

An Overview Of The Origin, Evolution And Background Of Prisons: A Content Based Analysis Of Literary Studies



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Abstract: *This paper has been devised for analyzing the contents of history and to evaluate the origin, evolution and background of prison in the world. It is an evident fact that since evolution of the criminal justice system, the custodial institutions are of vital importance and are playing an important role in the social control. Criminal justice system is the set of agencies and processes established by governments to control crime and impose penalties on those who violates law. This system is composed of various institutions, processes and practices carried out by the sovereign to control crimes in society and uphold the social control, deterring, sanctioning and sometime reforming those who violates the laws. Other several major sub-systems like police and other law enforcement agencies, trial and appellant courts, prosecution and public defense office, probation and parole agency, department of corrections etc. custodial institutions (Jails, judicial lockups, prison & reforms) are one of the important pillar of Criminal Justice System of every state in the world. The current study is thus to investigate and analyze the already available literature in a systematic way to propose how the prison and other the like institutions are working. All the secondary sources have been critically analyzed for the purpose of production a comprehensive literature for further research and policy making process.*

Keywords: Prisons, Crime, Judicial System, Policy Making

Study Background:

The use of prisons has been linked with the start of human organization and social reforms. There has been a consensus on the historic junctures that the early [Greek](#) philosophers ([Plato](#)) was the first who develop the idea of punishment for the modification of offenders' behavior in the reformatory order. The idea of giving imprisonment for the purpose of penalty was proposed for those who could afford to pay fines and thus the evolution of the imprisonment took place in the global context (Roth, Michael P, 2006). The pioneer for giving punishments to the offenders using prison as a punishment tool was

the Romans, and many types of structures were used by them including house prisoners, metal cages, basements of public buildings, and [quarries](#) (Lopes, 2002). During the Medieval period, in Europe, castles, fortresses, and the basements of public buildings were often used as makeshift prisons and thus were utilized by officials at all levels of government including kings to the regional [courts](#) to [city councils](#) etc (Turning & Patricia, 2012). However, to provide a detail survey of the literature and contents, this paper has been designed to revisit the all the secondary information to review and establish how prison evolve and how the evolution of the modern-day prisons become workable?

The Study Argument:

It is obvious that the development and evolution of the criminal justice system is linked with the evolution of human history and to study the prisons and the reforms in the prison system, it is mandatory that the custodial institutions must be consulted from the pages of history. The deviance and social control as a mechanism for the rehabilitation of the offenders were found intact since human history i.e. in Greeks, and Roman, the reforms were common to be found in the criminal justice system. However, this system is the set of agencies and processes established by governments to control crime and impose penalties on those who violate law (National Center for Victims of Crime, 2008). This system is composed of various institutions, processes and practices carried out by the sovereign in order to control crimes in society and uphold the social control, deterring, sanctioning and sometime reforming those who violate the laws and is further divisible into many smaller and larger parts including police, law enforcement agencies, various courts, prosecution, public defense office, probation and parole agency, department of corrections as well as custodial institutions including jails, judicial lockups, prison & reforms linking with the Criminal Justice System on the top of the hierarchy (Hameed & Jamshed 2013). Wener (2012) argues; perhaps it is true that the prevailing sub-systems are not attractive and comfortable to be detained into even if these are very well equipped to facilitate, rehabilitate or reform the prisoners. Chaudhry (2009) states that custodial institutions are still unavoidable and essential for every state to maintain order and administer justice to ensure the rule of law within its territory. Administration of justice is one of the primary functions of the state which is to be precisely observed by maintenance of rights by a political organized society towards its subjects through the execution of sanction.

In this purview whenever there is any violation made upon the rights of citizens the State must justify it and to somehow the role of custodial institutions become vital important. However, to investigate the origin, background, evolution, functions, and reform in the prison system of the

world, it is very important to know about the conceptual clarity of the custodial institutions in the literary debates.

