CHAPTER I
INTRODUCTION

1.1 Introduction

Prison administration in India is coping up with number of problems since many years i.e. the problems of overcrowding, congestion, increasing proportion of undertrial prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners, lack of health and hygienic facilities, insufficient food and clothing, lack of classification and correctional methods, inefficient vocational training, indifference attitude of jail staff, torture and ill-treatment, insufficient communication etc. Hence, the state of prisons and lockups is a known cause for grave concern.

Undertrials is one of the category of jail inmates that has been found responsible as one of the important factor behind overcrowding in the jails. They form a major portion of prison inmates among various types of prisoners. These voiceless people remain in prison pending trial which may or may not lead to conviction. The purpose of keeping undertrials in the custody is to ensure fair trial so that they cannot be in a position to influence or induce the witnesses. Long detention of the undertrials amounts to violation of human rights. Further this unnecessary detention of undertrials causes a number of problems to the other prisoners and to the prison organization as well as discussed above.

“A huge majority of under-trial prisoners are poor. They are denied bail for want of monetary security and thus trials take years. Usually, they have no lawyers, live in pathetic conditions, they do not have access to adequate medical care, and are likely to be tortured or exploited. The legal aid lawyers and prison officials are also unaware of the existing legal standards many times. The system fails the prisoners at every turn and often times the agencies blame each other for non-performance and unaccountability”\(^1\).

Delay in trial of cases is the paramount human rights issue of undertrials. Though all the mechanism, laws and procedures to protect the rights of the prisoners are there i.e.

speedy trial system, free legal aid, Lok adalats, investigating agencies, judicial courts, the social institutions or NGOs (like India Vision Foundation), but the problem of over population of prisons due to rising number of undertrial prisoners is still there in creating the stumbling block towards proper implementation of all those mechanisms, laws and procedures.

1.2 Criminal Justice Administration

The criminal justice administration is a legacy of the British system. It has four sub-systems. Those being the;

Legislature - Parliament
Enforcement - Police
Adjudication - Courts
 Corrections - Prisons

Apart from the Legislation authority, other three are the main functioning agencies for executing the Criminal Justice System in the society. While the police may be organizationally separated from courts and corrections, all other components of criminal justice administration are functionally inter-related. The criminal justice system deals with police, bar, bench and correctional services and hence in aggregative form; all the four sub-systems got a nomenclature of criminal justice administration. However, the success of the Criminal justice system depends on co-ordination among these three wings with one another.

An Indian Penal Code (IPC) defines crime, prescribing appropriate punishments and was adopted in 1860. As a sequel to the IPC, a Code of Criminal Procedure (Cr.p.c) was enacted in 1861 and established the rules to be followed in all stages of investigation, trial and sentencing. This code was repeated and a new code came into effect in 1974. These two codes, along with parts of the Indian Evidence Act, of 1872, form the essence of India’s criminal law.

As far as criminal process in case of present study is concerned, it is seen as a screening process in which each successive stage i.e. investigation, arrest, post arrest-
investigation, enquiry pending investigation, trial, plea, conviction and punishment involves a series of operations to pass the case towards a successful conclusion.

The following Figure shows the three different wings of criminal justice system, dealing with the criminal trials;

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\text{Figure 1.1} \\
\text{Three Wings of Criminal Justice System}
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As per above Figure, the Criminal Justice System keeping centralizing on the present topic consists of three main parts: (1) Police - whose task is to enforce the laws correctly; (2) Courts - to hold a fair criminal trial where the question of guilt is decided with the help of lawyers and witnesses and finally; (3) the Prisons - consisting jails or prisons. In other words, Police department, Courts and Prison administration are the three main pillars on which the Criminal justice system is based upon.

Thus, the first contact of an offender has in the criminal justice system is usually with the police (law enforcement), who investigate a suspected wrongdoing and make an arrest. The courts serve as the venue where disputes are settled and justice is administered. Offenders are then turned forward to the correctional institutions/prisons, from the court system after the accused has been found guilty.

“One of the most neglected aspects of criminal justice system is the ‘delay caused in the disposal of cases’ and ‘detention of the undertrials’ pending trial. The due process model argues that since the criminal justice system rests ultimately upon the decisions and predilections of human beings, errors are abound. Mistakes are made by witnesses, police,
judges, prosecutors, and all other participants in the criminal justice system. Perceptions can be skewed, prejudice and bias can infect the process and evidence can be manufactured or ignored”. India has been witnessing a consistently decrease in the standards of criminal justice administration in last many years.

1.3 Wings of Criminal Justice System Dealing With Undertrials

1.3.1 Police Administration

The Criminal Justice System begins with the police station. The role of police in criminal justice administration in any society is significant because the policeman is the first to arrive on the scene. He applies law in a specific given situation and frames a legal scene on the basis of which the later legal battles are fought by the learned counsels. As an investigating officer, he collects facts, evidence and witnesses and all other materials which materially influence the process of ‘truth searching’ in the establishment of crime as per the Code of Criminal Procedure, as it exists today.

Under the code of Criminal Procedure, as it exists today, the investigation of all criminal offenses is by the police. “As per latest figures of National Crime Record Bureau 2013, the sanctioned strength of police force in India is 17.3 lakh against the sanctioned strength of 22.4 lakh of total police force (civil and armed combined), rendering 22.8% posts as vacant. The State of Maharashtra has highest strength of women civil police (20,568 out of 1,00,756) among the States & UTs followed by Tamil Nadu (14,773), Uttar Pradesh (7,404), Rajasthan (5,791) and Punjab (5,020). Nine States and six UTs had strength of less than one thousand”.

There are many persons in the jail against whom charge sheets have not been filed by the police despite expiry of the stipulated period of 60 or 90 days, as per Criminal procedure code. However, they continue to be lodged in the jail because of poverty only. By and large nearly 60 percent of the arrests were either unnecessary or unjustified. To keep such persons in judicial custody, without charge- sheeting amounts to serious violation of human rights.

“It has been revealed in statistics that a total of 51,120 complaints were reported in the country against police personnel during the year 2013. Inquiries were instituted in as many as 15,830 cases. Out of these, departmental inquiries were initiated in 14,928 cases, magisterial inquiries in 247 cases and judicial inquiries in 655 cases. Thus, inquiries were instituted in 30.9% complaints against police”. 4

At several occasions the undertrials are not produced before the courts by the police on the ground of VVIP duty or any other law and order, leading to further delay of trial. As per the present study, on average 56% of undertrials could not be presented before the trial courts. “An affidavit filed by the Punjab Director-General of Police (ADGP Prisons) states that 740 undertrials were not produced in courts on multiple dates, of whom 721 were not produced due to non-availability of police escort. HC asks the Punjab DGP to file an affidavit specifying ‘the reasons as to why such a fundamental right of undertrials is being infringed’. Haryana and Chandigarh have also been issued notice by the court”. 5 “The prime reason behind the non-production of the undertrials is only the non-availability of police officials concerned on a particular day due to some emergent work”. 6

There are instances where poor people are involved in minor and petty offences who are not in a position to engage a lawyer or surety. However, they continue to be lodged in the jail because of poverty only.

