CHAPTER V

PRISON CONDITIONS IN INDIA

"When they arrested my neighbor I did not protest. When they arrested the men and women in the opposite house I did not protest. And when they finally came for me, there was nobody left to protest."\(^1\)

During nineteen eighties the central government has taken some considerable positive steps on prison administration for the welfare of the prisoners and appointed a committee under the chairman ship of justice A.N. Mulla to make enquiry on the existing prison laws to reform the prison administration throughout India. The All India Committee on Jail Reforms 1980-83 chaired by Mr. Justice A.N.Mulla has submitted its report to the central government in the year 1983 and they had observed that prison administration in India has become a subject of criticism both in Press and the Parliament and in the Judiciary. Almost all the prisons are overcrowded with prolonged detention of undertrial prisoners and with inhuman and unsatisfactory conditions in the prisons due to lack of sufficient reformatory programs to the welfare of the prisoners and on the allegations of inhuman approach of prison staff have repeatedly attracted the attention of critics over the years.

---

1. Pastor Niemoller.
The A.N Mulla Committee had identified a majority of prisoners lodged in prisons consisted of people belonging to the uneducated sections in the society, and that the majority of the prison population was from the rural and agricultural background. Star offenders involved in minor offences or lesser punishment offences are in large number. A large number of offenders sent to prison do not require any therapeutically correctional treatment. They are as normal as citizens outside prison walls are and they need to be protected from the harmful effects of exposure to prison life as there are more chances to mingle with hardcore criminals. The protection of society from evil minded persons is an objective of punishment, it has been universally accepted and this can be achieved through effective reformation and rehabilitation programmes to the prisoners. While taking due note of the need to keep out of circulation for a longer time harmful, habitual, dangerous recidivist prisoners, a progressive prison system has to operate keeping in view the protection and reformation aspect as much as correctional and rehabilitation aspects in prisons.

In order to fully appreciate the magnitude of the problem and the parameters relevant to reforms in the context of fundamental rights and human rights, it would be desirable to look at the evolution of
prison administration over the years. In the British era in India the first committee on prison administration known as Prison Discipline Committee was set up in January 1836 and its report was received in 1838. A Commission of enquiry into Jail Management and Discipline was appointed by the than British government in 1864. Both reports indicate that, the British regime was interested in prisons only from the point of view of administration and discipline. Ideas on the reformation or the welfare of the prisoners not criticized as they have not concentrated on the welfare and reformative measures of the prisoners. A conference of experts was held in the year 1877 and it resulted in a Draft Bill being prepared governing the principles and practices of prison management. But the Bill ultimately did not become in to Act. In the year 1888, the Fourth Jail Commission was appointed and from its object and scope, it is clear that even after a lapse of over a century solutions for the same problems are still being sought, it clearly shows that the British government is not has not taken any positive steps for the welfare of the prisoners, as almost all the prisoners are freedom fighters. This includes translating principles into effect in various jails, the cost of maintaining prisons, ensuring sanitary conditions, prison discipline, etc. However, the Prison Act of
1894, which is in vogue even today, though it was the result of the 1888 Commission.

This Act sought to streamline prisons administration and put it on a uniform footing throughout the country. It is provided for the separation of prisoners based on age, their civil or criminal status and on the basis of whether they were unconvinced or convicted criminals. The Medical Officers was required to visit the prison daily and examine prisoners confined in the cells for more than 24 hours. The Act also restricted employment of criminal prisoners sentenced to rigorous imprisonment to no more than nine hours on any day. The Medical Officer was made responsible for ensuring that the prisoner’s health was not injured by the work in which they were employed. No officer’s subordinate to the Superintendent was empowered to award punishments. Female and civil prisoners were specially excluded from the punishment of handcuffing or fetters or whipping. Incidentally, whipping was abolished by the Abolition of whipping Act, 1950.

The Act was ‘largely based on deterrent principles concerned more with prison management than with the treatment of prisoners and gave
more consideration to prison offences and punishment than to their effect.

