

# **JAIL REFORM**

## **Introduction**

The Chairman, Pakistan Law Commission, during his trip to the Islamic Republic of Iran, visited the Jail in the city of Meshhad. He was fairly impressed with the clean hygienic conditions, provision of proper medical care, education and other facilities to the prison inmates. He was informed that regular educational classes were conducted for prisoners and training was also imparted to them for learning computer lessons. He was further shown factories, functioning inside the jail premises where prisoners were employed for work. Arrangements existed which enabled prisoners to meet spouses in private. The prisoners were also exempted from wearing jail uniform.

The Hon'ble Chairman expressed the desire of reforming the prisons in Pakistan on the pattern of Iran. This issue was discussed in the meeting of Pakistan Law Commission on November 2, 1996. The Commission decided to constitute a Committee, consisting of Mr Iqbal Ahmed Khan, Mr Justice (Retd) Abdul Kadir Sheikh, Mr Justice (Retd) Ali Hussain Qazalbash and Secretary, Pakistan Law Commission, to make recommendations for this purpose.

In its first meeting, the Committee decided that Mr Shahzad Jahangir and the Secretary, Law & Justice Division, may also be co-opted as members of the Committee on Jail Reforms, so as to get the benefit of their valued views/observations on the subject.

The Committee, in its meetings held on 21st November, 1996, 11 December, 1996 and 14th May, 1997, examined various proposals for reform in the prison laws/rules, such as quick disposal of cases pending before the courts, imposition of penalty in lieu of imprisonment for minor offenses and grant of bail liberally to women and other accused persons involved in minor offences.

The Committee decided to seek the views of the concerned and interested professionals, NGO's, I.G. Prisons and the general public, to obtain necessary information as to how the problems of overcrowding, lack of hygienic conditions in jail premises, non-availability of quality food and proper medical facilities, etc to prisoners may be resolved.

Consequently, the Secretariat of the Commission put an advertisement in the national newspapers, both Urdu and English languages, requesting the general public and other professional groups for their suggestions/proposals. Apart from the advertisement, a number of letters were written to professionals and concerned authorities who are directly or indirectly concerned with the issue. In response, the Secretariat received valuable suggestions and reports on jail reforms from the Human Rights Commission of Pakistan, Central Jail Staff Training Institution, Lahore, Special Committee of the NWFP Provincial Assembly on Jail Reforms and Mr Justice (Retd) Z A Channa, Director General, Sindh Judicial Academy. Similarly, about 60 letters were received from the prisoners in jails and from the general public, pointing out various problems and complaints regarding the abuse of the powers by jail authorities and non-provision of proper facilities to jail inmates. They suggested useful/valuable proposals for reform.

A Research Officer of the Secretariat also visited the Adyala Jail, Rawalpindi, Central Jail, Kot Lakhpat, Lahore and Central Jail, Peshawar and collected information from the prison officials

and jail inmates on the conditions prevailing in jails. A Joint Secretary of this Secretariat also visited the Women Prisons in Lahore and Karachi and gathered information with regard to conditions inside such prisons and the treatment meted out to prisoners.

On the direction of the Chairman, the Committee also conducted Public Hearing at Karachi on 14th May 1997 on the subject of jail reforms in which 21 prominent citizens, experts, advocates, journalists, professionals, NGO representatives and a retired High Court Judge, made presentations and suggested various proposals for reform of the prison laws/rules and improving the living conditions of prisoners.

Based on the material received from various sources, information gathered through visits to jails, communications received from the public, experiences/observations narrated by citizens and recommendations received from relevant professionals, the Secretariat of the Commission prepared a Report on Jail Reforms which was thoroughly discussed/deliberated upon by the Commission in its meeting held on May 15, 1997 at Karachi and with appropriate changes/modification, approved the same.

The Commission decided that for effective enforcement and implementation of its recommendations, it would be desirable that the concerned officials are invited to the next meeting of the Commission with a view to get their input and hear their viewpoint on the Commission's recommendations, so as to devise appropriate steps for the full and effective implementation of the Report. Accordingly, it was decided that the Attorney-General for Pakistan, Secretary, Interior, provincial Secretaries, Home Department, all Inspectors-General of Police and Inspectors-General of Prisons should be invited to the next meeting of the Commission.

