

# Swerving Judicial Trends in Reformation and Rehabilitation of the Offenders

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**Abstract:** In the reformation process the Judges too have a role to play; but it is a limited one. Ordinarily the duty of the Judge is to decide the case before him on the basis of evidence, documentary and oral, and the legal principles and precedence involved. In criminal cases, normally the Judge, including Magistrate, convicts the accused if conviction is warranted by the facts and evidences and stops with that feeling his duty ends. Justice V. R. Krishna Iyer, in *Phul Singh vs State of Haryana* on 10 September, 1979 has expressed the view that it is desirable to give appropriate direction to ensure that the incarceration period reforms the convict and restores him in to safe citizenship. In proper cases the Judge can give the accused a piece of advice against coming to the court again as an accused, if they have the desired effect.

**Keywords:** Judicial Trends, Reformation, Rehabilitation, Offenders

## I. INTRODUCTION

In this context it is worth to refer the experience of a Magistrate; it is better to quote his own words; "As a Magistrate once I happened to call by my side a habitual thief, an under trail prisoner on long term sentence in various cases to hear him about sentence. I recited the lines of a poem on full moon, which he might have studied in his elementary classes and also reminded him of his friends having a free life under the full moon. I could see the offender corking up the turmoil of his emotions with restive control and I consider as my great treasure as a Judicial Officer to have received an appealing letter from the prisoner later indicative of his reformative tendencies."<sup>1</sup>

He was guided by the observations of the Supreme Court in *Muniappan v. State of Tamil Nadu*,<sup>2</sup> that "It is the bounden duty of the judge to cast aside the formalities of the court scene and approach the question of sentence from a broad sociological point of view." His effort is worthy of emulation; it should be resorted to when the accused is a Juvenile offender.

It is proper to punish criminals for the sake of the public desire for vengeance but they should not be condemned outright in the name of reinforcement of the values of a society. There may be occasions where a judge is conscious that the values presented by the criminal law has already lost much of their credence because of the rapidly changing public opinion and he may prefer to award a lighter sentence than the one prescribed for that

offence.<sup>3</sup> Conversely, there may be a situation where a judge may choose to give legitimate expression to his denunciation for offenders act by passing exemplary severe sentence.<sup>4</sup>

Indeed, a Judge may be justified in awarding a severe and exceptionally lengthy sentence on grounds of dangerousness of the crime or a lighter one for rehabilitation or reformation of the criminal, but a sentence out of all proportions to the crime is repugnant. In other words, the sentence must be warranted by the crime; a kind of balance between crime and punishment therefore seems inevitable for judicial sentencing. The crucial problem in context with judicial sentencing is whether it is the 'protection of society, or the prevention of crime,' which should gain primacy in awarding the sentence. However in the absence of any specific criterion, it would be worthwhile to suggest some general guidelines relating to judicial sentencing.

In *Lingala Vijayakumar & Ors v. Public Prosecutor, Andhra Pradesh* <sup>5</sup> the Supreme Court observed: "The court has responsibility to see that punishment serves social defense, which is the validation of deprivation of citizen's liberty. Correctional treatment, with a rehabilitative orientation, is an imperative of modern penology. A hospital setting and a humanitarian ethos must pervade our prisons if the retributive theory, which is but vengeance in disguise, is to disappear and deterrence as a punitive objective gain success not through the hardening practice of inhumanity inflicted on prisoners but by reformation and healing whereby the

<sup>1</sup> D. Vijayaraghavan, Chief Judicial Magistrate" –*Of Channelising Punishment*, KLT Journal (1986) p.29.

<sup>2</sup> 1981 AIR 1220, 1981 SCR (3) 270

<sup>3</sup> Observations made by Justice V. R. Krishna Iyer in *Ediga Anamma v. State of Andhra Pradesh*, AIR 1974 SC 799.

<sup>4</sup> *Ranga Billa Case* , AIR 1981 SC 1572.

