

Technology Aided Reforms in Prison Administration System in India

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Abstract

The Constitution is a legal document and great legal sanctity is attached to it. It is the fundamental law of the land. The Constitution of India ensures fundamental rights to every human being. It guarantees that the State will safeguard the rights of every individual and will protect the citizens from all kinds of atrocities and violation of their life, liberty and security. Fundamental rights are inalienable and cannot be separated from a human being. Moreover, fundamental rights are so called because they are secured not only by the ordinary law of the land but by a fundamental law which is manifested in a written Constitution that cannot be amended or abridged easily and requires stringent procedure to suspend and curtail any fundamental right. They are enforceable against the State by the Court. The Court has power of judicial review and can abrogate any action of the State, Legislative or Executive, if it contravenes any fundamental right of any citizen.

Despite the facts that fundamental rights are clearly worded which also stand for the prisoners, there are several issues attached to the dilapidating plight of the prisoners and their rights in the Criminal Justice System. In the digitised era where technology has moulded the work environment, e-governance, various e initiatives taken by the state for facilitating its citizens, the importance and usage of technology in the context of prisoners' welfare cannot be ignored. In this context this paper seeks to examine the rights of prisoners under the Indian Justice System and how the technology can be used as one of the tools for the fulfilment of prisoners' rights and welfare.

Keywords: Constitution, Prisons, Prisoners' Rights, Fundamental Rights, Technology, Welfare etc.

Introduction

The Prisons are a dark and grim reality of our Criminal Justice System with no specific codification of rights for prisoners. The Preamble of the Constitution depicts the philosophy of the Constitution. It talks about social justice in society for all. It advocates justice, equality and liberty for all. There are certain basic human rights which are recognised and guaranteed by the written constitution, law of the land, known as the "Fundamental Rights" which cannot be changed as an ordinary law and any such law that violates or abridges the fundamental rights can be declared unconstitutional by the process of judicial review. These rights are available to all persons irrespective of caste, class, colour, race or sex. Prison walls don't barricade the fundamental rights for prisoners. The Prisoners are also entitled to basic rights subject to reasonable restrictions in the interest of society at large.

Objective of the Study

1. To conceptualise the rights of prisoners in the Indian Justice System.
2. To examine the role of technology in aiding reformation in the context of prison administration system and welfare of prisoners in India.

Review of Literature

The literature review for the study provides a stage to explore the published work related to prisoners' rights and the usage of technology in prison welfare, the Singh, K (2018) in "Custody Jurisprudence under Criminal Justice Administration" has discussed the menace of custodial violence by the police department and referred to custodial jurisprudence. This book showcases the overall prison administration, points out the miserable plight of prisoners and destitute human rights of prisoners. It further entails remedy, conclusion and suggestions in this regard. In the present work of Singh, no where the role of technology in prison welfare has been discussed. "Prisoner's Rights and the Law" by R.K. Upadhyay (2016) is an exhaustive study on

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prisoners' rights and legislations framed for welfare of prisoners in this regard. The book focuses on the overall prison system in India and critically evaluates it. The author brings the lenses of discussion on the State of Rajasthan prison system; however, it lacks discussion in technological aspects in prisons. "Prisons Statistics India 2019" by National Crime Records Bureau (NCRB) is a government document in public domain. It highlights prison data and relevant information related to the overall prison system of India. It presents data related to prison institution, inmate population, demographic particulars, rehabilitation and welfare of prisoners, strength and jail training of officials etc. NCRB data is valuable to conduct research in prison administration. Model Prison Manual, 2016 is also an important document which deals with welfare of prisoners and provides a valuable guide for prison practices in India. It provides for uniformity in the prison system of India. The Research paper, "A Critique on Prisons in India in the light of Re - Inhuman Conditions in 1382 Prisons" by Kini (2017) provides a deep insight in the judgment pronounced by the Supreme Court in Re-inhuman Conditions in 1382 Prisons and the prison practices exercised in Tihar jail.

Article "Technology in Corrections: Challenges and Strategies" (2018) allude to the usage of technology in the prison system to make prisons smart. Technology can bring a solution to several problems existing in prisons. However, the study is constructed in a different backdrop other than India. "Use of Technology in Correctional Education" (2013) emphasis importance of computers in correctional education. Though the reviewed literature has provided a backdrop to the study, very little literature is available on the aspect related to technology supported reforms in prison administration in India.

Analysis

Rights of prisoners

The constitution of India through Article 14 promises right to equal treatment; article 19 provides right to freedom of expression with certain restrictions, this right is in consistent with the several other rights as right to write letters to family and friends; right to read books; right to publish book; right to interview;

Article 20 of the constitution provides:

"Protection in respect of conviction for offences-

1. No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence
2. No person shall be prosecuted and punished for the same offence more than once
3. No person accused of any offence shall be compelled to be a witness against himself."