In addition to this, many prisoners detained under section 109, 110 and 51, 149 of the Criminal procedure code, languished for months and without any charge being formalized against them; only because the number of cases had to be brought up to the specified figure. Human rights have been violated due to police excesses such as ‘illegal detentions’, ‘fake encounters’, ‘extortion’, ‘torture’, etc. “The highest incidents of human right violations by police was reported in Delhi i.e. 141 cases (79.2% of such cases) followed by Orissa (13 cases), Assam (8 cases), Gujarat (7 cases), Uttar Pradesh (6 cases) and Punjab (1 case)”.

5 The Tribune, Chandigarh, Punjab, 12/04/2015.
6 D.S. Bains, quoted in The Tribune, Chandigarh, 10/01/2012.
7 National Crime Record Bureau, “Crime in India 2013”, p.163.
1.3.2 Judicial Administration

The credibility of judiciary depends upon the delivery of justice to the common man in a speedy, impartially and in an economy manner. The main function of Administration of Criminal Justice is performed by the criminal law courts comprising of magistracy and the Court of Session. The Supreme Court and the High Courts have only appellate jurisdiction in criminal cases. The basic defect of our Criminal justice administration including judiciary seems to be that it is heavily loaded against poor.

The judiciary in India, at present, is over-burdened due to work pressure. Huge backlog of cases in Indian courts is a ‘rising trend’, though either due to the high rate of institution of new cases or due to the highest rate of pendency of old cases in these courts. With the high courts’ fixing minimum disposal rate for trial court judges in view of the huge pendency, judicial officers in district courts are under a lot of pressure given the inadequate infrastructure to decide the minimum required disposals. “As of end 2013, 4.4 million cases were pending in various High Courts. Subordinate courts had nearly five times that number of cases in pendency”.8

The reasons for this over-burdenness of judiciary are huge number of criminal cases pendency, unsatisfactory appointment of judges, unsatisfactory selection of government counsels, imperfect legislation, indiscriminate closure of courts, granting of unnecessary adjournments and additional burden on courts due to election petitions are also adding to case backlog in courts. “There were more than 30 million cases and on other hand just 20,000 judges, right from Chief Justice of India to the last court in the country with their usual vacancies”.9 “As per latest figures under National Crime Record Bureau, 84.8% of Indian Penal Code (IPC) cases remained pending for trial at the end of the year 2013 in various criminal courts whereas the pendency of Special and Local Laws (SLL) cases in courts during the year 2013 was 63.1% as compared to 64.0% in the year 2012”.10 Public prosecutors too are overburdened due to heavy workload of cases and

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10 National Crime Record Bureau, “Crime in India 2013”, p.69, 77.
thus, cannot devote sufficient time to cases in hands. Moreover, the quality work of judiciary gets hampered due to over-burdeness of courts.

The problem of delay in trials is by and large the product of our existing judicial system. The problem of ‘system delay’ is ‘the product of too much court work with a very few number of judicial officers’. “India has about 11 judicial officers per million populations as compared to Australia’s 42 and Canada’s 75; the United Kingdom has 51 and the United States has 107 per million populations”.11

The issue of the huge number of pending and delayed criminal cases came up before the Supreme Court in a petition filed by a non-governmental organization. The Supreme Court in this case observed12;

> It is a matter of common experience that in many cases where the persons are accused of minor offences punishable for not more than three years-or even less-with or without fine, the proceedings are kept pending for years together. If they are poor and helpless, they languish in jails for long periods either because there is no one to bail them out or because there is no one to think of them.

A prisoner, detained in judicial custody is entitled to be tried within a reasonable period of time. Speedy trial is the basic right of the accused, exactly following the saying-‘justice delayed is justice denied’. But there is delay caused due to lack of speedy trial system, ineffective and inefficient working of investigation agencies; judicial process; courts; judicial officers; lack of effective functioning of police, varying jail policies and procedures and ineffective implementation of legal provisions like plea bargaining, legal aid, lok adalat, camp courts etc.

### 1.3.3 Prison Administration

Prison institutions are one of the three main constituents of the criminal justice system. It is known as the ‘tail end’ of Criminal Justice System. In recent times there has been considerable change in social perception towards the prisoners. The prisons are no longer regarded as places for punishment only. They are now being considered as reformatories.

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11 *The Hindu*, Indian newspaper, New Delhi, 11/01/2013.
12 *Common Cause Vs Union of India & Others*, 1996 (4) SCC 33
The jail administration in India is regulated by the *Indian Prison Act of 1894* and the Jail Manuals of various States. Prison and its administration is a State subject as it is covered by item 4 under List II in Schedule VII of the *Constitution of India*. Prison establishments in different States/UTs comprise several tiers of jails. The most common and standard jail institutions which are in existence in the States/UTs are better known as central jails, district jails and sub jails. The other types of jail establishments are women jails, borstal schools, open jails and special jails. “The occupancy rate at the all India level at the end of 2012 was 112.2 percent, which went up to 118.4 percent at the end of 2013, according to Prison Statistics India, 2013. The worst overcrowding was reported in District jails (134.7 percent), followed by Central jails (121.2 percent)”.

Though there are various provisions and guidelines for the general well-being and rights of prisoners, however, there is a wide gap between the theory and practice. The human rights violation is very common in the jails of India and Punjab is not an exception to this. Jails in Punjab are organized, classified and controlled according to *Punjab Jail Manual 1996*. In Punjab jails usually, the number of undertrials is more than the convicts and the position is almost the same in other jails of India also. “The authorized accommodation of jails in Punjab in 2013 is 18,629, however, the total inmate population is 27,449 as on 31-12-2013. Though, the occupancy rate of prison population of Punjab in 2013 has been increased from 133.4 to 147.3 in 2013”. “In 2014, Punjab jails’ population was 25,952 against its authorized capacity of 18,679 consuming 138.96% of total Punjab prison population”.

“The major problems residing the Indian Prison Administration are huge pendency of cases along with the inordinate delay in disposal of criminal cases on one hand and the wide range of conviction in cases involving petty offences on the other, leading to overpopulation in prisons”. “Chhattisgarh has reported the highest overcrowding (261.0%) followed by Delhi (216.8%), Uttar Pradesh (172.0%), Arunachal Pradesh...”

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15 As per the statistics collected by the researcher from the Head Quarter, Punjab Jails, Chandigarh, 15/04/2015.
16 An identical paragraph can be found on page 4 of the Malimath Report available on the Ministry’s website.
(164.3%), Meghalaya (160.4%), Punjab (147.3%), Goa (132.4%), Madhya Pradesh (128.7%), Jharkhand (127.9%), Kerala (119.5%), Himachal Pradesh (118.1%), Rajasthan (116.1%), Maharashtra (111.6%), West Bengal (110.7%), Uttarakhand (107.9%), Karnataka (107.8%), Haryana (104.0%), A & N Islands (103.6%) and Assam (101.9%).

“It is noteworthy here that the maximum overcrowding were reported in district jails (134.7%) followed by central jails (121.2%) in 2013”.  

As far as juveniles are concerned, “as per National Crime Record Bureau (NCRB) figures, Out of total 43,506 juveniles apprehended during 2013 and produced before various courts during 2013. 38,765 juveniles (89.1%) were apprehended under IPC crimes while 4,741 juveniles (10.9%) were apprehended for committing SLL crimes. The percentage of juveniles awaiting trial at the end of 2013 was 27.8% (12,102 out of 43,506). Manipur, Sikkim and Uttarakhand have reported 100% disposal of juveniles apprehended during 2013. 15.2% (6,613) out of the total juveniles apprehended and sent to courts in the country (43,506) were disposed of after advice or admonition, 19.8% (8,599) were placed under care of parents /guardians, 3.9% (1,689) were sent to institutions, 21.9% (9,549) were sent to special homes, 4.0% (1,756) were dealt with fine and 7.4% (3,198) were either acquitted or their cases were otherwise disposed off”.  