<sup>5</sup> 1978 AIR 1485 1979 SCR (1) 2 1978 SCC (4) 196

creative potential of the prisoner is unfolded. These values have their roots in Article 19 of the Constitution which sanctions deprivation of freedoms provided they render a reasonable service to social defense, public order and security of the State. By cruel treatment within the cell you injure his psyche and injury never improves. Nay, you make him recidivist, embittered and ready to battle with society on emerging from the jail gates. It is obvious that it is unreasonable to be tortured some, as it recoils on society and it is reasonable to be compassionate, educative and purposeful because it transforms the man and makes him more social. On appropriate motion made to this Court showing violation of the residual rights of a prisoner by unnecessary cruelty and unreasonable impositions and denials and deprivations within the prison-setting, the judicial process will call to order the prison authorities and make them respect the fundamental rights of the appellants. Prisoners are not non-persons. Our prisons are not laudably different even in the matter of homosexuality. The point of no return in social defense arrives if imprisonment is not geared to therapeutic goals. On release such an offender is 'caught in a "revolving door"-leading from arrest on the street through a brief unprofitable sojourn in jail back to the street and eventually another arrest. The jails overcrowded and put to use for which they are not suitable have a destructive effect upon... inmates".

In *Dharambir v State of U.P.*<sup>6</sup> the Supreme Court gave the rationale for the use of open prison system for reformation and rehabilitation of the offenders. The court observed: "One of the principal purposes of punitive deprivation of liberty, constitutionally sanctioned, is decriminalization of the criminal and restoration of his dignity, self-esteem and good citizenship; so that when the man emerges from the forbidden gates he becomes a socially useful individual. The long prison terms do not humanize or rehabilitate but debase and promote recidivism. Life imprisonment means languishing in prison for years and years. Such indurations of the soul induced by indefinite incarceration harden the inmates, not soften their responses".

The Supreme Court has also given directions from time to time in various cases for the amelioration of prison conditions. These are:

- i. Separation of the young offenders: The young inmates must be separated and freed from exploitation by adults.
- ii. Companionship: Subject to discipline and other security criteria, the right of the society of fellow men, parents and other family members cannot be denied in the light of Article 19 and its sweep.
- iii. Legal consultancy: Lawyers nominated by courts be given all facilities for interview, visits, and

confidential communication with prisoners, subject to discipline and security considerations.

- iv. Judicial surveillance: District Magistrates and Sessions Judges shall personally or through surrogates, visit prisons in their jurisdiction and afford effective opportunities for ventilating legal grievances of the prisoners.
- v. Standard Minimum Rules: The State shall take steps to keep up to the Standard Minimum Rules for treatment of prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact and correctional strategy.
- vi. Just and rationale Prison Act and Manual: The Prisons Act needs modification and the Prison Manual total overhaul. A correctional cum orientation course has become necessitous for the prison staff indicating the constitutional values, therapeutic approaches and tension free management.
- vii. Legal protection of prisoner's rights: The court shall protect the prisoner's right by its writ jurisdiction plus contempt power. To make this jurisdiction viable, free legal services to the prisoners shall be promoted through recognized legal aid.

Prison administration and treatment of prisoners have traditionally been the concern of the executive. The executive had unfettered and arbitrary discretion in the administration of prisons. But in the eighties', this situation underwent a fundamental change. Judicial activism led to far reaching changes in the administration of prisons. Supreme Court directly interfered in the affairs of the prison. It declared that the fundamental Rights of persons would not bid farewell to them at the gate of the prison. The contribution of justice V R Krishna Iyer in this area unique. He may be termed as the direct of the modern Indian penal system. The changes brought about by his decision on prison administration needs in depth study.

In the very first case namely *AK Gopalan V State of Madras*<sup>7</sup> Supreme Court interpreted the expression personal liberty as freedom from physical restraint and restraint and residue of liberty after excluding freedoms enumerated in Art.19<sup>8</sup>. It follows that a prisoner is entitled to personal liberty as provided in Art. 21 subject to those lost by reason of detention.

