

## Prison Reforms

*Prisons should be changed into hospitals to give treatment to offenders, to bring them on the correct line. Officer of the jail should be changed into a doctor. The offenders shall feel that officers of the jail are their friends.*

—Mahatma Gandhi

### (1) Origin of prison reform :

Until the late 18th century, prisons were used mainly for the confinement of debtors who could not meet their obligations, of accused persons waiting to be tried, and of convicts, who were waiting for execution of their sentence, either death or banishment. But, imprisonment gradually came to be accepted not only as a device for holding these persons but also as a means of punishing convicted criminals. During the 16th century a number of houses of correction were established in England and on the continent for the reform of minor offenders. The main emphasis was on strict discipline and hard labour. The unsanitary conditions and lack of provisions for the welfare of the inmates in these houses of correction soon produced widespread agitation for further changes in methods of handling criminals.

Solitary confinement of criminals became an ideal among the rationalist reformers of the 18th century, who believed that solitude would help the offender to become penitent and that penitence would result in reformation. This idea was first tried in the United States, at Eastern State Penitentiary, which was opened on Cherry Hill in Philadelphia in 1829. Each prisoner of this institution remained in his cell or its adjoining yard, working alone at trades such as weaving, carpentry, or shoemaking, and saw no one except the officers of the institution and an occasional visitor from outside. This method of prison management, known as the "separate system", became a model for penal institutions constructed in several other U.S. States and throughout most of Europe.

Meanwhile, a competing philosophy of prison management known as the "silent system" arose. The main distinguishing feature of this system was that prisoners were allowed to work together in the daytime. Silence was strictly enforced at all times however, and at night the prisoners were confined in individual cells. Vigorous competition between supporters of the silent system and of the separate system prevailed until about 1850, but by that time the silent system had been victorious in most of U.S. States.

### (2) Prison reforms in India before independence :

Conditions of the prisoners were harsher than animals in India and prisoners were treated with hatred. There was no uniform code to give punishment. The meaning of the punishment itself was to crush the prisoner.



In 1835, First Commission (Lord Macaulay Commission) was appointed, who recommended the abolition of outdoor labour, general introduction of indoor work, the inauguration of separate system, better classification of convicts, careful separation of untried prisoners, the institution of central or convict prisons, and the regulation of prison system generally by employment of inspectors of prisons.

**(a) First Jail Reform Committee :**

Due to the efforts of Lord Macaulay, First Jail Reformatory Committee was constituted in 1838, which recommended that a Central Jail should be constituted, and in these jails such prisoners should be kept who are undergoing imprisonment for more than one year. These jails should be in position to keep 1000 prisoners at a time. In every State a Prisoner Inspector should be appointed, who can inspect from time to time the administration of the jails in the State. So Uttar Pradesh (1844), Punjab (1852), Bengal (1854) and Bombay-Madras (1862) had appointed a Prisoner Inspector. There should be perfect conditions to live in all the jails. On the recommendation of this Committee, some jails were constructed at Agra in 1846, Bareilly in 1848, Naini in 1864, and Banaras & Fatehgarh in 1867. With the enactment of Indian Penal Code, 1860, prisons metamorphosed into the most important instrument of penal administration.

**(b) Other Jail Reform Committees/Commissions :**

In the year 1862, Second Jail Reform Committee was constituted. This committee suggested improvement of living accommodation, clothing and food of prisoners, medical officer and medical facilities at every central Jail, classifications of the criminals, and made the provisions of 15% solitary confinement at every central jail. Besides these, third, fourth and fifth Committees also were constituted on the Reformation of Jail Administration and different recommendations were given by them and accepted by the Governments.

Second Commission of Jail Management and Discipline, 1864, made specific recommendation regarding the accommodation, improvement in diet, clothing, bedding, medical-care of the prisoners, and for the appointment of Medical Officers in jails, minimum required space for one prisoner as 54 sq. ft. and 640 cubic ft., and separation of female and children from adults.