Modern prison reform in the country can be said to emanate from the Indian Jails Committee of 1919-20. For the first time this report identified the need of reformation and rehabilitation of the prisoners as the true objective of prison administration. The Committee recommendations, that the care of criminals should be entrusted to adequately trained staff selected after careful scrutiny. It also rejected the idea of excessive employment of prisoners in overseers and recommended the induction of technically trained staff in prison services.

The Committee made the important recommendations that separate jails should be earmarked for various categories of prisoners, prescribing a minimum area of 75 square yards per inmate within the jail walls. It took strong objection to the presence of children in jails meant for adults. It recommended the creation of special courts for hearing of cases of juvenile delinquents and their housing in remand homes. It urged the holding of a conference of Inspectors General of Prisons with staff every year. Many of the recommendations were not
implemented on the ground that the subject of prisons was within the purview of the provincial/state governments. It is ironical that even today one of the major stumbling blocks in ensuring uniformity in prison conditions all over India is the fact that prison administration is a state subject.

Since Independence, a number of jail reforms committees have been appointed by state governments. However, it has not been possible to get even list of such committees from the Central Government agencies concerned. There was a report on Jail Administration in India by the United Nations expert, Dr. W.C. Reckless in 1951-52. His recommendations resulted in the revival of the conference of Inspector Generals of Prisons after a lapse of 17 years. An All India Jail Management Committee submitted its report in 1960. This resulted in the settings up of the Central Bureau of Correctional Services, which was later redesignated as the national Institute of Social Defense. A working group in 1973 suggested that Government should make effective use of alternatives to imprisonment as a policy measure and also highlighted the desirability of proper training of prison personnel and improvements in their service conditions. Further, it made important recommendations with
regard to the classification and treatment of offenders and laid down
principles of follow-up and after-care procedures. It said that
developments of prisons and correctional administration should no
longer be divorced from the national development process and prison
administration should be treated as an integral part of the social
defense component of national planning. Persistent criticism about the
manner in which the prison system was functioning and the fact that it
did not measure up to the test of law and international standards of
human dignity and preservation of fundamental human rights of
prison inmates, resulted in the setting up of the All India Committee
on Jail Reforms in 1980 chaired by Mr. Justice A.N. Mulla.

A.N. Mulla Committee examined all aspects of the prison
administration and made wide-ranging recommendations and given its
report to the central government in 1983, which if implemented would
go a long way to make prison administration efficient, humane and
professional. The recommendations of the A.N. Mulla Committee
touched upon legislative, operational and security aspects besides
matters like classification of prisoners, living conditions in prisons,
medical and psychiatric services, treatment programs, vocational
training for prison inmates, problems related to undertrials and other
unconvicted prisoners, problems of women prisoners etc. The report laid emphasis on the management of prisons to be entrusted to a cadre of professionals.

Generally the national Police Commission lookes into the issues like arrest, detention in custody, interrogation of accused, and delay in investigation besides highlighting the need to adhere to the provisions of constitution and Code of Criminal Procedure, it made wide ranging suggestions to amend the laws and procedures to cut down on delays in the investigation and trial stages, and to avoid custodial violence and lock-up illegalities to inspect police lock-ups and report on them. The report of the National Commission for women on Custodial Justice for Women 1993 was also merits attention. The following are some of the more important aspects, many of which do not cast any financial burden for their implementation.

1. Prisoners should be informed of their rights under the law.

2. Appointment of women constables to conduct searches on female accused.
3. Free medical check ups for prisoners or undertrial prisoners, should be done by qualified doctors as soon as they come to prison.

4. Prisoners should be allowed to contact their family members and communicate with their lawyers, social workers, and voluntary organizations.

5. Women prisoners should be allowed to keep their nourished children with them.

6. Voluntary organizations of should be encouraged to be associated with prisoners.

Separate jails for women.

Special prosecution officers should be available to represent the cases of women prisoners. The National Human Rights Commission in its 1st Annual Report of 1993-94, has expressed its deep concern about the appalling conditions of over crowding, lack of sanitation, poor medical facilities, inadequate diet and the like, in most of the jails. These serious deficiencies are compounded by unconscionable delays in the disposal of cases for various reasons and mismanagement in the administration of jails, all of which need to be remedied as early as
possible. As an immediate undertaking the Commission is in touch with competent judicial and executive authorities with a view to expediting the trial of cases in the country.

