orders resulting in permanent exile/banishment as a punitive sanction remains constitutionally suspect.

B. Trial by Ordeal

Trial by ordeal was a method of trial which was prevalent in ancient and medieval India, where an accused person was subjected to risky and painful tests to determine their innocence or guilt. If the person endured the test without much harm, they were declared innocent, however if they failed, the person was found guilty.[50] This method was based on the religious belief that God would intervene and protect the innocent from harm.[51] Various kinds of ordeals were prescribed for different offences and for persons of different castes. Common ordeals seen in India included the ordeal by balance, where the accused was weighed against stones/metal to test their innocence; the ordeal by fire, where the accused had to hold hot metal rods in their hands or walk on fire;[52] and the ordeal by water, where the accused was thrown into a river and it was believed that an innocent person would sink and guilty would float.[53] There are many references which indicate that trial by ordeal was practiced across ancient and medieval India - from the Laws of Manu, stories in Buddhist Jatakas, accounts by ancient travellers and historians like Al Biruni, to inscriptions and village records from the Chola dynasty in Tamil Nadu.

Under Islamic rule from 12th-18th century, trial by ordeal particularly became an instrument of oppression and injustice against disprivileged groups like low-caste Hindus and women.54

[49] Bombay High Court Scraps Law Allowing Banishment of Accused, The Wire, March 12, 2019, https://thewire.in/law/bombay-high-court-scraps-law-allowing-banishment-of-accused, accessed December 12, 2023.
[50] Jain M.P., Outlines of Indian Legal and Constitutional History (6th edition), LexisNexis, Gurgaon, 2009 p. 237.
[51] Harris, Jonathan Gil, "The Truth About 'Trial by Ordeal'", The Wilson Quarterly, Vol. 17, No. 3, 1993, p. 83. JSTOR [https://www.jstor.org/stable/40258972, last visited Dec 12, 2023].
[52] Sengupta Padmini, "Oaths, Ordeals and Witchcraft: Tribal Custom as Crime in early 20th century Chotanagpur" in Anand A. Yang (ed) Crime and Criminality in British India, Arizona Press, 1985, p. 264.
[53] Medhi, Konika "Superstitious Justice: A Study of Witch Trials in Assam", Economic and Political Weekly, Vol XLVIII, No. 20, 2013, p. 56. JSTOR [https://www.jstor.org/stable/23527448, last visited Dec 12, 2023].
[54] Hasan S. Nurul, "Ordeal as an Instrument of Proof and Justice in Early Muslim India", Islamic Studies, Vol. 5, No. 1, 1966, pp. 51-64. JSTOR [https://www.jstor.org/stable/20832725, last visited Dec 12, 2023].

ISSN: 2582-6433

Foreign travellers like Ibn Batuta and Francois Bernier give graphic accounts of how women were subjected to painful tests during trials for witchcraft, adultery or other alleged crimes, based solely on suspicion or hearsay evidence.[55] However, there are also a few instances where such trials did lead to delivering justice, for example during the reign of Firoz Shah Tughlaq when a minister facing false charges underwent the ordeal and came out unharmed, proving his innocence. During the 18th century, with the rise in humanist and rational ideas promoted by thinkers and reformers like Raja Ram Mohan Roy, trial by ordeal came to be increasingly criticized as irrational and unjust. In 1864, the colonial government issued an order abolishing ordeals in the provinces under its rule.[56] Finally in 1872, trial by ordeal was banned in all native states of India as well by the Ordeals Abolition Act. However some scholars argue that isolated instances of extrajudicial ordeals may have continued informally, particularly in remote villages where traditional beliefs persisted.[57]

In modern India, subjecting an accused to any life-threatening or dangerous physical test during legal proceedings would violate constitutional guarantees protecting life, liberty and human dignity under Articles 14, 19 and 21. It would also contravene criminal procedure safeguards ensuring humane and ethical conduct during investigation and trial, like Sections 330-331 of Indian Penal Code, 1860 which make it a punishable offence to cause hurt for the purpose of extorting confession. Thus while beliefs in divine justice and karmic retribution still prevail in Indian culture and thought, they find no place in the current legal system which upholds rule of law, principles of natural justice, and objectivity in dispensing justice.[58]

III. CAPITAL PUNISHMENT

A. DEFINITION AND RATIONALE

Capital punishment, also known as the death penalty, refers to the state-sanctioned practice of putting a person to death as punishment for a crime. It is regarded as the most severe form of