Purpose, Aims and objectives of the study:

The purpose and objectives of the current study included the following:

- I. To analyze the contents of history for the purpose to find out the origin of the prisons from ancient to modern
- II. To know about the structural and functional evolution and background of prison in the world
- III. To know about the criminal justice system, the custodial institutions, its importance in social control and bringing reforms in the behavior of offenders

Methods and Procedure:

The research methodology employed outlines the research strategy, research design, research methodology, the study context, sources of secondary data and the analysis paradigm. In the current study, the qualitative research design has been utilized with the library methods including the contents analysis. For this purpose, books, articles, journals, and periodicals, websites, publications, etc. were used as secondary sources of data. All the publications within the domain of the study were thoroughly analyzed, and the sorted material were thematically grouped in the form of order supported by sources. The material on the origin, evolution, and historical development in the prisons were included in the study, while rest of the themes were excluded. The information from all the consulted sources were analyzed in main themes from the very general to particular based on the old information placed on top to develop a chronological sequence in the discussion.

Understanding the Custodial Institutions and Prisoner; A Conceptual debate

The custodial institutions mainly are Jails, Prisons and Judicial lock ups which lexically and apparently, so nearly connected having the same meanings but infect conception all these are differ from each other. Law dictionary

prescribed jail as a local government's detention center where persons awaiting trial or those convicted of misdemeanors are confined (Garner, 2004). Similarly, prisons include all lands, buildings, places, appurtenances and even jails, which carried into practice either under the general or special order of the government. Most particularly object is to detain the prisoners. Jails and judicial lock ups do not fall in the definitional clause of Prison where suspected accused are often detained under the exclusive custody of police (Khan & Khan., 2011). Wener (2012) is of the opinion that *"The name we used to label Jails and Prisons talk much about what those in charge are trying to do with them, or at least the image they want to portray. Prison were called penitentiaries when the intent was to provide for solitary reflection and opportunities for penitence"*.

According to Attaullah,Q. (2013), jail is a lock up often, for the purpose of retention of under-trial inmates and for the detention of convicted offenders of low-grade crimes (misdemeanors). Scholars and researchers have noted that in many countries of the entire world, the term prison conventionally, is specified for a place where convicted persons of felonies are detained (as argued by Davis, (2003) and to Leies (1949), the prison differs from a free group of people of the society in that is composed first, of unwilling inhabitants who have been found guilty of some felony, second, who are all of one gender and all of whom are adults. In view of the various scholars and researchers, custodial institutions include, the prisons, jails, judicial lock-ups, detention center, lands, buildings, places, appurtenances etc. and excludes such places which are not meant to use for such purposes.

Several meanings attached to the concept of prisoner. According to Free Merriam-Webster Dictionary (2019) "A **prisoner** (also known as an **inmate** or **detainee**) is a [person](#) who is deprived of liberty against their will. This can be by confinement, captivity, or forcible restraint. The term applies particularly to serving a [prison](#)

[sentence](#) in a [prison](#). In the word of Garner, B. A. (2004). A prisoner is a person who is serving time in prison, a person who has been apprehended by law enforcement officer and is in the custody, regardless of whether the person has yet been put in prison.

Any Female violator of law of the state, convicted for any offence and detained to pass sentence as awarded by competent courts of law or any other women who is put into custody having the object to investigate any case in issue or under trial in order to achieve justice on merit. The jails should be used as reform and rehabilitation centers for women where education, moral and psychological treatments to be given to them to mend their behavior and conduct for future. However, capital punishment should not be applied in any case particularly on women. Though imprisonment or punishment is used to confine the violators of law for peace and security of the people, but it should also be used to reform them to make better and useful citizens.¹ In this context, prisons are the rehabilitation units to amend the behaviors of the offenders including both male and female. (Butt, 2014)

The Origin of Prison

The origin of the prison has been long history, passed through various stages of development from very ancient to the modern.

Ancient Concept of Jails:

The notion of jail as a kind of punishment has changed dramatically throughout millennia. Prisons date back to ancient civilizations, when they were primarily intended to keep prisoners awaiting trial or punishment rather than as a punitive tool in and of themselves. Prisons were employed in ancient Egypt, Greece, and Rome to keep debtors, political prisoners, and people accused of crimes until their destiny was determined. The Romans, in instance, used facilities known as "carcer" for this purpose. Castles and strongholds in mediaeval Europe sometimes had dungeon-like chambers for

¹Butt.K.M. (2014). Woman Prisoners: A Case Study of Central Jail, Kot Lakhpat, Lahore. Research Journal of South Asian Studies, 29(1), pp 213-236.