Similarly our Supreme Court through a series of other decisions laid down the principles regulating the treatment of prisoners. The decision of the supreme Court in *State of Maharashtra V Prabhakar Pandurang*<sup>9</sup> is milestone in the field of prison justice. In this case Supreme Court held that conditions of detention cannot be extended to deprivation of other fundamental rights inconsistent with the fact of detention, The decision in

<sup>6</sup> 1979 AIR 1595, 1980 SCR (1) 1

<sup>7</sup> AIR 1950 SC 27

<sup>8</sup> Article 19 provides for seven freedoms via speech and expression, Assembly, association, movement, residence and profession.

<sup>9</sup> AIR 1966 SC 424.

*Kerak Singh V State of Uttar Pradesh*<sup>10</sup> is important in the sense that the right to privacy was extended to those under detention. By this decision right to privacy was accepted as a part of personal liberty guaranteed under Art.21.

Further in *De Bhuvan Patnaik and others v State of Andhra Pradesh and others*<sup>11</sup> great stress was laid on the rights of prisoners. In this case Supreme Court emphasized that mere detention does not deprive the convict of all fundamental rights they otherwise possess.

Again in *Govind v State of Madhya Pradesh*<sup>12</sup> domiciliary visits were challenged as violative of Art.19 (i) and Art. 21 on the assertion that these articles included right to privacy. In this judgement Mathew, J said that right to privacy of movement was itself a fundamental right as emanated from Art.19(i) (d)<sup>13</sup>

Similarly in *State of Maharashtra v Madhukar and Meera Mathur V.L.I.C.*<sup>14</sup> Supreme Court held that right to Privacy is part of the fundamental rights guaranteed under Art.21. Hence a prisoner is entitled to right of privacy subject to the conditions of detention and security and discipline of the prison.

The decision of the Supreme Court in *Menaka Gandhi v Union of India*<sup>15</sup> converted Art.21 in to a great shield against deprivation of human rights by jail authorities. Further in *Mohammed Giasiddin v State Andhra Pradesh*<sup>16</sup>. The Supreme Court dealt at length on the mode of treatment of criminals in prisons and the principles of punishment. The following extracts may be quoted. "Progressive criminologists across the world will agree that Gandhian diagnosis of offenders as patients and his conception of prison as hospitals. Mental- moral- is the key to pathology of delinquency and the therapeutic rule of "punishment"<sup>17</sup>. The whole man is a healthy man and every man is born good. Criminality is a curable deviance.

" It is thus plain that crime is pathological aberration, that the criminal can ordinarily be redeemed that the state has to rehabilitate rather than avenge. The infliction of harsh and savage punishment is thus a relic of past and regressive times."<sup>18</sup>

Justice Krishna Iyer look care to point out that the prisoner cannot seek the "other extreme of coddling as if a jail were a country club or good hostel "

The celebrated decision which contains reformatory experiments for re-humanisation of convicts is that of Sunil Batra cases namely *Sunil Batra v Delhi Administration* <sup>19</sup>. The legality of solitary confinement came to be discussed in this case. In this case, Justice V.R Krishna Iyer suggested a number of measures for reforming offenders. They include meditation, music, arts of self expression, games useful work with wages, prison festivals, Sramadan etc. In this illuminating judgement

Justice V.R.Krishna Iyer observed "There is no iron curtain drawn between constitution and the prisons of this country." To quote Justice Krishna Iyer "conviction of a crime does not render one a non person whose rights are subject to the whims of the person Department."<sup>20</sup>

The talk about treatment and training in prisons is not rhetoric; it can prove to be real, given the zeal and determination. We cannot afford to fail in this sphere, as a sound prison system is a crying need of our time in the backdrop of great increase in the numbers of prisoners and that too of various types and from different strata of society. Efforts should be made to improve our prison system by introducing new techniques of management and by educating the prison staff with our constitutional obligations towards prisoners. Rest would follow, as day follows the night. Let the dawning ray of hope see the end of gloom cast on the faces of majority of prisoners and let a new awakening percolate every prison wall.