[55] Ibn Battuta, Travels in Asia and Africa 1325-1354 tr. and selected by H.A.R Gibb, George Routledge and Sons Ltd, London, 1946, p. 212; Bernier F., "Travels in the Mogul Empire A.D. 1656–1668" tr. by A. Constable, 2nd revised edition, Oxford Univ. Press, London, 1916, p. 324.
[56] Stokes E., "Hindu Law Books: Opinions on the Abolition of Ordeal", Madras Quarterly Journal of Medical Science, 1865-6, p. 26.
[57] Crooke W., Religion and Folklore of Northern India, 2nd Edition, Oxford University Press, Delhi, 1926, p. 9.
[58] Dasgupta Sherna, "Do the Guilty Always Get Away: Measuring Inequities in Traffic Court Sanctions", Current Sociology, July 2011, Vol. 59(4), p. 476, Sage Journals [https://journals.sagepub.com/doi/10.1177/0011392111400853, last visited Dec 12, 2023].

ISSN: 2582-6433

punishment as it involves taking away the fundamental right to life guaranteed under Article 21 of the Constitution of India.[59] The term "capital" in capital punishment comes from the Latin word "capitalis" meaning "of the head", referring to execution by beheading.[60] Today, hanging and shooting are the most common methods of execution in countries where the death penalty is practiced. Lethal injection is also used in some countries like the United States.[61]

The primary rationale given in favor of capital punishment is retribution and just deserts. Supporters argue that those who commit particularly heinous crimes like premeditated murder, deserve the most severe punishment available. Capital punishment is regarded as what the offender deserves or merits for the harm they have caused through willful criminal action. The deterrence rationale is another oft-cited justification for the imposition of capital punishment.[62] Here, the underlying premise is that the prospect of being executed for committing serious offenses like murder serves as an effective deterrent, causing potential offenders to refrain from resorting to such acts due to the fear of facing the death penalty. Whether capital punishment yields any deterrent effect in reality remains arguable and widely debated.[63],,

Incapacitation or permanent elimination of offenders from society is put forth as another rationale for the death penalty. Execution permanently prevents capital offenders like serial killers or terrorists from committing further crimes, thereby stopping recidivism and providing definitive protection to society against them. However, life imprisonment without the possibility of parole also effectively serves this purpose of incapacitating dangerous criminals.[64] Retribution demands that punishment for a crime should be commensurate with the offense. It is debatable whether deprivation of life, regardless of the severity of the offense, accords with principles of proportionality fundamental to any theory of punishment.[65], There are also concerns over whether human beings should assume the moral authority to deliberately take the life of another, even for

[59] INDIA CONST. art. 21.
[60] Cornell Center on the Death Penalty Worldwide, "Death Penalty Database: Method of Execution", available at https://www.deathpenaltyworldwide.org/method-of-execution.cfm (last visited Dec. 12, 2023).
[61] Id.
[62] Isaac Ehrlich, "The Deterrent Effect of Capital Punishment: A Question of Life and Death", American Economic Review 65, no. 3 (1975): 397–417.
[63] John J. Donohue & Justin Wolfers, "Uses and Abuses of Empirical Evidence in the Death Penalty Debate", Stanford Law Review 58, no. 3 (2005): 791–846.
[64] John J. Donohue, "Capital Punishment in Connecticut, 1973-2007: A Comprehensive Evaluation from 4686 Murders to One Execution", Stanford Law Review 58, no. 5 (2006): 1615–1698.
[65] Jeffrey Reiman, "Justice, Civilization and the Death Penalty: Answering van den Haag", Philosophy & Public Affairs 14, no. 2 (1985): 115-148.

ISSN: 2582-6433

narrow societal purposes.

In India, the death penalty is prescribed as a punishment under the Indian Penal Code, 1860 and various other legislations. However, the "rarest of rare cases" doctrine laid down by the Supreme Court implies that capital punishment should only to be awarded for extraordinary crimes where alternative options of punishment are "unquestionably foreclosed".[66] As per "The Death Penalty India Report" published in May 2016 by National Law University, Delhi, over 60% of death sentences imposed between 2000-2015 by trial courts were eventually acquitted by higher courts, throwing into question whether death penalty serves any penological purpose when there is a high rate of erroneous conviction. Hence, whether retention or abolition would better serve public interest and the ends of justice remains a complex question. The Law Commission of India in its 2015 Report has also recommended abolition of the death penalty for all crimes in India, except terrorism-related offenses and waging war.