“Out of the total juveniles involved in various crimes, 8,392 were illiterate and 13,984 had education up to primary level. These two categories together accounted for 51.9% of the total juveniles arrested during the year 2013. Children living with parents (35,244) have accounted for 81.0% of the total juveniles apprehended. The share of homeless children (2,462) who were involved in various crimes was just 5.7%”.  

“As many as 4,820 of the 4,1192 persons lodged in various jails in the country were reported as mentally ill, accounting for about 1.2 percent”.  

To keep a person in judicial custody, without charge-sheeting, amounts to serious violations of the human rights. There are many undertrial prisoners, whose cases are not progressed beyond the different stages of trial for the past 3-6 years. The another

17 National Crime Record Bureau, “Crime in India 2013”, p.15.  
18 National Crime Record Bureau, “Crime in India 2013”, p.16.  
significant factor connected to problem of increasing number of un-sentenced prisoners, in as much as it relates to conviction rate recorded by courts. It means that out of un-sentenced population in our prisons, a major proportion spend time in prisons without being finally sentenced to punishment or imprisonment. Thus, there is an urgent need to expedite the disposal of cases of under trial prisoners in courts.

“The percentage of undertrial and convicted prisoners in the total prisoners in various jails was reported as 67.6 and 31.5 respectively in the country in 2013. As many as 3,047 undertrials were detained in jails for five years or more. The highest number of such undertrial prisoners was reported from Uttar Pradesh (1914), which accounted for 30 percent; Bihar (464, 15.2 percent); and Punjab (294, 9.6 percent). A total of 9,842 undertrial prisoners were lodged beyond three years and up to five years at the end of 2013. There were 2,679 such undertrial prisoners in Uttar Pradesh followed by Bihar (1,243) and Punjab (1,023)”.

“Regarding Indian prison budget, the sanctioned prison budget for the year 2013-14 (3,74,496.7 lakhs) has increased by 14.3% in comparison to the year 2012-13 (3,27,512.2 lakhs) at All-India level. Highest allocated annual budget has been recorded in Uttar Pradesh (60,883.6 lakhs) during 2013-14 among all the States/UTs, followed by Tamil Nadu (27,236.8 lakhs), Maharashtra (22,656.3 lakhs), West Bengal (22,379.1 lakhs), Andhra Pradesh (21,982.4 lakhs), Madhya Pradesh (21,608.3 lakhs), Punjab (21,383.2 lakhs) and Bihar (19,867.1 lakhs)”.

But this huge allocation of resources could not bring tranquillity in the prison administration of India as well as Punjab.

The report of the All India Committee on Jail Reforms (1980-83) chaired by Mr. Justice A. N. Mulla, had observed that;

Prison administration in India has been on and off, a subject of criticism in the Press, the Parliament and the Judiciary. ‘Over-crowded prisons, prolonged detention of undertrial prisoners, unsatisfactory living conditions, lack of treatment programs and allegations of an indifferent and even inhuman approach of prison staff have repeatedly attracted the attention of critics over the year.’

24 All India Committee on Jail Reforms (1980-83).
Unfortunately, nothing much seems to have changed even during the intervening decade and more and there has been no worthwhile reforms affecting basic issues of great relevance to prison administration in India.

2. STATEMENT OF PROBLEM

Undertrials are languishing in jails in large number. Undertrial are those prisoners who are under judicial remand. And one time judicial remand is for 14 days. They are the people whose trial is being awaited but they are in judicial custody and supposed to remain therein until and unless their sentences have been pronounced. “The percentage of undertrial and convicted prisoners to the total prisoners in various Indian jails has been reported as 67.6% and 31.5% respectively in the country in year 2013. In certain cases they have to live in prison for a longer period than the period of imprisonment which would be awarded to them if they were found guilty. A total of 9,842 undertrial prisoners were lodged beyond 3 years and upto 5 years at the end of the year 2013. There were 2,679 such undertrial prisoners in Uttar Pradesh followed by Bihar (1,243), Punjab (1,023), Rajasthan (599), Delhi (575), Maharashtra (566) and Jharkhand (564)”.

I know not whether laws be right,
or whether laws be wrong;
All that we know who lie in gaol.
Is that the wall is strong;
And that each day is like a year,
A year whose days are long.

Delay in trial of cases is the vital human rights issue of undertrials. The purpose of keeping undertrials in the custody is to ensure fair trial so that they cannot be in a position to influence or induce the witnesses.

The core problem being taken in the present study concerning ‘delay in trial’ relating this weaker segment of prison society is not confined to India alone. “It has been reported even from countries like USA and England. In certain countries, the feeling has

26 Oscar Wilde, quoted in ‘The Ballad of Reading Gaol’. He wrote this after his release from the gaol on May 19, 1887, retrieved from http://www.online-literature.com/poe/2228/, accessed on 04/07/2013.
been growing that the decision of the court on the merits may sometimes itself depend on the detention or release of the accused pending trial. The problem of persons in prison has received attention at length even in *United Nations*".27

Jails in Punjab are organized, classified and controlled according to *Punjab Jail Manual 1996*. “In Punjab jails usually, the number of undertrials is more than the convicts and the position is almost the same in other jails of India also”.28 The following Table has been depicting the clear picture of huge number of undertrials in Punjab jails since year 2009 to end of 2014.

**Table 1.1**

| Years | Convicts | | | Undertrials | | | | | |
|-------|---------|---|---|---------|---|---|---|---|
|       | Males   | Females | Total no. of Convicts | | Males | Females | Total no. of Undertrials | | Total Authorised Capacity |
| 2009  | 5984    | 342     | 6326 | | 10708 | 628 | 11336 | | 11976 |
| 2010  | 6181    | 344     | 6525 | | 10291 | 658 | 10949 | | 11951 |
| 2011  | 6977    | 438     | 7415 | | 9693  | 579  | 10272 | | 18282 |
| 2012  | 5999    | 336     | 6335 | | 11272 | 683  | 11955 | | 18566 |
| 2013  | 5480    | 359     | 5839 | | 12094 | 671  | 12765 | | 18604 |
| 2014  | 6588    | 375     | 6963 | | 7196  | 374  | 7570  | | 18679 |

The above given prison statistics shows the extent to which the problem of overcrowding and congestion exists in Punjab jails since last five years. Undertrials in Punjab jails are high in number than the convicts in these jails. In fact, this is not the situation in Punjab Jails only, but this is the situation of all the jails throughout India. Several thousands of undertrials languishing in various jails in a huge number than the convicts therein.


29 As per statistics collected from Punjab Prison Head Quarter, Chandigarh, Punjab, December 2014.
Now one of the challenges that stares the judiciary at its face is its failure to deliver justice expeditiously, particularly in the subordinate courts. It has brought about a sense of frustration amongst the accused. Trial of cases is delayed inordinately and undertrials have to stay in the jails for longer periods.