Convening meeting of the Sentence Revising Board for the release of prisoners, whenever possible, of those serving life sentence and who have already completed the maximum term. Segregating juveniles prisoners sentenced for minor offences from those serving longer terms for heinous crimes.

The courts in India have also laid down specific rules and guidelines in regard to matters like the right to physical protection like in D.B.M Patnaik V State of A.P\(^1\), case protection against physical assault like in Sunil Batra V. Delhi Administration\(^2\), case restrictions on handcuffing and bar fetters like in Prem Shukla V. Delhi Administration\(^3\), case on solitary confinement like in Sunil Batra’s as well as Kishore Singh V. State of Rajasthan\(^4\), cases the right to speedy

---

1. AIR 1974 SC 2092
2. AIR 1980 SC 1579.
3. AIR 1980 SC 1535.
4. AIR 1981 SC 625
trail as in Hussainara Khatun V. Home Secretary State of Bihar\textsuperscript{1}, case freedom of expression in P. Pandurang Sangui case and press interviews as in Prabhu Dutt V. Union of India\textsuperscript{2} case etc.

The Supreme Court issued directions regarding the procedure to be followed when a person is arrested. In 1994 in the case of Jogindar Kumar V. State of UP and others\textsuperscript{3}, the Supreme Court referred to the National Police Commission's finding that 60\% of arrests were either unnecessary or unjustified and laid down four requirements to be strictly followed:

1. The right of the arrested person to request that a friend, relative or other persons be informed of his arrest and the place where he is so detained.

2. The duty of the police officer is to inform the arrested person of his rights.

\begin{quote}
\textbf{References:}

1. AIR 1979 SC 1360.
\end{quote}
3. An entry should be made in the police station diary so as to who was informed of the arrest.

4. The duty of the Magistrate before whom the arrested person is produced, has to satisfy himself that all these requirements have been complied with.

A police officer making an arrest should record in the case diary, the reasons for making the arrest, implying there by that every arrest by the police has to be justified.

A.N.Mulla Committee, the National Police Commission, Justice Krishna Iyer’s Committee, and the National Human Rights Commission have made numerous valuable recommendations to bring about not only improvements and reforms in the jail administration but in the entire criminal justice system itself. Unless there is comprehensive reforms of the criminal justice system in it’s entirely, there is unlikely to be decisive change. Various commissions and committees have examined the problems relating to different elements of the criminal justice system. Perhaps this matter could be remitted to a Criminal Justice Commission, drawing upon talents from all the branches of the Criminal Justice System. Such an effort is long
overdue and would be an essential and urgent step towards reform of vital spheres of public administration affecting human rights and human dignity. There are problems concerning such issues right from the stage of recording the FIR, during investigation, prosecution, trial, sentencing, jail life, parole, review, remission and rehabilitation, not to mention recidivism and relapse. Unless the government agencies dealing with specific aspects of these processes and matters work in co-ordination and their efforts are complementary to each other, there cannot be harmonious and purposeful results. In the current processes severe damage is caused to basic humanitarian considerations, the rule of law and public confidence in the credibility of the entire system has been shaken. The results can be and in fact are very disturbing the Society is losing faith in the system of justice. Sensitivities in regard to human sufferings and the inescapable disregard of law have been dulled. Because of these, the foundations of a free and democratic society are in serious jeopardy.

The prison population even in absolute terms is not more than one percent of total population at any time, the prison population is very small if the government really wants to reform, these numbers can be easily managed in the most modern, cost-effective and satisfactory
manner. Therefore, there is a very strong case for preferential attention to this area of reforms.