Overall, in the context of punishment and sentencing, capital punishment represents the most extreme expression of the state's retributive power over individuals. Its foundational premises around deterrence, proportionality and incapacitative needs remain actively contested across jurisdictions. Within India's legal framework, its selective application in line with Constitutional safeguards also continues to be a jurisprudential challenge.

B. HISTORICAL PERSPECTIVES

In India, references to the death penalty date back to ancient times when punishments were grounded in the Hindu Code of Manu. Manu prescribed the death sentence for a range of crimes including murder, adultery, perjury, and theft. During the Maurya dynasty era between 320 BC to 185 BC, the concept of punishment became more developed and organized within a complex judicial system overseen by the king.67 Severe penalties ranging from fines to mutilation to death were levied for offenses against property and persons. Laws and judgments made under Chandragupta Maurya and Ashoka mention several crimes punishable by death.68 Through the medieval era after the collapse of the Mauryas, capital punishment remained an accepted practice under rulers from Sultanate and Mughal periods. Though some Sultans experimented with

[66] Bachan Singh v. State of Punjab, (1980) 2 SCC 684.
[67] Shashank Shekhar, "Capital Punishment in Ancient India and Its Rationale", International Journal of Applied Research 2016; 2(3): 740-741, 31 March 2016
[68] Ibid.

ISSN: 2582-6433

substituting the death penalty with fines and flogging, it was applied relatively frequently and liberally for crimes jeopardizing the ruler's authority. Under the Mughals, offenses regarded as Hudud or those mentioned in the Quran explicitly as warranting execution saw increasingly harsh application of death sentences. Methods were often violent as a means to deter rebellion against the empire's authority.

The early nineteenth century saw major legal reforms under the British colonial regime. In 1833, William Bentinck abolished Sati, which prescribed burning or burying alive of widows. In 1837, officials also ratified laws making it more difficult to impose capital punishment and allowing more leniency for juvenile offenders between the age of 12 to 18 years.[69] However, the Indian Penal Code drafted in 1860 retained capital punishment under Section 302 for murder alongside other provisions imposing the death penalty for crimes against the state. Over the following decades, the lower age was raised back to 18 and all mandatory death penalty laws were made discretionary by the early 20th century.

Post independence, India retained capital punishment as an available penalty though committed to only selective application after C.H. Alexandrowicz's argued before the country's law commission that complete abolition would not conduce social defense in India. The death penalty could be imposed for murder, abetting suicide, treason, espionage, attempt on President or Governor's life, and certain military crimes during wartime under the IPC and the 1950 Army, Navy and Air Force Acts. Over the past decades, Indian jurisprudence surrounding the death penalty has evolved significantly with pivotal judgements passed in landmark cases. In 1955's State of Madras v. V.G. Row,[70] the Supreme Court upheld the constitutionality of the death penalty in India but called for the "special reasons rule" necessitating detailed explanation by lower courts on choosing capital punishment over life imprisonment. Further rulings like 1978's Rajendra Prasad v. State of Uttar Pradesh[71] limited applicability of the death sentence to only the "rarest of rare cases" under India's developing human rights framework.

Most recently, ongoing public interest litigation has put a renewed spotlight on various aspects of capital punishment such as inordinate delays in carrying out executions. In 2014, India voted

[69] Elizabeth Kolsky, "The Colonial Rule of Law and the Legal Regime of Exception: Frontier 'Fanaticism' and State Violence in British India", The American Historical Review, Volume 120, Issue 4, October 2015, Pages 1218–1246
[70] AIR 1952 SC 196
[71] (1979) 3 SCC 646

ISSN: 2582-6433

against a UN General Assembly draft resolution calling for abolishing the death penalty globally, but the Law Commission's 2015 report pointed out inconsistencies in application of "rarest of rare doctrine" and problems with administering the sentence., Overall, the trajectory indicates a cautious yet more principled and sparing use for this most extreme punishment.

C. CONTEMPORARY DEBATES

In India, the death penalty is prescribed for offenses like murder, waging war against the government, abetting mutiny actually committed, giving false evidence upon which an innocent person suffers death, and repeat offenses under the Narcotic Drugs and Psychotropic Substances (NDPS) Act.[72] However, there have been calls to abolish capital punishment completely. Those in favor argue that it acts as a deterrent while critics state that there is no conclusive evidence to support this claim. There are also arguments around it being an inhumane form of punishment as well as concerns around its arbitrary application.