## II. NEED FOR PRISON REFORMS

The need for prison reforms has come into focus during the last three to four decades. The Supreme Court and the High Courts have commented upon the deplorable conditions prevailing inside the prisons, resulting in violation of prisoners' rights. Prisoners' rights have become an important item in the agenda for prison reforms.

The Indian Supreme Court has been active in responding to human right violations in Indian jails and has, in the process, recognised a number of rights of prisoners by interpreting Articles 21, 19, 22, 32, 37 and 39A of the Constitution in a positive and humane way. Given the Supreme Courts' overarching authority, these newly recognised rights are also binding on the State under Article 141 of the Constitution of India which provides that the Law declared by the Supreme Court shall be binding on all courts within the territory of India.

Following are the reasons cited in various case laws for which prisoner's rights were recognised and upheld by the Indian judiciary.

- (a) "Convicts are not by mere reason of the conviction denuded of all the fundamental rights which they otherwise possess"- Justice V.R. Krishna Iyer.<sup>21</sup>
- (b) "Like you and me, prisoners are also human beings. Hence, all such rights except those that are taken away in the legitimate process of incarceration still remain with the prisoner. These include rights that are related to the protection of basic human dignity as well as those for the development of the prisoner into a better human being".<sup>22</sup>
- (c) If a person commits any crime, it does not mean that by committing a crime, he/she ceases to be a human

<sup>10</sup> AIR1974 Supreme Court at page 2094 para 6.

<sup>11</sup> AIR 1975 S.C 1378

<sup>12</sup> AIR 1975 S.C 1378

<sup>13</sup> Constitution of India Article 19(i)(d)

<sup>14</sup> AIR 1992 S.C. 392

<sup>15</sup> AIR 1978 S.C. 597

<sup>16</sup> AIR 1977 S.C 1926

<sup>17</sup> AIR 1978 SC 1675

<sup>18</sup> *Ibid*; p1927

<sup>19</sup> AIR 1978 SC and AIR 1980 SC 1579

<sup>20</sup> *Ibid*; para 14 p. 168.

<sup>21</sup> Sunil Batra vs. Delhi Administration., 1978

<sup>22</sup> Charles Shobraj vs. Superintendent, 1978

being and that he/she can be deprived of those aspects of life which constitutes human dignity.

- (d) It is increasingly being recognised that a citizen does not cease to be a citizen just because he/she has become a prisoner.
- (e) The convicted persons go to prisons as punishment and not for punishment<sup>23</sup>. Prison sentence has to be carried out as per the court's orders and no additional punishment can be inflicted by the prison authorities without sanction<sup>24</sup> ().
- (f) Prisoners depend on prison authorities for almost all of their day to day needs, and the state possesses control over their life and liberty, the mechanism of rights springs up to prevent the authorities from abusing their power. Prison authorities have to be, therefore, accountable for the manner in which they exercise their custody over persons in their care, especially as regards their wide discretionary powers.
- (g) Imprisonment as punishment is now rethought of as "rehabilitative" punishment. This involves a philosophy that individuals are incarcerated so that they have an opportunity to learn alternative behaviours to curb their deviant lifestyles. Correction, therefore, is a system designed to correct those traits that result in criminal behaviour. The rehabilitative model argues that the purpose of incarceration is to reform inmates through educational, training, and counselling programmes. This development and growth requires certain human rights without which no reformation takes place.
- (h) Disturbing conditions of the prison and violation of the basic human rights such as custodial deaths, physical violence/torture, police excess, degrading treatment, custodial rape, poor quality of food, lack of water supply, poor health system support, not producing the prisoners to the court, unjustified prolonged incarceration, forced labour and other problems observed by the apex court have led to judicial activism.<sup>25</sup>
- (i) Overcrowded prisons, prolonged detention of under trial prisoners, unsatisfactory living condition and allegations of indifferent and even inhuman behaviour by prison staff has repeatedly attracted the attention of critics over the years. Unfortunately, little has changed. There have been no worthwhile reforms affecting the basic issues of relevance to prison administration in India.<sup>26</sup>