Jail Commission, 1888, reviewed the earlier reports (reports of 1836, 1864, and 1877) and made an exhaustive inquiry into all matters connected with jail administration. It was of the opinion that uniformity could not be achieved without enactment of a single Prisons Act. It also recommended the setting up of jail hospitals.

Based on the 1888 Jail Commission's Report, the Prisons Act, 1894, was passed and is still governing, the management and administration of prisons in India. This Act, as it is, was based on deterrent principles concerned



more with prison management than with the treatment of prisoners and more consideration to prison offences and punishments than to their effect on the prisoners. Some important merits of the Act are as : (a) In this Act uniformity was given to all the prisons. (b) Steps were taken for the classification of the prisoners. Flogging was stopped and nature of punishment changed.

### (c) Indian Jail Committee 1919-20 :

An Indian Jail Committee was constituted headed by Sir Alexander Macdonald. This Committee studied the jails in the country and abroad and concluded that in Indian Jails, improvement was only required in the field of food, health and labour, not in any other field. This Committee wrote that "when the prisoners are in jail they should not be only thought to have stopped the commission of offence in future but, affect them to reform their character. It is our second principle, which we understood that should be accepted".

The Committee accepted that a criminal cannot be reformed by harsher measures. Till you are not treating the criminals humanitarially, reform is impossible. Actual reformation in the criminals is only possible when criminal himself feels that he has done wrong. And this committee suggested many important points for the reformation of the prisons, i.e., classification, all should be looked up by trained officers, medical facilities, etc.

With the Indian Jail Committee 1919-20 in 1919, the Government of India Act was introduced, according to which prison was made the subject of the State, due to which speed of the reformation of the jail went down and today the position of the jails is different in every State.

### (d) Jail Reform Committee, 1946 :

The problems of prison management and administration continued. The Indian Jail Committee 1919-20 made the first comprehensive study of these problems in the present century. The Report of this Committee was treated as a turning point of the prison reforms in the country. The Committee departed from the vintage theoretical basis of prison administration (deterrents) and advocated a new outlook to the prisons. For the first time in the history of prisons, 'reformation' and 'rehabilitation' of offenders were identified as the objectives of prison administration.

A Committee was constituted in the year 1946 for the reformation of the jails. This committee gave the suggestions as : (1) The child offenders should be treated differently, (2) Modern jails should be constructed, and (3) The classification of the offenders should be scientific : (a) child offenders, (b) adult offenders, (c) women offenders, (d) casual offenders, (e) habitual offenders, (f) mentally diseased offenders, and (g) handicapped offenders.

Mahatma Gandhi strongly favoured that offenders can be reformed by sympathetic treatment only. He said that "prisons should be changed into hospitals to give treatment to offenders to bring them on the correct line. Officer of the jail should be changed into a doctor. The offenders shall feel

1. Indian Jail Committee, 1919-20, p. 26.



that officers of the jail, are their friends".

### (3) Jail reforms after Independence of India :

After independence of India, the works on the reformation of jails have right of humaneness. It was accepted that prisoners are also human beings and they too (Kala pani) was substituted by the imprisonment for life. Various steps had been taken for the treatment of the offenders. A committee appointed by Government of India had submitted a report after studying 110 Central Jails and 69 District Jails.

In 1949, Pakawasha Committee gave the permission to take work from the prisoners in making of road and for that wages shall be paid. At the same time "Good Time Law" was implemented, according to which during the period of imprisonment for good conduct a definite remission was provided. First time in India in 1949 psychiatric treatment system was implemented under which many correctional homes were constituted. A model prison was made in the city of Lucknow (UP), where the prisoners kept busy in the various small industries. At the same time, the first women prison was constructed in Merwda (Maharashtra).

During the period of 1947—77 a lot of corrections took place in the Prison Administration. During this period almost all the States have given the prisons a new role in the form of open prisons, and started to grant remission pardons, commutation of sentence, parole and furlough. But, from 1978 judiciary also has played active role in recognising the rights of prisoners.