The Commission again met at Murree on July 23, 1997 to finalise its Report on Jail Reform. This meeting was attended besides the members of the Commission, by the relevant public functionaries, mentioned in the preceding paragraph. The participants had a detailed discussion/deliberations on various provisions of the Report, and suggested various improvements to it. Some such suggestions were accepted and incorporated in the Report. The Report as approved by the Commission follows:

The main object of maintaining prisons is to keep the convicted prisoners in confinement so as to save the society from their evil influence. They are supposed to undergo their punishments in jail. Detenus and under-trials are also kept in such jails. During their detention, the jail inmates are supposed to get proper accommodation, food and medical facilities. They are also supposed to be imparted education/training during detention, so as to be reformed, and on release, become useful and productive members of the society. As would be explained in the next pages, unfortunately our prison system seems to be failing in providing these basic facilities to jail inmates.

With regard to the administration of prisons and rights and duties of prisoners/inmates, several statutes hold the ground. These include the Prisons Act 1894, the Prisoners Act 1900 and the Pakistan Prison Rules 1978, etc.

## **1. Accommodation and Allied Facilities**

Section 4 of the Prison Act 1894, Rules 745 to 752 and Chapter 31 of the Pakistan Prisons Rules 1978, deal with the accommodation as well as sanitary conditions in prisons.

Currently there are 75 jails in Pakistan out of which 28 are situated in Punjab, 16 in Sindh, 21 in NWFP, 10 in Baluchistan and 3 in Northern Area. Similarly, there are 4 jails in Azad Jammu and Kashmir.

The total capacity of such jails is for 34014 inmates whereas in actual fact, 74483 convicted and under-trial prisoners were confined in such jails on 30th June 1996. It means that there is tremendous congestion in jails, for example in Punjab, on June 30th 1996, there were 49615 prisoners against the capacity of 17271, in Sindh, 13812 prisoners as against the capacity of 8005, in NWFP, 8466 prisoners as against the capacity of 7042 and in Baluchistan, 2351 prisoners as against the capacity of 1361. (Figures obtained from Central Jail Staff Training Institute, Lahore).

Another note-worthy feature is that the number of under-trial inmates far exceed the number of convicted prisoners. The problem of congestion is thus overwhelmingly attributable to the abnormal delays caused in the system of administration of justice.

It appears that the accommodation provided in jails, generally does not suit the climatic condition of our country. In winter prison barracks and cells are extremely cold and in summer they are sizzling with heat. It is, therefore, recommended that new jails in Pakistan should be constructed so that all jail inmates get adequate accommodation. Such jails should be constructed in the outskirts and be designed in a manner to suit the environmental and climatic conditions. It may also be ensured that in old as well as in new prisons, clean hygienic conditions are provided including flush system in toilets with proper sewerage facilities. Such jails should also have proper facilities of electric fans, heaters, water coolers, etc.

It is also recommended that prisoners may be allowed to keep a radio (with headphone), wrist watch, books, paper and pen/pencil with them, without having to obtain permission. These facilities have been provided by the Government of NWFP where prisoners are also allowed to keep money for purchase of these items from Utility Stores, established on jail premises.

It is further recommended that the facilities of out-door games like football, basketball and in-door games should be provided.

It is also recommended that all convicts of Class "C" may be allowed to wear their own clothes instead of jail uniform. The Government of NWFP have already allowed this concession to the jail inmates of Class C. The same may be followed by other provinces.

## **2. Problems in Death Cells**

The prisoners given death sentence are kept in special death cells, constructed for the purpose. Normally these are very small rooms measuring 9' X 12' attached with WC in a corner, rounded by a wall of 3' height. It has been observed that 3 to 6 prisoners are kept in one death cell. The prisoners in death cell are entitled to one hour walk, 30 minutes in morning and 30 minutes in the evening, while hand'cuffed.

It is recommended that the duration of walk time may be extended from half an hour to one hour, each in the morning and evening, and the rule pertaining to the use of hand'cuffs during walk may be applied only in respect of terrorists and/or dangerous criminals. It is further recommended that the prisoners may be kept in death cell according to the capacity of the cell.

### **3. Police/Judicial Lockup**

The accused persons, on their arrest, are kept in detention at the police lockups. In the court premises, they are kept in judicial lockups. Such lockups are few in number and are generally in a dilapidated condition. They lack basic facilities such as fans, benches, toilets, etc. It is, therefore, recommended that adequate number of police/judicial lockups may be constructed and the conditions of existing lockups be improved, providing therein the requisite facilities.

