CHAPTER: 5

PRISON REFORMS IN ASSAM: AN EXPERIMENT
WITH OPEN AIR JAIL

The Constitution suffers a shock, whenever a prisoner is tortured in the name of prison discipline by the prison authority. It is because the law of the land has always shown respect to the concept of human rights. Prisoners being human have the right to live in dignity with all the rights during incarceration subjected to certain restriction as per law. Denial of these rights raise question to the very basic right of criminal being a human and in fact would stand as obstacle to the process of transforming criminal. In the Sunil Batra (I) Case (1978) 4 SCC 494, the Supreme Court stated that, “Prisoners, these noiseless, voiceless human heaps cry for therapeutic technology. No longer can the Constitution be curtailed off from the incarcerated community since pervasive social justice is a fighting faith with Indian humanity”. One of such therapeutic technology is the Reformative Theory of Punishment. This theory based on the concept of human rights believed that “Just like the useless bits of thread, string, wood shavings, feathers, plastic, leaves and toothpaste tubes can be made into beautiful and useful objects, so can human beings who have been spoiled, wasted, or discarded be remolded into “new people” who can be productive members of society. The Reformative theory implies that the offender should during the period of incarceration, be put to education and healthy or ameliorating influences to mould the criminal into a law-abiding citizen. Remolding is possible only when this vulnerable section is given opportunity to shape their character and develop a healthy outlook for life. In
China, the remolding is done by combining productive labour with education and political training as they believed that the labour would promote exploration of the individual’s ideological outlook and personal faults, thereby, leading to repentance and reform. The Correctional System of the People’s Republic of China (PRC) is based on an unrelenting optimism about human nature. From Confucius onwards, the Chinese believed that people are basically good, albeit corruptible; that bad examples and bad company can lead individuals astray; that education is the best tool for systemic and individual reform; and that people are malleable throughout their lives. Prison officials are trained at Reform-through-Labour schools—such as the Shanghai School for Correctional Officials—or at Judicial Schools to specialize in subjects such as law, policy or management. Equally basic to the correctional philosophy of the PRC is the belief that minor deviance leads to major deviance and that it is both the right and duty of the community to intervene as soon as minor deviance appears, even if it does not contravene the Criminal Law. This explains the active role taken by family, neighbours, workmates, teachers, and local officials in controlling individual behaviour. In short, the country believed in the dictum that correctional must be ‘as parents are to their children, as doctors are to patients, and as teachers are to students’. The purpose of criminal legislation in the PRC appears to be not only punishment and primarily deterrence, but also correction in the sense of instilling in the offender a conscientious attitude toward labour, an exact observance of laws, and a respect for the rules of the socialist community. While deterrence is primary, the same time the law emphasizes that the execution of a sentence does not aim at inflicting physical suffering or degrading human dignity. The trend has been towards humanizing punishment and
reducing its brutalities, giving rise ultimately to a new concept called ‘correction’. The approach of correction believes in reforming the socially unaccepted behaviour of people through re-educating and re-shaping them with non-punitive methods.

With the increasing importance of human rights and the shift from deterrent to reformatory, the treatment of the criminals has also changed. Punishment is understood as treatment which is more directed to the criminals than to the crime, and its sole objective is the moral generation and, not generation of the criminal. If a criminal is morally regenerated, his criminal tendencies also become extinct or at any rate dormant. In this context Oppnheimer calls punishment, “a physical measure adopted to excite in the soul of the guilty true repentance, respect for justice, sympathy for their fellow creatures and love of mankind”. The moral regeneration of the criminals can be realized only by providing them with the social, educational or vocational training at the time of incarceration.

Justice Fazal Ali, rightly pointed out-

“…….. the modern concept of punishment and penology has undergone a vital transformation and the criminal is not now looked as a grave menace to the society which should be got rid of but is a diseased person suffering from mental malady or psychological frustration due to sub-conscious reactions and is therefore to be cured and corrected rather than to be destroyed……”.

Based on the conception that not all criminals are habitual, rather circumstantial prisoners who committed offences in a certain situation or under uncontrolled emotion, only punishment cannot solve the problem of crime and criminals in a
Society. Sir Lionel W. Fox, Chairman of the Prison Commission for England and Wales, stated that, “Of all the methods by which a prison regime may hope to inculcate self-respect and self-responsibility and in other way prepare the prisoners for a national life in society, the institution of open prison appears to be itself the most effective”.