- **Deterrence Value**

The key argument presented in favor of continuing capital punishment is its perceived value as a unique deterrent i.e. the possibility of being sentenced to death deters people from committing serious offenses like murder, acts against the state etc. Supporters argue that the severity of the punishment makes potential criminals think twice before undertaking such acts. There is also the belief that it prevents convicts who receive a life sentence from repeating offenses in prisons if they are kept alive.[73]

However, most penological experts argue that there is no definitive evidence to conclusively establish capital punishment's deterrence value compared to punishments like life imprisonment.[74] Critics point to research indicating that states and countries that enforce capital punishment do not necessarily see a visible decline in crimes that call for applying the death penalty. For instance, a 2012 National Research Council report in the USA did not establish any significant deterrent effect.[75] Similarly in India, there are diverging views on whether applying

[72] The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India), ss. 121, 132, 194, 303, 364A, 376A.
[73] Roger Hood and Carolyn Hoyle, "Abolishing the Death Penalty Worldwide: The Impact of a "New Dynamic"," Crime and Justice 38, no. 1 (2009): pp. 14, https://www.jstor.org/stable/10.1086/598633 (last visited Dec 12, 2023).
[74] Law Commission of India, The Death Penalty, Report No. 262 (New Delhi: Law Commission of India, 2015), pp. 207-210, https://lawcommissionofindia.nic.in/reports/Report262.pdf (last visited Dec 12, 2023).
[75] National Research Council, Deterrence and the Death Penalty (Washington, DC: The National Academies Press, 2012), pp. 2, https://doi.org/10.17226/13363 (last visited Dec 12, 2023).

ISSN: 2582-6433

the death sentences prescribed in law deters terrorism or drug trafficking.[76] The Law Commission of India, in its 2015 report, also concluded that there is no proof to suggest that the death penalty has a uniquely deterring effect on potential offenders in the country.

- **Inhumane Punishment**

Opponents of capital punishment argue that putting someone to death is an inhumane form of punishment that goes against basic human rights principles. This involves arguments against the morality or ethics of sentencing someone to death irrespective of the severity of their crimes. There are additional concerns around how convicts on death row typically spend years going through exhaustive appeals thereby dealing with intense psychological trauma in the process. Critics argue that the additional years spent waiting for pending execution after court procedures get over amounts to mental cruelty. In India, such concerns around mental trauma and agony prompted the Supreme Court to lay down stringent conditions for carrying out the death penalty in the case of Shatrughan Chauhan v. Union of India.[77] This included taking immediate steps to process mercy petitions, allowing convicts to physically meet family frequently etc. However, penological experts argue that humanizing the process does little to address whether capital punishment should exist at all.

- **Arbitrary Application**

Another area of criticism is based on research indicating apparent subjectivity and inconsistencies in how capital punishment is awarded. Opponents argue that application of the death penalty appears arbitrary without a consistent framework for determining what constitutes the "rarest of rare" criteria for offenses that call for the punishment under Indian statutes.[78] There are statistics indicating inconsistencies across the country when it comes to prosecution under special security laws as opposed to civilian laws for crimes of similar gravity. There is also criticism around inadequate representation and systematic bias that members of marginalized socio-economic groups may face in trying to avoid capital punishment for applicable crimes. To address such concerns around arbitrary application, penological experts and groups like Amnesty India have called for an immediate moratorium on capital punishment as the first step, followed by steps to move towards complete abolishment. However, whether the Indian state agrees to such proposals remains debated.

[76] Anup Surendranath, "How Not to Make the Case for the Death Penalty," Economic and Political Weekly 47, no. 29 (2012), pp. 17-18, https://www.jstor.org/stable/23214052 (last visited Dec 12, 2023).
[77] Shatrughan Chauhan v. Union of India, (2014) 3 SCC 1.
[78] Bachan Singh v. State of Punjab, AIR 1980 SC 898.

