Reform & Compassion, not Penalty

Australia deserves kudos for pioneering a human rights-friendly prison

Expressing deep satisfaction at the opening of the first of its kind prison with internationally acceptable human rights standards in Australia, this open letter to the longest serving prisoner of India -who was not even convicted for the crime alleged against him, the writer of Open Letters, Jagmohan Singh hopes that the world community would take a cue from this development. He also appeals to the Punjab government to study the Canberra prison and build one of its three new jails on that pattern.

Dear Ajay Ghosh:

As a co-traveller on planet earth, I owe you an apology. Gross injustice of the kind meted out to you is a matter of shame not only to the Indian judicial system, the various human rights commissions, the many activists, Indians in general but everyone, including the United Nations and other juristic paraphernalia that the world has put in place. Every world citizen is in a way responsible for showing immunity to the kind of abuse you have suffered.

I still do not know whether you in prison or have been released. While the New York Times columnist Barry Bearak in his excellently written graphic detail of the Indian judicial system, entitled, In India, the Wheels of Justice Hardly Move, in the year 2000 has said that you were released from prison that year from a West Bengal prison after being goaled in 1962 and then forgotten, Justice A. S. Anand in a first person piece published in the Tribune in 2003 says that you are still in prison.

My enquiries to find out more about you have not elicited any concrete detail, though I would continue my search to express my empathies to you lest you lose faith in humanity forever. Provided you are alive and provided that the jail and judicial authorities grossly guilty for misconduct have not nearly killed you by dubbing you a lunatic again as they did in 1964 when they locked you up and forgot you. Sadly for you, there was no Ansar Burney who could trace Kashmir Singh suffering similar ignominy in a Pakistan prison, though some efforts were made by a West Bengal lawyer.

I write to you with hope for I believe that while in prison, it is hope that keeps one alive. I write to you to tell you that the government of the Australian Capital Territory region, called ACT has set up in Canberra, the first prison called the Alexander Macomiche Centre, which encompasses human rights standards.

It is a tribute to the person in whose name the prison has been set up, that had his proposals, or most of it had been accepted by the British penal system and then subsequently adapted by India, there would not have been the likes of you and Kashmir Singh.

I write to you to share my thoughts about this new prison that has come up in Canberra, Australia. This prison is called Alexander Maconochie Correctional Centre. Having lived in prison, Alexander Maconochie had clearly understood the need for reform and his entire emphasis was on transforming a criminal into a normal person who could be part of society. He believed and rightly so that the penal system of jails and particularly long term prison totally cut-off from society had the effect of brutalizing and criminalizing the individual into more crime rather than abstaining from it.

The 131 million Australian dollar Alexander Maconochie Centre (AMC) will be a prisoner's delight, and would be the first step in his correction process. State of the art Swipe cards to leave rooms, cottage-style housing, no women in the cell blocks will certainly register the need for rehabilitation and to move out of the boundary and enjoy the same facilities in a freer world.

There can be no better words than that of the ACT attorney general, Simon Corbell to describe both an ideal prison and the facility at Canberra. He has said, "A healthy prison is one in which, everyone is and feels safe (prisoners, staff and visitors alike); everyone is treated with respect and as a fellow human being; everyone is encouraged to improve him/herself and is given every opportunity to do so through the provision of purposeful activity; and everyone is enabled to maintain contact with their families and is prepared for release."

You never got any such facility. Far from it. You were even deprived of normal human existence. BUT. This discrimination against you and the likes of you has to end. No civilized society can wait for centuries to correct its wrongs. More judges, more benches, better systems, use of latest technology, revamping prison penal system, putting in prisons like the one in Canberra need to be taken on a war footing.

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You must be rightly thinking, when will this happen? I hope and pray that India will not have to wait for some 500 years to evolve a delivering system of justice. Barry Baerak of NYT has quoted in 2000 an expert to say that even if no case is filed, India needs 324 years to clear the backlog built up due to the inherent delay in the judicial system of ineffective lawyers, judges with lazy work habits and a plethora of recommendations which gather dust with either the bureaucracy or the executive branch of the Indian government.

The Indian story of prisons is one of poverty, exploitation, corruption, complicity and criminality of the state and the administration, more than a century old jail manual, beatings of prisoners, sub human and degrading conditions, zero medical facilities, solitude, depression, dehumanizing of all prisoners -particularly children and women, food unfit for human consumption, pimping and prostitution -not just of the ones who commit a crime and land up in prison but those who do not commit, but the systems set up by the jail authorities and the constabulary adequately supported by the lackadaisical attitude of magistrates, takes them there for abuse.

I understand that that it is a Herculean task to end this sad saga. With acts of violence a daily occurrence now, the already immune society is further distancing itself from the travails of people in prison. As one activist mentioned, the general refrain is "Why should you worry about these people? They are dangerous criminals, murderers and rapists, (and now terrorists too), why complain if they are ill treated? They deserve it."

Nobody asks, who are these people in jails and why? This question bothered Alexander and those who put together the Rajasthan open jail -the Sampuranand Open Camp, in Sanganer, Rajasthan, where prisoners -only some 50-60 convicts, live with their families, and the camp has no boundary walls, no fences with only four policemen as guards with a choice to pursue any vocation they choose.