#### (a) Reckless Commission Report, 1952 :

While local committees were being appointed by the State Governments to suggest prison reforms, the Government of India invited technical assistance in this field from the United Nations. Dr WC Reckless, a UN Expert on correctional work, visited India during the years 1951-52 to study prison administration in the country and to suggest ways and means of improving it. His report "Jail Administration in India" is another landmark in the history of prison reforms. He made a plea for transforming jails into reformation centres and advocated establishment of new jails. He opposed the handling of juvenile delinquents by courts, jails, and police meant for adults. He also advocated the detention of the persons committed to the prison custody and for their reformation and rehabilitation. The revision of outdated jail manuals and introduction of legal substitutes for short sentences were recommended by him.

#### (b) The All India Jails Manual Committee 1957- 59 :

The Government of India appointed the All India Jails Manual Committee to prepare a model prison manual. The Committee was also asked to examine the problems of prison administration and to make suggestions for improvements to be adopted uniformly throughout the country. The report of the All India Jails Manual Committee and the model Prison Manual prepared and presented by that Committee to the Government of India in the year 1960 are commendable documents on prisons. They not only enunciated principles



for an efficient management of prisons, but also lay down scientific guidelines for corrective treatment of prisoners. While laying down the guiding principles for prison management, the committee wrote "the institution should be the centre of correctional treatment, where major emphasis will be given to the re-education and reformation of the offenders. The impact of institutional environment and treatment, shall aim at producing constructive changes in the offender, as would be having profound and lasting effects on his habits, attitudes, approaches and on his total values of life". The Jail Management Committee's major recommendations touched the important aspects.

**(c) All India Committee on Jail Reforms 1980-83 :**

In 1980, the Government of India constituted All India Committee on Jail Reforms under the chairmanship of Justice Anand Narain Mulla. The recommendation of this Commission, universally known as Mulla Commission, constitutes a landmark in the reformatory approach to prison reforms. The commission made a thorough study of the problems and produced an exhaustive document.

**(d) The Juvenile Justice Act, 1986 :**

In the year 1986, the Juvenile Justice Act was enacted and observation homes, special homes, and juvenile homes were constituted, where the neglected children and juvenile delinquent could be admitted and the juvenile delinquent cannot be tried with the non-juvenile offender and cannot be kept within the prison. Many provisions were made regarding the orders that could be passed against the juvenile offender and what cannot be passed against the juvenile offenders. Under this Act, juvenile means a boy below the age of 16 years and a girl below the age of 18 years.

**(e) The Juvenile Justice (Care and Protection of Children) Act, 2000 :**

In the year 2000, a new Act in the form of the Juvenile Justice (Care and Protection of Children) Act, 2000, was passed which repealed the Juvenile Justice Act, 1986. In the new Act, the juvenile or child means any person below the age of 18 years. It means the boy of 16-18 years age also was included in the definition of juvenile. And the date of reckoning the age of juvenile is date of offence. The juvenile delinquent is not called juvenile delinquent but called the "juvenile in conflict with law". The record of the offence committed by juvenile will not be in record of that juvenile. It will not affect the opportunity of job in Government services.

**(f) Report of NHRC on conditions of the Jail in India :**

The situation in the prisons visited was varied and complex. Many, such as Tihar Jail in Delhi were over-crowded; yet others, like that open jail in Hyderabad were under-utilized. Often, within a single State, conditions varied from one jail to another in this respect, pointing to the need for a more rational statewide use of facilities. The Commission saw a few jails which were notably clean and where the diet was reasonable such as the Central Jail in Vellore. Unfortunately, it saw many others which were squalid, such as the



newly constructed Central Jail in Patna. In yet others, the diet was inferior, and the management was denounced by the inmates as brutal and corrupt. In some, care was being taken to separate juveniles from others, petty offenders from hardened criminals. In others, no such care was being taken and the atmosphere appeared to nurture violence and criminality. In a few, minor efforts were being made to reform conditions, to generate employment in a worthwhile and remunerative way, to encourage education and restore dignity. In others, callousness prevailed, prisoners were seen in shackles, mentally disturbed inmates—regardless of whether they were criminal or otherwise—were incarcerated with others, with no real effort being made to rise above the very minimum required for the meanest survival. Where prisoners worked, their remuneration was often a pittance, offering scant hope of savings being generated for future rehabilitation in society. By and large, the positive experiences were the exceptions rather than the rule, dependant more upon the energy and commitment of individual officials rather than upon the capacity of the system to function appropriately on its own.<sup>1</sup>

