

## **PRISON BEST PRACTICES FOR WELFARE AND REHABILITATION OF PRISON INMATES IN INDIA**

**Dr. Neelu Mehra**

Assistant Professor, GGSIPU, Delhi

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**Abstract:** In the context of correctional administration and prison reforms, a dominant theme relates to the development and institutionalization of best practices of prison administration. This paper makes an attempt to identify the best practices in different prisons of the country. It is very essential to share this knowledge in order to bring about improvements in the system. The best practices in prison administration broadly relate to security, use of technology, staff development, prison management, addressing issues related with women prisoners, correctional programmes, and community participation and reintegration of offenders.

**Keywords:** Best Practices, Community involvement, Prison Administration, Technology in Prison.

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**Introduction:** The Constitution of India, the Universal Declaration of Human Rights and the Standard Minimum Rules for Treatment of Prisoners clearly specify the standards of treatment with the prisoners in jails. The concern about the human and other innate rights of the prisoners has led to evolution of a new philosophy of correctional administration. While there are a number of international practices worthy of emulation, but it is important to locate prison reforms in the local context rather than following the international practices. Other countries may have different needs, problems and conditions, which are inapplicable to the Indian context. Thus, Dr. Upneet Lalli has emphasized on the need of having evidence-based practices in a correctional setting, meaning thereby that there was a need to methodically work on what would constitute the best research practices.

**The Rationale for Evolving Best Practices of Prison Administration:** Prison reforms have been the subject matter of discussion and debate ever since Independence. Unfortunately, the issues relating to prisons in the country and their reform remain a focal point of research and judicial scrutiny even today. The Social Justice Bench of the Supreme Court of India on 5/2/2016 (In Re-Inhuman Conditions in 1382 Prisons: W.P. (C) No. 406 of 2013), while issuing further Guidelines relating to Prison Reforms in the Country, observed: 'Prison reforms have been the subject matter of discussion and decisions rendered by this Court from time to time over the last 35 years. Unfortunately, even though Article 21 of the Constitution requires a life of dignity for all persons, little appears to have changed on the ground as far as prisoners are concerned and we are once again required to deal with issues relating to prisons in the country and their reform.'

As far back as in 1980, the Supreme Court had occasion to deal with the rights of prisoners in **Sunil Batra (II) v. Delhi Administration (1980) 3 SCC 488**. In that decision, the Court gave a very obvious answer to the question whether prisoners are persons and whether they are entitled to fundamental rights while in custody, although there may be a shrinkage in the fundamental rights. The Court observed "Are prisoners persons? Yes, of course. To answer in the negative is to convict the nation and the Constitution of dehumanization and to repudiate the world legal order, which now recognizes rights of prisoners in the International Covenant on Prisoners' Rights to which our country has signed assent". In *Batra case (1978) 4 SCC 494* the Supreme Court has rejected the hands-off doctrine and it has been ruled that fundamental rights do not flee the person as he enters the prison although they may suffer shrinkage necessitated by incarceration.

A little later in the aforesaid decision, the apex Court pointed out the double handicap that prisoners face; the first being that most prisoners belong to the weaker sections of society and the second being that since they are confined in a walled-off world their voices are inaudible. The Court observed "Prisoners are peculiarly and doubly handicapped. For one thing, most prisoners belong to the weaker

segment, in poverty, literacy, social station and the like. Secondly, the prison house is a walled-off world which is incommunicado for the human world, with the result that the bonded inmates are invisible, their voices inaudible, their injustices unheeded. So it is imperative, as implicit in Article 21, that life or liberty, shall not be kept in suspended animation or congealed into animal existence without the freshening flow of fair procedure.”

In *Rama Murthy v. State of Karnataka (1997) 2 SCC 642*, the apex Court identified as many as nine issues facing prisons and needing reforms. They are: (i) Over-crowding (ii) Delay in trial; (iii) Torture and ill-treatment; (iv) Neglect of health and hygiene; (v) Insubstantial food and inadequate clothing; (vi) Prison vices; (vii) Deficiency in communication; (viii) Streamlining of jail visits; (ix) Management of open air prisons. The Court expressed the view that these major problems need immediate attention. Unfortunately, we are still struggling with a resolution of at least some of these problems.

In *T. K. Gopal v. State of Karnataka (2000) 6 SCC 168*, the Supreme Court advocated a therapeutic approach in dealing with the criminal tendencies of prisoners. It was pointed out that there could be several factors that lead a prisoner to commit a crime but nevertheless a prisoner is required to be treated as a human being entitled to all the basic human rights, human dignity and human sympathy. It was pointed out that it is this philosophy that has persuaded this Court in a series of decisions to project the need for prison reforms. The Court observed “The therapeutic approach aims at curing the criminal tendencies which were the product of a diseased psychology. There may be many factors, including family problems. We are not concerned with those factors as therapeutic approach has since been treated as an effective method of punishment which not only satisfies the requirements of law that a criminal should be punished and the punishment prescribed must be meted out to him, but also reforms the criminal through various processes, the most fundamental of which is that in spite of having committed a crime, maybe a heinous crime, he should be treated as a human being entitled to all the basic human rights, human dignity and human sympathy. It was under this theory that this Court in a stream of decisions, projected the need for prison reforms, the need to acknowledge the vital fact that the prisoner, after being lodged in jail, does not lose his fundamental rights or basic human rights and that he must be treated with compassion and sympathy.”