### **4. Segregation of Prisoners**

Section 27 to 30 of the Prison Act 1894 and Rules 224 to 249 of the Pakistan Prison Rules 1978, clearly provide for the classification of prisoners on the basis of their involvement in civil matters or criminal offences. They further require for the segregation of female and juvenile convicts from the rest. It has generally been observed that due to overcrowding in all the prisons of the country, the rules relating to segregation are not fully observed. This practice is contrary to the Injunction of Islam and the laid down law/rules.

The facility of separate prisons for women is available only in Multan, Province of the Punjab and in Larkana, Province of Sindh and Peshawar, Province of NWFP. Similarly, the facility of separate jails for juveniles exist only in Landhi (Karachi) in the Province of Sindh and in Bahawalpur, Province of the Punjab. Elsewhere in the country, segregation is effected through separate enclosures for women and juveniles within the same premises.

It is, therefore, recommended that arrangements should be made for the construction of separate prisons for women convicts and juveniles. Proper food, education, training and other facilities should also be provided to women and juvenile offenders.

It is also recommended that special care must be taken in respect of children accompanying their convicted/under-trial mothers. Efforts should be made to arrange for the maintenance and protection of children, outside the jail, when they became of school-going age. Arrangements should also be made for their education. The Government should also open institutions for the care and protection of such children as well as other neglected/orphaned/abandoned children. However, in situations, when such arrangements do not exist/cannot be made, women prisoners should be allowed to retain their children and arrangement should be made for the education, provision of food and health care for such children.

## **5. Security System**

There are often reports of escape of prisoners from jails. This happens due to the crumbling walls of some jails and the non-availability of adequate security equipment for the purpose of detecting escapes. This problem becomes more acute when there are crises in jail premises. To forestall any eventuality of escape from jail premises, it is recommended that jail walls/structures should be strengthened and proper security system should be installed in jail premises. Closed circuit T.V. equipment be installed in jail and the staff should be given appropriate gadgets for detecting escapes. Such staff must also be given appropriate training for the purpose.

## **6. Education**

Rule 679 of the Jail Manual provides for the provision of education up to the primary level to all illiterate prisoners and further provides for appropriate facilities to those prisoners who wish to acquire higher studies. The rule further provides for the establishment of well furnished library in jail premises where books, magazines and newspapers should be made available.

Rule 215 provides for remission to prisoners who qualify any examination.

Notwithstanding such rules, in fact no proper and organized system for imparting education to prisoner exists. It is recommended that in every Jail, facilities should be established for the purpose of general as well as vocational and technical education to prisoners. They should also be provided facilities to acquire higher qualification. Such facilities should include class rooms, qualified teachers and reading material. Where appropriate, the services of educated prisoners may also be utilized for the purposes. Each jail should have a library which is well stocked and contains books, magazines and newspapers. If need be, appeal for donation may be made to the general public for the purpose of donating books, and other printed material to jail inmates. The international Islamic University and Allama Iqbal Open University may be approached to manage courses, through correspondence, for the jail inmates.

## **7. Release on Parole**

Section 2 and 5 of the Good Conduct Prisoners Probationary Release Act, 1926 deal with powers and conditions for the release of convicts on parole. One common problem experienced by the prisoners is, that for release on parole for a short period in case of death of relative in the family, etc, permission is granted by the Government i.e. Home Secretary of the Province. Such permission is not given expeditiously with the result that the needy prisoner is unable to avail it. It is, therefore, recommended that such permission may be given by the Director, Reclamation and Probation, after due process, and the procedure for the purpose should be simplified.

Similarly, rules also exist for the release on parole of those prisoners who have already undergone a substantial part of their imprisonment. Parolees in such cases, are required to work in residences on meagre salary. Only a fraction of this amount is paid to them as wages.

With the passage of time, the number of prisoners, released on parole is declining. At present, there are only 225 such cases in Punjab, 7 in Sind, 5 in NWFP and 2 in Baluchistan. It is, therefore, suggested that the procedure for release should be simplified, so as to allow a greater numbers of prisoners to be released on parole, for working not just as domestic servants but also in industry, trade and other commercial institutions, in the public and private sector. The terms and conditions of work and the amount of wages may be negotiated with the concerned industry/department. An appropriate amount of such wages should be paid to the working parolees. This will enable the Government to earn some revenue and the parolees to provide subsistence to his/her family members. This will make the prisoner, a productive member of the society and facilitate him/her in rehabilitation.