#### (4) Introduction of open prisons in India :

The open prisons function in the various States and UP took a lead by establishing an open air camp in 1949 adjacent to the model jail Lucknow. On behalf of the UN, the American Criminologist *Walter Reckless* visited India in 1952 and submitted a report on the Indian prisons. Consequently, the Jail Committee was appointed, which recommended establishment of open jails. The open jails provide the opportunities to the prisoners to mix freely with the minimum of security arrangements and to develop a sense of confidence among them. The inmates are given agricultural and other allied matters training. They are also paid for the work done by them and thus they earn their livelihood. The part of the wages earned by them is remitted to their families. The offenders' eligibility for open prisons depends on the rules operative in different States.

In 1946, Lucknow was converted into a Model Jail. It was an especial experiment which had never been done before. A model jail was tried to be converted into a developed colony. Before sending the prisoner into this model jail they had to go through scrutiny for six months at Yamuna House and six months for Ganga House, where their character and ability of reformation was checked up, thereafter some healthy, young, and long term prisoners were admitted.

The Hon'ble Supreme Court has expressed in the case of *Dharambir*<sup>2</sup>, that the sentence awarding life imprisonment was beyond interference. However, the accused being in their early twenties, the Supreme Court directed that the State Government and Superintendent of Prison shall insure that prisoners are put to meaningful employment and if permissible, to open prisons, that the prisoners be kept in contact with their families and that they

1. National Human Rights Commission, Annual Report, 1994-95, p. 13 in Para 4.17  
 2. *Dharambir v. State of U.P.*, AIR 1979 SC 1595.



should be permitted to go on parole for two weeks, once in a year, which should be repeated throughout their period of incarceration if their conduct which at large, is found satisfactory.

### (a) Starting of open prisons in India :

Uttar Pradesh has always remained a pioneer State in social and penological reforms. Late Dr. Sampurnanand, a great social reformer, theorist and philosopher introduced the first open prison in the State of U.P. during his tenure as Home Minister of the State. Workings of some of camps have given idea about the open prisons.

The first open camp was introduced on 1st October, 1952, in Chakri Tahsil district Chandoli, UP. Before going in this camp, the prisoners have to go for special training in the Banaras District Jail. In this camp the expenditure on food, cloth, education, entertainment, etc. was totally on the prisoner's head.

The Chief Minister of UP, Late Shri GB Pant, had declared that inmates of these camps will no longer be called prisoners. This tradition is still being maintained. In this camp the prisoners were paid wages equal to the labourer working outside. To inculcate in them self-respect and self-reliance, it was also arranged that prisoners will no longer remain a burden on the administration and society, as they will make good. The prisoners enjoy greater freedom, live in natural surroundings and have lesser tension. The atmosphere of open camps is more conducive and congenial for rehabilitation in society where they have ultimately to return and settle.

There was a very special feature of this camp. On one side of the dam long term prisoners lived with their families. This camp continued for a year up to October, 1953. During this period several competitive programmes were organised and the winner was permitted to go to Varanasi for a tourist visit or a movie show by the Government vehicle.

After the success of this camp, numbers of open camps were conducted by the States, Chandraprabha, Naugarh, Shahagarh, Sarnath camp, etc. all were successful. The then President Dr. Rajendra Prasad visited this camp and was extremely pleased to remark— "In the soul of an Indian even today social values are alive, even if that Indian is a prisoner".

