

Press Note

Rajasthan State Legal Services Authority, has conducted a detailed study on the Open Prison System of Rajasthan and the Parole Practices prevalent in the state. It has been a vision of **Hon'ble Mr. Justice K. S. Jhaveri, Executive Chairman, Rajasthan State Legal Services Authority, Judge Rajasthan High Court**, to understand the unique and successful Open Prison System of Rajasthan. He wanted to improve and expand the open prison system to the other states of the country.

Therefore, Ms. Smita Chakraborty, Independent Researcher (Prison Expert), was appointed the Honorary Prison Commissioner to conduct the study, by Rajasthan State Legal Services Authority-RSLSA under the aegis of Hon'ble Mr. Justice K.S. Jhaveri. Ms. Smita Chakraborty, is a reputed Independent Researcher, specializing on Prison Studies. She, was previously commissioned to inspect all the prisons of Bihar by Hon'ble Mr. Justice V.N. Sinha (now retd.), the Executive Chairman of the Bihar State Legal Services Authority-BLSA. She has conducted a detailed study by inspecting all the 58 prisons of Bihar and submitted her report after speaking to 30070 prisoners. Her report- Prisons of Bihar, was widely acknowledged across the country.

Rajasthan State Legal Services Authority will publish Ms. Smita Chakraborty's report "The Open Prisons of Rajasthan" on the 26th of November, 2017, which is the the National Law Day of India.

The report comes with several recommendations and suggestions by the researcher Ms. Smita Chakraborty, which is endorsed by Hon'ble Mr. Justice K.S. Jhaveri, and Mr. Ajit Singh, Director General of Police of Rajasthan.

Invitation:

You are cordially invited to come to the Mediation Center, Rajasthan State Legal Services Authority. Rajasthan High Court (Old Building Campus).

Date: 27.11.17

Time: 2 PM.

N.B: Annexure.

- i. Please find the Foreword to the report by Hon'ble Mr. Justice K.S. Jhaveri**
- ii. Introduction by Mr. Ajit Singh (IPS- DGP), attached herewith.**
- iii. History of Open Jails- Interview of Mr. R.K. Saxena.**
- iv. Followed by the suggestions of the Researcher.**

Foreword

Open Prisons are prisons without bars. It is a humane system, based on the principle of "Reformative Theory". This system of imprisonment ensures the cherished commitment of the constitution makers to observe the dignity of an individual, be he a free man or a convict. Imprisonment, is the punishment. The objective of incarceration is to have therapeutic impact on the convict, who would later return to the society as a functional and responsible citizen.

A monumental step in the march towards penal humanism is the experiment with "Open Prisons". The expression 'Open Prison', though it appears as a contradiction in terms, reflects the underlined philosophy of creating a microcosm of society for the prisoners, within the penal regime. The fundamental rights of the prisoner do not stand eclipsed under incarceration. Open Prison prevent incarceration of prisoners in closed cells, under unhygienic conditions, which dehumanise the cell and the soul of the convict.

There are different types of Open Prisons in Rajasthan. This report analyses each unique operational model of the open prisons and also elaborates upon the parole practices prevalent in the state. The study also interestingly explores the myth of threat to security or escape of prisoner from "Open Prison", when compared to incidents in traditional closed prison systems. The report highlights on the economic benefits of the Open Prisons. Through a comparative study between an Open Prison and a Closed Prison (i.e. a traditional prison), the report states that the Open Prisons are 78 times cheaper than the closed prisons.

I came to learn about the Open Prisons of Rajasthan, only after joining the Rajasthan High Court, and was intrigued by the unique prison system of the state. I thank my brother judge, Hon'ble Mr. Justice Kanwaljit Singh Ahluwalia, Judge Rajasthan High Court, for sending me the proposal of Ms. Smita Chakraborty, who wanted to conduct a detailed study of the Open Prisons System and the Parole Practices of Rajasthan.

