

Reforming the Prison Administration in India

Of all the reforms required for the effective functioning of our law and justice system, prison reforms form an important part. Unless and until we initiate and take measures to bring our prison management in sync with the times, our law and justice system shall never be able to work to the optimum level required. The various issues requiring our urgent attention include physical condition of the prisons, condition and treatment of prisoners, training and re-orientation of prison personnel, modernisation of prisons, better correctional administration and management.

The Government of India constituted a Committee in December 2005 under the Chairmanship of the Director General, Bureau of Police Research and Development (BPRD) to prepare a draft policy paper on the strategy relating to prison reforms and correctional administration. The said Committee is said to have made many recommendations relating to Prison Reform and Correctional Administration, which if implemented would make a lot of difference to our prison administration and management.

Of the important recommendations, the Committee is believed to have recommended setting up a Department of Prisons and Correctional Services to deal with adult and young offenders. It also recommended setting up a full time National Commission on Prisons. The Committee believed that the young offenders between 18 and 21 ought not to be confined in prisons meant for adult offenders as otherwise they usually become more prone to crimes while being in company of their more experienced and hardened counterparts. It similarly recommended that the persons arrested for politico-economic agitations for declared public causes should not be confined in prisons along with regular prisoners either. Some observers feel that bracketing the two together is quite unjustified given the fact quite often the latter come to be part of our government system later.

One another important issue relates to the over-crowding of our prisons as most of them are populated beyond their capacity. And the same can be done only by reducing the population

of the under-trial prisoners by speedier trials in special fast track courts, Lok Adalats, trials in special courts and via video conferencing. However, it should be ensured that the prisoners should, in no way, be forced to plead guilty in such fast track courts in a hope to get lesser sentence without in anyway appreciating the implications of the same. What is surprising is the fact that many of them keep languishing in our jails long after they are acquitted because of lack of coordination between the court and the prison administration. Modern mechanism of information technology and e-governance should be pressed into service for improvements on this score.

Going by the reformative theory of deviance, the confinement of an offender to the prisons is meant to reform and rehabilitate him/her in the human society as a responsible citizen rather than continue penalising him/her even after marked positive changes are noticed in them. Hence, release of lifers and hardened criminals before their stipulated terms should also be given a serious thought. As far as possible, easier bail provisions, using section 436-A of the Cr.PC and use of the Probation of Offenders Act, 1958 should be considered. It would not only reward good behaviour of these prisoners, but shall also take care of the over-crowding of the prisons.

A serious thought should also be given to ensure that the prisoners are not denied the basic right of consultation with their lawyers. It should also be ensured that video conferencing, as proposed, should in no way impede on this basic right. If possible, the constitutional right to free legal aid, as envisaged in Article 39-A of the Indian Constitution, should be fully implemented, ensuring the same to the prisoners. One also feels a greater need for expedited appeal hearings, which could be possible only if the number of judges in the higher judiciary is increased.

Talking about basic amenities within the prisons, there is a lot which needs to be done to ameliorate the conditions in which the prisoners are supposed to live. Adequate sanitation, improved prison wages, all-round entertainment and better health check-up facilities are the minima required inside the jail if we really believe that the prison is a place for reforming and rehabilitating an individual rather than making him further hardened and untouchable for the society.

Group insurance, provisioning of bank loans and employment in government/private industries should also be contemplated as part of an overall rehabilitation package. It should be ensured that the old and sick prisoners do get a special diet as should be the case with the pregnant and lactating women prisoners and their special medical needs. Also, improvement in the modes of communication between the prison inmates and their families should be improved further, giving allowance for more privacy to the conversation between the two.

Also, a thought should be given to ensuring the conjugal rights of the prisoners. After all, penalising an individual for an offence does not mean depriving him/her completely from the very basic human rights including the conjugal rights. Another piquant issue relates to the political rights of the prisoners. It is quite surprising that a convicted person can contest a legislative or parliamentary election, but he/she does not have any voting rights available. Something should be done to remove this discrepancy in the present system.

In light of the recent incursions on our prisons by Naxalites and other such outlawed organisations to liberate inmates, we also need to give some importance to the prison security. Of the various security measures for preventing such jail breaks include the installation of a bio-metric system of access control as recommended for installation in all the nine prisons of the Tihar jail complex by S K Cain Committee formed in the wake of Shamsher Singh Rana's famous escape from Tihar.

In this system, the fingerprints of all the prisoners and the jail staff are saved into a database. The entry and exit from the complex is permitted only if the fingerprints are matched. This system should be installed in all the jails across the country without any exception. Besides, simple security measures like installation of close circuit cameras, metal detectors and automatic security lock system should also be thought of for better security of our jails and for further pre-empting such daring jail breaks as seen during recent times.

Manpower shortage has been another bane of our prison system which needs to be beefed up for better prison management and security. Apart from reinforcing the manpower, the prison officials and rank also need to be given special training and orientation for further improving the prison security and also for making our prisons a better place, yoked to the cause of reforming and rehabilitating deviant members of the society. Women and juvenile offenders definitely need better and more sensitive treatment than they have got so far.

While better coordination with the police department is required for better prison administration and management, the same should in no way lead us to involve police in prison administration or management as that may have very dangerous implications, at least, that is what some experts feel. We should definitely explore alternatives to imprisonment, at least, for the under-trials. One does feel the need for extensive amendments to the colonial Prison Act of 1884 along with the need for various constituent states of the Indian Union to draft a uniform prison manual if we are to really implement some of the reforms as envisaged here. Also, before going about implementation of Committee's recommendations, we also need to give a thought to various whys and wherefores of the failure to implement the sundry proposals of the Mulla Committee Report for improving the condition of prisons in India.

Salient Points

- For the effective functioning of our law and justice system, prison reforms are very important.
- Young offenders should not to be confined in prisons meant for adults.
- Persons arrested for politico-economic agitations for declared public causes should not be confined in prisons along with regular prisoners.
- Over-crowding of our prisons is another issue. Modern mechanism of information technology and e-governance should be pressed into service for improvements on this score,
- Imprisonment is meant to reform and rehabilitate offender in the human society as a responsible citizen rather than continue penalising him,
- Constitutional right to free legal aid, as envisaged in Article 39-A of the Indian Constitution, should be fully implemented,
- Adequate sanitation, improved prison wages, all-round entertainment and better health check-up facilities are the minima required inside the jail.

- Group insurance, provisioning of bank loans and employment in industries should be part of an overall rehabilitation package.
- Penalising an individual for an offence does not mean depriving him/her completely from the very basic human rights including the conjugal rights.

Glossary

Piquant: agreeably stimulating, interesting, or attractive