In evaluation of Sarnath camp, it was established in a magnificent building on the bank of the river Varuna in the heart of the inhabited area. No warden or prison officer could wear any uniform there. In spite of such an extraordinary open environment with an average population of 400 prisoners, only one prisoner escaped which came to only 0.25%. This was really a good achievement being in the inhabited area with all facilities of means of transport. This camp was in the real sense of the term. Here the prisoners earned Rs. 28,978 and defrayed Rs. 16,196 to the State for their maintenance and subsidiary charges. The balance was portioned among them as their share. Though this camp was organised for a short period only, yet it proved to be a



an experiment of its kind, not only in the State but in whole of the world.

(b) **Sampurnanand Agricultural-cum-Industrial Camp, Sitarganj-Nainital :**

This is an entirely open institution without walls or security fences, organised as a single administrative unit on a permanent basis. This camp was established in 1960, in the tarai area Tehsil Sitarganj of District Nainital near Kalyan comprising of seven villages, namely, Kalyanpur, Morahatara, Palsiva, Lalarpathi, Bam, Lalarkhash, and Ruzrapur of Sitarganj Tehsil—Nainital (now in the State of Uttarakhand). "It is one of the largest open prisons in the world".

This joint venture was managed by a board of management. The president of this Board is the chief secretary to the Government of the State and Vice-President is the Vice-Chancellor of the GB Pant Agricultural University. There are five more members including the Secretary of the Government, Department of Home (Jail) and the IG Prisons. According to the data there has been no escape case reported between 1983 to 1990, not before 1974 to 1983 there were many cases of escape. Initially the rate was high but from 1978 it was nominal.<sup>2</sup> Beyond these there are Sampurnanand Camp Markundi, District Mirzapur and Kishore Sadan Juvenile Home, Bareilly: important open prisons in the State of Uttar Pradesh.

Almost all the States are having provisions for open prisons. And this experiment is successful, so it is recommended by every specialist to increase the number of open prisons. At some places open prisons are connected with central jail and somewhere they are fully open.

**Sanganer open jail Rajasthan.**—It all started when reformist Dr Sampurnanand became Governor of Rajasthan, and was inspired by the Hindi film "Do Aankhen Baarah Haath" (old one), which tells the story of a jailor who advocates an open jail and wants his dream converted to reality. The Rajasthan Government started the Shri Sampurnanand Khula Bandi Shivar (open jail), named after the Governor, on an experimental basis in 1963. Till 1980s, prisoners were allowed to go out from dawn to dusk to engage in agricultural work. A decade later, the Government made it compulsory for convicts to live with their families, in jail, as an important step towards their rehabilitation.

(c) **Prisoners are allowed to stay with their family :**

It is surprising on hearing that prisoners are allowed to live with their family, but it is true. It is proved that this system is more beneficial and convenient, without burden on the State. Sanganer is a town famous for its inimitable block prints, there are no searchlights, no prison cells, no sentries guarding the prisoners. Here the inmates live with their families in small huts

1. Ishwar Chand Vatsa—Open peno Correction Institutions in the States of Uttar Pradesh and Uttaranchal—published in the KD Gaur 'Criminal law and Criminology'—pp. 836-838.

2. Ibid., pp. 838-839.



and single room barracks which they usually construct themselves.<sup>1</sup>

The jail is unique because it allows prisoners to live with their family. They have completed one third of their sentence. At present there are about 150-160 prisoners at the Sanganer jail, including 10 women. They build their own houses, pay for water and electricity and are allowed to go out for work between 6 a.m. and 7 p.m. within a 10 km radius. Their children attend nearby schools. A roll call is taken before six in the morning and around eight o'clock in the evening. In this jail presently there are three persons who are taxpayers. There has been no adverse report for five years except one escape.

Second open air jail is set up in Lalgola district of Murshidabad (West Bengal). Ten cottages have been built in the campus where prisoners are staying with their families. These are not merely cottages but two room flats with separate kitchen and attached bathroom having a small garden in campus. Equipped with fans and electricity these cottages will be the envy of any person. These cottages are actually half way homes, where prisoners can interact with their families and learn some vocation before release from the jail.