5.1 PRISON REFORMS IN INDIA: A NOVEL CONCEPT OF THE OPEN AIR JAIL (OAJ)

The open prison system has emerged as a modern and effective technique in prison philosophy with the objective to reform and rehabilitate the prisoners back to the society. Open Air Jail provides a breathing space to the prisoners and prepares them to face the world after completion of imprisonment with confidence, in fact a more humane alternative than the high security jails. The establishment of open prisons on a large scale as a substitute for the closed prisons, the latter being reserved for hardcore criminals is considered as one of the greatest prison reforms in the penal system. The open prison or ‘prison without bars’ or minimum security prison, or open camps as they are called was a very late development within prison system. A semi-open prison institution called as Witzill established in Switzerland in the closing years of the 19th century can be regarded as the first of its kind. The movement of Open Penal Institutions, however, got momentum with the 12th International Penal and Penitentiary Conference held at Hague in 1950. The agenda of the conference was to inquire about the functioning of the open prisons instead of traditional prison and to draw out the principles which should govern the establishment of open correctional institutions. On the basis of the
proceedings, an inquiry was conducted among 14 European nations on the nature, features and the public reaction towards such open prisons. The findings were discussed in various meetings conducted under the auspices of the United Nations\textsuperscript{13}. Open prisons in true sense were established from 1930s in U.K., especially with the contributions of Sir Alexander Palerson, the Member- Secretary of the Prison Commission of U.K., and in the United States of America around 1940s\textsuperscript{14}. Inspired by the success of the Anglo-American experiment of Open Prisons and induced by the objective to solve the problem of over-crowding and to reform the inmates to place in the society again, India adopted the concept of Open Air Jail. The development of Open Prisons in India can be traced back from the middle of the 19\textsuperscript{th} century with the establishment of the first All India Jail Committee in 1836 to review the overall prison administration of the country\textsuperscript{15}. However, this Committee appointed at the initiative of Lord Macaulay although focused mainly on to improve prison discipline, actually ushered an era of prison reform in India\textsuperscript{16}.

John M’Cosh in his book “Topography of Assam (1837) (printed by Order of the Government) wrote that the prisoners in Assam after their morning meal, between seven and eight were entrusted with some public work, most commonly building of roads or bunds, where they continue to labour till four or five in the evening. They then return to the jail, cook their evening meal, and before dark are shut up for the night. Each is allowed to provide his own provisions. Three pice was allowed to each for subsistence; this they expend in rice and other condiments as suits their taste, from petty merchants in the jail bazaar. It is strange to read in the book that
the prisoners took as much pains to burnish their irons as they were a bracelet, and would not choose to escape though they had an opportunity.\textsuperscript{17}

The Second Jail Committee appointed in 1864 also reviewed the jail administration. It was the Third Jail Committee of 1877 that discussed the issue of employing prisoners on major public work sites such as digging of canals or dams, etc. This issue was placed in the Prison Conference of the same year to which it strongly supported. The Conference clearly recommended that “\textit{employment of prisoners as labourers on large public works was not only valuable but also a necessary adjunct to jail administration}”. This recommendation was subsequently accepted and followed in practice.\textsuperscript{18} As per the Assam Jail Administration Report 1885-86, besides the jails and lock-ups, there were also for various periods 4 Public Works Jails at Disangmukh, Telikhal, Majuli and Amrigog. The Disangmukh jail was closed on 11\textsuperscript{th} June, 1887, and the Majuli jail was started in its place on the 12\textsuperscript{th} November. The Amrigog jail in Kamrup was opened on the 26\textsuperscript{th} June, and closed on the 19\textsuperscript{th} July. The Telikhal jail in Sylhet, which existed at the end of 1886, was closed on the 29\textsuperscript{th} May, 1887, and re-opened on the 5\textsuperscript{th} November.\textsuperscript{19} The All India Jail Committee of 1919-20, the last Committee on prison reform before independence, re-asserted the need for humane treatment for prisoners. For the first time, in the history of prison administration, reformation and rehabilitation of offenders were identified as one of the objectives of prison administration. It contained more than 500 pages which reported on prison conditions, principles and practice of prison policy, administration and made recommendations for the reformation of both prisons and prisoners.\textsuperscript{20} The Chairman of the Committee, Sir Alexander Cardew stated that “\textit{the most critical moment in a convict’s life is not}
when he goes into the prison but when he comes out of it. Having lost his character and social standing, he finds it difficult to adjust to the normal life of a free society”. Therefore, the Committee was in favour of open air life and employment of prisoners in agriculture. But this idea has to be dropped because such employment involved distribution of labour over a wide area which made guarding and supervision difficult.