### III. ROLE OF PRISON ADMINISTRATION

In democratic countries, prison administrations are generally public authorities, within the jurisdiction of a government ministry. In most European countries, the ministry responsible for prisons is the Ministry of Justice. In others, the Ministry of Interior may be responsible for the prison system or only for the administration of pre-trial detention facilities. Exceptionally there may be a separate department responsible for managing prisons. It is accepted good practice to have the prison administration, including pre-trial detention facilities, placed under the jurisdiction of the Ministry of Justice. The Council of Europe recommends to all accession states, that where this is not the case, a transfer of the prison service from the Ministry of Interior to the Ministry of Justice takes place. This step is important because, it reflects the principle of separating the authority of agencies that have responsibility for investigating charges and those that are responsible for the management of prisons. Secondly, in countries where the Ministry of Interior is a military authority (e.g. many post-communist states), it provides for the prison service to be under a civil rather than military authority.

Prison systems are organised in vastly varying ways. Some countries have a number of prison systems in operation, independent from one another to varying degrees, e.g. federal system, state prison system, county and district prisons systems. Most, however, have a prison system that is organised nationally, with the central prison administration having full authority over the regional and local administrative departments. The disadvantage of the former system is that it restricts possibilities for a clear mission statement, setting standards in prison management in the whole country, and introducing mechanisms to ensure that these standards are implemented nationwide. The strict hierarchy inherent in the latter reduces the opportunities for regional and local managers to use individual initiatives (which can include avoiding the risk of implementing new and innovative prison reform programmes). It has been suggested that the systems that organise themselves most successfully are those that have clear national policies that ensure that international and national standards will be adhered to nationwide, but which then allow regional or local management to implement the agreed standards in a flexible manner.<sup>27</sup>

In any institution where congregate life is encouraged, some customary regulations for group life become inevitable and necessary for its management and discipline. A court conviction means, either rightly or wrongly, that the convict needs some self discipline. Jail Authorities;

<sup>23</sup> Jon Vagg. *Prison System- A Comparative Study of Accountability in England, France, Germany and the Netherlands*, Oxford (1994)

<sup>24</sup> Sunil Batra vs. Delhi Administration., 1978

<sup>25</sup> Report of National Human Rights Commission of India (1993)

<sup>26</sup> Justice A N Mulla Committee, 1980-83

<sup>27</sup> Coyle, A "A Human Rights Approach to Prison Management", International Centre for Prison Studies, p. 55.

therefore impose several disciplinary measures for transforming an inmate into a self-disciplined and reformed citizen.

The classification of prisoners in India is not based on any scientific basis. It is perhaps for administrative conveniences. In fact the purpose of inmate-classification: "to fit the treatment programme of correctional institution to the requirement of the individual as determined by appropriate diagnostic procedures".<sup>28</sup> In India, the classification is mainly intended for segregating the inmates on the basis of age, sex, mental health etc....Penologists would say that "Classification is method by which diagnosis, treatment planning and execution of the treatment programmes are coordinated in the individual cases."<sup>29</sup> In the west, there exist a number of classification systems. In some prisons in India the western system of classifications, *mutandis - mutandis* is adopted. More attention should be paid to the scientific classification of the prisoners in India if correction is intended by imprisonment.

There is a direct relation with the issue of prison reform and the correctional personnel and administrators. They should be proudly saying that "I reform people" or "I rehabilitate people" rather than "I lock up people". The 'prisons' and 'prisoners' should rather be described as 'corrections' and 'inmates'. Prisons staff around the world is generally poorly paid, badly trained and have little respect in their communities. What is required is a concerted effort to improve the professional knowledge of prison staff, to enhance their professional competence and to increase their professional confidence. They need to be helped to understand that the maintenance of security and good order does not imply the need for brutality and inhumanity that genuinely well-ordered prisons are those which are decent and humane for staff as well as for prisoners.