Ms. Smita Chakraborty, is a reputed Independent Researcher, specializing on Prison Studies. She, was previously commissioned to inspect all the prisons of Bihar by Hon'ble Mr. Justice V.N. Sinha (now ret'd.), the Executive Chairman of the Bihar State Legal Services Authority-BLSA. She has thus conducted a detailed study by inspecting all the 58 prisons of Bihar and submitted her report after speaking to 30070 prisoners. Her report- Prisons of Bihar, was widely acknowledged across the country.

Rajasthan State Legal Services Authority-RSLSA, appointed Ms. Chakraborty, as the Honorary Prison Commissioner, to conduct an in-depth study of the Open Prison System and the Parole Practices of the state. Ms. Chakraborty, is the author of this report. She has made valuable suggestions about expanding open prison system and also improving the parole practices prevalent in the state.

I thank brother judge Hon'ble Mr. Justice Joymalya Bagchi, Judge Calcutta High Court, for his valuable support. He has examined, scrutinized and endorsed the suggestions made by Ms. Chakraborty in this report.

I thank Mr. Ajit Singh IPS, Director General of Police, Former Director General of Prisons of Rajasthan, for proactively supporting and guiding Ms. Chakraborty, in conducting the study across the state. This work would not be possible without his active interest and participation.

I thank Mr. R.K. Saxena (ret'd.), Inspector General of Prisons of Rajasthan and the Director of the Mulla Committee, for his valuable inputs regarding the back ground and history of the

Open Prison System of Rajasthan. His contribution to the Open Prison System of Rajasthan remain unparalleled. I thank him for examining and endorsing, the suggestions made by Ms. Chakraborty.

I want to thank Mr. S.K. Jain, Member Secretary, Rajasthan State Legal Services Authority to facilitate and co-ordinate the open prison study.

I also thank Ms. Rohini Nelakani, (Rohini Nelakani Philanthropies-RNP), for supporting Smita Chakraborty, with a grant which looked into her personal expenses and professional remunerations.

Finally, I would like to add that Open Prisons are hope for the prisoners. It encourages reform in the inmate and leads to social reintegration of the prisoner. Rajasthan Open Prison System is successful model, operational since 1955. Open Prisons reduces the burden on the exchequer. It reduces over-crowding in prisons and leads to strengthening of the social fabric, by mainstreaming the estranged individual who is in conflict with the law. The system also reduces the stress on administration which is in the interest of all concerned. Thus in public interest, it is earnestly submitted, that the Open Prison System of Rajasthan be emulated across the country.

Hon'ble Mr. Justice K.S. Jhaveri
Executive Chairman, Rajasthan State
Legal Services Authority
Judge, Rajasthan High Court.

Introduction

(Endorsements)

As a police officer, my job required me to deal with crime from close proximity. During investigations going through a maze of clues and tips, one has learnt to view things with a certain amount of suspicion. My stint with the Prison Department, however, exposed me to the different facet of the same world. The world inside the prison is different from what it is perceived to be from outside.

Contrary to common belief prisoners are not a homogenous group of violent and hardened criminals. To understand a prisoner, it is important to learn about his family, the circumstances of the offence, whether the offence was planned, accidental, whether committed by a onetime offender or by a hardened habitual offender. A prison official, besides ensuring safe custody of the prisoners is expected to take care of the prisoners' welfare by ensuring proper health care, sanitation, food, accommodation, legal aid and address issues of parole, premature release and shifting to open prisons.

Success of the prison administration lay in evolving a system where the inmates live with minimum resentment towards their surroundings. There was an occasion in the Open Prison of Sanganer, where the prison officials had to get the inmates, who had completed their term, evicted from the prison premises.

The Open Prison System started in Rajasthan in 1955, with an open camp at Durgapura Agricultural Farm. Based on the Gandhian principle of innate goodness of man, it was a radical step towards prison reform and humanization of the prison system. Some states have emulated the open prison system of Rajasthan. But none have gone to the lengths which the Rajasthan Open Prison system has, in placing trust in the inmates, in the extent of freedom and liberty provided to the inmates.

In the Open Prisons of Rajasthan, the prisoners stay with their families. They earn a living to support themselves and for doing so they are allowed to go outside the prison during the day. Living with the family provides the inmate with emotional and social support and earning a livelihood, re-instills a sense of self worth in them. The movement outside the confines of the prison coupled with free interaction within the society, helps break social inhibitions on the part of the prisoner and remove the reservations towards the prisoners, on the part of the member of the society.