**Stakeholders:** Besides the judiciary, other stakeholders in the area of prison reform and benchmarking of scientific prison administration practices are the Ministry of Home Affairs, National Commission for Human Rights (NHRC), Bureau of Police Research & Development (BPRD), Regional Institutes of Correctional Administration, Prison Directorates and Prisons in States and Union Territories, NGOs like Commonwealth Human Rights Initiative, civil society groups, activists and academicians/researchers of penology and criminology working in the prison related field. The NHRC has been organizing seminars on prison reforms with the objective of concretizing the work done by various stakeholders. Similarly, BPRD has also been active in this area by way of evolving Model Prison Manuals after extensive consultations with the stakeholders.

**Best Practices in India:** There are several areas of prison administration which have seen rapid strides in recent years both in national as well as international arena. The following areas can be listed out where best practices have been developed in India:

*Use of Technology in Prisons:* CCTVs have been installed for maintaining security and prison management in prisons in Tihar, Delhi, Tamil Nadu, West Bengal, Chhattisgarh, and Karnataka. Andhra Pradesh and Bihar also have CCTVs systems. Biometric identification system to store photographs and biometric finger prints of all inmates was installed in Tihar Jail, as well as in Jharkhand. Video-Conferencing system for production of under-trials in courts was originally started in Andhra Pradesh in 2001. It is now in use in Maharashtra, Tamil Nadu, Karnataka, Gujarat, West Bengal, Jharkhand, New Delhi and some more States and is a best practice as it prevents untoward incidents like escape and reduces expenditure on police escorts and vehicles. It also ensures the production of under-trials.

*Health and Medical Facilities:* There is a need to strengthen the policy of medical screening at the time of prison entry. There is need for improvement in the context of improvement in special facilities

provided to pregnant women. There is a pressing need to explore opportunities for sustainability of provision of basic medical treatment and services to prisoners. This requires providing training to staff in basic medicine and first aid to ensure that prisons have properly trained primary health care team.

*Educational and Vocational Training:* Educational and vocational training courses for prison inmates can be a real reformative/rehabilitative measure. The partners in this endeavor in various State have been IGNOU, National Open School and other universities by providing an opportunity to prisoners/under-trials to pursue distance learning educational programmes. Other areas of vocational training include opening of computer centres, training of prison inmates in carpentry, bakery, pottery, shoe-making, sculpture making, soap and phenyl making, etc.

*Food:* There are no consistent national standards for food. It generally varies in the quality and the quantity that prisoners are offered. Modernization of kitchens and the use of stainless steel cooking vessels and trolleys, gloves, caps and special dresses while cooking food, etc. help in maintaining hygienic standards.

*Rehabilitation Measures:* it could include giving them work to help them in earn money, Setting up a rehabilitation fund; Providing a training kit; Wages; Housing loan for prisoners.

*Community Involvement:* It could include participation of NGO participation; Games/ Sports; Providing Counselors; Cultural Therapy; Cultural Activities

*Stress Relieving Programmes:* Spiritual/moral education; Yoga and Meditation courses; religious discourses conducted by spiritual leaders of various organizations etc.

*Women Prisoners – Vocational Training Programmes:* The opportunity should be taken to provide compulsory basic elementary education to women within prisons. which can help them in better integration in the society and make them aware about their rights, gain self-confidence and independence. Efforts to should be made to provide comprehensive vocational training in prisons, and thereby assisting them to gain employment after release.

*Women and Children in Prisons:* In 2006, the Supreme Court of India through the landmark judgment of R D. Upadhyay v. State of A.P. and Ors AIR2006 SC 1946 ordered the Centre and States to take various steps to take care of pregnant inmates and dependent children lodged along with mothers in jails across the country. It was held that a child in jail with his mother shall be entitled to all the basic necessities and recreational facilities as a matter of right. In pursuance to the judgment the jail manual and/or other relevant rules, regulations, instructions etc. were to be suitably amended. In 2013, the Supreme Court of India directed State Legal Services Authorities to inspect all jails including sub-jails in their states, take note of the prevailing situations in terms of the various directions issued thereunder. But it was observed there, still there is need for reform as there are no laws that cover many aspects of imprisonment of women and children and a proper mechanism must be there to ensure that no fundamental, legal or human rights of the prisoner or her family are compromised at any time.

*Reducing the Number of Under-Trials in Jails:* the number of under trials in jail should be reduced by adopting certain measures , Jail Adalats; - Use of Section 436-A;- Plea Bargaining; - Special Courts on Monthly Basis; Legal Aid Services.

*Open Prisons:* Open prisons have relatively less stringent rules as compared to the controlled jails. They go by many names like minimum-security prison, open air camps or prison without bars. The fundamental rule of an open prison is that the jail has minimum security and functions on the self-discipline of the inmates.