## **8. Open Jail**

The Establishment of open Jail is a new and innovative concept, meant to reform and rehabilitate the prisoners. This way the prisoners are enabled to get training and learn the skills. By working in such prisons, they also participate in the national development and increase in agricultural output.

Open Jails were established in Badin (Sindh) and Bureawala (Punjab). The later was subsequently closed around 1962. The Badin Jail is still in operation but under-utilized.

Stretching over 2800 acres of land, only five prisoners are employed there under the supervision of 22 members of Jail Staff.

The concept of open jail is very positive and development-oriented. It is quite successfully practised in India. Nearly every State of India has an open jail. In Pakistan, we need to implement this scheme in earnest. It is, therefore, recommended that arrangements should be made for the proper utilization of Open Jail Badin. Similarly, open jails should also be established in other places. To start with, at least one such facility should be immediately established in each province.

## **9. Prison Labour**

Chapter 33 of the Prison Rules 1978 deals with the establishment/management of industrial and commercial centers in jails and to provide the terms and conditions of employment in such centres. Such centers do exist and are functioning in some prisons. Their performance, however, is not appreciable. These centers are very few in numbers and are ill- managed. Some of them do not get the necessary raw material, elsewhere the quality of products are poor because of low quality work, which is partly attributed to lack of trained persons for the job and also due to lack of any incentive for the work, as compensation for the labour is very meager and too inadequate.

The situation was considered by Mr Justice (Retd) Z A Channa's Committee, constituted by the Government of Sindh, which made some useful recommendations for reformation of the system. These recommendations speak of privatization of the existing centers and investment from the private sector for increasing such industrial and commercial centers. The recommendation also provides for proper wages to be negotiated in respect of prisoners employed there and that a substantial part of the same should be paid to the prisoners. This

recommendation should be accepted by the Government. It will enable the Government to earn considerable revenue which will be utilized for bringing further improvements of the jail system. The prisoners will also be able to become productive and help their families. They will acquire skills and experience, needed for employment. It will help in their rehabilitation, on release.

## **10. Award of Punishment by Jail Superintendent**

Chapter 23 of the Jail Manual, classifies the offences committed in prisons by the prisoners and prescribes the procedure for award of punishment. The Jail Superintendent is authorised to award punishment both for minor and some major offences. Such punishment includes the award of whipping and putting bar fetters to the prisoners. These two punishments are inhumane and of degrading nature. There are complaints of abuse of authority and exceeding limits, in the award of punishment by the jail Superintendent. There are also complaints of corruption due to accumulation of vast power in the hands of jail authorities.

The Government have already passed the Abolition of Punishment of Whipping Act 1996 under which whipping has been abolished. It is, therefore, recommended that the relevant prison rules may also be repealed accordingly.

It is further recommended that the punishments of putting bar fetters should also be abolished in all prisons. The same punishment has been abolished by the Government of NWFP through Prison (NWFP) (Amendment) Act 1996 on the recommendation of High Powered Committee, constituted by the NWFP Provincial Assembly. The same has also been recommended by the Mr Justice (Retd) Z A Channa's Committee, constituted by the Government of Sindh.

With a view to check the abuse/misuse of authority by jail superintendent, it is appropriate that an appellate authority is prescribed for the purpose of reviewing the orders of jail superintendent. Such an authority may be within the hierarchy of jail authorities. It is recommended that the prisoner should have a right of appeal against a major penalty to the Inspector-General, Prison whose order shall be final.

## **11. Remission System**

The facility of remission is available to every convicted prisoner. Rules 199 to 223 of the Pakistan Prison Rules 1978, cover the subject. Under Rule 216, the following special remission schedule is provided:-

1-	Federal Government	60 days in a year
2-	Provincial Government	-do-
3-	Home Secretary	-do-
4-	IG Prison	-do-
5-	Jail Superintendent	30 days in a year

Under Rule 204, ordinary remission is allowed as under:-

1-	Labour in prisons industry	3 days in a month
2-	Labour in any other capacity	8 days in a month
3-	Labour as a sweeper	8 days in a month
4-	Under Rule 211 for	