Those unfamiliar with the system, may presume that such a system would give rise to prison escapes. The data, however, does not corroborate this fear. There is a general acceptance of the Open Prison Rules among the prisoners. A prisoner allowed the extent of liberty that comes with being in an Open Prison would not normally want to loose it and be a fugitive again. Escape would imply re-arrest and then face life back in confinement of a traditional prison. Thus prison escapes are rare when it comes to Open Prison.

A detailed study of the Open Prison System in Rajasthan was essential, to set at rest the misgivings about it in the minds of many about prisoners. Thus, when Smita Chakraborty proposed to conduct the study I willingly agreed. Having seen her credentials Hon'ble Mr. Justice K.S. Jhaveri, Executive Chairman of the Rajasthan State Legal Services Authority, appointed her as the Honorary Prison Commissioner to study the Open Prisons in the state.

Smita Chakraborty, is a reputed researcher specializing in Prison Studies. Prior to this work she has conducted a detailed study of all the 58 prisons of Bihar, personally meeting and interviewing 30070 prisoners (on record). Her Bihar Prison report has been widely acknowledged and the Hon'ble Supreme Court, has desired similar prison inspection be done in other states in the ongoing judgment of "*Re-Inhuman Conditions in 1382 prisons*", order dated 15.09.17.

For the present work Ms. Chakraborty has travelled across the state in the scorching heat of Rajasthan and interviewed 428 prisoners who stay in the Open Prisons. These interviews were conducted in the open fields, under the shade of a tree- as in most of the Open Prisons even office space was scarce. I acknowledge and appreciate her grit and dedication. It is also pleasing to see the openness with which the prisoners confided in her.

In her report Ms. Chakraborty, has also dealt upon issues relating to parole practices, bond amounts and the need for guarantors. The recommendation in the report need to be examined and deliberated upon. Open Prisons, are a solution to some of problems in our prison system. It is a humane system and it does not place burden on the exchequer. In my opinion such a system needs to be encouraged and expanded across the country.

Ajit Singh IPS
Director General of Police
Former Director General Prison.
Rajasthan

Researchers Note

I was appointed the Honorary Prison Commissioner, by Hon'ble Mr. Justice K.S. Jhaveri, Executive Chairman Rajasthan State Legal Services Authority, Judge Rajasthan High Court, to study the Open Prison System and the Parole Practices of Rajasthan. The Open Prisons of Rajasthan are called "Open Camps", because there is no element of confinement in this system. On my 1st visit to Sanganer Open Prison, where about 400 convicted prisoners live with their families, it felt like entering a village where the prisoner community reside.

The study started in the month of April 2017 and continued till November 2017. In the 7 months, I visited 15 Open Prisons spread across the state and interviewed of 428 prisoners to understand their life in these prisons. The report elaborates on the different operational models of the open prisons and expounds on parole related issues.

Open Prisons System of Rajasthan fall among the best prison practices in the country. It is cost effective, it leads to social reintegration of the prisoners, it leads to reduction in prison overcrowding, rate of recidivism is negligible under this system and most importantly it is a humane system, which upholds the right to life and dignity of the prisoner. A comparative study between the Jaipur Central Jail and the Sanganer Open Prison show, that the open prison is 78 times cheaper than the closed prison. Thus the Open Prisons system benefit both the prisoner and the Administration.

It is unfortunate that such a unique and successful open prison system has not expanded to the other states of the country and has been subjected to political neglect in its home state. The Rajasthan Open Prison model and parole system should be expanded and implemented across the country. There are thousands of prisoners languishing in closed prisons of Rajasthan, who are eligible for stay in open prison. But the prisoners could not be shifted to the open prison, due to non-availability of seats. The report recommends, building of a minimum of 2 open prison in each district of the state of Rajasthan. Infact, the open prisons should be expanded across the country. Perhaps, the best possible solution to the problems that presently plague the prison system of the country, would be to set up a minimum of 2 open prison in each district of the country. Which means 1200 open prisons spread across 600 districts.