This gives me hope. While there is talk to set up new prisons to reduce overcrowding, may be the political leadership will someday wake up. The government of Punjab has allocated Rs. 170 crores for new prsions. They would do well to study the AMC and set up one such prison in the state. Punjab prisons are comparatively better than other Indian prisons, but there is a need to take another bold step.

While writing to you, I am scared to use the phrase -rights of prisoners -it sounds so shallow, so trite, so matter of fact that it's very usage seems like an abuse.

The other side of the wall -the prison has always fascinated religious and political leaders, social and human rights activists. From mythology to legalese, there have been many attempts worldwide, including in India to change the conditions of inmates and emphasize the need that the four walls of jails are reform centres and not punishment dens.

In India, Justice Anand Narien Mulla advocated sweeping reforms and change of the more than a century-old British drafted Punjab Jail Manual which was the basis of many jail manuals in the country, but successive governments have not had time to read and apply the provisions. India, they say, is a huge country and has many more matters of governance than to grieve over some two hundred thousand inmates living in jails. Justice A. S. Anand, while talking about an ideal prison system discussed your case and said, "An ideal prison system should perform the same role as a hospital and the health services: they need to take care of all those inside regardless of who they are or where they come from and what they have done."

The Indian sub-continent has many like you waiting to be discovered. Your plight and the new prison should bestir the conscience of jurists worldwide to focus on reform, not punishment.

I have written this letter with the hope that you would be in your sixties and though a broken man, you would still be alive. You could still pray that what you have undergone, no one else does, and you could endorse the words of Rev. Robert Withycombe, who while blessing the new prison emphasized the need for "justice blended with mercy and compassion."

With prayers for
your well-being,
Jagmohan Singh

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Sudhar Ghar, Alexander Maconochie and Jail Reforms

An insight into the work of 18th century reformer, who achieved a lot, left behind a legacy which has borne fruit three centuries later

The gates of the prison walls in Punjab and India, display a huge billboard, Sudhar Ghar –Correction Home. Contrast this to the remark of a member of the planning commission who had studied Tihar jail in Delhi. He is reported to have remarked that the prisoners at Tihar were doing their PhD in crime. Tihar was breeding criminals, not reformed citizens. Save for the efforts of Ms. Kiran Bedi, that too during her tenure as the prison chief, when pathbreaking changes were initiated, Tihar like all other prisons is back to 'normal'.

What AMC, Australia has done is to bring into focus the work of Alexander Maconochie on prison reforms.

Alexander Maconochie was born in Edinburgh on 11 February 1787. By 1804 he was a midshipman in the Royal Navy. He was a lieutenant on the brig Grasshopper when it was wrecked on Christmas Eve 1811 off the Dutch coast and, along with everyone else on board, was taken prisoner and handed over to the French. They were forced to march in the cold winter from Holland to Verdun, and suffered more than two years' misery as prisoners of war. This was Maconochie's one traumatic taste of life in prison, and he never forgot it.

Alexander Maconochie wanted to shift the focus of penology from punishment to reform. He argued that punishment on its own was a socially empty act without checks built into it, and saw no sense in punishing a criminal for his past without training him with incentives for his future. He argued that sentences should be indefinite - the convicts would have to earn a certain number of 'marks', or credits for good behaviour and hard work, before they were released. They would buy their way out of prison with these marks. To buy, they

must save.

Hence the length of his sentence was, within limits, up to the convict himself. Marks could be exchanged for either goods or time. The prisoner could buy "luxuries" with his marks from the gaol administration - extra food, tobacco, clothing etc. Maconochie believed his Marks System would be objective. Ideally, the convict would pay for everything beyond a diet of bread and water with the marks he earned.

As soon as a convict entered the system, he would begin his "Pilgrim's Progress" with a short harsh stretch of confinement with hard labour and religious instruction as punishment for the past.

Nobody in England or America, let alone penal Australia, had tried such therapies on convicts before. This idea of prison as a reforming institution would not win wider acceptance until well into the twentieth century.

Norfolk Island under Maconochie

Maconochie saw himself as entrusted by the British Government to reform the present system, and came to the island with the intention of introducing a change of regime.

The gates of the prison compounds were opened, and the prisoners were free to wander and frolic as long as they "showed by retiring to their quarters at the sound of the bugle….that they might be trusted with safety". They were given special food, and rum, which was paid for by Maconochie himself. Maconochie noted that "not a single irregularity, or even anything approaching an irregularity, took place…every man quietly returned to his ward; some even anticipated the hour".

Maconochie pressed ahead with his plans for cultural and moral reform. He wanted books, to help teach the men trades, and to instil "energy, hopefulness in difficulty, regard and affection for our brethren in savage life". He also stocked the prisoners' library with moral and religious works, for he wanted the prisoners to think and argue together, not rot in their cells. He included the works of Shakespeare in his island library, feeling that theatrical training could help convicts overcome their passions. Music was to be his main therapy.

Maconochie dismantled the gallows, which had stood as a permanent emblem of dread outside the gate of the prisoners' barracks, built churches for Catholics and Protestants and a synagogue for the Jewish.

Maconochie's approach had done more to reform the Norfolk Island men than any amount of terror. During his administration, Maconochie had discharged 920 of the twice-convicted prisoners to a new life in Sydney. By 1845 only twenty of them - a mere 2 percent - had been convicted again.

Extracts from Maconochie's Gentlemen by Morris N., 2002, OUP.