Further, Article 21 deals with right to protection of life and personal liberty which covers a variety of rights as right against torture; right to free legal aid; right to speedy justice, right to medical facilities etc. Article 22 safeguards against arbitrary arrest and detention. Article 23 provides right against exploitation and Article 32 and Article 226 ensures right to constitutional remedies in case of infringement of any fundamental right by the Supreme Court and High court respectively.

Prisoner Rights vis a vis Judicial Intervention

No society is free from crime. There is a huge disparity in social structure and problems which give birth to crime in society. Apparently, any commission of crime draws attention of the society towards that crime and if the crime is heinous, it gains more despise of the people. Consequently, ever since, prisons and prisoners are always looked down upon in society and every Criminal Justice System tries to ensure that wrongdoers should be punished for the offence committed by him to create deterrence effectively for the prevention of the crime in the society. On the other hand, it should also be taken care of by the administration that the offender should not be subjected to torture, cruelty or any form of inhuman or degrading treatment or punishment. In fact, reformation should be the utmost priority of the Criminal Justice System. As purposeless infliction of pain on the offender is no use.

In a plethora of cases, the Supreme Court has exposed the atrocities of the prison system in treating prisoners. In keeping alive the rights for freemen as well as for prisoners, the Supreme Court has always taken active interest to improve the system. In relation to the prisoner's right, the Indian Judiciary has been a torch bearer and guardian of their rights. In several cases and judgements, it has reiterated the principle that imprisonment does not debar a prisoner from his or her fundamental rights. Due to the judiciary, the concept of punishment has changed from deterrent to reformatory theory perspective. Modern day approach of the prison administration is conceptualising fairness and humanity in dealing with prisoners.

However, in Criminal justice system, the plight of prisons has been extremely appalling, miserable and degraded, excessive delay in trials, police atrocities and custodial violence are prevalent leading to miscarriage of justice. In this regard, *Maneka Gandhi case* (1978) has profoundly transformed the Criminal Justice System since then that proved beneficial for prisoners' welfare. The credit goes to the Supreme Court for just rightly interpreting Article 21 in *Maneka Gandhi case* and keeping down the approach taken in *A.K. Gopalan case* (1950). In this case, the phrase "procedure established by law" in Article 21 is interpreted which does not mean "any procedure" laid down in a statute but just, fair and reasonable procedure and the term "law" in Article 21 means not any law but a law which is right, just and fair and it should not be arbitrary, fanciful or oppressive. An arbitrary law violates Article 14. An arbitrary procedure would be no procedure and the requirements of Article 21 would not be satisfied. A procedure which is prejudicial, harsh, unjustified to an accused person cannot be tuned with Article 21 at all. The understanding and maturity of the judiciary gave the right interpretation to Article 21 and brought it to the same pedestal with the due procedure in the USA (**Jain, 2016**). The Supreme Court attempted to make the Criminal Justice System more refined, justifiable, humane and sensitive. It tried to look upon the matters which were hidden in the dark and try to fill the gap created by the government's inaction and ignorance in the area of prison reform. The Judiciary frowned upon the atrocities by the prison administration towards prisoners and realised that there was a grave need of change.

After the landmark judgement in *Maneka Gandhi case*, the Supreme Court has been activated to work upon the various dimensions of the Criminal Justice System and prison administration. Judiciary has widened the scope and applicability of Article 21 and has provided its correct interpretation and usage. Article 21 extends its protection to all. It protects the accused person, under trial prisoners, prisoners going under their imprisonment. It ensures fair trial, fair procedure and fair investigation. It is clear that all aspects related to the Criminal Justice System are well protected under the course of Article 14, 19 and 21. Apparently, Article 21 is not just a fundamental right but a basic human right which stems from other human rights. Through the *Maneka Gandhi case* the Supreme Court showed a liberal attitude in interpreting fundamental rights of people. It was a great step by the Indian Judiciary especially after the traumatic time of emergency (1975-77) in the country in which fundamental rights were at its lowest point. Undoubtedly, this step ushered a new era in the Criminal Justice System which keeps on developing on and on. (**Sinha, 2013**).