Vote of Thanks:

I would like to thank Justice. K. S. Jhaveri, for providing me with the opportunity to conduct a detailed study of the Open Prisons of Rajasthan. The study has happened under his leadership. His initiation and enthusiasm has been the leading force which steered the work.

I thank Hon'ble Mr. Justice Kanwaljit Singh Ahluwalia, Judge Rajasthan High Court, for initiating the study. The study would not have happened without his initial patronage.

I thank Hon'ble Mr. Justice Joymalya Bagchi, Judge Calcutta High Court, for his guidance. I thank him for critically examining the suggestions on the legal framework and for vetting them. His pointed questions helped strengthen my arguments.

I would like to thank Mr. Ajit Singh, Director General Police (Former Director General Prison). He invited me to Rajasthan and has supported me through out the work. We have brainstormed

and debated for hours looking for the suggestion and solutions. I have never met a D.G. Prison, so deeply attached to welfare of the prisoners.

I would like to thank Mr. R.K. Saxena. It was an honour to know him and hear his views. I remain indebted to him for endorsing my suggestions.

I thank Ms. Rohini Nelakani, for financially supporting me through a grant made by Rohini Nilekani Philanthropies [RNP]. The grant took care of my remuneration, which acted as a great support.

I thank Mr. S. K. Jain, Member Secretary of the Rajasthan State Legal Services Authority. He co-ordinated with the prison department and facilitated my work. He was always, only a phone call away which was a tremendous support.

I thank all the prisoners for their time and patience. They helped me understand the open prison system in details. The study would not be possible without their cooperation and support.

Lastly, I would like to thank Subhash Chand Moond (Belt Number: 2314). He was my driver. He drove me across the state and visited all the prisons with me. Though his work was to only drive my car, but at times he acted as my interpreter and assistant. We were working under extreme weather conditions, amidst the dry heat of the Rajasthan summer. He went out of his way, to see that I am properly hydrated and fed. I would not be able to function without his constant presence.

Smita Chakraborty

Independent Researcher

An interview with R. K. Saxena

The History of Open Prisons in Rajasthan- How it all began.

In the past century groups of prisoners used to be taken out of prison and made to work in open areas in order to extract hard physical labour from them. Prisoners were kept under chains and bar fetters while working outside prison. Meaningless hard labour such as breaking stones under the sun or digging up of barren land, was inflicted on chained prisoners. Menial labour extracted under sub-human conditions leads to extreme exhaustion and psychological subjugation. Such hard labour was inflicted on chained prisoners as a form of punishment, to torture them and to hurt their dignity. Later, chained prisoners were used for the construction work of roads and canals but no wages were paid to the prisoner for such work.

In 1877 the 1st Prison Discipline Committee was constituted and the committee said that prisoners should not be subjected to menial and meaningless labour. It was the 1st Indian Jail Committee, that touched upon extramural gangs but they didn't touch upon the concept of Open Prison. The practice of taking out prisoners from prison and making them work was also practiced by feudal lords and jagirdars. But prisoners used as bonded labour were treated as slaves. Labour was utilized as cheap rather unpaid labour, extracted out of chained prisoners.

Sitarganj in Uttar Pradesh, had the 1st Open Prison. But in reality it cannot be called an Open Prison because prisoners were kept in an isolated location, away from any township or village. The Sitarganj Open Prison was established in a difficult terrain at the foot hills of Himalayas, near Nainital. Prisoners were scared to venture out of the open prison because the surrounding area was full of wild animals with no human settlement near by. In Sitarganj Open Prison, the prisoners did not have any choice of work. They were forced to break soft stone and other types of minor mineral for the cement industry.

The prisoners were in a sense gifted as cheap workers to corporate bodies. The Industries accepted prisoners because they came as cheap labour, prisoners had to maintain a code of conduct prescribed by the prison department, thus had to be obedient and not strike or ask for a pay hike. In Sitarganj, prisoners were made to stay in small residential hutments constructed by the prison department and they were made to break stones and clear forest land. Prisoners were not allowed to stay with their family in the Sitarganj open prison. The only difference was that prisoners were allowed to stay in segregation for a short period of time with their family/ wife every year. However, the wife's visit had a negative connotation attached to it because the visit was seen purely as a conjugal visit and prisoners were later shamed for it.