Also available at
http://pu.edu.pk/images/journal/csas/PDF/15%20Khallid%20Manzoor_29_1.pdf

captives. The contemporary notion of jail, as a place where people spend time as punishment for their misdeeds, began to emerge in the 16th and 17th centuries, influenced by Enlightenment thought. This time saw a trend towards organised criminal systems with an emphasis on reform and deterrent, resulting in the development of the first penitentiaries in the 18th century. These facilities were intended not just to hold offenders, but also to rehabilitate them via discipline and labour (Hitchens,2003).

Ancient concept of jail origins may be divided into two parts. One is pre-historic era, and another is historic. Prison system can be traced back to 5000BC years ago in former context. Prehistoric discoveries of concealed chambers by archeologists in Taxila, Harappa and Mohenjo-Daro revealed the use of incarceration in ancient times. Lower ground floor of castles, chambers, caverns and hilly excavations had been used as places for imprisonment during different ancient eras, up to British rule, like Ashoka time, Hindu empire, and Muslim era (Khalid A.D., 2014).² Later one can be drawn back to the most famous first ever authorized document “Code of Hammurabi 1750 BC”³ prescribed different sorts of penalties entirely based on the idea of the retribution when deviants were penalized often by the victims themselves carrying out the idea of revenge (Siddique , 2013).⁴

² Khalid A.D. (2014). The criminal justice system in Pakistan, civil and criminal law publication Lahore. p 303

³Hammurabi is commemorate d for declaring a set of laws, known as code of Hammurabi. It is believed the real earliest main authorized set of laws and much fame for its broad exposure in its implementation . French archeologists discovered it round about in 1901-1902 from Edomite capital Susa which presently is the part of Iran(Kuzhistan province). Various historians and theologists studied this code at their level best and has translated it from Akkadian language. Lex talionis (“eye for an eye”) was the basis of his code and it was much complicated while telling the theme of different categories of offenses which are not retributive in nature.and sanctioning penalties. See more K.V. Nagarajan (2011). The Code of

Jails During Romans Empire

The Romans also amongst the initials who utilized prisons as a place of penalty. Romans used underground stores for incarceration of accused inmates. One of the most distinguished prisons was the Marrytime Prison established in 640 B.C which was to be found underneath and enclosed with a bulky of underground spaces where inmates were detained in dirty circumstances with human polluted waste ,and prison described just as a place of torture, violence, harshness and viciousness and nothing. (Siddique , 2013).⁵

Prisons During Mughal and British Rule

Agra Jail and Fort of Gowalyar were the most well-known jails of Mughal Empire(Tillotson,1987). Both jails were built over the earth surface for prisoners and enemies. During the period of Shahenshah Jehangeer, Hazrat Mujaddadd Alaf Sani was imprisoned in Gowalyar Fort (Sabeen,2012).⁶ He was great Muslim Scholar and Chief Saint He made this prison as a center of truthfulness by converting thousands of dangerous offenders as good Muslims. The another foremost mud Jail of Dadu, Sindh was inaugurated in 1774 during Kalhora empire. Prior to Britishers, in the eras of Mughals and Punjab’s Sikhs different, forts were also built to use as pre-trial detention which also used during British Raj for their police lockups and cruel investigation centers and third degree met hod dungeons for torture (Khalid Ad.

Hammurabi: An Economic Interpretation. International Journal of Business and Social Science, 2(8), p.108.at http://ijssnet.com/journals/Vol._8;_May_2011/14.pdf.

⁴Siddique S.A (2013) one day workshop on prisoners’ vulnerability laking awareness. Law and Justice commission of Pakistan Islamabad.p.151

⁵Siddique S.A (2013) one day workshop on prisoners’ vulnerability laking awareness. Law and Justice commission of Pakistan Islamabad.p.151

⁶Sabeen.B. (2012).Mughal Empire 1526-1707. CSS fForum Civil Service of Pakistan. <http://www.cssforum.com.pk/css-optional-subjects/group-iv/history-pakistan-india/69383-mughal-empire-1526-1707-a.html>. Lastly visited on 28th dec 2014.