The first scientific effort to modernize prison in India was made by Sir Walter Reckless, the U.N. Technical Expert who visited India in 1952 when he submitted an excellent report on jail administration in India. As a result of this the All India Jail Committee was appointed in 1956-57 which worked for three years and made useful recommendations for prison reforms. One of the recommendations of the Jail Committee was to set up state after care organization in the form of Open Jails for the rehabilitation of prisoners in every State. Uttar Pradesh was the first state to initiate steps to set up open prisons in the name of Late Sampurmanand who was the then Home Minister of the State. Later other States including Assam had established Open Air Prisons for the rehabilitation of the offenders. In Assam the first Jail Reforms Committee, after independence was set up in 1956 under Rev. J.M. Nichols Roy, followed by a number of legislations. The Assam Superintendence and Management of Jails (Supplementary Provisions) Rules, 1968 (Open Prison Rules) was a significant step towards the establishment of Open Air Jail as a part of prison reform measure in Assam. Generally, lifers who have spent time in closed jails are put in open prisons before their release. In India, there are 53 such jails. Prisoners with good behaviour satisfying certain norms prescribed in the prison rule book are admitted in open jails. There were 3,027 total inmates kept
in open prisons as per the figures till 2013 end\textsuperscript{24}. Recently in Pune India’s first Open Jail for women was inaugurated at the Yerawada Central Prison by Maharashtra Home Minister R.R. Patil\textsuperscript{25} —

<table>
<thead>
<tr>
<th>State</th>
<th>No. of Open Prisons</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Rajasthan</td>
<td>23</td>
<td>658</td>
</tr>
<tr>
<td>2. Maharashtra</td>
<td>10</td>
<td>975</td>
</tr>
<tr>
<td>3. Kerala</td>
<td>03</td>
<td>390</td>
</tr>
<tr>
<td>4. Andhra Pradesh</td>
<td>02</td>
<td>281</td>
</tr>
<tr>
<td>5. Uttarakhand</td>
<td>01</td>
<td>151</td>
</tr>
<tr>
<td>6. Odisha</td>
<td>01</td>
<td>95</td>
</tr>
<tr>
<td>7. Bihar</td>
<td>01</td>
<td>92</td>
</tr>
<tr>
<td>8. West Bengal</td>
<td>01</td>
<td>91</td>
</tr>
<tr>
<td>9. Punjab</td>
<td>01</td>
<td>62</td>
</tr>
<tr>
<td>10. Gujarat</td>
<td>02</td>
<td>56</td>
</tr>
<tr>
<td>11. Himachal Pradesh</td>
<td>01</td>
<td>52</td>
</tr>
<tr>
<td>12. Tamil Nadu</td>
<td>03</td>
<td>37</td>
</tr>
<tr>
<td>13. Assam</td>
<td>01</td>
<td>27</td>
</tr>
<tr>
<td>14. Madhya Pradesh</td>
<td>01</td>
<td>25</td>
</tr>
<tr>
<td>15. Jharkhand</td>
<td>01</td>
<td>23</td>
</tr>
<tr>
<td>16. Karnataka</td>
<td>01</td>
<td>12</td>
</tr>
</tbody>
</table>

| Total                  | 53                  | 3,027      |
5.2 FEATURES OF THE OAJ

The UN Congress on the Prevention of Crime and the Treatment of Offenders held in Geneva in 1955 defined Open Prison as “An open prison is characterized by the absence of material or physical precautions against escape (walls, locks, bars, armed or speared security guards) and by a system based on self-discipline and the inmates sense of responsibility towards the group in which he lives”\(^{26}\). The philosophy underlying the concept of OAJ is based on the following basic assumptions\(^{27}\)—

1. A person is sent to prison as a punishment and not for punishment.
2. A person cannot be trained for freedom unless conditions of his captivity and restraints are considerably relaxed.
3. The gap between institutional life and free life outside the prison should be minimized so as to ensure the return of inmate as a law abiding member of society.
4. The dictum ‘trust begets trust’ holds good in case of prisoners as well. Therefore, if the prisoners are allowed certain degree of freedom and liberty, they would respond favourably and would not betray the confidence reposed in him.

The main features of the OAJ are cited below\(^{28}\)—

1. Informal and institutional living in small groups with minimum measure of custody.
2. Efforts to promote consciousness among inmates about their social responsibilities.
3. Adequate facilities for training inmates in agriculture and other related occupations.
4. Greater opportunities for inmates to meet their relatives and friends so that they can solve their domestic problems by mutual discussion.
5. Liberal remissions to the extent of 15 days in a month.
6. Proper attention towards the health and recreational facilities for inmates.
7. Management of open jail institutions by especially qualified and well-trained personnel.
8. Improved diet with arrangement for special diet for weak and sick inmates.
9. Payment of wages in part to the inmates and sending part of it to his family.
10. Financial assistance to inmates through liberal bank loans.
11. Free and intimate contact between staff and the inmates and among the inmates themselves.
12. Regular and paid work for inmates under expert supervision as a method of reformation.

5.3 DIFFERENCE BETWEEN THE OPEN AIR JAIL AND CLOSED JAIL

The difference between the Open Air Jail and a Closed Jail can be seen on the following areas:

1. **Boundary:** In a closed jail, boundary is covered with high walls and the inmates had live within the premises isolated from the society. But in case of
open air jail, there is no boundary and walls, and the inmates live within the boundary.