1st Rajasthan Jail Reform Committee was set up in Rajasthan in 1962-63. It submitted its report in 1965. The concept of Open Prison came in from the jail officials. The jail officials said that there is an Open Prison in UP, we will want to have something better in Rajasthan. Mr. R.K. Saxena was one among these officials. In 1963 he was the 1st direct recruit in Rajasthan State Jail Services, so whenever there was any committee or any meeting that happened, he was made a part of it. Open Prisons happened not as a part of rules and regulations. It was initially a practice which was later converted into rules. The Open Prison Rules were drafted in the year 1970-72. R.K. Saxena was then the Jail Superintendent of Ajmer-Model Prison. He formulated the rules and then it was vetted by some of the jail superintendents of other central jails such as by the central jails of Jodhpur and Jaipur and one DIG Head Quarters and the then I G Prison Mr. AS Ranawat.

Rajasthan Open prisons were different from the UP Open Prison. The Rajasthan Open Prisons were really open in the true sense of the term. The 1st Open Prison in Rajasthan was set up in Durgapura near Jaipur City, around 1954-55. Prisoners were allowed to stay with family members. Prisoners were allowed choice of work. In Durgapura open Prison they were allowed to work in the agricultural farm and/or they could do any other work of their choice.

When the Rajasthan Open prison system was conceptualized, some social factors were kept in mind. In Rajasthan there was practice of "nata-pratha". According to which, if the wife or the husband knows that the other will not return within the next three years, then they had the right to remarry. Prisoners with long sentences gradually got estranged from their marital partners. This led to the disintegration of the prisoner families and the prisoner children suffered the consequences of the parent's incarceration. It was observed that during the initial years of imprisonment prisoner families came to meet them but over the years they stopped coming. Thus jail officials/ probation officers or the welfare officers were made to write letters to the prisoners families, asking them to meet the prisoner while s/he stays in closed prison. Thus when open prison system was conceptualized, prisoners staying with their families in the campus was a primary rule.

Again, if the purpose of incarceration is to prepare an inmate for social re-integration and social readjustment it would be wrong to cut him off from the society for long. One of the prerequisites of social reintegration is the continued interaction between the prisoner and the society. There are two ways of maintaining the social interaction: i. By allowing the society to come inside prisons and ii. By allowing prisoners to go outside prison. This was to be done intermittently and regularly. Open Prison provided for this social interaction between the prisoner and the society, which play a vital role in the social reintegration of the prisoner.

Again, it was essential to provide the prisoner with work of choice, so that s/he could pursue a vocation after release from prison. Thus in the Open Prison System of Rajasthan we had stressed on allowing prisoners with work of choice so that s/he could support their family during incarceration and continue to do so after going out of prison.

Mr. Saxena recollects, that there was resistance from the Sanganer community at the time the Sanganer Open Prison was set up. The Open Prison initially housed 32-33 prisoners and the entire community objected to the idea. They made a complaint to the Govt. that why murders were being placed amidst peace loving people. So the community of people were asked to come inside prison, to meet inmates. That way the taboo was broken. The demonization of prisoners was stopped. At that time there was a prisoner who was a homeopathic doctor and people from the locality would come to get treated by him. Prisoners set up fast food stalls and some prisoners would also go out to teach as tutors.

The camps were not protected by guards it was run by the prisoner panchayat. There were no guards because the Open Prison System was built on the principle of self discipline. The Open Prison was built after the thought that the prisoners will not be merely released from the close prison but will be re-integrated within the society. There was no governance rather self discipline was encouraged. Prisoners had to take up responsibility of their family, that way they were to become responsible citizens. The Open Prison System would make the prisoners responsible, responsive and self sufficient individuals. Open Prison System was planned in such a way that prisoners were made to value community living.