2014)⁷.

Modern Concept of Prison

The current ideas of prison or jails include punishment, deterrence, rehabilitation, and society protection. Today's prisons not only punish offenders, but also seek to prevent future crimes and rehabilitate convicts via educational programmes, vocational training, and counselling. They follow human rights norms to ensure humane treatment, including suitable living circumstances and medical care. In addition, some systems use restorative justice procedures to promote reconciliation and community service. Probation, parole, and electronic monitoring are alternatives to jail that reduce prison overpopulation and focus on the underlying reasons of criminal behaviour. (Phelps, 2011). Comparatively new concept of jails defined prison as an apartment for penalty rather than cruel, unkind, wicked and inhuman penalties of primeval era. London house of corrections in Britain was the first built prison in year 1557 on the earth floor contemplating purpose of reformation of deviants, beggars and vagabonds. But previous to 1557, all the prisons were underground. John Howard was the first to introduce Prison Law in Parliament of Britain. He is known as a true champion of prison reforms. In 1778, the Prison Act was passed in England. Walnut Street Jail was the foremost modern jail, instituted in 1790, in Philadelphia, U.S.A. for the offenders. During 17th to 19th centuries, the jail persisted as "penitentiaries", in U.S.A, Britain and Europe. Penitentiaries is described as "the places to penitent by confessing before God to accomplish pious rehabilitation.

The history of Prisons in Sub-continent is traced back to earlier periods of Sub-continent. The city kotwals and leaders of tribes had built secretive jails in the underground chambers. Even, such prisons are also present now but are unofficial. Such prisons are found in some ruler and remote areas of the country. Criminals were sentenced with rigorous punishment of constructing tasks

or hard works like construction of castles, waterways, fortresses, citadels, tracks in hills, mining, stone cutting, barrages, boreholes, wells, highways, country park, city barriers, city drain system, public guesthouses, and agricultural tasks, afforestation, rearing of livestock. (Khalid AD, 2014).

Islamic Concept of Jail

As far as Islamic Prisons are concerned, these can be traced back to **633 AD** when the Islamic realm was being spread through the world, **Caliph Omar Ibn Al Khattab arranged** a house in Mecca for the purpose of detaining offenders. Prisoners were kept away from the rest of people in the society with the idea that they would be able to regret their wrong deeds. Prisoners detained in a very caring and enlightened way at that period provided with the facilities of doctors and no restriction was sanctioned with family meetings and most significantly offenders prisoners were permitted to study. (Khalid, 2014; Gul & Hussain, 2018)⁸

The Objects of Prison

In fact, incarceration or prison is a place where in prison in method of penalty of crimes and separation from society for a pre-determined duration is for practical applied. The very basic object of incarceration is to separately confine the violator from the community at large. This penalty is also used by Panchayat. Currently, some villages of Pakistan also use Panchayat system. The Panchayat orders the offenders for leaving the town and stop their communication with other villagers for a specific time. The difference is that now prisons became modern and are used to detain prisoners, though the objective is same as punishment to criminals by departure from society. The prison is meant for the confinement of daily life activities of criminals. Briefly, it can be said that prison is a place of sentence to criminals by departure from society. Further punishment is not allowed in any of the law through inhumane and brutal means (Khan, 2013).

⁷ Khalid. A.D. (2014). The criminal justice system in Pakistan. civil and criminal law publication, Lahore, p. 304

⁸ Ibid, p 150-152

Once an alleged person is proven guilty after duly completed a judicial process under an authority of a judge then convicted person is sent to the correctional institutions. Usually two types of prison facilities are available in any criminal justice system. Correctional facilities and detention facilities. The prime object of detention facilities is to only retain the arrested persons awaiting trials or awaiting transfer to correctional facilities. County jails and prisons are usually called correctional facilities. County jails are for convicts of “misdemeanors” and prisons are for those convicts who are the subjects of “felonies.” The county jails at times consist of two types of offenders those who are sentenced for misdemeanors and those who are waiting for transfer for detention in prisons. Therefore, majority of states county jails are meant to have offenders of misdemeanors and prisons are meant to have offenders of felonies (Adler, et al., 1991). Both of these correctional facilities designed to achieve certain objects. On broader pattern these objects can be split into main two categories as listed below:

General Objects of Prison

Khalid (2014), detailed the general and universal objects of prison. The general foremost objects as prevailing now a days worldwide are followed by the prison department of Pakistan. The primary goal of prisons is to provide secure and separate detention to all types of offenders, whether they are offenders detained in judicial custody and awaiting trials at the discretion of the courts or offenders convicted/criminals who must be imprisoned as a result of a judge's decision. Both are safely and separately restricted from society in general, allowing them to repent for their wrongdoings and reflect on the consequences of their actions. To keep criminals under severe discipline in court lockups and prisons until they are sent to prison is another primary goal. Furthermore, it is critical to maintain discipline throughout the movement of convicts from one jail to another, whether within the same province or between provinces. This simultaneous emphasis on discipline in short-term holding facilities and during inter-prison transfers promotes order and security in the criminal

justice system.

One of the objects is to make offenders feel the inner disturbances due to breach of laws and also teach criminals the discipline of suffering due to their offence and deviation from normal standards and laws of the society. Therefore to achieve this aim order of conviction is practically implemented by putting criminals behind the iron bars of prison where he may ponder upon his wrong deeds, their negative consequences and unpleasant effects upon his life. Reformation and Restoration of Criminals is one of the classical goals. Khan (2013) expressed that Criminal once put into prisons as per verdict of the court they must give the opportunities to go through institutional treatment to streamline themselves according to the norms and standards of the society. Therefore it is the responsibility of the state to provide schooling or treatment to those inmates who are held convicted either for commission of low grade or high grade offences and deserve the guardianship, attention, treatment or control as per rules of Prison. Imprisonment may be considered as a ray of expectation in the darkness behind the bars to make enlightened the offenders in isolation so that they may avail a chance for reappraisal of behavior and realize the beauty of free-will, self-determination and autonomy. Society must keep a strict lookout and assess prisons that whether the true goals of imprisonment are being fulfilled or not? The true goal is the reformation and alteration of the conduct and personality of inmates.

Universal Objects of Incarceration

One major of incarceration is to save the public at large from interacting with an accused individuals by keeping them under-trials and under conviction facilities in the charge of judiciary. Another universal goal of imprisonment is strict inquiry of offender and protection in proficient custody, care, and cure of jail and rectification personnel. So that the goals of penalty are accomplished for the discouragement, re-education and reintegration of criminals. Incarceration is not only to lock up the accused within the four-walled space to punish but absolute prevention of offenders is logical strategy behind. Safety of society as well

as the safety of criminals from revenge of sufferers can be achieved through incarceration. Detention is also intended to take social revenge from criminals for their crimes (Gul,2018).

One of the main objectives of incarceration is to re-educate and rehabilitate of convicts nationals of the state through launching of various institutional, semi-institutional, religious, technical and other traditional programmes that skill-orientations might be the objects. The motive behind this is to streamline them as effective, beneficial and respectable nationals after release.

One prerequisite of universal goal of incarceration is after care services to criminals and accused for their re-induction in society. After care services include supervision for job, financial supports, inducement and volunteer aid etc. (Khalid.2014)⁹

Categories of Prisons and Jails

Prison and jails are of vital importance in any criminal justice system. Usually each jail and prison either fall in the categories of either special prisons, district prisons, judicial lock-ups (subs-jail) etc as classified under chapter 2 of Pakistan Prison Rules Jail Manual U/S.59 of prison Act (1894) are administratively, provincial subject.

According to rule 5 (i) & (ii) of Pakistan Prison Rules 1978, in all provinces each division has a central jail having authorized capacity to accommodate more than 1000 prisoners at a time regardless of period of sentencing. Besides it has been the discretion of provincial government to declare any special prison or district prison as a central prison (Pakistan Prison Rules 1978).

According to rule 6 (i) & (ii) of Pakistan Prison Rules 1978S; special prison is another kind that includes women prisons, open prisons, brutal institutions and juvenile training centers. Additionally the provincial government has discretionary power to establish any special prison at any time and place or declare any pre-

existed prison as a special prison.