ISSN: 2582-6433

IV. IMPRISONMENT

A. HISTORICAL DEVELOPMENT

Imprisonment as a form of punishment has existed since ancient times, however, the modern prison system and the concept of imprisonment as a principal punishment for crimes has developed over several centuries across societies. In early civilizations, prisons served mainly to detain accused people awaiting trial or debtors until they paid their dues; long-term imprisonment for punishment was rare. The modern prison emerged in Europe and North America in the late 18th and early 19th centuries as a more humanitarian alternative to cruel physical punishments of the past.[79] In India, imprisonment has been used as a form of punishment since ancient times.[80] References to imprisonment as a form of punishment are found in the Manusmriti and Arthashastra. However, prisons served more as detention centers than places for long-term incarceration. Physical punishments such as mutilation, whipping and execution were more common.81 During the Delhi Sultanate and Mughal rule, imprisonment remained a minor punishment along with fines, whipping, mutilation and execution depending on the crime and social status of the offender. Mughal rulers did establish some rudimentary prisons but they remained temporary holding centers rather than correctional institutions.[82]

It was during British colonial rule that the modern prison system developed in India. As the British expanded their territorial control, they felt the need for an organized system to detain rebels, troublemakers and criminals in secure facilities governed by formal procedures and regulations. The Indian jails during early British rule were in an appalling condition - overcrowded, lacking hygiene and amenity. After the 1857 revolt, the British government implemented several reforms to improve prison administration in terms of healthcare, discipline, reformation programs and parole systems.[83] By the late 19th century, prisons in British India developed into well-functioning institutions for punishment and correction along the lines of emerging modern penology. However, certain outdated practices inherited from the native justice

[79] Michael Ignatieff, A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850 (Pantheon Books 1978).
[80] J.K. Chopra, The Evolution of Prison System in India (Reliance Publishing House 1991), p.6
[81] Suparna Jain & R.K. Verma, Prisons in India, 2(1) Indian Police Journal 36 (2005), p.38
[82] Sangeeta Tyagi, British Prison Policy Changes and Kol Insurrection, Prison History of Early Independent India, Accessed from: https://www.importantindia.com/15948/prison-system-during-british-period/, (last visited Dec. 13, 2023)
[83] Ranabir Samaddar, The Politics of Dialogue: Living Under the Geopolitical Histories of War and Peace (Routledge 2016), p.58

ISSN: 2582-6433

system continued in Indian prisons during British rule such as fetters and whipping which were seen as barbaric in Britain itself.[84] The system also came under criticism for poor segregation, limited rehabilitation efforts and excessive state coercion. Several commissions pointed out deficiencies and recommended reforms but lack of finance inhibited prisons from living up to their full potential. Nevertheless, prisons had established themselves as the preeminent form of punishment in colonial India by the early 20th century.

After independence, prison reforms received fresh momentum aligned with the correctional philosophy outlined in the Indian Constitution and guided by international standards.[85] Several committees in the post-independence era have critically evaluated Indian prisons and recommended reforms related to living conditions, staffing, incarceration alternatives and rehabilitation programs. Recent policy reports have stressed issues of overcrowding, understaffing, poor hygiene and lack of reformative opportunities.[86] Addressing these concerns remains vital for Indian prisons to fulfill their purpose as places of correction rather than deterioration. While progress has been made over the decades, prisons in India continue to face systemic challenges typical of developing countries in implementing reform programs on scale. Nevertheless, imprisonment remains central to India's penal system backed by policy directives as well as public sentiment. Thus, we see that imprisonment as a systematic form of punishment has had a relatively recent history in India, introduced and developed formally under British colonial administration based on modern notions of incarceration. In the post-independence period, Indian prisons have strived to reform themselves according to the rehabilitative ideal while grappling with longstanding issues. The trajectory going forward involves strengthening reformative efforts and humanizing prison conditions in keeping with a progressive correctional ethos.

B. TYPES OF IMPRISONMENT

Under the Indian Penal Code 1860 and Code of Criminal Procedure 1973, courts can award various types of imprisonment sentences to offenders convicted of crimes depending on factors like the nature and gravity of offense. The major types of imprisonment sentences in India are:

[84] Dipesh Chakrabarty, Rethinking Working-Class History: Bengal, 1890-1940 (Princeton University Press 2015), p.105
[85] Constitution of India, art. 21
[86] PRS Legislative Research, Examining Prisons in India (Institute for Policy Research Studies 2017), p.5

ISSN: 2582-6433

- **Simple Imprisonment**

Simple imprisonment involves confinement of the offender in a prison with or without hard labor for the entirety of sentence awarded by court. It does not impose any additional restraints on prisoners beyond restricting personal liberty inside the prison. Simple imprisonment cannot exceed 3 months as per Section 53 of IPC except under special laws. Courts generally award simple imprisonment for minor offenses like petty theft, minor assault etc.