As per **Prison Statistics 2015**, published by National Crime Records Bureau, 17 States have reported about the functioning of open jails in their jurisdiction. Amongst these States, Rajasthan has reported

the highest number of 29 open jails followed by Maharashtra (13) Kerala & Tamil Nadu (3 each) and Gujarat & West Bengal (2 jails each). The remaining 11 States – Andhra Pradesh, Assam, Bihar, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Odisha, Punjab, Telangana and Uttarakhand have one open jail each.

The appreciation of open prison as an effective institution for rehabilitation of offenders has been highlighted by Supreme Court in 1979 in *Dharambeer v State of U.P. (1979) 3 SCC 645*. Later on, again in the *Ramamurthy v. State of Karnataka (1997) 2 SCC 642 (659)*, has observed that open-air prisons play an important role in the scheme of the reformation of a prisoner which has to be one of the desideratum of prison management. The entire functioning is based on the philosophy that after release the prisoners may not relapse into crimes for which purpose they are given incentives to live a normal life by training. However, the concept of open prisons needs to be given more publicity in our country to bring the focus of society to reformed offenders. Apart from agricultural based open prisons it is suggested that there should be open prisons with an industrial / manufacturing base as well. Further, Open Prisons exclusively for women should also be encouraged as a part of overall strategy of prison reform in the country.

*Information Dissemination:* The internet is a powerful tool to spread and share information on the best practices. One of the most basic things that all prisons should have is a website with up-to-date contact information. Yet even a cursory search of prison websites in India reveals that website up-gradation hasn't taken place. The websites of the State Prison Departments should also contain information on the good practices initiated in the prisons. Various State Governments/ UT Administrations need to disseminate their knowledge towards the best prison practices being followed in their respective States/ UTs. A discussion forum on best practices in prisons can be developed at the National level and prison officers can put their views on this forum. This will facilitate brainstorming and may also lead to competing on good practices and taking initiatives. This can take various forms like newsletters, small write-ups, films and discussion forums, and seminars on the theme of the best practices in prisons.

*Staff Training:* Staff training is important for prison staff morale as well as for the successful management of prisons. It is a key component in the process of transforming the prison's culture. Prison officers will need training on prison management and performance management. Regular training programmes/modules on 'Best Prison Practices' should be held for senior and middle management.

*Prison Management:* Participative management is suggested for as a model for the prison organization. The prisons will have to develop as learning organizations in order to learn and grow relevant to the time and need of society.

*Awards and Incentives:* The good work being done in prisons. Should be recognised by giving awards at the National, State and District level. It is seen that simple measures like putting up the name of "employee of the week" on a notice board is a very good motivator as it recognizes the individual's work and worth. A system of positive incentive boost the morale of prison staff. The Department should evaluate and recognize officers who have shown good performance by honoring them with monetary incentives, medals, certificate, promotion and other benefits.

*Setting up of Grievance Redressal Mechanisms:* Invariably, complaint boxes exist in all prisons but their usage depends on the faith prisoners have with their grievances being redressed. Tamil Nadu has a Chief Minister Grievance day meeting wherein petitions are received and specific periods have been mentioned for senior officers to conduct grievance day for disposing of grievances at the earliest. A robust grievance redressal system is a sine qua non for an efficient and responsive prison administration.

**Model Prison Manual 2016:** The Model Prison Manual (MPM), developed by Bureau of Police Research and Development (BPRD), forms the basic guidelines on the conduct of prisons, which States and Union Territories are expected to adhere to by adopting it into their own prison manuals. However, some States are yet to come up with their manuals based on the first MPM, which was circulated by the BPRD

in 2003. In 2015, the Supreme Court directed the Ministry of Home Affairs, under whom the BPRD functions, to review the MPM as there had been a huge change in circumstances and the availability of technology since 2003. The court also suggested to the government that the committee constituted to look into the MPM should be multi-disciplinary and include members from civil society, NGOs and domain experts. The Supreme Court's order on February 5 2016, delivered by Justice Madan B Lokur, describes the new MPM as a composite document that needs to be implemented with due seriousness and dispatch. It is, therefore, essential that its aberrations are reviewed before it is recommended to the States for adoption.

**Conclusion:** With a view to institutionalize the best practices of prison administration, it is imperative that the Central government along with the NGOs and the prison administrations of States and Union Territories should take adequate steps for effective modernization and standardization of prison administration and management practices. Adoption of model prison manual 2016 by States and Union Territories will help in maintaining uniformity in reforms throughout and will help the prison administrations to become more responsive and reform-oriented. From time to time various workshops and seminars should be organised by State governments in collaboration with prison authorities and academia for suggesting new correctional techniques and also for conducting intensive case studies of particular regions/problem areas for suggesting remedial policy alternatives. Transformation of prisons and prison culture requires "treating prisoners not as objects, but as the human beings they are, no matter how despicable their prior actions, will demonstrate an unflagging commitment to human dignity. It is that commitment to human dignity that will, in the end, be the essential underpinning of any endeavor to transform prison cultures."

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