2. **Lock-ups**: Lock-up is an important factor in closed jail. At 4:00 pm the inmates are locked up and at 6:00 am the lock-ups are opened. But there is no system of lock-ups. Everyone live freely. The system is working on the basis of trust, faith and co-operation.

3. **Selection**: Closed prisons receive all type of prisoners and there is no kind of selection. Once find guilty, the person is confined in jail as per the rules. However, there is a selection procedure for the admission of inmates in the Open Air Jail. Not all prisoners are eligible to find a place in open jail.

4. **Category**: As stated, there is no selection procedure in the admission of prisoners in closed jails. Accordingly all the categories of prisoners—lifers, short-termers, under-trials, and women prisoners are to be found in the closed jails. But the open air jail generally allows only the lifers who have served a part of their sentence, to stay in the open air jail.

5. **Visit of family members or relatives**: One of the most distinguishing differences between the closed jail and open air jail is in regard to the visit of family members or relatives. In both the jails, the inmate gets the chance to meet their dear ones, but it is only in the open air jail that the family members are allowed to stay in the guest house of the jail premises for three days which is not possible in closed jail.
5.4 ADVANTAGES OF OAJ

Although there is a risk of escape in the open air jails, but there are several advantages than the closed jails or other types of detention, such as—

i) Helps in the process of re-socialisation before release.

ii) Liberalization of rules and regulations ease their life and they become automatically disciplined.

iii) Family contacts inspire the inmate to live a normal life in future as a law-abiding citizen.

iv) The open air jail system is less costly.

v) If an inmate violates the rules, then he would be sent to closed jail. And none of the prisoner wants to go back to stay behind the walls. This fear avoids them from any type of mischievous acts like jail escape.

Thus, the three main considerations behind establishing jails can be summarized as—

i) Economical and Cost-effective;

ii) A measure against an overtly strict and formal prison regime;

iii) A measure for effecting reform and rehabilitation and preparing the inmate to return back to the society again as a law abiding citizen.
5.5 OPEN PRISON RULES IN THE STATE OF ASSAM

As per the powers conferred by Section 59 of the Prisons Act, 1894, the Governor of Assam is pleased to make rules on Open Jail of Assam. Accordingly, the Assam Superintendence and Management of Jails (Supplementary Provisions) Rules, 1968 was framed in regard to the open jails of Assam. In the Act the open air jail is defined as ‘colony’ which means an Open Air Agricultural-cum-Industrial Reformatory jail, which may be an independent or an annexe to a Central or District Jail. Rule 3 of the Act provided for the constitution of the Board of Visitors consisting of six members to be appointed by the State Government—

1. District or Sub-Divisional Magistrate or in their absence the Additional District Magistrate or the Senior Extra Assistant Commissioner as Chairman;
2. The Superintendent of the Jail
3. The Joint Director of Agriculture if he is stationed in locality or the District or Sub-Divisional Agricultural Officer;
4. An Officer of the Industries Department;
5. Two non-official members

Rule 4 of the Act provided limited accommodation for the stay of the prisoners’ family. The members of the family shall be allowed free lodging for three days, but shall have to provide themselves with food at their own expense. However, such accommodation will be entirely at the discretion of the Superintendent.

Eligibility of Prisoners to Colonies under the 1968 Act
Convicted prisoners of the following categories shall be eligible for admission to colony—

i. Non-habitual convicted prisoners whose term of imprisonment is five years or more, who have served at least one-third of the period of sentence with remission, and have at least one year of unexpired portion of sentence on the date of admission to the colony. Inspector-General of Prisons, however, in exceptional cases, may consider even cases of non-habitual convicted prisoners whose term of imprisonment is three years.

ii. He must not be less than 60 years or less than 21 years of age on the date of admission to colony.

iii. He must be of good health and fit for hard work.

iv. He must be of good conduct possessing a good record in Jail.

v. The prisoner must be willing to work.

Non-eligibility for admission to colony

i. Prisoners convicted under Sections 109 and 110 of the Criminal Procedure Code and also those convicted of Dacoity, Poisoning, Escape, Counterfeiting Coins and Stamps, unnatural offences.

ii. A and B Division convicts, female convicts and convicts sentenced to simple imprisonment.
Rule 6 of the Act provided for the selection process of the prisoners to the colony. Accordingly, the Inspector General of Prisons in the month of January every year or at such other time as may be deemed necessary by him direct the Superintendent of Jails to submit to him descriptive rolls of prisoners eligible for admission under the rules. The IGP shall select and order transfer of prisoners to a colony specified by him where they shall be kept in a segregated ward to be designated “Reception Ward”. Subject to the orders of the IGP the convicts shall be thoroughly screened and finally selected for transfer to colony. A separate admission register shall be maintained for the inmates of the colonies.