The main causes of delay in the trials are shortage of judges, non-service of summons to witnesses and non-appearance of witnesses, non-appearance of police witnesses on the pretext of VIP duty or transfer to other places, non-production of accused from the jail because of unavailability of escort, delay tactics by advocates and accused, non-production of case property, undue adjournments because of magistrates on leave and lack of coordination between various organs of Criminal Justice Administration.

Right to Speedy Trial found a place in the *Virginia Declaration of Rights of 1776*, and from there into the *Sixth Amendment to the Constitution of United States of America* which states that, “In all criminal prosecutions, the accused shall enjoy the right to speedy and public trial”. USA also has the *Federal Act of 1974, Speedy Trial Act*, “which establishes a set of time limits for all major events in the prosecution of criminal cases, including information, indictment and arraignment. Similar provisions exist in Canada as well”. Article 3 of the *European Convention on Human Rights* refers to it as a basic right and provides that, “Every one arrested or detained shall be entitled to trial within a reasonable time or to release pending trial”. In *Hussainara Khatoon’s case*, where Justice Bhagwati observed:

No procedure which does not ensure a reasonably quick trial can be regarded as “reasonable, fair or just” and it would fall foul of *Article 21 of the Constitution*. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in *Article 21*. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long period of time and convicting him after such trial would constitute violation of his fundamental right under *Article 21*.

Various Law Commissions over a period of time have suggested timely measures for prevention of increase of cases and also for timely disposal of cases, but the results have not been achieved yet.

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Some general reasons for huge pendency and delay in disposal are lack of adequate number of courts, disproportionate judge strength as against the population, lack of ministerial manpower, lack of infrastructure, snail’s pace in computerization and use of information technology, inadequate budgetary allocations for judiciary, awareness, globalization, raise in economy, changed economic considerations, literacy, faith in the system, accessibility, resources, impact of legislations, standards of living and new dimensions to relationships and value are the reasons for huge pendency and delay in disposal. Section 138 of the Negotiable Instruments Act, Sec. 498-A IPC and Domestic Violence Act and other enactments contribute a large number of cases in the Criminal Courts.¹¹

Neither the police, the courts, nor correctional agencies can perform their tasks without directly affecting the efforts of the others. It has been seen in practice that lack of coordination among various functionaries like Judiciary, Prosecution, Police, Prison, Advocates (from defense side) constitutes a major cause of delay in quick disposal of cases.

3. REVIEW OF EXISTING LITERATURE

No one can complete one’s research without reviewing the existing literature on the subject because to study the present and to predict future, the analysis of past is cardinal, as it provides guidance and exhibits points which need particular attention. The researcher has scanned whatever available literature was there and same is important to mention here without which the study cannot be completed. Literature available in the various books, journals and studies is:-

❖ Books and Studies

“H.S. Sandhu’s A Study on Prison Impact” (1968) analysed statistically the effect of short term imprisonment on inmates regarding district jail, Faridkot. He has found that in the absence of a treatment programme in a prison, the prisoner hostility during his stay in the prison increases towards the police, convicting court, warden and the witness who disposed against him. He found that the impact score in respect of delinquency, severity of values and hostility is in the same direction”. The present study is relating undertrial prisoners waiting for their turns for either imprisonment or freedom from the jail walls relating to specific four jails of Punjab.

“S.P. Srivastava’s The Indian Prison Community (1977) discussed in detail the problems of community of prisoners. He focused upon the inmates grievances that arise out of prison officer’s exercise of authority and other function related to prison’s working. He also examined the role performance of the inmates and the staff in field of reformation and rehabilitation and gave valuable suggestions for bringing improvement in prison administration”. The present study depicted the problem of overcrowded jails in Punjab, not about the working of prison or its staff or inmates.

“S.K. Ghosh’s Police Internment (1981) holds the opinion that the police functioning in a democratic society is complex. It is becoming increasingly difficult for the police force to hear the voice of the community at large which is crying out for aid, relief, or redress of inadequacies and infringement of basic civil rights due to political interference of politicians in the functioning of police administration. The unwarranted political interference in the working of the police and politicization of the rank and file lead to various malpractices is seriously affecting the moral of the force adversely”. Whereas the research has been analyzed the role of police relating investigation, appearing in courts, following up of cases and filing of charge-sheets etc. in courts relating criminal cases in order to make the trial system speedy.

“Coping with Imprisonment (1982), by Nicolette Parsi is all about the prisoners, their problems during their imprisonment in jails. It studies the pathetic condition of undertrial prisoners in jails, facing imprisonment without undergoing any punishment. This book gives detailed information about the problems of prisoners and undertrial prisoners, imprisoned in prisons without sentenced to punishment”. The research talked more about lacking of present procedures and policies and future policy making for trial procedure of undertrial prisoners that would be helpful in reducing the abound number of undertrials, and their problems relating delayed trials during their stay in Punjab jails.

“Criminology: Problems and Perspective (1983), by Ahmed Siddique, the present III ed. of this book covers two important areas of criminological concern viz police, torture and prisoners’ rights, which was given a fairly exhaustive treatment in the this edition and with the incorporation of the conflict and control theories in the chapters
dealing with the concept and causation of crime”. This work is a focus on work in criminology and penology but not adequately focus on Indian socio-legal framework and that problem being studied here.

“Shubra Ghosh’s Female Criminals in India (1986) examined the role of society in checking the menace of criminals. She also made an attempt to examine the existing behavioural pattern of women convicts confined in female jail. She presented a theoretical framework for the formulation of an effective strategy towards the care treatment and rehabilitation of female offenders in the Indian setting”. The present work concerned to undertrials including both male, female undertrials and juveniles too.

“B.V. Trivedi, in Prison Administration in India (1987), expressed the view that prison administration is an essential part of the totality of the criminal justice in any country. He felt that there is a need to modernize the jail administration in India. He suggested that prison administration required a periodical review and reorientation in consonance with emerging social ideals and developing institutional requirements”. The study evaluated ineffective functioning of prison administration due to overcrowding in jails.

“N.S. Saxena’s Law and Order in India (1987) has systematically dealt with all agencies of criminal justice administration viz., police judiciary, and bar, correctional institutions which are important and integral part of the system. He also examined major component which are involved in the maintenance of law and order. He has also enunciated dozen principles of maintaining law and order not only in India but everywhere in the world”. The present study dealt with the same agencies of criminal justice system but in concerned specifically to undertrials and speedy justice for them.

“Malkiat Singh Rahi’s Functioning of Punjab Prisons- an Appraisal in the Context of Correctional Objectives (1987) is a research study that gave an evaluation of impact of alleged correctional programmes going on in the prisons of Punjab, mainly through the Lego-sociological perspective. It is all about the corrective measures, need to be taken and being taken in jails of Punjab but not particularly for undertrial prisoners”. It does not carry any study regarding undertrials in Punjab jails.
“In Prison and Society – a Study of Indian Jail System (1989), Jay Tilak Guha Roy with Justice D.A. Desai concluded a detailed study as observation of Indian jail system, covering all aspects of its administration and management as well. And study the society’s attitude towards prisons and their prisoners also that how society take persons after their going in jails and how it reacts after their release”. It is about the management and administration of Indian jails while sphere of my study is management and administration of jails in context to undertrial prisoners only.