An unforeseen consequence of litigation over the last forty or more years, which was intended to force correctional administrators to improve conditions in prison, has been that those same administrators have responded by becoming more sophisticated in their management techniques. The extremism and individualism which were a feature of how many prisons were run a generation ago are very rare now. They have been replaced by a relatively sophisticated bureaucracy, which makes sure that proper procedures are in place for all eventualities.<sup>30</sup> This can be a double-edged sword.

In many prison systems there has been in recent years an increased emphasis on managerialism, with its key performance indicators, the need to deliver targets and to meet auditing requirements.<sup>8</sup> In other words, there has

been an increasing focus on process, that is how things are being done, rather than on outcome, that is what is being done. It is important never to lose sight of the fact that in the world of the prison efficient management is never enough. If one is doing the wrong thing at the outset, then efficient management merely means that one will end up doing the wrong thing more efficiently. It is essential that the management of prisons should be carried out within an ethical context.

Adequate and well-trained personnel are essential for the efficient management of any organisation. They are fundamental to good management in prisons. Prison management is about the management of people – from the very vulnerable to the very dangerous. Personnel responsible for the daily administration of prisons, and daily contact with a group of persons with diverse problems and requirements need to have very special skills and training, to ensure that security and safety is provided, while prisoners are treated humanely and cared for according to their individual needs.

In '*Dharambir vs. State of Uttar Pradesh*'<sup>31</sup> the State Government was advised to effect reforms by drawing up a set of rules for a more enlightened prison administration. The Supreme Court itself spelt out some of the obligations of prison administrators. Some of the directions are:

1. Violation of provisions of Sec 27 (2) and (3) of the Prisons Act must be visited with judicial correction and punishment of the jail staff.<sup>32</sup> Sex excesses and exploitive labour the vices adolescents are subjected to by adults. The young inmates must be separated and freed from exploitation by adults. Violation of these imperatives will offend Article 19 of the Constitution.
2. Subject to search and discipline and other security criteria, the right to the society of the fellow men, parents and other family members cannot be denied in the light of Article 19 and its sweep.
3. Lawyers nominated by the District Magistrate, Sessions Judge, High Court and the Supreme Court are given all the facilities for interviews, visits and confidential communication with prisoners subject to discipline and security considerations.
4. District Magistrates and Sessions judges shall personally or through surrogates, visit prisons in their jurisdiction and afford effective opportunities for ventilating legal grievances; shall make expeditious enquiries therein to and take suitable remedial action. In appropriate cases reports shall be made to the High Court for the latter to initiate, if found necessary, *habeas corpus* action.
5. The State shall take early steps to prepare in Hindi a prisoners' handbook and circulate copies to bring legal

<sup>28</sup> James Vadackumchery, *Criminology and Penology* (1983).

<sup>29</sup> Keith B. Itomley, '*Decisions in the Penal Process*, (1973) p. 143.

<sup>30</sup> Andrew Coyle, *Managing Prisons in a Time of Change* (2002) p.35.

<sup>31</sup> *Dharambir vs State of Uttar Pradesh* (1970) 3 SCC (Cri) 862.

<sup>32</sup> Section 27(2) requires that in prison where male prisoners under the age of 21 are confined, means shall be provided for separating them the other prisoners and for separating those of them who have arrived at the age of puberty, from those who have not. Section 27(3) provides that convicted criminal prisoners shall be kept apart from convicted criminal prisoners.

awareness home to inmates. Periodical jail bulletins stating how improvements and rehabilitative programmes are brought into the prison may create a fellowship which will ease tensions. A prisoners' wall paper, which will freely ventilate grievances, will also reduce stress. All these constitute implementation of Section 61 of the Prisons Act.