	General behaviour	15 days in a year
5-	Under Rule 215 for Blood donation	15 days (per donation)
6-	Under Rule 213 for Surgical sterilisation	30 days

Rule 215 deals with educational remissions which is given as per the following scale:-

- |     |  |          |
|-----|--|----------|
| (a) | For prisoners undergoing substantive sentence upto 2 years                                   | 2 months |
| (b) | For prisoners undergoing substantive sentence exceeding two years but not exceeding 6 years. | 3 months |
| (c) | For prisoners undergoing substantive sentence exceeding 6 years but not exceeding 10 years.  | 4 months |
| (d) | For prisoners undergoing substantive sentence exceeding 10 years                             | 6 months |
| (e) | Hifze-Quran  | 2 years  |

Presently, the system of calculating and keeping record of the remissions earned by prisoners is somewhat complex. Many malpractices have been detected by the higher courts in this respect. The system and procedure is open to abuse and misuse. It is, therefore, recommended that Rule 222 should be strictly applied, and all remissions should be entered in the History Ticket. Such

ticket should be in duplicate, with one copy given to the convict. In case of transfer, the ticket must be sent with the prisoner to the other prison.

It is further recommended that the system of granting remission on account of acquiring education and higher qualifications should also be reviewed with a view to allow remission on the basis of certificate/degree awarded. For higher degrees, the period of remission should be greater. Thus, in Chapter 8, Rule 215(ii), a new sub-rule (ii-A) may be added as follows:

(ii-A) For acquiring education against S.No 5 to 9 on Table of Remission, the scale of remission shall be allowed as under:

- |     |  |           |
|-----|--|-----------|
| (a) | for prisoners undergoing substantive sentence upto two years;                                  | 4 months  |
| (b) | for prisoners undergoing substantive sentence exceeding two years but not exceeding six years; | 6 months  |
| (c) | for prisoners undergoing substantive sentence exceeding six years but not exceeding ten years; | 8 months  |
| (d) | for prisoners undergoing substantive sentence exceeding ten years.                             | 12 months |

## **12. Medical Facilities**

Rules 776 to 809 of Pakistan Prison Rules, 1978 deal with the medical treatment. Under Rule 787, in each prison a hospital for the treatment of sick prisoners is required to be established. In

case of illness, the prisoners should be admitted in hospital for proper treatment. Rules also provide for proper medical care and special diet to the patients during their illness.

A number of prisoners made complaints that they were not being provided medicines, even for serious illness. In all prisons, the hospitals are without proper laboratories, equipments and necessary medicines. It is, therefore, recommended that in each prison, proper medical facilities be provided. A qualified medical officer should be appointed with appropriate adequate nursing staff. The medical officer should be provided residence on or near jail premises so as to be available for emergency treatment. In case of serious illness, the patient should be referred to appropriate government or private hospitals for treatment.

It is further recommended that necessary arrangement should also be made for periodic visits of psychologists, Psychiatrists, medical specialists, and sociologists to prisons, so as to help in diagnosing and giving appropriate treatment/medicine to patients.

It is also recommended that for cheap and effective medical treatment, homeopathic dispensaries may also be established in prisons.

Reportedly, approximately one-third of the total prison population consists of addicts, who need detoxification and regular treatment. It is, therefore, recommended that proper treatment for such addicts may also be arranged in jail hospitals or outside, in the public/private hospitals/clinics.

### **13. Under-trial Prisoners**

In all prisons, about two third of jail inmates are under-trial prisoners. It is noticed that most of such under-trial prisoners are languishing in jails due to delays in the disposal of their cases. Delays occur, sometimes, due to non-availability of transport for bringing them to courts. Delays also occur due to late submission of challans, re-investigation by police and remand of cases by superior courts. It is alleged that some under-trial prisoners have already completed the prescribed period of their imprisonment in jails. Accordingly, it is recommended that the system of jail inspection be strengthened so that the judicial officers and judges of high courts regularly visit jails and give on-the-spot instructions regarding the cases of such of under-trial prisoners.

#### **14. Legal Aid/Assistance**

There are often complaints that prisoners do not get any legal aid or assistance. Sometimes it is difficult for them to meet their counsels. Without proper legal aid/assistance, convicts and under-trial prisoners may not get expeditious trial. In this respect, instructions should be issued to jail Superintendents to ensure that prisoners do not have any difficulty in meeting their counsels. Similarly, applications for legal aid/assistance for indigent prisoners should be promptly forwarded to courts.

