

UPON MY WORD: India's prisons are stuck in a time warp

Reading the bar codes

BY CHAITANYA KALBAG



STRANGE HOW time's machine travels back and forth at warp speed. Two hundred and fifty-one years ago, Siraj-ud-Daulah demonstrated what an overcrowded prison can do to human beings with the Black Hole of Calcutta. "Figure to yourself, my friend, if possible, the situation of 146 wretches, exhausted by continual fatigue and action, crammed together in a cube of 18 feet, in a close sultry night, in Bengal, shut up to the eastward and southward (the only quarters from whence air could reach us) by dead walls..." J.Z. Holwell of the East India Company wrote in the Annual Register, 1778. Holwell was one of the 23 survivors. The dead were piled so high, the door wouldn't open when they were finally let out. A year later the Nawab of Bengal was defeated by Clive at Plassey, but that is another story.

Nearly 200 years later, Mary Tyler, an English schoolteacher, met and fell in love with a Naxalite called Amalendu Sen in Germany, came to India, married him, and ended up in the Hazaribagh Central Jail in Bihar, where she spent five years before being released "on grounds of inexperience". Tyler's powerful account of her experience, *My Years in an Indian Prison*, talked matter-of-factly about the inhumanity of the prison system, and the way poorer prisoners are treated because they are poor and, therefore, at the mercy of the system. Once, when a particularly greedy warder is transferred to Patna, Tyler congratulates him on his promotion to where the "top people" are. "What do I want with the top people? It's the poor I get my money from," says the warder.

I'm sure things have come a long way since those days in Hazaribagh, when Tyler was forced to join her fellow prisoners in eating rat's meat: "...it tasted little different from the frogs' legs I had eaten in France, or indeed from rabbit."

Prison reform — now there is an Indian oxymoron — is once again becoming the topic *du jour* in the drawing rooms of the chattering classes. Six inmates at Tihar Jail have died this month, and there is a lot of reportage round and about the causes of their deaths. The time machine took me back to Tihar yesterday, and

I remembered several trips there more than two decades ago — watching Satwant Singh and Kehar Singh in the special courtroom at the prison in the Indira Gandhi assassination case; visiting Billa and Ranga on death row, and noting that those cells were roomier, better lit, and better ventilated than the stinking, crowded barracks I walked past; and keeping tabs on the antics of Charles Sobhraj, who engineered an audacious jail-break after drugging his warders at a birthday party.

Tihar is a huge prison, the biggest in Asia. It sprawls across 400 acres and has ten 'jails' including one in Rohini. Tihar is designed to hold

Delhi, home to the highest court of the land, comes off particularly poorly. It is only fractionally better than Bihar, where 82.8 per cent of prisoners are undertrials. If you drill down into the numbers at Tihar, 92 per cent of the undertrials have been incarcerated for periods of up to two years. The Criminal Procedure Code lays down that if a prisoner has been behind bars for half or more of the maximum sentence his crime attracts, he must be let go by a magistrate on a personal bond even if he cannot afford his bail. Last week the Delhi High Court ordered the release of 623 prisoners who were in 'preventive' custody. In other words, if you

ing and exhaust fans notwithstanding, they are terribly hot. B.K. Gupta, Director-General of Prisons, issued orders for more *nimbu pani* to be dispensed free to the thirsty hordes, but I could see the potential for upset and unrest in spillover areas like verandahs where rows of prisoners lolled restlessly on thin mattresses. Gupta pointed out that unlike prisons in the West, Tihar gives its denizens upwards of nine hours of outdoor freedom every day — except, that is, for the hundred or so high-security terrorists, or the 10 men on death row who include Mohammad Afzal.

Gupta is also very short-staffed. He has only 700 people on his team against a full complement of 1,100. In general, Indian prisons have a ratio of one prison employee to six prisoners. In Britain, they have two employees for every three prisoners. India does not have a Prison Service, except in Andhra Pradesh, and prisons are run by senior police officers who are about to retire and have not the slightest interest in improving things. We spend an average of Rs 50 per prisoner every day, which makes our prison population one of the cheapest in the world. That is possible because prisoners are used for nearly every task inside the high walls — cleaning, cooking, washing, baking bread, making furniture, even making the cardboard files in which their case histories are enclosed.

Do you want to know why things are so bad? Look no further than the Prisons Act of 1894. That's right — our prisons are governed by legislation that was drawn up 113 years ago. Delhi passed its own Prisons Act in 2001, but across the nation, legal experts will tell you that it is high time we had a revised Prison Manual.

Despite its shrubbery, its clean courtyards, the homilies painted on its walls (*Andhera aur ujala dono tumhari aankhon mein*) and its neem and peepul trees, Tihar is still a place you enter with a shudder. Colonel Pradeep Upamanyu, who arrived at the prison last Sunday because, he says, a local politician has wrongly accused him of murder, said the treatment he had received so far was better than when he was fighting on the Siachen glacier. But he was glad he had been bailed out. "It's the walls," he told me. "It's the walls, and knowing you are behind them."



6,250 prisoners, but was crammed with 13,253 on Wednesday morning. The population is going to go up, so six more jails are being built at Mandavali in East Delhi to house another 3,600 'inmates'. Just to put Tihar in context, India has a total of 1,147 prisons, with a capacity of 235,012 prisoners and an actual population of 331,391, which means they are about 40 per cent overpopulated. Tihar has more than twice its capacity. What is going on?

Put simply, as Delhi's Principal Secretary (Home) Shamsher Sherif does, the 'tripod' of the police, the prosecutorial process, and the custodial/correctional process isn't really standing on its three legs. Put even more simply, the system just does not work.

Nearly 11,000 of Tihar's prisoners are 'undertrials', which means they have not been sentenced yet. This is a problem across India, of course, but

are a 'history sheeter' or the neighbourhood lout, the police are within their rights to pick you up and toss you into Tihar merely on suspicion that you might be up to no good.

Many things have changed at Tihar since the 1980s, not forgetting the activist period when Kiran Bedi ran the prison and introduced Vipassana and the beginnings of transactional analysis. Now, the biometrics of every prisoner are logged on a computer, and a fingerprint reader can call up every detail including his photograph, the crime of which he is accused, and the number of times he has been visited. Baggage-screening machines that put our airports to shame herald visitors and home-cooked food twice a week. A canteen dispenses better food if a prisoner can afford it. Computer classes and even MBA courses are possible at a university barrack, and so on.

But the barracks are telling. Ceil-