6. The State shall take necessary steps to keep up to the Minimum Rules for Treatment of Prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact and correctional strategies.
7. The Prisons Act needs modification and the Prison Manual total overhaul. A correctional-cum-orientation course has become necessitous for the prison staff inculcating the constitutional values, therapeutic approaches and tension-free management.
8. The prisoner's right shall be protected by the court by its writ jurisdiction plus contempt power. To make this jurisdiction viable, free services to the prisoner programmes shall be promoted through recognised legal aid societies. The district Bar shall keep a cell for prisoners' relief.

In *Sunil Batra vs. Delhi Administration*<sup>33</sup>, Supreme Court once again emphasised the constitutional and legal rights of prisoners. The role of courts was asserted in the context of the enforcement of human rights within prison walls to see that prisoners were not treated in arbitrary and cruel ways.

In *Sanjay Suri's* case the upper court held that the prison authorities should change their attitude towards prison inmates and protect their human rights for the sake of humanity.<sup>34</sup>

In the case of open prison as a correctional method, if the process of social readjustment is to take place in an atmosphere of trust, it is essential that the members of the staff should be acquainted with and understand the character and special needs of each prisoner and they should be capable of exerting a wholesome moral influence. The selection of staff the staff should be governed by these considerations.

#### IV. REFORMATION - THE CHANGE IS SLOW BUT OBVIOUS

In spite of the fact that there are several maladies in the prison system in the country, it would not be appropriate to totally condemn the whole set-up. Obviously, there are difficulties of man-power, funds, training and right kind of attitude to deal with socially handicapped inmates, but all these ills need to be corrected with the joint effort of the government, the people and the staff manning prison institutions. Some prisons are an example of the best utilization of the resources available, and it is educative to see them. Prison visitors of different states should be

given an opportunity to visit such prisons to see how they function and how those conditions can be emulated in other prisons.

Housed in comparatively new buildings constructed on the principles laid down with regard to minimum space per person, and having appropriately provided facilities of sanitation, medical care, hygienic kitchens, play grounds, separate entrance for women section, space for vocational training and prison factories, adequate staff quarters, and suitable dormitories for single-person security staff, these prisons present an image of a scientifically built custodial institution.<sup>35</sup>

Reformatory programmes are regularly conducted in these prisons with the help of local non-government agencies and philanthropic organizations. *Preksha-dhyan*, *Vipasyana*, spiritual discourses, lectures and preaching on issues of healthy social life, literacy classes and de-addiction programmes, adult education classes, plantation, horticulture and environment improvement with the material assistance provided by government and non-government agencies, are some of the regular features of the prison. Services of educated prisoners are availed to promote literacy and to hold regular education classes for those who wish to appear at Board or University examinations as private candidates. All fees and other expenses on the education of these inmates is borne by voluntary organizations such as Rotary Club, Lions Club or by public welfare section of established banking institutions. All these activities are geared and monitored by prison management with the personal efforts of some well intentioned prison personnel supported by active and effective prison visitors. Such correctional programmes not only break the monotony of prison setting but charge the atmosphere with an urge for betterment.

These prisons do not present a dismal picture of human beings languishing in idle confinement, but are places buzzing with activity, both administrative and correctional. There appears to be a horizontal coordination of prison officials with the officers of other departments and with functionaries of other organs of the criminal justice system. The jail Superintendents and other staff have amiable informal relations with other district level officers. This facilitates their official functioning. They leave no occasion, official or informal, to meet these district level officials and invite them to all functions held at the prison. Problems of prison are introduced to concerned officials during courtesy meetings to draw their appropriate attention and an early solution. Such congenial ambiance prevents unnecessary delay of bureaucratic procedures in getting things done for the prison and prisoners.

One can visualize here that a purposeful and constructive local cooperation of officials of prison, police and the judiciary can go a long way in ameliorating the sufferings

<sup>33</sup> *Sunil Batra (II) v. Delhi Administration*, (1980) 3SCC (Cri) 488.; 1980 SCC (Cri) 777.