“B.R. Sharma in Judiciary on Trial (1989) felt the need to have independent, authoritative and impartial judiciaries which can up-hold the values of the rule of law and inspire public confidence. This can be made possible only if we are able to attach the best legal brain of the country to the bench. He also emphasized on the appointments of judges and to save judges from unwarranted criticism and maintain high standard of judicial behaviour and ombudsman type of institution. He also examined other important issues like judicial appointments, transfers, promotions, remuneration and retirements etc”. This study is not about judiciary alone but the whole criminal justice system.

“In Criminology and Criminal Administration (1990), by D.P. Sirohi, the authors appreciate the very cordial reception of the 1st ed. of the book. In this book, an attempt has been made to discuss thoroughly the important developments and changes witnessed recently in this field. Due notice has been taken of changes in the law as made by the code of Cr.P.C. 1973, the Children Act, 1960 etc”. The study endeavors to examining the existing procedural laws, substantive laws for under trials, find reasons for delay in trials of under trials, changes required in existing setup, functioning of investigating agencies, police, and courts in this regard.

“M.S. Parmar, in Problem of Police Administration (1992), traced the history of police administration from ancient India to post-independence period. He highlighted the emerging problem of police administration both at national level and state levels. He analyzed the various components of the administration of criminal justice system in India”. The present work evaluated the ineffective functioning of police and investigating agencies towards the huge backlog of cases in courts only.
“Dr. Kiran Bedi’s ‘I Dare! Her Biography’ (1995), clears the picture of one of the most transformed prison of India i.e. Tihar jail. This book is a motivation for people on the stream of prison reforms and a best example of her untiring efforts to transform the one of the largest prison of India”. The present study is concerning the need of speedy trial of undertrials consuming huge proportions of prison population in Punjab prisons and backlog of cases in Punjab District.

“Begum S. Mehtaz in District Police Administration (1995), examined the police administration at the district levels from the superintendent of police to the constable and from the state police headquarters to the police station in an organic unit. He also critically examined the police administration at the organizational structure and police personnel management with reference to recruitment, training, promotion, morale and also suggested the remedial measure to strengthen the police administrations”. This study is more about role of judiciary, police and prisons concerning undertrials and prisoners, not police administration alone.

“Jaya Tilak Guha Roy in Police and Crime against Women: Emerging Issues and Challenges (1996) discussed the nature and the pattern of crimes against women with the help of statistical data. He took a serious view of the rising crime against women which requires a serious thinking at the level of policy-makers. He critically examined the role and the function of all police station/ cells. He suggested number of measures to improve their performance”. The work discussed the nature and pattern of undertrials confined in jails and identified the problems causing delay in their trial process.

“Gurpreet Pannu’s Female Offenders in Police Lockups and Custody in Punjab Jails– a Critical Study (1996), is an unpublished thesis. The present study is an attempt to study the conditions of female offenders in police lock-ups and the prisons to focus attention of public and government to the problems of female inmates. All Central jails, District jails, a Women jail and selected police stations in Punjab State have been chosen for collecting the data”. The present research work is attempted to help in reducing the large ratio of undertrial prisoners in Punjab jails and measures and policies in this regard.
“K.D. Gaur in Criminal Judicial System and Social Defence (1998) discussed the problem areas of judicial system and delayed justice, rampant corruption at the different levels of judicial structure. He describes the post independent socio-economic, culture and political development has also subscribed to the erosion of the credibility of the judicial system as such instead of functioning as a social engineer and integrator, the judiciary tends to add to social and legal chaos which ultimately speaks on its accountability factor”. The study evaluated the problems causing delay in justice to undertrials and suggested measures to make it speedy for relief to undertrials, overburdened judiciary, police and overcrowded prisons.

“P.M. Bakshi has made an attempt to define criminal law and delineated its role in Problems in Criminal Justice Administration (1998). He has also identified some serious problems which criminal justice system is facing at present due to its expanding role in the present context. He expressed the view that the future of the criminal justice system does not lie merely in the hands of judiciary or the police”. The present work doesn’t talk about criminal justice system in general, but particular in context to speedy justice for undertrials.

“Andrew Ashworth’s Criminal Process: An Evolution Study (1998) is an attempt to examine the most controversial areas of the entire criminal process: the pre-trial stage, taking as his starting point, the detention of suspect in police custody. He also examined six key issues in the pre-trial process: the question of suspects, cautioning of offenders, prosecutorial review, remand decisions, made of trial decision and plea bargaining”. The study concerned with criminal trial process relating undertrials in Punjab.

“U.C. Jain and Jeevan Nair in Judiciary in India (2000) stated that in any system of government the judiciary plays a major role in the quality of governance of the country. They stated that if the judiciary is given real independence and full freedom to scan executive decision and policies in the light of the constitution of the country concerned, it makes good governance and to a legal degree, prevent exploitation of the poor and weaker sections of society”. The study scrutinizes the role of judiciary in dispensing the justice speedily, specifically concerning undertrials.
“Dalbir Bharti’s the Constitution and Criminal Justice Administration (2002) showed an in-depth study of the Constituent Assembly Debates. He realized that the framer of the Indian constitution assigned a heavy responsibility to the criminal justice administration in not only preventing and punishing criminal but also in maintaining the unity and integrity of the nation”. Present work is dealt with criminal justice system in context to huge number of undertrials in jails and huge pendency of their cases in Punjab State.

“Police, Crime and Human Rights by Dr. Radha Kalyani (2003) is an analytical study of the topic of police and its working and an empirical study also. She tried to know the implications of legal model related to crime and human rights. In other words, how the general masses of the society think about the police, its problems and the remedy they suggest. It carries all the recent dates, figures and calculations regarding the police ratio, its working, crime and human rights respectively”. Present one is a foothold study on which the rational principles for present society, according to its felt need have been suggested.

“Dr. Upneet Laali’s Punishment before Verdict (2003) research project is all about the undertrials. It discussed the problems faced by undertrial prisoners, languishing in Indian Jails. Their problems, regarding meeting their family members, to get legal aid and engaging a lawyer. The study highlights the living conditions of undertials during their imprisonment and evaluates treatment programmes for undertrials in jails of India”. The present study, in spite of above mentioned factors; examines laws, rules and policies for speedy trial of undertrials, finding reasons for delay of their trials and makes analysis of functioning of investigating agencies, police, lawyers, prosecution agency and courts of Punjab State.

“It’s Always Possible-Transforming the one of the largest prisons in the world (2005) by Kiran Bedi, the former IG of Indian Prisons which laid down the foundation of reformatory aspect of Indian Prison administration. This book is all about the pain and pleasures regarding the process through which the country’s largest prison was transformed. In her book she discussed quite minutely the problems inside the prison, faced by the prisoners, jail staff, and jail officers”. Whereas the given study represents
the problems regarding trial process of undertrials detained in Punjab jails coping with limitations of trial process.

“Prison Management: Problems and Solutions (2006) by M.B. Mahaworker, is a work with special reference to universal State. This book is a scholarly exposition of a difficult subject and confidently expected to provide reliable guidance to all those engaged in the research on “Universal Rationalization of Prison Administration”. The work is having the universal applicability of study to all countries with a case study of Karnataka State” whereas sphere of present study is undertrials of Punjab State jails only.

“K. Alexander in Police Reforms in India (2006), critically examined the performance of police in the state of Kerala. He argued that the functioning of the police in the Karela shows a sense of distrust and antipathy among the people. There is a wide gap between the perception of the people as police and their performance”. The sphere of study in hand is Punjab State and dealt with concerned state’s criminal justice system.