This institution is planning to build more cottages to extend such facilities to larger number of inmates. They propose to send such female convicts to the open jail who satisfy all conditions and have their family in the family cottages. The prisoners are now being given lessons in motor driving. The prisoners go to District HQs, Berhampore, a distance of 50 kms. from Lalgola by train unescorted, practice motor driving and come back by the stipulated time.<sup>2</sup>

*Recommendation of Prison Reform Committee:* A committee on prison reforms has recommended that jails, like Sanganer should be replicated in other States as well. According to the committee, the process prepares convicts for life outside prison, instils a sense of responsibility in them and reduces overcrowding in jails. It also reduces costs on State.

##### (5) Reformation and rehabilitation activities :

Nowadays imprisonment does not mean to break the stones or grind the chakkies, but the sense has changed. Prisoners are given full chance to reform and rehabilitate themselves during the period of imprisonment. Tihar jail which is the largest complex of the Asian jails, adopted many reformatory and rehabilitative steps.

##### (a) Facilities provided in the Jail :

Now the days have gone when the prisoners were given hard punishment in the jail. Now they are treated as human beings and being provided many facilities. Some activities for prisoners are recreations, sports, yoga, meditation, adult education, library, computer learning facility, vocational training, embroidery and sewing, etc. in female ward. Educational classes are held for various courses under aegis of Indira Gandhi National Open University and National Open School for various courses like MBA, MA, BA, professional

1. Sunan Choudhury—an article published in "The Telegraph", Kolkata, Sep 5, 2004.  
2. Official Web Site of West Bengal Prisons, India.



and other school courses. Teaching classes are undertaken by professional teachers as well as qualified and educated prisoners. Other facilities in the jail are minimum necessary holding like bed sheet, blanket and equipment like plate, glass, etc. provided to all prisoners in the jail concerned. Breakfast, food (twice), tea (twice) and safe drinking water are also provided. Those who want to have mineral water can purchase it from the canteen on payment. Maximum four sets of private clothing are allowed. Jeans and ankle type sports shoes are not permitted inside the Jail. Other private clothing may be allowed only after the permission of the Superintendent of the Jail. Free washing facility is provided for cleaning of clothes to all prisoners.

#### (b) Treatment of the offenders :

**Yoga and Meditation.**—For cleansing and disciplining the mind, Yoga and meditation classes were started in a big way with the help of various voluntary organisations. In the year 1994, Tihar Jail created history by organising a Vipassana Meditation camp for more than one thousand prisoners. Since then a permanent Vipassana centre has been opened in Tihar Jail No. 4, where two courses of 10 days' duration are organised regularly. In the year 1998, Shree Satya Narain Goenka, teacher of Vipassana, inaugurated "Pagodas" meditation cells in the centre. Staff members are also encouraged to attend meditation courses. Meditation groups like Brahma Kumari Ishwariya Vishwavidyalaya, Divya Jyoti Jagriti Sansthan, Sahaj Yoga Kendra have also opened their branches in jails for imparting moral education, counselling and techniques of meditation to the prisoners. This has helped many prisoners in changing the whole approach to life.

**Creative Art Therapy.**—Creative Art Therapy, which is psycho-therapeutic in nature, is used in several settings. In respect to prison setting, the therapy serves as a reformatory process in several ways. First and most important, it helps to express, channelise and ventilate oneself. One has to keep in mind that, anyone convicted or otherwise exiled from the rest of the world is initially bound to have tremendous anger, aggression, sense of helplessness, hopelessness and emotional problems. Therefore, by encouraging and promoting Creative Art, the individual is able to release his pent up emotions and realize his worth as 'self' having a positive desire of improving himself both consciously and unconsciously.

**Societal Participation in Reformation.**—As a part of community participation in the reformation and social integration of prisoners after release, a large number of respectable members of non-Governmental organisations, Retired Major Generals, Professors I.I.T. Delhi, eminent Psychiatrists, Psychologists, Principals and Teachers of various educational institutions have been conducting various activities in the prisons. These NGOs have had very sobering and positive impact on the psyche of the prisoners, who have been shown the positive and constructive approach to life after interaction with them. NGOs participation is mainly concentrated in the field of education, vocation and counseling. Apart from the formal education with the