Along with these special and central jail all prisons are termed as district prisons, which are divided into further three classes under rule 8 (i) of Pakistan Prison Rules on the basis of accommodation and sentence time period. Accordingly 1st class prison has authorized capacity of more than 500 convicted prisoners to accommodate having sentence up to 5 years. 2nd class prison has authorized capacity between 300 to 500 number of prisoners for the having sentence upto the period of 3 years. The 3rd class of district prison can accommodate less than 300 for sentence up to 1 year.

According to Sec 3(i) (c) of the Prison Act (1894) these are comparatively smaller facilities where non-convicted criminals are detained for remand (Physical remand and judicial remand) only. Provincial government has discretion to declare or establish any place as a sub jail either by general or special order.

Contrast between Jails and Prisons

The words "jail" and "prison" are sometimes used interchangeably, but they have different meanings and roles within the criminal justice system. Understanding the distinction between jail and prison is critical to comprehending the legal and administrative components of incarceration. The amount of time convicts spend in jails vs prisons is a critical distinction. Jails are local lock-ups where people are held while they await local court appearances or serve short-term terms for local misdemeanours, usually no more than two years. Jails typically fulfil three functions. firstly, to keep people who are awaiting trial or unable to post bail, guaranteeing their attendance at court sessions. Secondly, individuals ordered to serve short-term terms, usually for misdemeanours or minor offences, may be detained in prisons and thirdly Jails provide temporary holding facilities for persons who have recently been arrested, pending transfer to other correctional institutions or discharge.

Prisons, on the other hand, are custodial

⁹ Khalid. A. D. (2014). The criminal justice system in Pakistan. p300-301

facilities under the criminal justice system that detain persons convicted of felonies for extended periods of time. As a result, prisons serve largely as holding facilities, with larger transitory populations and less established amenities. Prisons, on the other hand, operate as reformatory facilities and are better suited to address convicts' basic requirements. They provide a variety of programmes to assist offenders with their successful reintegration into society, including work release, educational, vocational, and rehabilitative services.

Conclusion

The prison as an institution has been evolved passing from various historical junctures were found in all human societies depending on the nature, structure and function of the authority and power structure. However, it is evident from the secondary sources that the evolution of the prisons since ancient time were developed for the confinement of persons or offenders who have been remanded (held) in custody or have been convicted for a crime through any kind of judicial [authority](#). Further, this system is also evolved for people who have been deprived of their liberty and have been through trials following [conviction](#) for a [crime](#) as decided by the social structure. In this context it is obvious from the discussion that when a person is found guilty of a [felony](#), misdemeanor or of any other crime which is libel for punishment, thus required to serve a prison [sentence](#) or to send to jail. Similarly, it has been in the process to hold the accused persons in prisons who are awaiting the trial and thus are the important functions of the prisons. Thus, the evolution and the origin of the prisons may be termed to many socio-cultural and political changes as well as the structure of authorities in the world. However, it is obvious that the ancient Greeks and Roman were the pioneers in the establishment of the prisons to keep the convicted there for the purposes of trial or fine and until the late 18th century, prisons were used primarily for the confinement of debtors, persons accused of crimes and awaiting trial, and convicts awaiting the imposition of their sentences usually death or transportation ([deportation](#)) overseas. A sentence of imprisonment was rarely imposed

and then only for [minor](#) crimes. However, the concept of prisons in the modern period provide relatively a more sophisticated picture where multiple and variety of the functions are performed for the rehabilitation of the prisoners.

Policy Recommendations

Based on the historical analysis and evolution of prisons within the criminal justice system, various policy recommendations may be made to improve their efficacy in terms of social control, deterrence, punishing, and rehabilitation of offenders. To begin, jail facilities must be modernized to provide safety, hygiene, and rehabilitation, as well as improved access to comprehensive medical and mental health services. Implementing sentence changes, such as encouraging alternative sentencing for nonviolent criminals and extending parole and early release programs, can considerably reduce prison congestion. Emphasizing rehabilitation via rigorous vocational training, educational possibilities, drug abuse treatment, and psychological assistance is critical for preparing convicts for reintegration into society. It is vital to ensure that convicts are treated humanely, that international human rights norms are followed, and that solitary confinement is limited.

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