In the beginning it was often asked -wouldn't the prisoner run away from the Open Camp? To which the answer would be that closed prison or the traditional prisons are high security prisons, yet prisoners escape, but that doesn't prompt anyone to shut them down. Prisoners staying in Open Prison knew that escaping from the Open Camp would mean if s/he were rearrested by the police, they would be sent back to the closed prison. The fear of losing liberty which the prisoner got from staying in Open Prison prevented them from escaping. Prisoners allowed to stay in Open Prisons had maintained a fairly good conduct while staying in closed prison-no matter what be his/her offence was. Thus it was rare that a prisoner would escape from an Open Prison. The liberty he got for being allowed to stay in Open Prison was hard earned, which one would not want to lose.

There were a few escapes in the initial phase of the Open Prisons and such escapes continue to happen till date. Though the number of people escaping from Open Prison is negligible, but reason behind escapes are similar. The escapes are mostly because of rare weak emotional moments. After an escape took place, it was often found that there was either a sudden death in the family, or a shocking incident which left the prisoner emotionally rattled. Such escapes can also be prevented if the prison officials are careful and tackle the situation with sensitivity.

Open Prison is also a prison and a prisoner is under obligation to return to the prison in the evening within a set frame of time. The prisoner cannot go home at will even from an Open Prison. The prisoner has to ask for parole and only when s/he has been granted parole can the prisoner go home. The parole process is time consuming. Thus in a moment of an emotional crisis for the prisoner it is best if the Jail Superintendent steps in and aids his parole procedure by granting an emergency parole. But for the Superintendent to remain updated about each prisoner's personal condition is a task of patience, faith and bonding. Which is why Open Prison should not have more than 200 prisoners in a single campus. More number of prisoners make it difficult to understand individuals, their needs and their personality types.

A convicted prisoner is not a written off person from the society. The convicted prisoner who has been sentenced to 10-20yrs of imprisonment has to then return to the society. It is the duty and obligation of the jail functionaries to return the inmate to the society as a functional responsible individual. This is unfortunately not trained or taught to the prison officials. Prison officials when put on duty in an Open Prison, get exposed to the life and family of the prisoner. When the staff/official return on duty of the closed prison after a few months, s/he comes with a change in perspective. Open prison has deep sociological and psychological impact on both the prisoner and the prison institution. Open Prison system must be encouraged. It humanizes the prison system as a whole.

About Mr. RK Saxena:

Former Lecturer in Psychology at Agra University College. 1st Direct recruited through Rajasthan Public Service Commission as Deputy Superintendent of Jails and posted in the year 1963. He rose to the position of Inspector General of Prisons Rajasthan. In the later years he was taken up as Director in the All India jail Reforms Committee, popularly known as Justice Mulla Committee. He is a civil rights activist.

Suggestions on Open Prison

1. **Open Prisons are not resource intensive and is cost effective.** Thus it is suggested that more Open Prisons be created across the state to decrease the burden on the exchequer of the state. (According to comparative data between Jaipur Central Prison and Sanganer Open Prison).
 - i. Open Prison requires only **1 prison staff per 80 prisoners.**
 - ii. Open Prisons are **78 times cheaper** than closed prison.
 - iii. Cost per prisoner in Jaipur Central prison **INR 7,094/- per month**
 - iv. Cost per prisoner in Sanganer Open Prison is **INR 500/- per month**
2. **Construction of a minimum of minimum 2 new Open Prison in every district.**
 - Open Prison can be constructed anywhere. It does not require huge campus area. Every closed prison can have an Open Prison built immediately next to its **boundary wall**. Eg: **Alwar Open Prison**, where a cluster of small quarters are built immediately outside the boundary wall of the closed prison.
 - It can be built as a **prisoner village** like that of **Sanganer Open Prison**.
 - It can be built as a **housing complex** with each building of 3-4 story. A prisoner family can be accommodated in 300 sq. ft flats.
 - Open Jails can also be constructed in remote areas where a **cluster of clay huts** can be built on agricultural land or forest area Eg: **Jyetsar Open Prison**. Prisoners be involved in agricultural work or forest preservation work
 - Open Prisons can be made inside university campuses, where prisoners stay with their family and work inside the campus Eg: **Bikaner CRC**.
3. **More prisoners to be kept in Open Prisons. Prisoners eligible for stay in Open Prison should not be restricted to Convicted prisoners but extended to Under Trial Prisoners too.** Open Prison is an experiment on minimal restraint. The idea of minimal restraint be extended to Under Trial Prisoners and be accepted as a principle thought. The finer details of implementation may be worked out once there is agreement on the principle thought.