Under Rule 7, the Superintendent shall determine and arrange according to local conditions all recreational and cultural activities of the inmates of the colonies. Sports and competitions with outside teams may also be arranged.

Rule 8 provides for a Library cum School room with sufficient books, slates, pencils, etc. approved newspapers, information leaflets and posters from the Agricultural and Publicity Department shall be obtained and displayed in the library. Reading facilities is provided to all the inmates and library to be open from 6:30 pm to 9:00 pm on all days except on Sundays and Holidays. On Sundays and Holidays it shall be kept open from 1 pm to 5 pm. During library hours one warder shall be on duty every day. He shall report all irregularities and indiscipline in the library to the Superintendent of Jails. A part of the library room shall be used as night school. Till the appointment of part time teacher the school shall function under the supervision of a literate warder. He will be assisted by two literate inmates. The inmates, shall as far as practicable, be taught upto Primary Standard.
The Act also provided for the annual rewards to inmate by the Superintendent with the approval of the IGP for discipline, good conduct, performance of excellent work, etc. For this purpose a sum of Rs 200 shall be set apart from the sale proceeds of the colony.

Prisoners in a colony may be employed outside the colony on works relating to the colony. A paid warder shall escort the prisoners to and from the place of work outside the colony.

In regard to the wages and expenditure of the prisoners in the colony, the Act provided the following—

i. The sale proceeds of the colony shall be deposited into the Treasury. It shall be withdrawn at the end of every financial year and one-third of the total proceeds shall be divided between all the inmates of the colony proportionate to the period he has served. From the remaining two-third, rupees two hundred shall be spent for rewards to the prisoners and the balance shall be credited to the consolidated fund of the state after meeting expenditure towards the cost of animals, implements, seeds, manures, raw materials, books, maps, etc., in respect of the colony.

ii. Individual accounts shall be opened in the name of each of the inmates and the amount allotted to each of the inmates shall be allowed to an inmate to meet the urgent needs of his family, if any, and in no case the other half shall be allowed to be withdrawn. The inmate shall finally withdraw the amount of his passbook only before the date of his release.
or on transfer from the colony. In case of death of the inmate the amount deposited in the Saving Bank shall be withdrawn by his legal successor.

iii. To supplement the diet and clothing of the inmates, they shall be allowed to spend a part of their earnings.

iv. They shall be allowed to spend economically a part of their earnings to meet the needs of their toilets, hair oil, looking glass, comb, tobacco, betel nuts, etc.

v. No intoxicants shall be allowed to be purchased and used by the inmates.

vi. The costs incurred in the purchase of implements, bullocks and fodder for the colony shall be gradually recovered from the sale proceeds taking into consideration the life value period of such animals and implements.

vii. Each inmate shall be allowed to keep an account of his own deposit and expenditure so that he shall have full information of his deposit at hand.
5.6 MOHENDRA NAGAR OPEN AIR JAIL OF ASSAM: AN ANALYSIS

In Assam, there is only one Open Air Jail in the Jorhat district, known as the Mohendra Nagar Open Air Jail. It was established on October 2nd, 1964. Open air jails are also described as “agricultural cum industrial reformatory jail”. There is a gate (turon) in the entrance. After going half kilometer, there is a small board citing the name of the open jail and an iron gate. Near the board one can witness the memoirs of Kushal Konwar and Miri, the patriots who were hanged in the freedom struggle of India. Thus, the open air jail is situated in the backside of the Jorhat Central Jail. There are 162 bighas of land consisting of paddy fields, nimboo, banana trees, betel nuts and other vegetables that are essential for serving the purpose of food items for all the prisoners. The building is an old assam type. One room is for the Superintendent and the other for the other officers and clerical works. As informed, these buildings are actually the guest house for staying of the relatives of the prisoners which is converted as office. They welcomed us by saying that we are in the ‘poor’ jail of all in Assam.

There is a ‘Brahmakumari’ building near the jail. Their occasional visitation to the jail has influenced the life of the prisoners to a greater extent. The organization played an important role in stabilizing the life of the prisoners through meditation and sacred messages. Majority of the prisoners told that they get internal satisfaction and peace while doing meditation. There is a row of rooms in the Assam type building behind the administrative building which is also not well-
equipped. Thus, the open air jail of Assam needs attention towards the infrastructure.