**Major Problems in Prisons.**

**Overcrowding:** This is the most visible problem and yet no long term or short-term remedies have been found. Prisons in places like A.P., Gujarat, Haryana, M.P., and Maharashtra have prisoners far in excess of their capacity. In Delhi, Tihar Jail holds 8700 prisoners against a stipulated capacity of 2200. The reasons for overcrowding in jail are many. Inordinate delays in trials result in many undertrials having to be detained in jail for unduly long periods in many cases extending to years together. In these years together with the routine new additions, literally clogs the system. In many cases, prisoners who are facing charges of grave, professional, violent crimes are outnumbered by others like suspected drug offenders, ticketless travelers, Railway alarm chain pullers, and a variety of others who have technically violated law. Many of them are in jail only because they could not pay the fines imposed on them by courts. In some cases, prisoners prefer to continue in jail because they just cannot afford even a single meal a day outside. Then there are prisoners who
prefer to spend a couple of months in jail then to pay maintenance to their wives as ordered by courts. Under these circumstances, the problem of overcrowding can be solved or at least it can be reduced only by a variety of measures. There has to be a conscious policy not to overcrowded prisons by finding alternative methods of dealing with standing noncriminal offenders like ticketless travelers and alarm chain pullers, apart from unsatisfactory prison management, could lead to release of violent offenders and professional criminals. The state should guard against such an unhealthy development of inmates.

The National Police Commission in its annual report of 2010 pointed out that 70% of arrests were either unnecessary or unjustified and finally it has resulted in overcrowding and accounts for 50% of the expenditure of jails. Therefore, restraint by the police in resorting to unwarranted arrests by following the guidelines laid down by the Supreme Court would go a long way work to reducing overcrowding in jails.

Delay in Trial: Trials delay in the courts has assumed very serious proportions. Even though this problem has been highlighted by the A.N. Mulla Committee and National Police Commission thorough
public interest litigation, there has been no relief at all. On the contrary, the situation seems to be getting worse, what with cases mounting in courts. In 1978, the pitiable plight of under trials of Bihar Jails, primarily due to enormous congestion in courts brought to light by K.F. Rustomji resulted in the matter being noted by the Supreme Court, thanks to a Public Interest Litigation initiated at the instance of Ms. Kapila Hingorani. But even today, the situation remains far from satisfactory. On the contrary, we continue to read in newspaper of children of undertrial women's growing to adulthood in prison. During a visit to the Tihar Jail in Delhi, the undertrial prisoners spoke with one voice and with deep anguish, frustration, and helplessness about the enormous injury caused to them due to inordinate delays in courts. The National Human Rights Commission has also taken note of this problem of delay affecting undertrials in various jails in the country. No one aspect of prison administration has affected the human rights of prisoners as delays in trial, for which the police, judiciary and the legal profession are all to blame. It is only by the joint efforts of all these three links that there can be any assemblance of improvement that under trial account for over 50% of the total jail population. In many places like Andhra Pradesh, Assam, Goa,
Karnataka, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Nagaland and Orissa is above 60%. The A.N Mulla Committee has made a serious reference to this matter. Delay commences from the stage of investigation itself. In many cases, charge sheets are filed by the police very late leading to a long chain reaction. The next bottleneck occurs in the course of service of summons to witnesses, often due to collaboration between the process server, police, and the witness. This stage of the judicial process has lent itself to corrupt practices, which need to be set right immediately.

The legal requirement of having to give copies of relevant documents to the accused under section 207 and 208 of Code of Criminal Procedure needs to be streamlined. At present this contributes delay. This is unpardonable, particularly because modern copying machines are now available and can easily replace the old, time-consuming practice of making hand written copies, which are often illegible. However, the maximum delay takes place when evidence is to be recorded. In some cases, it has taken more than eight years to examine witnesses and record evidence. Official witnesses, lawyers, and public witnesses can attribute this delay to procedural complexities and absenteeism in one form or another. Defense and
prosecution lawyers make their own contribution to the prolongation of trials. The situation has further deteriorated after the separation of prosecution from the police leading to dilution in accountability and loss of effectiveness. There are also lapses in producing undertrials in courts on the dates of hearing. On many occasions, they are either not produced or produced late, with the result that the hearing gets adjourned causing avoidable delay. This is due to the district police authorities not making available police escorts on the ground of non-availability of manpower. In many districts, the sanctioned manpower is inadequate. On their part, the courts are also not without blame. Even though law requires that trials should be conducted from day to day till completed, in practice this rarely happens. Cases are adjourned for a couple of months at a time, which further aggravates delay.