- **Rigorous Imprisonment**

Rigorous imprisonment requires offenders to undertake hard and painful labor during their confinement as part of punishment. The prison authorities assign rigorous and difficult physical work to such prisoners on a daily basis. The labor is aimed at reform and rehabilitation of the offenders. Rigorous imprisonment can range from 3 months to lifetime depending on the severity of crime.[87]

- **Imprisonment for Life**

Imprisonment for life refers to a prison sentence that lasts until the death of the prisoner. It means incarceration of the convict for the remainder of his natural life.[88] However, prisoners sentenced to life imprisonment are eligible for premature release or remission after serving minimum 14 years in prison as per policy. Habitual offenders involved in severe crimes like murder, rape etc attract imprisonment for life.

- **Imprisonment for Default**

This imprisonment is imposed in case of non-payment of fines by offenders or failure to furnish security amount as required by court. The term of such imprisonment depends on the amount of fine imposed and is specified under Section 65 to 70 of IPC. It usually runs concurrently with the substantive sentence term and cannot exceed 1 quarter of maximum imprisonment term for that offense.

- **Simple and Rigorous Imprisonment Concurrently**

Courts can direct that multiple sentences of simple and rigorous imprisonment imposed on a convict run concurrently rather than successively.[89] It means the sentences partially overlap during execution instead of running separately after completion of the other. This generally done to reduce unduly long prison terms.

[87] Gopal Das and Ors. v. State of West Bengal, (2021) 10 SCC 161.
[88] Dnyaneshwar Suresh Borkar v. State of Goa, (2020) 19 SCC 771.
[89] Mohd. Akhtar Hussain alias Ibrahim Ahmed Bhatti v. Asst. Collector of Customs (P), Ahmedabad & Anr., (1988) 4 SCC 183.

ISSN: 2582-6433

The above imprisonment types aim to cover the spectrum of punishment options available to courts for imposing on offenders convicted of crimes under the Indian Penal Code. They provide courts the discretion to account for various factors in a specific case like offense severity, criminal history, good behavior etc while determining suitable imprisonment punishments.

V. REHABILITATION AND REFORMATION AS A CORRECTION METHOD

Rehabilitation and reformation are widely recognized as important goals and methods of punishment and corrections within the criminal justice system in India and around the world. The aim is to enable offenders to become productive members of society after serving their sentences.[90] Rehabilitation programs in prisons focus on providing education, vocational training, counseling, and opportunities for self-improvement to inmates. The programs target the various social, psychological, vocational, educational, and personal issues that may have contributed to criminal behavior in the first place. As the Supreme Court has observed, "Reformation and rehabilitation of the convicts and prisoners have to be attended to in the present set-up of the prisons."[91] Article 21 of the Indian Constitution guarantees the right to live with human dignity, which applies even to prison inmates.[92] Rehabilitation and reformation allow prisoners to regain their human dignity and become functioning members of society after release.

- **Evolution of the Concept in India**

The origins of rehabilitation and reformation as goals of punishment in India can be traced back to the Nineteenth Century reforms in the British prison system in India under officers like Alexander Maconochie, Walter Crofton and Frederick Hill who introduced the Irish 'progressive stage system' of prisoner rehabilitation. Post-independence, the First Five Year Plan (1951-56) prioritized prison reforms to enable "correction and rehabilitation of offenders as useful and self-respecting members of society." The Mulla Committee Report of 1983 comprehensively reviewed prison laws, administration and reforms. It made valuable recommendations for rehabilitation programs including education, vocational training, work programs, wage payments,

[90] Amnesty International India, "Prisons in India: Reform not Punishment?," 2015, p.8, https://amnesty.org.in/wp-content/uploads/2016/12/Prisons-in-India-Reform-Not-Punishment.pdf (last visited Dec. 12, 2023).
[91] Prem Shankar Shukla v Delhi Admn., (1980) 3 SCC 526.
[92] Francis Coralie Mullin v. The Administrator, (1981) 1 SCC 608.

ISSN: 2582-6433

after-care of released prisoners, institutionalization of probation, and parole system.[93] The 1987 National Seminar on Prison Reform also focused extensively on rehabilitative aspects and correctional strategies.[94] It paved the way for the All India Committee on Jail Reforms of 1988-89 (popularly known as the Justice Krishna Iyer Committee) that gave further momentum to rehabilitation ideals.