In the administrative set-up, there exists one Superintendent, one Jailor, one Assistant Jailor, Clerical Staff, Warders. Purnima Das is at present the Superintendent, Gopal Chandra Bora is the Jailor, and Prabir Nath Hojai is the Assistant Jailor of the Open Air jail. It is to be noted that Purnima Das is the first lady superintendent in the history of the open air jail of Assam. There are seven warders for 27 prisoners. As stated by the Jailor, the administrative set up can be divided into two sectors—

i. Agriculture: Around 50 bighas are occupied with paddy fields, and remaining for cultivation of vegetables. In this sector it consists of a driver of a Tractor, and a demonstrator who supervises the whole agricultural work. Only the ration items like rice, dal and other grocery items are being procured by the suppliers. For vegetables, they are to eat that are being produced in the jail yard. The rice grains are deposited to the Agricultural department and the cash procured by selling vegetables is deposited in the Treasury.

ii. Industry: The administrative set up consists of an Account Assistant, a store-keeper and an instructor who guides in making the product. The jail has only the cane and bamboo industry, which is closed due to the scarcity of raw materials, paucity of funds and negligence of government.
A field survey was conducted in the OAJ in Jorhat in which there were total 27 convicts and all of these are lifers from various jails of Assam, serving two-third of their term in closed jail. The researcher interviewed all the convicts through an Interview Schedule comprised of a set of questions. The schedule has been kept flexible to extract enough information. The Interview Schedule is already given in Appendix 1.3. On the basis of the information received the researcher has analysed the functioning of OAJ.

**COMMUNITY**

The researcher found that all of the 27 prisoners belonged to Hindu religion, although from various communities. The percentage of prisoners belonging to various communities is presented below:

Figure 1.6: showing the percentage of different communities of prisoners in Open Air Jail of Assam

<table>
<thead>
<tr>
<th>Communities</th>
<th>Number of prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adivasi</td>
<td>16</td>
<td>59.2%</td>
</tr>
<tr>
<td>Assamese</td>
<td>07</td>
<td>26%</td>
</tr>
<tr>
<td>Nepali</td>
<td>02</td>
<td>7.4%</td>
</tr>
<tr>
<td>Mishing</td>
<td>02</td>
<td>7.4%</td>
</tr>
</tbody>
</table>

The above table shows that 59.2% are from Adivasi Community, 26% belongs to Assamese, 7.4% are Nepali and 7.4% are from Mishing Community.
AGE GROUP OF PRISONERS

The age of the prisoners in the Open Air Jail reveals that they can start a new life again in the society again. Therefore, the training of getting back to the society again in the open jail would be immensely useful for the inmates. the findings shows that 33.3% belongs to the age group from 30-40 years, 44.4% belongs to 41-50 years, 14.8% from 51-60 and 7.4% belongs to the age group of 61-70.

Figure 1.7: Showing the percentage of Age Group of prisoners in in Open Air Jail of Assam

<table>
<thead>
<tr>
<th>Age-group</th>
<th>Number of prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>30—40</td>
<td>09</td>
<td>33.3</td>
</tr>
<tr>
<td>41—50</td>
<td>12</td>
<td>44.4</td>
</tr>
<tr>
<td>51—60</td>
<td>04</td>
<td>14.8</td>
</tr>
<tr>
<td>61—70</td>
<td>02</td>
<td>7.4</td>
</tr>
</tbody>
</table>

DIFFERENCES FOUND BY THE INMATES BETWEEN THE OPEN JAIL AND CLOSED JAIL

The inmates were asked about the differences they experienced between the Open Jail and Closed Jail. The inmates stated that while staying in the open jails, after
serving a term in the closed jail, the inmates found mainly the following differences:

i) In open air jail they can live an independent and free life within the boundaries, but in closed jails life is confined to routine life under strict supervision behind the walls.

ii) Only the open jail can permit the relatives of the prisoners not only to meet their relatives, but stay for three days and three nights after every two to three months. In closed jails a prisoner can meet relatives, but they are not allowed to stay together with the jail premises.

iii) The treatment towards the prisoners by the jail authorities in the open jail is much liberal than the closed jail.

The inmates were happy to stay in the open air jail than the closed jail mainly because of these three aspects. Also it gave mental peace. And this is very important for the re-socialisation process. Both the authority and the prisoners lived like a family. Other than this, everything is like the closed jail including diet, recreation, and wage of prison labour. Just like the closed jails, the time schedule for diet is:

- Roti and tea-----------------06:00 a.m.
- Lunch--------------------10:00 a.m.
- Dinner---------------------04:00 p.m.

The work schedule is also similar with the closed jail, only difference is that everyone is allotted work in the jail premises:
Work-----------------06:00 a.m.—10:00 a.m.
Rest-----------------10:00 a.m.—01:00 p.m.
Work-----------------01:00 p.m.—04:00 p.m.
Recreation--------04:00 p.m.—till they sleep.