The Pakistan Bar Council Rules provide for legal aid/assistance to the needy/poor litigants. No adequate institutional arrangements, however, exist for the purpose. It is, therefore, recommended that the Pakistan Bar Council and provincial bar councils should make necessary arrangements for the purpose of setting up legal aid committees. The Government should consider extending to the bar councils, financial assistance for the purpose.

#### **15. Meeting with Relations/Friends**

Rules 552 to 562 of Pakistan Prison Rules 1978, provide for proper facilities so as to enable prisoners to meet their relatives and friends. The conditions of such meeting places are, however, stated to be deplorable. It is recommended that proper facilities, such as fans and chairs, etc should be made available in the meeting halls for the comfort of prisoners and their relatives/friends. Children, accompanied by parents or guardians, may also be allowed to meet their relations in prisons.

Prisoners with good conduct should be granted short term parole to meet their families and help them in tasks such as cultivation/harvesting of crops, etc.

## **16. Jail Visits**

Chapter 38 of the Jail Manual deals with the visit of jail by official and non-official visitors to carry out inspection and to ensure proper compliance with the rules. The present system of such inspection is not effective and there is need for strengthening the mechanism of jail inspection so as to ensure proper compliance with the rules and provision of proper accommodation, food, medical facilities, etc to jail inmates.

It is recommended by the Special Committee for Jail Reforms of the NWFP Provincial Assembly that a food committee may be constituted from amongst the educated and well behaved suitable prisoners to check the meal provided to the prisoners. The recommendations of the said Committee may be adopted by all the provinces.

Similarly, a Committee consisting of public representatives, retired government officials, members of the bar associations, journalists, members of the NGOs and social workers may be constituted to visit and inspect jails and ensure compliance with the Jail Manual.

It is further recommended, that as per the Jail Manual, the executive and judicial authorities responsible for periodic inspections of jails should be asked to carry out such inspections once in a month. Furthermore, each High Court may designate a Judge for the purpose of carrying out such visits/inspections, once every 3 months, so as to ensure that due facilities such as food, medicines and hygienic conditions, are provided to jail inmates. Such Judge may also enquire about the cause of delays of under-trial prisoners and issue necessary instructions for the purpose of expeditious disposal of their cases. Such official visits must be regularly undertaken on specially designated and notified dates. Such officers should also undertake surprise visits to jails.

## **17. Prison Staff**

The above mentioned prison reforms may not achieve its desired goals, unless the prison staff is given proper training and motivation. Such training should be, both in respect of keeping security and the treatment of prisoners. The services of Central Jail Training Institute, Lahore should be fully utilised for the purpose. If need be, prison staff may also be sent to other institutions for getting training in the relevant laws/rules and better management techniques. In this respect, the Government may approach the relevant national/international organisations for technical and financial assistance. The government may further make arrangements for approaching the philanthropists, NGOs and social workers to provide donation and other assistance, in kind or cash to jail inmates. Such arrangements may be through a properly constituted jail inspection committee consisting of the elected representatives, members of NGO's, bar councils, medical associations, journalists and other social elites of the society.

## **18. Processing Bail Applications**

It was brought to the notice of the Commission that, most of the prisoners, both under-trial and convicted, were ignorant of their right of bail under the law. Such prisoners languish in prisons unnecessarily. There is a need for finding a solution to this problem. It is, therefore, recommended that procedure should be devised for ensuring that the bail petitions of such prisoners are processed and forwarded to the concerned appellate/trial court. This may be done by obliging the Superintendent of Jail to regularly prepare and forward the cases of such prisoners to the appropriate court for the purpose of being released on bail. This will require an amendment to the Jail Manual.

It is, therefore, recommended that in Rule 940 of Chapter 39, after Rule (i) (e), a new clause namely (f) may be added as under:-

- (f) "To prepare and forward to the Government the cases of such prisoners who are entitled to bail by virtue of section 426 (1A) or 497 Cr.P.C."