The Supreme Court has also through progressive interpretation advanced rehabilitation jurisprudence. In Prem Shankar Shukla v. Delhi Administration,[95] the Supreme Court held that handcuffing prisoners violated their fundamental rights under Articles 14, 19 and 21. It noted that the basic spirit underlying penology must be rehabilitation of offenders. In 2014, in Vijay Singh v. State of Uttarakhand,[96] the Court again stressed the reformative theory and need for rehabilitation.

- **Rehabilitation Efforts in Practice**

Prison authorities across India have introduced various rehabilitative and reformatory programs over the years including educational programs, vocational training programs, counseling programs, meditation and yoga classes, sports opportunities, prison industries and manufacturing work, arts and craft production, music and drama training, library facilities, adult literacy classes etc. For example, the Open Jail in Delhi has facilities like college education, garment printing units, carpentry training, cattle rearing options etc. to equip inmates with skills for leading normal lives after release. Community after-care services upon an inmate's release are crucial for sustaining rehabilitation and preventing recidivism or relapse into crime. The Probation of Offenders Act, 1958 provides a legal basis for probation work in India. State governments collaborate with NGOs to run counselling centres, provide vocational training & job opportunities, set up shelters and halfway homes etc. to help ex-convicts settle down in society again. Parole and furlough regulations also help maintain inmates' social ties.

Despite efforts, major systemic gaps remain in translating rehabilitation policies into tangible

[93] Government of India, "Mulla Committee Report on Prison Reforms," 1983, mha.gov.in/sites/default/files/MullaCommitteRpt-06101983.pdf (last visited Dec. 12, 2023).
[94] P. Sahadevan, "Prison Reform in India: A Comparative Study of Indian and Nordic Prison Systems," https://www.unafei.or.jp/publications/pdf/RS_No60/No60_06VE_Sahadevan1.pdf (last visited Dec. 12, 2023).
[95] Prem Shankar Shukla v Delhi Admn., (1980) 3 SCC 526.
[96] Vijay Singh v. State of Uttarakhand, (2014) 3 SCC 353.

ISSN: 2582-6433

action.[97] Lack of appropriate staff and budget constraints undermine effective implementation. Further issues like over-crowding, poor living conditions, lack of hygiene, inadequate medical care, incidents of violence, torture, abuse etc. still plague prisons and turn them into breeding grounds of more bitterness, hatred and criminalization rather than correctional facilities. Reforming prisons themselves remain imperative for meaningful inmate reform.[98] The approach also remains punitive rather than corrective. Additionally, social stigma towards ex-convicts hampers their resettlement and chance of starting afresh without recidivism.

- **Potential Improvements**

In recent times, human rights groups, activists and legal experts have put forward constructive recommendations to strengthen rehabilitative approach.[99] These include -

1. Expanding range and coverage of rehabilitative programs tailored to needs of different prisoner groups.
2. Boosting budget to improve prison infrastructure, facilities and fill staffing gaps.
3. Fashioning prisons as self-sustaining 'production centres' via corporate tie-ups and partnerships. Prison manufacturing and agriculture can fund rehabilitation initiatives.
4. Leveraging technology for reforms in areas like education, telemedicine services, parole processing etc.
5. Promoting community participation and public awareness to facilitate social reintegration of released prisoners.
6. Strengthening after-care support system with more halfway homes and employment assistance.
7. Encouraging positive prisoner behaviour via incentives, graded privileges and recognition schemes.
8. Ensuring robust grievances redressal systems against rights violations.
9. Undertaking regular evaluation of progress made and impact on recidivism rates.

[97] Commonwealth Human Rights Initiative (CHRI), "Feudal Forces: Reform Deferred- Prisoners in India," chri.org.in/feudal-forces-reform-deferred-prisoners-in-india/ (last visited Dec. 12, 2023).
[98] Ministry of Home Affairs, "Model Prison Manual 2016", Bureau of Police Research and Development, mha.gov.in/sites/default/files/ModelPrisonManual2016_0.pdf (last visited Dec. 12, 2023).
[99] Penal Reform and Justice Association, PRJA White Paper on Prison Reforms, 2017, www.humanrightsinitiative.org/download/PRJA%20White%20Paper%20on%20Prison%20Reforms.pdf (last visited Dec. 12, 2023); Amnesty International India (2015), Ibid.