When asked whether they are allowed to go out to work in public place. The response is that they are not allowed to go out in public place. The superintendent said that they are to work only inside the campus, and also it would be difficult to check their activities in public place. Thus, considering the aspect of security, they are not allowed to go outside. Only a particular prisoner is assigned the task of selling vegetables produced in the jail yard in the presence of a security guard.

The prisoners are being paid for their prison labour. The amount resembles with that of the closed jail, that is, Rs 55/ per day. A Post Office account is being opened for each of the prisoner by the jail authority where the wage is deposited to their particular account. It is a personal amount from which the prisoner can take out whenever it is required. This account is very important as the saved amount is spent to solve family problems and to live a life in the society of its own after release.

There is no post of teacher in the open jail. The literate prisoner teaches the illiterate prisoners. The jail officers help in this effort. Some of the prisoners wrote poems and got published in local magazines.

There is a temple in the open jail yard. After work, almost all the prisoners like to spend time in the temple chanting prayers. The prisoners can visit the temple
according to their own wish. There are arrangements for indoor and outdoor games for the prisoners. Indoor games include carom, ludo, etc. majority of them like to watch television news as they can get connected with the outer world. The jail authority said that television has made them conscious about their rights. Also it requires a very careful attitude to deal with the prisoners.

5.7 PROBLEM AREAS IN THE OPEN AIR JAIL OF ASSAM

To gather information on the administration of the OAJ, the researcher interviewed the Superintendent, Jailor and Assistant Jailor. According the researcher found the following aspects—

i) **Poor infrastructure**: There is no concrete building for the administrative block for which it becomes very risky to keep the dossiers of jail inmates safely. The guest house is being converted to the office of the Superintendent. It is an Assam Type building and lacks the fundamental requirements of a office. Thus, the infrastructure of the open air jail is not satisfactory.

ii) **Scarcity of raw materials**: The main objective behind the open air jail is to impart training to prisoners before the release so that they can earn their living from the knowledge they have acquired in the jail. But this is not so in the open air jail of Assam. Except the agricultural sector, the industry is closed for years due to lack of raw materials.

iii) **Paucity of funds**: The administration found it difficult to run the jail because of the lack and delay of funds from the government. It is also responsible for
the closure of the industrial section of the open jail as they could not procure raw materials.

iv) **Negligence of government**: Although reports are being sent to the Inspector General of Prison’s (IGP’s) Office for the funds and other problem related areas like absence of tractor for working in the paddy fields, the response is too slow.

v) **No skill development**: Closure of industries brings halt to the skill development of the inmates as they could not take the opportunity to develop their talents.

vi) **Security**: Absence of boundary is also dangerous at times. The authority stated that problem may arise not from inmates, but from outsiders. As the boundary is large enough, even of outsiders throw a body inside the campus, it would be hardly possible to have knowledge about the incident. And the inmates of the jail would be held responsible and in the administrative section there would be suspension and transfer. Therefore, at least a boundary wall of certain height, not like the high walls of closed is of utmost necessity.

Even today one could find a significant number of persons working in a Criminal Justice System, or in the open society, who hold the view that the image of a prison must inspire awe and fear in the minds of offenders. They try to convince that life in prisons should be demonstrably torturous to deter a prospective criminal. Reformation of a criminal, they say, is impossible and that rehabilitation is a hollow imagination of some non-practical persons. To those who do not believe in
improving prison conditions or in the conservation of basic human rights in custody, Pt. Jawaharlal Nehru wrote in “India and the World – Prison Land” 30 —

“Another error which people indulge in is the fear that if gaol(jail) conditions are improved people will flock in! This shows a singular ignorance of human nature. No one wants to go to prison however good the prison might be. To be deprived of liberty and family life and friends and home surroundings is a terrible thing. It is well known that the Indian peasant will prefer to stick to his ancestral soil and starve rather than go elsewhere to better his condition. To improve prison condition does not mean that prison life should be made soft; it means that it should be made human and sensible”.

5.8 COMMUNITY SERVICE: AN ALTERNATIVE TO PRISON

Besides the OAJ, the researcher found the alternative method of “Community Service”, as discussed by Vivien Stern, to be useful and therefore, discussed the system in details. It is an alternative to the prison, to tackle the problem of overpopulation, especially for those convicted for petty crimes and for a very short period, is to provide “Community Service”. Accordingly, the experiment of community service scheme was undertaken in Zimbabwe in 1992 in response to a rapidly rising prison population. It was found that sixty percent of the prisoners were minor offenders serving sentences of three months or less causing heavy financial burden. In 1980, the total budget in Zimbabwe spent on minor offenders was $ 1.2 million that exceeded to $10.8 million in 1994. The first step of the Community Service Scheme is to frame a law to form a National Committee on
Community Service, chaired by a High Court judge. The members of the Committee would contact with Penal Reform International (PRI) and PRI associate itself to obtain funds from the European Union for a pilot scheme. Instead of prison sentence, offenders are given an opportunity to do community service work in a social welfare organization, doing practical benefit to the community. The cost per month of community service is between $10 and $20. High levels of satisfaction about the scheme were shown amongst magistrates, supervising agencies and participants. In addition to this, the scheme has no faced criticism from public. The European Union is now funding a programme of replication of the scheme for more four African States—Uganda, Kenya, Malawi and Zambia.