A large number of recommendations have been made to reduce delays. The Reports of the Law Commission, National Police Commission and the annual conference of chief Justices must have also discussed this matter a number of times. Numerous seminars have been held, the latest is one seminar on the Criminal Justice System organized by the Law Commission and the Bar Council of India. But the fact is that no one has yet cut the Gordian knot!
Privacy and Communication: The arrangements for facilitating communication between prisoners and their relatives, friends and legal advisors leave much to be desired. Many of these aspects have been dealt with in the A.N Mulla Committee Report and deserve immediate implementation. A connected issue, though more relevant in the context of providing legal aid is the near total absence of any contribution from the legal community.

Hygiene: Overcrowding has aggravated the problem of hygiene. In many jails conditions are appalling. At the Tahsil level jails not even rudimentary conveniences have been provided. In many cases, such jails are no better than an unsatisfactory lock-up, latrine and bathroom facilities are inadequate to cater to the daily minimum needs of prisoners.

System of Jail Visitors: Even though this system exists on paper, it has not proved effective in practice. Visitors, including judicial and non official members, pay cursory attention to peripheral matters and do not take pains to go into the details of major problems, like the long and overdue detention of under trials, inadequacies of Medicare, problems faced by female prisoners, etc.
The system of jail visitors is to be an effective and useful instrument, the trials should examine all aspects of prison life, and with particular emphasis on these having a bearing on human rights and human living conditions. There should be a system of accountability for visitors, who are privileged to look at and review the actual working of jails, behind high walls!

**Sentence Revising Board:** The Model Prison Manual for granting remission was circulated to all States in 1960. In spite of this, there is no uniformity. The A.N Mulla Committee had noted that the remission system generally operates in an arbitrary manner with little regard to individual differences and the merits of each case. The Committee also observed that the grant of remission constitutes an area highly prone to corrupt practice if the discretion in this regard is not exercised judiciously. The Delhi Sentence Remission Board has for example been virtually non-functional. In some other States, the Boards have not been fully constituted. Because of these omissions prisoners due to be considered for premature release have been denied this privilege. The matter has attracted the attention of the National Human Rights Commission, which plans to take it up with the concerned authorities.
Open Prisons: In 1991-92, there were 21 open prisons in India though this number was 30 in 1980, as reported by the A.N Mulla Committee.

Recommendations:

1. The A.N Mulla Committee in its report had made the following recommendations:

2. The State Secretariats do not have the requisite expertise in prison administration to assist the Government in taking appropriate policy decisions.

3. To begin with, senior officers having experience of correctional administration and the requisite expertise should be posted in the Department of Prisons, both at the centre and in the States.

4. An officer should invariably head the Department of Prisons and Correctional Services, whose creation the A.N Mulla Committee recommended, from this Department.

5. At present officers belonging to the IAS, IPS and Jail Departments are all being appointed as head of jail administration.
Annual Conference of IGPs: For all practical purposes no annual conference of IGs Prisons has been held for years, this has denied jail administrators to the opportunity to meet and discuss about the problems of common interest and evolve strategies to introduce uniform practices, to the extent possible, all over India. However, occasional conferences have been held to discuss on specific issues and developments of current interest.

A Common Jail Manual: A "Model Prison Manual" for the administration of prisons was prepared as far back as 1970 and circulated to all States. The A.N Mulla Committee noted that this had not been adopted and the position has not changed since.

Role of NGOs: There is considerable scope for NGOs and voluntary organizations to work in the field of treatment, after care and rehabilitation of offenders. If the services of well organized NGOs could be obtained on a regular basis, it would be desirable to assign a role for them as visualised by the A.N Mulla Committee in regard to the following:
1. Services of experts in education, medicine, psychiatry, law, social work, and the media etc. could be utilized in the formulation of correctional policy by associating them with advisory committees at the national and state levels.

2. Appointments of eminent citizens interested in correctional work as visitors of prisons. They could also be appointed as non-official members on sentence reviewing boards for district and central prisons.