With several landmark cases, the Supreme Court has laid down beneficial directions and guidelines for prisoners' rights and welfare and rightly utilised Article 21 for protection of life and dignity. Judiciary further conjoins

fundamental rights with Directive Principles of State Policy. Such judicial creativity as follows: Right of the prisoners to socialise and meet with his family members and friends and lawyer; Right to live with human dignity (*Francis Coralie v. Union Territory of Delhi, 1981*); right to free legal aid (*M.H. Hoskot v. State of Maharashtra, 1978*); right against solitary confinement (*Sunil Batra v. Delhi Administration, 1978*); right against handcuffing (*Prem Shankar v. Delhi Administration, 1980*); right against inhuman treatment by the police (*Kishore Singh v. State of Rajasthan, 1981*); right to speedy trial (*Hussainara Khatoon v. Home Secretary, State of Bihar, 1979*); Protection against illegal arrest and custodial deaths (*Joginder Kumar v. State of U.P., (1994)*), *D.K. Basu v. State of W.B., 1997*). A few years ago, *In Re Inhuman Conditions in 1382 Prisons case, 2016*, the Supreme Court issued several directives and reiterated that prisoners have equal rights to be treated with dignity. In this case, a letter was written by Justice Lahoti to the Supreme Court drawing the attention of the Apex Court towards the inhuman treatment to the prisoners and poor conditions prevailing in the prisons that really need grave attention and doable actions on the part of the State (**Pandey, 2016**).

There are several judicial pronouncements which protect prisoners' rights but there is a huge void between those promises and reality. The whole prison system needs a reform so that reformation of prisoners could become a reality. There are many prisoners who are not convicted of any crime but they are waiting for their trials to be conducted. They are suffering in prisons for years. They are poor and homeless. There is no scope of redemption for them. They don't have money for bail. Not only this, the attitude of prison officials is different to different prisoners. They are treated as per their social and monetary status even in jails. The National Human Rights Commission has also pointed out in the First Annual report (1993-1994) the miserable condition of the prisoners such as overcrowding, poor medical facilities, dismal condition of sanitation, unsatisfactory diet, violence with peers, exploitation, physical abuse etc. (**Kashyap, 2009**). Further NCRB report on Prison Statistics India-2019, shows that un-natural deaths in prisons have shown an increase by 10.74 percent from 149 in 2018 to 165 in 2019 and 7,394 prisoners upto the year 2019 were suffering from mental illness. (**NCRB, 2019 a**). It is cited in **India 2020 human rights report, United states department of state (2021)** that "Prisons were often severely overcrowded, and food, medical care, sanitation, and environmental conditions frequently were inadequate. Potable water was not universally available. Prisons and detention centers remained underfunded and understaffed, and lacked sufficient infrastructure. Prisoners were sometimes physically mistreated".

In spite of the Constitution and ardent judiciary a little has been achieved and a long path still is to travel in this regard. The Prison Act, 1894 is the main act which governs prisons in India and has been adopted by a majority of the States but being the State's subject, States and Union Territories have their own Acts, rules and regulations to govern prisons. There is also a Model Prison Manual published by Bureau of Police Research and Development which aims for an effective prison administration in the country for reformation and rehabilitation of the prisoners. It aims to provide uniformity to laws, rules and regulations and maintain prison administration all over the country. It draws out an appropriate framework for treatment of prisoners. It works to form strategies for prisoners' human rights.

Role of Technology in Prison Reforms in India

Technology is an integral part of the modern world. Technology has transformed the world completely. It has changed the dynamics of the world. We cannot imagine our lives without the usage of technology in almost every field. It is inseparable and inevitable in our lives undoubtedly and has made human beings dependent on it. It is a great tool of development and progress and is helping a lot to human civilisation to move towards a better and advanced version of life. Technological advancement will further improve the standards of lives and will thrive for better opportunities for human kind. The role of technology is actually higher and beyond our imagination. Undoubtedly, it has changed the surface of the world. This rapid development in the field of information technology, communication, computers and artificial intelligence is snowballing the great potential and opportunities constantly.

The usage of technology in correctional institutions reckons towards the importance of technology that the success of all sectors depends on the usage of technology. In relation to prison welfare and prisoners' rights, technology can play a vital role and can be helpful in making correctional services more efficient. It is perceivable how technology and the Criminal Justice System can go hand in hand. Technology can play a positive role in curbing several issues prevailing in the prisons such as corruption in prisons; prejudicial behaviour of the prison officials and prison violence etc. The approach that was provided by the judiciary to the Criminal Justice System through the Maneka Gandhi case can be invigorated by the proper usage of the technology.

National Prisons Information Portal (NPIP) is a glaring initiative in direction of prison reform and welfare of prisoners. It computerises and collects all the activities related to prisoners and prison management in jail. It provides important information related to the inmates and other relevant information related to Criminal Justice System. It also conducts online visit request and grievance redressal. Especially at the time of COVID -19 the concept of e-mulakat or video conferencing of prisoners with their family members is not less than a boon and this could become possible only because of the technology ("**National Prisons Information Portal, India**", n.d.).