**FEATURES OF THE MODEL**

1. A significant feature of this model is the National Steering Committee. The Committee was established by the government with the remit of developing community service, but it operates independently. The Committee is comprised of the following members:

   i) A High Court judge who was formerly the Chief Magistrate and Permanent Secretary at the Ministry of Justice (Chairman)

   ii) Other members include another high court judge,

   iii) the Deputy Chairman of the Law Development Commission,

   iv) the Africa representative of the Christian group, Prison Fellowship, and other representing social welfare agencies.

2. The National Steering Committee is that it is a working committee. Before the scheme started, the members toured the country between March and June 1994,
speaking at eighth regional seminars for magistrates and all other local interests, such as placement providers. They also produce guidance and other literature for all those involved and give their phone numbers if anyone has difficulties. This means that, for example, a member of staff in a special school responsible for supervising defenders on community service could ring up a high court judge to get advice on what to do if there was a problem. The placement providers therefore feel that they are involved in an important national initiative. The members of the Committee also dealt with the worries of placement providers by getting the government to bring in a regulation that indemnified providers against any damage done by offenders on community service. The local system of giving the responsibility for administering community service to District Committees chaired by the local Provincial Magistrate and involves all interested parties, including those providing work opportunities for the offenders.

**MERITS OF THE MODEL**

1. The membership in the National Committee is such that the problem of persuading judges and magistrates to use community service is not a problem since the whole project is judicially-driven at a high level. Having the social welfare, NGOs and other representatives whose support is needed as members also ensures that the practicalities can be sorted out at the right level.
2. The Zimbabwean model is perhaps particularly successful and relevant to developing countries because it is low cost. It does not attempt to emulate the structure of rich countries, where alternatives to prison are supervised and administered by a separate publicly-funded service.

3. It establishes a penal model based on productive work and fruitful relationships between offenders and community, rather than unproductive time and ruptured relationships.

Amos Wako, Attorney-General of Kenya, said at a Conference in December 1995:

“In traditional Africa, a criminal who is taken to prison, or who is excommunicated from the society, is one who is actually beyond repair through societal means, or who has committed a major crime. What is recorded in our legal books as petty crimes by African standards were completely dealt with by the society itself. For example, if one stole a goat, the elders made sure another goat was paid and that was the end of the matter. The person who stole was so ashamed that he would not do it again”.

In the contemporary world, most of the countries, especially the developing countries are adopting this scheme as an alternative to imprisonment as the offender compensate to the whole community rather than to individual victims. Offenders must begin community service immediately on being sentenced, or they may undertake community service as an alternative to the last part of a prison sentence. The work which offenders are required to undertake is usually based with
public authorities or institutions. The penalty work of offenders include environmental improvements, child care, care of old or disabled people, construction and renovation of buildings belonging to religious groups or other non-governmental organizations, and hospital work among other tasks. However, in some countries, the government has inserted a minimum proportion of hard manual work to increase the ‘punishment’ aspect of the penalty\textsuperscript{31}.

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6 Ibid, pg 146-160

7 Oppenheimer, H. (1913) *The Rationale of Punishment*. London: University of
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International Perspective*. N. Delhi: Sage Publicationspg 422.

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11 Choudhuri, N. R., op. cit., pg 236

12 Paranjape, pg417

13 Ghosh, Dr. Shubra (1992). *Open Prison and the Inmates: A Socio-Psychological
Study*. N. Delhi, Mittal Publications,p 9.

14 Paranjape, op. cit., pg417

15 Ibid, pg423-424


18 Choudhuri, N. R., op. cit., pg 36-37

19 Assam Jail Administration Report 1885-86


21 Paranjape, op. cit., pg 424

22 Paranjape, op. cit., pg 426-428

23 Assam Jail Manual, Foreword, p vi-xiv

24 “*Half-Way Houses*”, May 9, 2015. The Times of India


26 Choudhuri, N. R., op. cit., pg 236.

27 Paranjape, op. cit., pg 417-418

28 Reformation and Rehabilitation (Chapter III). Retrieved from [www.shodhganga.inflibnet.ac.in/bitstream/10603/9372/13/13_chapter%203.pdf](http://www.shodhganga.inflibnet.ac.in/bitstream/10603/9372/13/13_chapter%203.pdf) (27/08/2015)