Open prisons are prisons without bars. It is a trust based system built on the principle of self governance and self discipline, which is rehabilitative in nature. If this system is encouraged and expanded across the country then it has the potential to not only change the prison system but also have a significant impact on crime, recidivism, and eventually help eradicate retributive form of punishment.

Previously, more often than not harsh restrictions used to be put on prisoners eg: bar fretters and solitary confinement (till they were declared unconstitutional), not because they were pre-eminently necessary to maintain order and ensure security in jails. But from vague and unfounded perceptions of jail break and that the prisoner will pose a threat to society in general.

The Open Jail experiment would give an opportunity in making a graded and progressive response to the extent of restraint and surveillance necessary to contain prisoners in an inclusive society. Or in other words prisoners may, ordinarily in the 1st instance be kept in Open Jails and only and only if they show tendencies of violence or jail break, they maybe then be confined to more restrictive regimes of closed jails systems.

The case for Under Trial Prisoners (UTP) stand on a better footing than convicts, as they are mere suspects who are incarcerated pending investigation/trial. In friction of restrictions on UTP therefore ought to be kept at a bare minimum so that a fine balance maybe struck between the fundamental right to liberty, presumption of innocence on the one hand and the requirement of fair and just investigation, protective rights and security of the victim and public interest on the other hand. This goal can be best achieved in an open jail scenario as the very idea of staying under minimal restriction regime would have the least impact on the basic human rights of under trials.

Presently only convicted prisoners are kept in Open Prisons. It is a common practice and belief that if under trials are sent to Open prison then they will escape. However, prior to the set up of Open Prisons it was common belief and practice of keeping prisoners under severe restraint, the use of bar fretters and chains was prevalent. It was believed that if the prisoners are unchained then they will get violent and kill each other or will escape from prison. There after when Open prisons were started it was observed that prisoners didn't escape even when they were kept in the open without any security barricade.

Similarly, even if accused persons are aware of the possibility of being shifted to Open Prison, then there is a possibility of decrease in the number of absconding persons. There will also be a sense of relief and justice among the under trial prisoners that even if bail is not granted (which would be the 1st priority), atleast liberty would not remain throttled.

Again, if the argument be accepted that Convicted prisoners are eligible for shifting to Open Prison depending on their conduct/ behavior, during their long incarceration period. Then it must be acknowledged that a huge population of UTP also undergo prolonged incarceration due to lengthy trials. Thus both convicted prisoners and UTP should be considered for stay in Open Prison.

Under the immediate context types of Under Trial Prisoners (UTP) recommended for stay in Open Prisons:

- 1. Woman UTP should be considered for stay in Open Prison to sustain ties with family and children:**
 - i. Pregnant Woman Prisoners
 - ii. Woman with young children
 - iii. Woman with disability
 - iv. Aged prisoner
- 2. Aged and physically infirm prisoners (male/ female) be allowed to stay in Open Prison so that they can avail the care and support of their family members.**
- 3. Nature of offence:**
 - i. Onetime offence.
 - ii. Accidental offence.
 - iii. Petty Offence
 - iv. Low risk prisoner. As in someone who hasn't shown any violent trait while staying in prison as an UTP.

4. **Accused persons who have surrendered** in court or police station and courted imprisonment.
5. **Cases of prisoners undergoing Extradition requests.** In cases of persons undergoing extradition trial in countries India has signed extradition treaty with the suggestion of keeping the accused in Open Prison. (In a recent case UK rejected 2 extradition cases due to poor conditions prevalent in Indian prisons).
4. **Equal pay for equal work:** Prisoners face an endemic problem of being paid lower wages compared to other workers for the same work. Be it in a "*gaushala*" or an "*agricultural farm*", the pay/ wages situation remain the same. The reason for paying the prisoner less as per some members of the institution hosting institutions is that, since they are providing housing to the prisoners thus they pay them less. This however seems to be a logic from misplaced understanding.