To cite the example, technology in prison was very well utilised by an inmate himself who was an engineer and created software called Phoenix for the prison management which automated the prison system and simplified the life of inmates and officials at prison. With the help of the software, he minimised the possibilities of mistakes and confusion related to the case in which the person was sent under custody. With the thumb impression, the inmate could see the details related to his case. In fact, it also helped the prison authority to keep a check of which inmates were to be sent for hearing and in which court. He made the coupon system unnecessary in the prison canteen which used to put a dent on inmate's pockets and started a retail system. Through thumb impression products can be bought and money would be deducted automatically from the account of the inmates. Such prison management software can be installed and used by the prison administration. This way the skills of talented inmates can be rightly used. (**Agrawal, 2015**).

Technology can prove useful in open prisons also. Open prisons are prisons which are open and liberal in their approach. They are free from bar, fetters and stringent conventional (Central Jails, District Jails etc.) set up of prisons. In open prisons, prisoners can go outside and come back but they have to follow the timeline. In open prisons to mark the attendance of inmates, biometric mode of attendance or facial recognition mode can be a fool proof mode to mark attendance. The usage of such technology will be very beneficial where inmates are in big numbers. In Shri SampuranandShivir Sanganer, which is situated in the state of Rajasthan, biometric mode/facial recognition mode is used by the authority for prisoners' roll call.

It is apparent that educating prisoners is vital and with the change of time they have advanced educational needs. If technology is appropriately installed in prisons no doubt it can make positive changes in prisoners lives and prison officials also. The usage of technology has exponentially expanded the possibility of development for humans. It has opened new vistas of education in the form of digital literacy. The prisoners who opt for education are unlikely to fall for recidivism. It is a very important aspect of prisoner's reformation and rehabilitation and in fact many States and UTs are also taking initiatives in this direction. "Digital Libraries have been established at all the Central Prisons i.e., Visakhapatnam, Kadapa, Rajamahendravaram and Nellore for the benefit of prisoners". (**NCRB ,2019 b**). In Uttar Pradesh, the inmates in District Prison Mathura were given training programs based on information and communication technology, the e-libraries are being established in Delhi Jails with a computer facility for the prisoners. (**NCRB ,2019 b**). The Open-Air Camp, Mandore is a glaring example where the prisoners are engaged in agriculture related work in collaboration with Agriculture University of Jodhpur. Their efficiency can be improved and well utilised if modern agriculture technologies are introduced to them.

Conclusion

1. The precedents of the Apex Court and guidelines provided by National Human Rights Commission are very pertinent for prisoners' rights and their welfare and overall improvements in the Criminal Justice System. However, It seems that very less attention has been paid towards prisons and prisoners' rights and their welfare. There is no legislation which concretely talks about their rights. Prison system and laws need to be reviewed and revised.
2. Proper use of technology can bring a sea change in prison administration. Automation of surveillance and other relevant activities can bring positive changes in lives at prisons. The usage of technology as CCTV cameras in prison offices and in compounds with proper monitoring mechanisms can put fetters on violent and arbitrary behaviour of the prison staff in dealing with the prisoners.
3. Curbing prison corruption is mandatory to improve the conditions prevailing in prisons as prisoners are totally at the mercy of the prison officials. There is a need to create the environment of equality and non-arbitrariness leading to reformation. Regular programmes and workshops should be organised with the aid of information and communication technology to sensitise and educate the police and jail authorities towards their roles and duties. Technology can be used to check prison violence.
4. As there is a change in the approach of the Criminal Justice System which has paved a path for reformatory theory in prison administration. To strengthen the welfare of prisoners, the government can work on constructing open prisons. It will be a great step in the reformation of prisoners, reducing the financial burden of the State and to make positive transformations in the prisoner administrative system. Further the usage of technology can enhance the possibility of fulfilment of fundamental rights of the prisoners. Automation of Prison management can be a big solution for improving the prison administration. By employing artificial intelligence in the prison system, issues like overcrowding, violence and suicides in prisons can be reduced as it can help tracking the activity of the prisoners and works on sensory processes.
5. Mobile technology or electronic tagging can divert a prisoner from falling into recidivism. Using drones can be helpful in keeping overall vigilance on prison premises. Moreover, e- mulakat or video conferencing is a great initiative by the government in expanding the rights of the prisoners and their welfare. Virtually they can connect and interact with their families. The government agencies should look forward to utilizing technology in the prison system positively which can actually make a difference in prison administration.

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