In conducting adult education and free legal aid programs, running health camps, organising recreational and cultural activities, individual coaching to inmates pursuing higher studies, and the NGOs should play a greater role in creating the right kind of awareness about the prison administration and the core problems of correctional subsystems with a view to eliciting public co-operation. There is increasing public awareness in regard to human rights and the need to adhere to humanitarian laws. Issues like custodial violence like custodial deaths custodial rapes, unduly long detention of persons under special laws like Tada, COFEPOSA etc have drawn widespread public attention as well as judicial notice. Recently thanks to NHRC cases of persons under detention under TADA have been
reviewed by the various state Governments and their number bought down drastically. In specific cases courts of laws have given relief. The Supreme Court has upheld the validity of TADA but has given strict guidelines for the enforcement agencies to follow. Continued efforts to create public awareness particularly by social workers and NGOs would help immensely in ensuring that the law enforcement officials strictly follow the procedural aspects laid down by law and that they are accountable for that in any regard.

There is another category of prisoners viz. non-criminal mentally ill persons who are held in various jails in India. In the normal course such persons should have been sent to Mental Hospitals rather than to prisons. An expert committee was set up by the Supreme Court of India, whose Report has brought out that increasing number of poor people are seeking police assistance in throwing the kith and kin behind the bars. The committee has found close nexus between police, magistracy, jail administration, and relatives in this regard. The Report pointed out that mental hospitals completely lacked medical facilities and living conditions inside the jails were beyond one's comprehension. Between July and September as many as 209 non-
criminal mentally ill inmates were screened in UP jails and they were discharged. In Gujarat the jail administration has issued instructions not to accept such persons in jail. Instead, they are being directed to mental hospitals.

There have been attempts by individual officers to improve the living conditions in prisons as well as to introduce a variety of reforms in jail administration. In a number of jails in India the system of Jail Panchayat is being followed whereby the inmates of prisons themselves take active part and interest in improving their lot and in taking up issues of common interest with the jail administration. In many prisons measures have been initiated to improve educational facilities for prison inmates. In Madhya Pradesh attempts are being made to achieve 100% literacy among prisons in some select prisons. In most of the prisons steps have been taken to impart vocational training with a view to help in rehabilitation of prisoners after their release from jail. There is also growing awareness among prison officials to maintain decent standards of hygiene and healthy environment within jail premises. Sometimes ago, a lot of initiative was taken by the prison in Imphal apart from improving health care, teaching of yoga, meditation, etc. Ample opportunities are being made
available to the prisoners to organize and take part in the cultural activities throughout the year. But there is no organized or systematic efforts to bring about reforms in a sustained and institutionalized manner because of a variety of reasons like lack of formal policy and commitment of the Government in this regard, inadequate budget, non availability of required professional skills among the persons in charge of jail administration and the failure to fully take advantage of available resources and facilities with NGOs. Even though the A.N Mulla Committee made strong recommendations about the need to have more open prisons, the progress in this regard is very little. In many jails the prisoners do not get the benefit of free legal aid and assistance and the legal profession has not played its part fully in this regard. The prison administration in India even though an important limb of the criminal justice administration system has suffering, neglect and lack of recognition. A lot has been talked about the police, a little less about the courts and almost nothing about prisons and prisoners. The problems of prison administration need to be highlighted to focus public attention on this very vital sphere of social concern.
It is nearly 20 years since the submission of the Report of the All India Committee on Jail Reforms, 1980-1983 headed by Justice A.N. Mulla. One may ask why the recommendations of the Committee have not been followed both in substance and in spirit, have not been implemented. There is little significant improvement on an all India basis.

Prison administration is a state subject and this often cited as the main reason for the Centre not being able to implement the recommendations of the A.N Mulla Committee. Similar reasons used to be given for not enacting an All India Children's Act till the then Prime Minister put his full weight behind the Centre enacting legislation for the purpose. This only shows that if there is political will, there shall be no difficulty in the Centre taking an active and direct interest in prison administration. If it is of making prison administration a central subject should be seriously considered. This will also help in ensuring uniformity all over the country besides making it possible and feasible to have a single all India cadre of jail administration.
The judiciary in India adopted a status quo jurisprudence and shown a lack of appreciation and concern by its hand-off approach to the operations of prisons until 1980. A major break through in prisoners rights jurisprudence came in 1974 in D.B.M. Patnaik V. State of A.P\(^1\), case and the court asserted that the mere detention does not deprive the convicts of all the fundamental rights they otherwise possess.