“Dr. Upneet Laali’s Modalities to Reduce Undertrial Prisoners in Prisons (2006), is the study of categories of offences of undertrial prisoners, their period of detention thereof, detailed discussion on their socio-economic and educational background, legal and other factors for grant of bail for them, and alternatives to imprisonment, under Bureau Of Police Research And Development research projects. This research study also discussed the efficacy of lok adalat in Indian prisons”. The present study looks into these aspects while remaining concerned with current methodology which is required. The focus of the study is to understand the problems concerning their trials being faced by undertrials of Punjab jails, specifically of Amritsar, Gurdaspur, Jalandhar Central jails and Kapurthala District jail.

“Dr. Kunwar Vijay Pratap Singh, IPS’s unpublished Thesis on Human Rights of Prisoners: A Case Study of Amritsar Central Jail (2010). His sphere of study is restricted in this research upon Amritsar Central jail only. Being a police officer IPS and DIG, Punjab jails (at the time of doing research), his thesis is a good reflection of his experience and practical knowledge regarding prison departments, their
management, prisoners’ psychology, courts’ role and police role in dealing prisoners and trials. The focus of his study is to understand the problems being faced by prisoners in Amritsar Central jail and to bring light on infringement of their rights. He analysed the flaws that jail was having and the reforms he brought to that jail”. The present study dealt with four jails of Punjab including Amritsar Central jail with a sharp focus on undertrial inmates in these jails and their trial process in respective courts.

Articles, Committees and Seminars Reports

“Report of East Punjab Jail Reforms committee, 1950 by Thakur Bhargya Dass is a detailed report of study of East Punjab Jails, covering almost all the jails of East Punjab area. It discussed in detail the condition of jails in East Punjab, their capacity, number of prisoners therein, their condition in jails, and impact of reforms being implemented in that jails”. The given study is concerning undertrial prisoners in Punjab jails, with a special focus on Amritsar, Gurdaspur, Jalandhar Central jails and a District jail, Kapurthala with a critical analysis of various policies, programmes, measures and suggestions thereof.

“Ashok Kumar Desai, in Assaults on the Judiciary, Economic and Political Weekly, Vol. XIII, No. 18, (1977), discussed the various issues like suppression, transfer and non-confrontation of judges, departure from established procedures for appointment of judges. He expressed the view that independence of judiciary is at stake due to interference of the executive. He suggested that judges should be appointed without any direct or indirect influence of the executive”. The present study has discussed the issues concerning delay in justice and suggested the measures to make our judicial system speedy and effective.

“Shriram Maheshwari in Unionism in the Police: Redressal of Police Personnel’s Grievances, Indian Journal of Public Administration, Vol. XXXIV, No. 24, (1978) has identified the major grievances of the policeman as inadequate emoluments, lack of housing, long hours of duty, use of the policemen for personal work of the officer, harsh treatments accorded to the policemen, insecurity of job and inadequate promotional opportunities. The machinery for redressal of grievances must be taken seriously by the senior hierarchy and complaints made in these forums must be processed quickly and
imaginatively so that they inspire the confidence of the rank and file”. The study has examined the functioning of police and investigating agencies, involved in criminal trials in playing their role effectively and efficiently.

“K.M. Mathur, in Law and Order Administration with Special Reference to Terrorism, The Indian Journal of Public Administrative, Vol. XXI, No. 35, (1984) has identified certain factors like inadequate strength of the police forces, lack of training, low morale due to politics, rampant corruption, frequent transfers of police chiefs, employment of outmoded tools, methods and techniques by the police, lack of popular public support due to poor police image and undemocratic police behaviour etc., responsible for non-effectiveness of police administration. He recommended that administration of law and order in India needs to be improved”. The present work has not talked about the detailed aspect of police but discussed their key role relating to the criminal trial process.

“K.C. Shukla’s Criminal Justice: Emerging Issues and Challenges, Indian Journal of Public Administration, Vol. XXXII, No. 3, (1985) revealed that functionaries of criminal justice have been endowed with a very important responsibility. The reforms are needed in the procedures of recruitment, training operations as well as the attitudes, ideas, motives, prejudices etc., of the jail officials. He provoked that the system needs introspection. He examined various issues confronting the criminal justice system in the contemporary period and called for a comprehensive review and resultant modifications in the attitude of functionaries”. The present work talked about ineffective and inefficient working of police, investigating agencies and prison officials relating prison, prisoners and trial cases.

“G.C. Singhvi, Some Aspects of Reforms in Police Administration, The Indian Journal of Public Administration, Vol. XXXI, No. 3, (1985) has suggested co-ordination between the different agencies of the criminal justice system not only at the district and state levels but also at the national level. At the district level, all heads of these agencies should meet periodically and sort out mutual problems. He suggested that at the national level, there should be a Criminal Justice Commission, which should be a permanent body like Law Commission”. The research discussed more about trial concerning
problems of undertrials and covered only that aspect of police, prosecution, executive magistracy, judiciary, and prisons etc. that are relating to the criminal justice system.

“Sanjay K. Kaul in Delays, in Seminar No. 325 (1988) expressed the view that the delay in disposal of judicial cases by courts is the greatest problem. People have lost faith in the judicial system because of the delay in the disposal of cases. He identified the various reasons for the delay in the disposal of cases. The number of cases required to be disposed off by a judge at any level in India is probably one of the highest in the world. He wanted that the judicial community should play a very vital role in curtailing the undesirable conduct of the litigants and some of lawyers. He suggested that the courts procedure should also be simplified in order to prevent delay”. The research discussed the role of all functionary bodies (police, prosecution, executive magistracy, judiciary, and prisons) of criminal justice system accounted for delay in disposal of criminal cases, not the judicial system alone.

“V.R. Krishna Iyer, Judicial Accountability to the Community: A Democratic Necessity, Economic and Political Weekly, Vol. XXVI, No. 3, (1991), examined the views of founding fathers of the constitution who had laid down for us a constitutional jurisprudence of judicial power but the integral component of the judicial accountability had not been designed with the sense of principled pragmatism. As a result, the escalating misconduct of judges has often gone barring, the extreme measure of impeachment the law is silent, so much that one might well say that the accountability of the judiciary is the vanishing point of jurisprudence. This void, unless completely covered by well thought out legislation, is bound to undermine the democratic credibility of the judiciary”. The existing study does not only talk about constitutional jurisprudence of judicial system, but it talks more about its conduct concerning criminal process involving Indian Penal Code, Criminal Procedure Code and Evidence law too.

“D.R. Singh in Evolution of Indian Criminal Justice System: Influence of Political and Economic Factors, The Indian Journal of Public Administration, Vol. XL, No. 3, (1995) has traced the evolution of criminal justice system in India from early Vedic times to present times. He has examined the present system of administration of justice and law in India, which had the legacy of the British government. He has also expressed
the view that the Law Commission should review the system of judicial administration in all its aspects and suggests ways and means for improving it, making it speedy and less expensive. He has also examined court-legislature relationship. He concluded that politico-economic situation in the country influence the Criminal Justice System in many ways”. The study in hand discussed the prison administration and prison reforms’ aspect from ancient time period to present time.