<sup>34</sup> *Sanjay Suri v. Delhi Administration*, (1988) Cr LJ 705 (SC)

<sup>35</sup> Human Rights Initiative, *Prison Visiting System in India* (2010) p.9.

of prison inmates. And, if some well-meaning non-government social organizations are involved in the corrective process of prisons, it can make the rehabilitation of offenders after their release, much smooth.

It is in the creation of this congenial atmosphere that the role of Prison Visitors, both official and non-official, can be best appreciated and obtained. It is they who can best (and in the spirit of constructive approach) bring to the notice of the government, the deficiencies of the system at appropriate time so that they do not accumulate or grow to unmanageable proportions. It is they who can help prison administration in securing the cooperation of non-government agencies engaged in philanthropic work for extending their activities within prison walls where a neglected mass of human beings waits for the support of society. It is they, again, who can prepare the society in shedding off their rejective prejudices for casual offenders who make mistakes in haste and repent at leisure.<sup>36</sup>

The institution of Prison Visitors is, thus, not only desirable but essential for the development of a correctional atmosphere in prisons. It has to be retained and reinforced, if we want to open a casement on prisons for involving the society in general to improve prison conditions and help our less fortunate brothers and sisters in captivity to make their period of incarceration less dehumanizing and more productive.

#### V. FURTHER STEPS ON PRISON REFORMATION

In line with the International developments in Prison and its inmates reformations, it is recommended that a Five-Step Plan towards Prison Reformation should be introduced considering the following steps:

*Step One: Increasing the Usage of Psychology.* A major problem for the standing of psychology in the realm of criminal justice is the difference in the definitions of insanity between the two fields. The criminal justice system looks at insanity not as a medical issue, but a legal one. It is by broadening the definition of insanity to one that encompasses mental illness, that we will see a change in the successfulness of rehabilitation.

*Step Two: The Addition of Vocational and Job Training Programs.*

From a young age, most criminals have the need for instant gratification. There is no need to work hard to get what you want, you instead take what want. When describing the reality of the effects of the criminal mindset on rehabilitation Officer Mulcahy stated

*Step Three: Education Reform.* Another successful indicator of rehabilitation success is the level of education an offender has achieved.

*Step Four: Creating a Budget for Parole Officers and Community Treatment Centre's.*

*Step Five: Creation of an Employment Opportunity Community.* Finally, the most important step in reinventing the state prison system is creating an opportunity for released offenders to put the benefits of the services provided to them to good use. This opportunity would be in the form of an Employment Opportunity Community. For a released offender with a conviction, securing employment is difficult, yet it is the biggest indicator of post-release success. Although there are no-discrimination policies, in the case of convicts there is a permanent black mark attached to their resume. Any employer will look for a reason to deny employment to someone with a criminal record.

With the help of job and vocational training in prisons, more opportunities will be available, however, as a means to ensure that parole officers will be able to help their cases secure steady employment the creation of a community, consisting of businesses in the area that are willing to hire those with convictions, must be formed. With this Employment Opportunity Community, officers will know that there is a place they can turn to where the skills acquired in prison programs can be used in a real life situation. As an incentive for businesses to join community, there would be a tax break, as is offered to business that hire offenders released from prisons, as well as strict guidelines for the offender to follow that will result in revocation of parole if broken. In the case of treatment centers, counselors using the EOC as a location to find job placement, since it is not an option to revoke parole, privileges to receive care and guidance from the state will be revoked as a deterrent.

In allowing offenders an opportunity to find employment, we are allowing an opportunity to change. In tandem with the other steps toward the reinvention of the state prison system, the creation of an Employment Opportunity Community will allow many offenders an option that was never available to them before, the option to be responsible and independent; the option to leave the life of a career criminal.

In order to enable them to take up the above welfare measures, they must be satisfied that their needs are looked after properly and the conditions in prisons are befitting.

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<sup>1</sup> A.I.R 1980, SC. 249

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<sup>36</sup> Common wealth Human Rights Initiative (CHRI), *Monitoring Prisons, A Visitor's Guide* (2010) p.59