## **19. Courts on Jail Premises**

The Commission examined the problem of lack of transport for bringing prisoners to courts which is a cause of delay in trial. At times, prisoners cannot be produced in the courts due also to lack of proper security arrangements for the purpose. The Commission was also conscious of the increasing incidents of escapes of prisoners while being carried from one place to another. The transportation of under-trial prisoners, involved in heinous crimes or terrorist activities is also a problem. Such problems are, at times, complicated by the non-availability, in some cities, of judicial lock up facilities. All such factors prevent the quick disposal of cases. After careful consideration of the pros and cons of the issue, the Commission came to the conclusion that one way of resolving the issue is to establish courts on or near jail premises.

The Commission therefore, recommends that the Government may consider establishing courts on or near jail premises. Care, however, should be taken to ensure that such courts are freely accessible. The Government may launch this scheme in some major cities, and if successful, extend it to other areas.

# **Summary of Recommendations**

## **Amendments in Statutes**

1. The punishment of putting bar fetters should be abolished in all prisons.
2. The relevant prison law prescribing the punishment of whipping for jail offences should be repealed so as to comply with the Abolition of Punishment of Whipping Act 1996.
3. With a view to check the abuse of discretionary powers of Superintendent, the prisoner should have a right of appeal against major penalty to Inspector-General, Prison.

## **Amendment in Rules**

1. Prisoners should be allowed to keep a radio (with headphone), wrist watch, books, paper and pen/pencil, without having to obtain any permission.
2. All convicts of Class "C" should be allowed to wear their own clothes instead of jail uniform.
3. The duration of walk time for condemned prisoners should be extended from half an hour to one hour, each in the morning and evening, and the rule pertaining to the use of hand'cuffs, during such walk, may be applied only in respect of terrorists or dangerous criminals.
4. Arrangements should be made for the accommodation, food and education of children, accompanying convict women, outside the jails.

5. Proper security system should be ensured in jails. Closed circuit T.V. equipment should be installed in jail and the staff be given appropriate gadgets for detecting escapes. Such staff must also be given appropriate training for the purpose.
6. The system of granting remission on account of acquiring education and higher qualifications should also be reviewed with a view to allow remission on the basis of certificate/degree awarded. For higher degrees the period of remission should be greater.
7. Arrangements should be made for provision of legal aid to indigent prisoners and to facilitate prisoners in meeting their counsels.
8. Children should also be allowed to meet their relations in prisons.

## **Administrative Action**

1. New prisons should be constructed in the outskirts with proper facilities for prisoners. The conditions of police/judicial lockups should be improved and due facilities, such as fans, benches and toilets should be provided therein.
2. The facilities of out-door games like football, basketball and in-door games should be provided.
3. The number of prisoners in a death cell should be according to the capacity of the cell.

4. Arrangements should be made for the construction of separate prisons for women convicts and juveniles. Proper education and training should be provided to the women prisoners and juvenile offenders.
5. In every jail, facilities should be made available for religious, general as well as vocational/technical education to prisoners.
6. Arrangements should be made for the proper utilization of Open Jail, Badin. Similarly, open jails should also be established in other places. To start with, at least one such facility should be immediately established in each province.
7. Sick industries in jail should be revived and private sector encouraged to establish industrial units in jails. The prisoners should be trained to work in such industry and paid adequate wages.
8. In each prison, a qualified medical officer, nursing staff and essential medicines should be provided. In case of serious illness, the prisoner should be referred to an appropriate hospital for tests/treatment. Periodic visits by consultants, specialists, psychologists, psychiatrists, etc should also be arranged.
9. The medical officer should be provided residence on or near the jail premises so as to ensure his/her availability in emergent cases.
10. Proper treatment for drug addicts should be arranged in jail hospitals or outside, in public/private hospitals/clinics.

11. The system of jail inspection be strengthened so that the judges of high courts and subordinate courts regularly visit jail and give on-the-spot instructions regarding the cases of under-trial prisoners.

12. Proper facilities should be provided in meeting halls so as to facilitate prisoners in meeting their relatives/friends. Prisoners with good conduct may also be released on short parole to meet their families and help them in tasks such as cultivation/harvesting of crops, etc.

13. Instructions should be given to executive and judicial authorities to carry out jail inspections at regular interval.

14. All remissions granted or earned should be recorded on the history ticket. Such ticket must be in duplicate with one copy available with the prisoner. The prisoner should carry the ticket along on transfer to another jail.

15. There is a need for improving the salary structure and service conditions of prison staff. They should be given proper training.

16. For release on short parole, permission should be given by the Director, Reclamation & Probation, after due process.

17. A greater number of prisoners should be released on parole not just for working as domestic servants but also to be employed in trade, industry and other commercial institutions in the public/private sector.