During the Emergency, the fundamental rights of prisons received a serious set back due to the negative attitude of Supreme Court. After Emergency the court shed its passivity and started upholding the individuals basic rights and liberties. The Post-emergency court has taken rapid strides in claiming prison justice. The crusading spirit behind the transformation is Justice Krishna Iyer.

The court encouraged the undertrials and convicts to ‘appeal confidently to the court on brutalities of jail authorities’. In the case of Hiralal Malik V. State of Bihar\(^2\), and Mohd. Giasuddin V. State of A.P\(^3\), the Supreme Court stressed for the first time the need for

---

1. AIR 1974 SC 2092.
2. 1977(4) SCC 44.
rehabilitation of prisoners. It was Maneka Gandhi V. Union of India\textsuperscript{1}, case, which generated a strong current and converting the right to life and personal liberty in Article 21 into a great shield against deprivation of human rights. The Supreme Court reiterated the principle that ‘imprisonment does not spell farewell to fundamental rights’ in Charles Shobhraj V. Supdt., Central Jail, Tihar, New Delhi \textsuperscript{2}, Sunil Batra (II) V Delhi Administration,\textsuperscript{3} case is another important milestone in the field of prison justice and prisoner’s rights. Delivering the far-reaching judgment, the court held that ‘the fact that a person is legally in prison does not prevent the use of Habeas Corpus to protect his other inherent rights’. Sunil Batra case displayed judicial concern for the miserable conditions of the prisoners to such an extent that for the first time in the history of the Court, the Chief Justice of India, M.H. Beg along with Justice Krishna Iyer and Kailasam visited the Tihar Jail on the 23rd January, 1978 to ascertain the existing conditions. The Court also permitted the Citizens for Democracy, a human rights group to formally intervene in the case.

\textsuperscript{1} AIR 1978 SC 597.  
\textsuperscript{2} AIR 1978 SC 1514.  
\textsuperscript{3} AIR 1978 SC 1675.
In Prem Shankar V. Delhi Administration,¹ case the Supreme Court observed that ‘no prisoners shall be hand cuffed or fettered routinely for the convenience of the custodian’s escort’. In Francis Mullin V. Delhi Administrator,² case, the Supreme Court held that ‘a necessary component of the right to life, the prisoner or detainee will be entitled is to have the interview with members of his family and friends’. In Kunnikal Narayanan V. State of Kerala³ case challenged the prison authorities who prevented him from receiving ‘Mao’s literature’ in the Kerala High Court held that the prisoners have to be paid reasonable remuneration and minimum wages for labour performed in prison. The Supreme Court in the cases of M.H. Hoskot V. State of Maharastra,⁴ Moti Ram,⁵ Hussainara Khatoon,⁶ cases respectively, Sheela Barse⁷ case and many other cases not only articulated new

1. AIR 1980 SC 1535.
2. AIR 1981 SC 746.
3. AIR 1973 Ker 97.
5. AIR 1978 SC 1594.
rights, but also developed new techniques for dealing with complaints of prisoners and their demands for humane treatment, legal assistance and justice. The attitudinal change of judiciary in recent times is in consonance with the changing premises behind imprisonment emphasizing on rehabilitative aspects and treating prisons as correctional institutions.

The prison jurisprudence developed in recent years has served to empower prisoners where once they were disempowered. It is the travesty of justice that despite a new jurisprudence coming forth from the Apex Court articulating new forms of rights and liberties to prisoners, it remains non existent for a large percentage of illiterate, ignorant and impoverished masses of this country and it did not change substantially the position of prisoners or prison system in India. We have excellent court verdict directions, and innovative interpretations on paper but those have seldom been implemented in favour of those for whose benefit they have been decided. When the prisons are used as a part of regime sponsored violence, it is understandable that they perpetrate such violence and tend to firmly accentuate on discipline and punishment and regard, it as both legitimate and justified for all purposes. The problems afflicting
prisons are many, prolonged neglect and the imperatives of prison reforms do not create further delay. The number of prisoners in India is not much, if they are cared for and administered in a systematic and humane manner, the jail population may even come down further. It is a social goal of worth achievement.

*****