“K.C. Shukla’s Criminal Justice: Emerging Issues and Challenges, The Indian Journal of Public Administration, Vol. XXXI, No. 3, (1999) has stated that functionaries of criminal justice system have been endowed with a very important responsibility. The reform is needed in the procedures of recruitment, training operation as well as the attitudes, ideas, motives, prejudices etc. of the jails officials. The system needs introspection. The given article covered the one factor of criminal justice system that is prisons and its officials”. But the present study stated the role of three functionaries of criminal justice system i.e. the police, the judiciary and the prisons.

“Ashok Mukhapadhyya, in India’s Grassroots Judiciary, The Indian Journal of Public Administration, Vol. XLV, No. 3, The Indian Institute of Public (1999) traced the system of administration of justice in India, since ancient time to Manu. He focused three judicial institutions at grassroots level in India i.e. Lok Adalat, Family Court and Nyay Panchayats. He has narrated the experience of West Bengal, only while analyzing organization, nature, jurisprudence and impact of these institutions. He suggested that these institutions may be given a fair trial”. The study in hand doesn’t discussed the administration of justice in India alone but also examined criminal justice system in India along with other legal provisions i.e. lok adalat, legal aid, camp courts, plea bargaining etc. relating to the system.

4. OBJECTIVES OF THE STUDY

The proposed study has the following main objectives;

1) To understand the procedural bottlenecks and the stages of ‘Delay in Trial of Undertrials’ and the status of Undertrials in Punjab jails.
2) To understand the plight of undertrial prisoners relating ‘delayed trials’ with a special focus on Amritsar, Gurdaspur, Jalandhar Central Jails, Kapurthala District Jail and their respective District courts.

3) To evaluate the problems relating to the ‘trial process’ being faced by; (i) the police, (ii) judicial system and (iii) the prison administration, through an Empirical Study of the above said districts to understand the causes of delay in trials of undertrials.

4) To examine the role of functionary bodies of:
   i. Investigating agencies;
   ii. Police;
   iii. Prison departments; among the chosen jails;
   iv. And the judiciary, including courts, judges, prosecution agency, defense lawyers and witnesses.

5) To comprehend the procedural impediments of Bail system, Legal Aid, Plea bargaining, Camp Courts, Lok adalat in context to undertrial prisoners.

6) To fathom out and construe the role of speedy trial system, so as to facilitate future policy making as per existing International, Constitutional, Legal and judicial measures.

5. SIGNIFICANCE OF THE STUDY

Undertrials forms a large number of prison population in jails in Punjab and all over the India. Thousands of them are languishing in jails for years because of the bottleneck of formal procedures choking the system. The present study is an attempt to look into the various facets of problems regarding delay in trials of undertrial prisoners, their ‘gigantic ratio’ with a focus on Punjab jails.

The present study is a humble attempt to evaluate the causes of delay in trial process. It will be with the view to understand the procedural bottlenecks to reduce the backlog of cases in courts and to re-check the role of judges, police, lawyers and public prosecutors. The researcher will also suggest measures by which overcrowding in jails
can be controlled and laws, rules and procedures can be re-looked. Factual data or statistics gathered in the present empirical study will elucidate that what has gone wrong with the system. It will help to make a way of ‘speedy justice’ for undertrials so that this weak and agonized segment of jail inmates could suffer no more ‘punishment without verdict’. Suggestions have been made for police, judiciary and prison department for making their role effective in order to make the trial process speedy and justifiable.

6. **UNIVERSE OF THE STUDY**

The present study focuses upon the undertrials in Punjab jails. At present there are eight Central jails named; Amritsar, Bathinda, Faridkot, Ferozepur, Gurdaspur, Jalandhar, Ludhiana and Patiala; nine District jails at, Borstal jail (B.J) Ludhiana, Kapurthala, Hoshiarpur, Mansa, Maximum Security jail (M.S.J) Nabha, New Jail Nabha, Open jail Nabha, Roopnagar, Sangarur, Women jail (W.J) Ludhiana; among which Kapurthala District jail has been merged with New Model jail, Jalandhar at Kapurthala during the course of the study i.e. in 2012. Nine sub jails of Punjab are at Barnala, Dasuya, Fazilka, Muktsar, Majha, Malerkotla, Pathankot, Patti and Phagwara.

The universe of the proposed study is the undertrials languishing in Punjab jails. The data and information has been collected from all the Central, District jails mentioned above; including the nine Sub jails. The sharp focus of the present research has been on Amritsar, Gurdaspur, Jalandhar Central jails and a District jail, Kapurthala and their District courts respectively.

7. **HYPOTHESIS**

Terrible overcrowding in Indian prisons, unconscionably long pre-trial detention and overstays of undertrials have been seen in Indian prisons. Trials take years because of several reasons. Delay does not occur only due to the procedural technicalities of law but the wing that distributes the justice is too very small. Often, the lawyers, police, prisons and judicial officials also do not cop up with occurring injustice due to delay in trials. The system fails these undertrials at every turn and often times. The different agencies like police, prison and judiciary blame each other for non-performance and unaccountability.
The present research is an empirical study aimed at reviving the ‘trial oversight system’ relating undertrials specifically that have completely failed. An attention to trial of this huge ratio of inmates among the other jail inmates will bring improvements to the administration of prisons, police, and various legal provisions as well as have a knock on effect on the speedy administration of justice. No major efforts have been made so far to give relief to undertrials, by making the criminal trials speedy and working of police, prison and judiciary effective and efficient in this concern.

8. RESEARCH METHODOLOGY

The present research is an Empirical Study aimed at reviving the ‘trial oversight system’ relating undertrials specifically that have completely failed. An attention to trial of this huge ratio of inmates among the other jail inmates will bring improvements to the administration of prisons, police, judiciary (including prosecution agency and defence lawyers too) and various legal provisions as well as have a knock on effect on the speedy administration of justice.

Though the data has been collected by personally interviewing (Research interviews) all the five categories of respondents, applying ‘Schedule Method’ but in case of Schedule IV- that was for the practicing lawyers from the selected four district courts, the Schedules were left with a few respondents and collected later on. Four different methods have been used to accomplish the present research;

1) Schedule Method,
2) Interview Method,
3) Case Study Method and,
4) Observation Method.

Standardize interviews have been conducted. Graphic rating scales and cumulative figures have been calculated and thus, analysed.

8.1 Methods Utilized for Data Collection

For the completion of this research work, primary as well as secondary sources of information were tapped. The primary data has been gathered through extensive field
survey made (from May 2011 to December 2014) and its analysis has been made to meet the above mentioned objectives. Record copies have been gathered from both the Appellate and Subordinate courts of the four district courts of Amritsar, Gurdaspur, Jalandhar and Kapurthala District courts, concerning civil and criminal disposal and pendency of cases, whereas the record copies of prison population and jail staff have been collected from the concerned jails’ prison records.

The secondary sources are used to factual data which includes books, journals, articles and newspapers. It also includes Annual Reports of the Ministry of Home Affairs, Annual Reports of the Department of Justice, Ministry of Law and Justice, Report of the National Police Commission, National Crime Record Bureau (NCRB), Bureau of Police Research & Development (BPR&D), National Human Rights Commission (NHRC) and various National and International Commissions, Committees and their Reports especially regarding overcrowding and number of undertrials in jails, rate of pendency and disposal in Indian Courts and suggestions and recommendations given by such Organizations, Committees, Commissions and Reports.