18. With a view to address the problem of lack of transport facilities and security arrangements, the Government may establish courts on or near jail premises for the expeditious disposal of cases.

## **Draft Amendments in Statutes**

An Act further to amend the Prisons Act, 1894.

Whereas it is expedient further to amend for the purpose hereinafter appearing, the recommendations of Pakistan Law Commission on Jail Reforms.

1) Short title and commencement: (1) This Act may be called the Prisons (Amendment) Act, 1997.

(2) It shall come into force at once.

2) Amendment in Sections 46 of the Prisoner Act, 1894: In this Act sub section (7) and (12) of section 46 shall be omitted.

3) After Section 49 of the Prisons Act 1894, a new Section 49 A shall be added:

49 A: Appeal.- The offences falling under major punishments shall be appealed before the Inspector-General, Prisons as prescribed by rules, whose order shall be final.

## Draft Amendments in Prison Rules

In exercise of the powers conferred under section 59 of the Prisons Act (XI of 1894), the Provincial Government is pleased to amend the following Rules as under:

- 1) In Chapter 3, Rule 24, a sub rule (ii) as under shall be inserted:
  - (ii) A convicted prisoner shall be allowed to wear his own clothes.

In Chapter 3, Rule 65 (i), after the words history ticket, the word "duplicate" shall be inserted.

In Chapter 3, Rule 66, in the third line after the words locked almirah the following shall be inserted, "and duplicate copy shall be handed over to the convict.

- 2) In Chapter 4, Rule 75 (i), the following articles shall be included:

Radio with head phone	one
Wrist watch	one
Pen/Pencil	one
Books/Papers	reasonable number/quantity.

- 3) In Chapter 8, Rule 215 (ii), a new sub rule (ii-A) shall be added as under:

(ii-A) For acquiring education against S.No. 5 to 9 on Table of Remission, the scale of remission shall be allowed as under :-

- |     |  |           |
|-----|--|-----------|
| (a) | for prisoners undergoing substantive sentence upto two years.                                  | 4 months  |
| (b) | for prisoners undergoing substantive sentence exceeding two years but not exceeding six years. | 6 months  |
| (c) | for prisoners undergoing substantive sentence exceeding six years but not exceeding ten years. | 8 months  |
| (d) | for prisoners undergoing substantive sentence exceeding ten years.                             | 12 months |
- 4) In Chapter 14, Rule 340, the words half an hour shall be substituted by the words "one hour";  
in sub rule (ii), a proviso shall be added as under :-  
Provided that the use of hand'cuff during the walk shall be applied only in respect of terrorists or dangerous criminals.
- 5) In Rule 434 a third category of patients shall be added namely:  
(iii) drug-addicts.

In Rule 444, sub rule (ii) shall be added as under:-

- (ii) for proper and effective treatment of mental patients, arrangements shall be made for periodic visits by Psychologists, Psychiatrists, Medical Specialists, Sociologists, besides the prison doctor.

- 6) In Chapter 21, Rule 508 at the end, a proviso shall be added as under:
- Provided that a prisoner under sub rule (i) and (ii) may wear personal clothes, if he so desire.
- 7) In Chapter 22, Rule 554, the words "adults" occurred in line 1 and 3 shall be deleted and substituted by the words, "persons".
- 8) In Chapter 23, Rule 584, sub rule (7) shall be omitted.
- 9) In Chapter 23, after Rule 584, a new sub rule 584 A shall be added as under:-
- 584 A (i) An aggrieved person may file appeal within 7 days of the award of punishment;
- (ii) The Appellate Authority shall dispose of the appeal within 7 days of receipt;
- (iii) Pending disposal of appeal, the impugned decision shall be held in abeyance.
- 10) In Chapter 24, Rule 592, a new sub rule 592 (ii) shall be inserted as under :-
- 592 (ii) For effective security system, close circuit T.V. equipment shall be installed in every jail and security staff shall be given special training to handle the gadgets for detecting escapes.
- 11) In Chapter 39, Rule 940, after sub rule (ii) (e), a new sub rule (ii) (f) shall be added as under:-
- (ii) (f) To prepare and forward to the Government the cases of such prisoners who become entitled to bail by virtue of section 426 (1A) or 497 of the Cr.P.C.