A prisoner has to stay in the Open Prison because of legal compulsions. Imprisonment is imposed by the law which the prisoner is under obligation to abide by. To deduct rent from for stay in a prison from the wages paid to the prisoner not an acceptable practice as it translates into exploitation. It is suggested that the prisoners be paid equal wages for equal work that the institution pays to private workers. And in case the institution only gets the work done by prisoners then they should maintain standard sector rate for wages of prisoners, which should not be below the minimum wages standardized by government.

5. **Access to Legal Aid:** Though presently only convicted prisoners stay in Open Prisons yet there is much requirement for legal services even in Open Prisons. At times problem arise related to parole rejection, higher bond amount, transfer to another state or another district and similar such issues, when the prisoner has to take legal recourse. Thus it is suggested that Legal Aid Clinics be set up even in Open Prisons.
6. **Access to health facilities.** Health camps should be arranged in Open Prisons.
7. **The prison department should ensure that prisoners be protected against discrimination.** Prisoners often face discrimination when it comes to work and remuneration. Also, the prison Superintendent should speak to employers and negotiate work shift timings because prisoners have to return to prison before the evening roll-call.
8. **Prisoners be allowed their choice of work.** Thus they should be kept in Open Prisons in areas where there are avenues to utilize their skills.
9. **Prisoners be kept in home district.**

Suggestions on the Parole System

1. Bond amount should be reduced. Personal bonds should be encouraged instead of guarantors and steep bond amounts.
2. Bond amount may be restricted only to the 1st parole. Thereafter the other paroles should follow based on personal bonds till any negative report is obtained against the prisoner.
3. The 2nd parole onwards prisoner can be granted parole on personal bond without needing a guarantor.
4. Guarantors also should be restricted to the 1st parole. From the 2nd parole onwards the conduct of the prisoner obtained from social welfare department maybe considered sufficient.
5. Prisoners from other state should be also allowed to have guarantors form their home state for the 1st parole.
6. From the 2nd parole onwards prisoners from other states too should be granted parole based on personal bond.
7. From the 2nd parole onwards i.e. for consecutive paroles, routine police clearance/report may be avoided. The police report may be replaced with conduct certificates issued by the Social Welfare Departments.
8. For consecutive paroles the District Administration should inform the Social Welfare Department about the prisoner visiting the area while s/he is on parole. The Social Welfare Department may then engage the prisoner in community service for a few days.
9. The Social Welfare Department should then furnish certificate/ report of conduct for the prisoner based on the community service s/he engaged in. This certificate of conduct issued from the Social Welfare Department should determine the grant of the next parole for the prisoner. Thus instead of Police Report the Social Welfare Department Report perhaps should be of more significance.
10. Prisoner should be encouraged and facilitated to earn parole through Community Service. Perhaps the prisoner can do one or two day of community service in his home town or village while s/he is out on parole. Community service will act as a certificate of good conduct thus making him/her eligible for the next parole. And the community service will also encourage social reintegration of the prisoner in his home town.
11. Police should update their reports and conduct inquiry in recent addresses in case the previous address of the prisoner has changed.
12. In case of prisoners from other states when police reports are called from Other States- Police Officials of the other state should be sent a copy of the Rajasthan Open Prison Rules and the Rajasthan Parole Rules, for developing a better understanding of the purpose of their reporting.

13. The Rajasthan Police officials should be sufficiently trained and informed about the principles of Correctional and Open Prisons facility existing in the state. The Police Officials should bear in mind that they should not judge the prisoner through previous police records. The prisoner is already undergoing a sentence after being convicted by the court of law. Thus the prisoner should be evaluated through his/her present circumstances and actions.
14. Prisoners are eligible for parole after completion of 11 months from the last availed parole. This parole should be proactively offered to the prisoners, instead the prisoners approaching the department. For this the parole committee should meet atleast weekly and track the periodic parole eligibility of the prisoner. Perhaps a digital parole calender should be maintained.