The secondary data is further supplemented by information gathered from statistics of prison records; information through mails, telephonic calls and through posts too where the concerned authorities of prisons and courts’ records remained unable to provide the same in first case.

### 8.2 Design Sampling

For design sampling, different samples of police officers, judges, public prosecutors, and the lawyers have been taken from the district courts of Amritsar, Gurdaspur, Jalandhar and Kapurthala and of prison authorities from the concerned four jails. The ‘Convenience sampling’ as well as ‘Stratified sampling’ method has been used to select the respondents. The demographic profiles of five categories have been presented separately as following;

I. **Police:** Four police officers cum investigating officers, each from concerned Districts selected for the study.

II. **Judges:** Five judicial officers of different ranking i.e.
i. Chief Judicial Magistrate (CJM) - 1,

ii. Additional District Magistrates (ADJs) - 2, and

iii. Judicial Magistrates First Class (JMICS) - 2; all from District Courts, Amritsar.

III. **Public Prosecutors:** Six attorneys; 3 from District Courts Amritsar and one from each remaining three courts i.e. Jalandhar, Gurdaspur and Kapurthala District Court, with having experience of 5 to 18 years.

IV. **Defence Lawyers:** Forty lawyers; 10 from each selected District courts having 10 to 28 years experience in court practice.

V. **Prisons:** Four jails naming Amritsar, Jalandhar and Gudaspur Central jails, and Kapurthala District jail

Prior study of schedules have been accomplished through interactions by the researcher time and again, with some eminent lawyers and experts in prosecution agency as well as police administration for probing into the concerned issues and in order to produce a ‘good schedule’. A total of five schedules were prepared that are first for Police officials, second for the Judicial magistrates, third for the Prosecution agency and fourth for the Lawyers and fifth was prepared for the Prison authorities.

Pretesting of schedules helped in deletion and refinement of few items from all five schedules. All the five schedules have been appended as schedule I to V at the end of the present study.

Structure of all questions is discussed below;

- **Part I** - is introductory part concerning the respondents as to their name, place, designation and experience in the said post;

- **Part II** - is having the main schedule including questions and blank tables;

- **Part III** - is the suggestive part, seeking suggestions from respondents relating schedule I to IV.

The respondents were given option of ‘yes’ or ‘no’ on some questions to gather a general view of them in respect to some laws and provisions. The values were analysed/
calculated by allocating their replies to those questions of yes/no. The questions having blank tables were filled up by the researcher according to the respondents from schedule I to V. Some blank tables given in the schedules were filled up by the respondents and in case of some tables of schedule V, statistics from prison record has been sought for. Graphic rating scales and cumulative figures have been collected through the present empirical study.

8.3 Data Analysis

Data gathered through field surveys included both quantitative and qualitative information. Quantitative data has been tabulated to measure the scale of population of undertrial prisoners in Punjab Jails and disposal and pendency rate of Civil and Criminal cases in Punjab courts. Qualitative data has been gathered and evaluated to unravel the role of investigating agencies, lawyers, public prosecutors and judges and extent of implementation of procedural laws, success of Plea Bargaining, Legal aid cells, lok adalat, Camp courts and Juvenile courts in Punjab.

Case study method has also been used in some suitable cases concerning undertrials detained in jails under study, in order to collect information about their problems regarding trial procedures in some cases.

An evaluation of the data collected through schedules, structured interviews, research interviews, and various case studies has been conducted through ‘Observational Method’. The ample data has been tabulated with the help of computer programming of ‘Microsoft Office Word Window 7’. Comparison of variables has been done in percentage. For making comparison more presentable, statistical applications of Tables, Organization chart, Bar diagrams, Pie charts, Columns, Cycle from Chart and Smart Art Graphic has been applied as per requirement of the study.

9. CHAPTERIZATION PLAN

The present study has been divided into following Seven chapters:-

CHAPTER I- INTRODUCTION

In the First chapter, an attempt has been made to build conceptual framework of the study. It gives the introduction of criminal justice system consisting of three main
organs; police, judiciary and prisons; and the problems relating lingering trials of undertrials. An exhaustive review of literature has also been undertaken. This chapter also explicates hypotheses, objectives of the study, scope and significance of the study. The methodology, design sampling, data processing, and report writing used in completing the research work has been explained.

CHAPTER II- PRISON ADMINISTRATION AND PRISONERS

The Second chapter traced the evolution of prison administration from the Vedic period to the present with focus on the growth of the prison reforms and jail administration in India as well as in Punjab State. In this chapter, the organizational structure of Indian as well as Punjab jails administration has been analyzed. It further conversed about the different types of prisoners in Punjab jails and status of undertrials in these jails.

CHAPTER III- INTERNATIONAL PROVISIONS AND STATUTORY DIRECTIONS CONCERNING DELAY IN TRIALS

Chapter Third illuminated the provisions and recommendations made by the various Committees and Commissions rapport with congestion of undertrials, delayed justice, system problems regarding trial process and speedy trial of Undertrials. The Chapter has unfolded the concerned foregoing provisions of various National as well as International organizations. Many of them have not been incorporated in the justice delivery system and have not been implemented yet but of great significance to ameliorate the process of trial for criminal cases and undertrials.

CHAPTER IV- LEGAL PROVISIONS AND JUDICIAL APPROACH EMPATHISING WITH UNDERTRIALS

The Fourth chapter discussed the constitutional provisions empathizing with rights of undertrials and other prisoners as well as speedy justice in India and Punjab. Endeavour has also been made to find out whether the objective of ‘speedy justice’ in India by ensuring speedy trial and efficient and harmonious working among various wings of criminal justice administration has been achieved in India and Punjab. It scrutinized specifically the important judicial pronouncements on important aspects of prison life, including rights of specific categories of prisoners taken for the study like under-trials;
women; and children; general living conditions of prisoners; legal aid; release on bail; speedy trial as per concerning the area of the present study.

CHAPTER V- STATUS OF UNDERTRIALS: AN EMPIRICAL STUDY OF PUNJAB JAILS

Chapter Fifth probes into the nature and extent of delay in trials of Undertrials prisoners languishing in Punjab jails. Data relating population of jail inmates in Punjab jails and of undertrials of four selected jails of Punjab that are Amritsar, Jalandhar, Gurdaspur and Kapurthala jails have been examined in the said chapter. The present chapter, for the purpose of construing the overpopulated Punjab jails, has been focused on the various aspects of the Punjab prisons; their authorized capacity and actual number of jail inmates and undertrials in these jails. All the recent stats and figures regarding undertrials in various jails of Punjab have been analyzed in this chapter.

CHAPTER VI- DELAY IN UNDERTRIALS’ CASES: AN EMPIRICAL STUDY OF PUNJAB DISTRICT COURTS

An attempt has been made in the Sixth chapter to scrutinize the role of three major components of criminal justice administration in Punjab. It construed the causes of delay in trial process of undertrials in Punjab. For the said purpose, a comprehensive analysis is based upon consolidated figures, collected from the selected district courts under study i.e Amritsar, Jalandhar, Gurdaspur and Kapurthala concerning Undertrials’ cases has been made. This chapter examined the lack of coordination between various organs of criminal justice administration and some other legal provisions for undertrials in Punjab courts i.e. free legal aid, camp courts, lok adalat and juvenile courts.

CHAPTER VII- CONCLUSIONS AND SUGGESTIONS