CHAPTER - V

SUBSEQUENT DEVELOPMENT AND PRESENT POSITION OF
THE RIGHTS OF PRISONERS IN INDIA

5.1 INTRODUCTION

Prison administration in India has been, off and on, a subject of criticism in the press, the Parliament and the Judiciary. Overcrowding in prisons, prolonged detention of under-trial prisoners, unsatisfactory living condition, lack of treatment programme and allegation of indifferent and even inhuman approach of prison staff have repeatedly attracted the attention of critics over the years. The Judiciary as an agency responsible for the lawful deprivation of an offender's liberty has, occasionally denounced the degeneration of a term of sentence into servitude. Through some of its Judgments, since 1978, it has extended its jurisdiction over the execution of the term of sentence to ensure that a prisoner is not subjected to dehumanize treatment in jail, nor is he incapacitated for future social reintegration. It has been observed that a sentenced offender cannot be treated as a person denuded of all his fundamental human rights and that his restoration to the law abiding community is, and ought to be, the ultimate policy behind judicial sentencing.

Prisons are expected to re-educate one who has been declared a criminal in order to help him eventually to be rehabilitated in an atmosphere of healthy social interaction and to promote the prospects of his reclamation in the social milieu. The existing prison conditions in general are, however, not conducive to the fulfillment of the desired objective. The unsatisfactory situation existing in jail had attracted the attention of the government of India and the State Governments from time to time particularly the judicial criticism and intervention regarding the prison administration under the guise of Judicial Activism to set up a Committee to study all the aspects of prison administration in the country/state respectively and to devise measures for its effective improvement. Here discussion is made about certain important Committees formed at the Central and Tamil Nadu State level.
Nearly 50 have obtained Graduation at Ambedkar University.

**From jail to Correctional Home**

Yoga Day: Thiru jail inmates to get vocational yoga training

Vijayalakshmi and Nature Care Centre has organized a one-month Yoga training camp for jail inmates, which will conclude on 26 June.
5.2 TAMIL NADU PRISON REFORMS COMMISSION 1978-79

The detention of a large number of people under MISA and COFEPOSA in the prisons of Tamil Nadu focused the attention of the Government of Tamil Nadu on the imperative need to reform the prison administration and improve amenities in the prisons. An assurance to the effect was also given by the concerned Hon’ble Minister on the floor of the Assembly. In pursuance of this assurance only the Tamil Nadu prison reforms commission was constituted by the Government of Tamil Nadu on 17th February 1978 under the Chairmanship of R.L.Narasimhan, I.C.S. Retired Chief Justice of Patna High Court with two other members viz. Shri. S.M. Diaz, I.P.S., (former Inspector General of Prisons, Government of Tamil Nadu and honorary Professor of Criminology, University of Madras) and Dr. A.Venkoba Rao, M.D., Ph.D. D.Sc, FAMS, F.R.C., Psych., D.P.M., Professor and Head of the Department of Psychiatry, Madurai Medical College. The terms of reference to the Commission were mainly to examine the prison administration in Tamil Nadu in all its aspects for all classes of prisoners and connected matters.

The Commission submitted its report on 28th April 1979. The report was in three volumes and they contained in all 178 recommendations touching the various aspects of Prison Administration like overcrowding, remand and under-trial prisoners, Probation, women prisoners, long termers, educational and medical care of prisoners, supply of food to Prisoners, provision of psychiatric services, open air prisons, prison hostels, Borstal Schools, rights of prisoners, provision for training and research in prison administration and amendments to Prison Laws besides the other laws like Code of Criminal Procedure, Indian Penal Code etc. Besides these, the recommendation of the Commission also covered various aspects of correctional administration relating to approved schools, reception homes, vigilance homes and homes for destitute children. After careful consideration of the Tamil Nadu Prison Reforms Commission, the Government of Tamil Nadu broadly accepted the recommendation of the Commission and having realised the need and urgency in implementing the recommendations of the Commission, the Government took up the examination of the recommendation of the Commission right earnestly and convened

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a number of high level meetings of the secretaries of the Government besides the Chairman, Member of the erstwhile Commission. However the recommendations relating to prisoners and prison administration which are having direct impact on the rights of prisoners are only listed below.

- The High Court may be requested to explain all Subordinate Magistrates the implications of the proviso (a) to section 167 (2) and also sub-section 5 of section 167 Criminal Procedure Code so that bail may be granted in warrant cases if the detention exceeds sixty days and all proceedings may be stopped in summons cases if the investigation exceeds six months.

- Many of the remand and under-trial prisoners may be released on bail, following the principle laid down by the Supreme Court in W.P. no. 57 of 1979 disposed of on the 12th February 1970.

- Chief Judicial Magistrate should be directed by the High Court to exercise a watchful and intelligent control over the work of all Subordinate Magistrates with a view to reduce the duration of detention of remand and under-trial prisoners and expedite the disposal of the cases against them by giving special priority to them.

- At every district head - quarters the existing sub-jails or special jails, as the case should be altered and enlarged wherever necessary or new sub-jails should be constructed so as to accommodate all remand and under-trial prisoners including prohibition offenders and thus relieve congestion in the central prison and prevent contamination of new comers.

- Under-trial prisoners may be induced to participate in works programme suitable to the locality and given wages for the work done by them at ad-hoc rate of Rs. 2/- and Rs. 1/- for full-time and part-time work respectively without deduction.

- Those female prisoners who show sufficient proficiency in certain trades such as tailoring, house-keeping, child care etc., should be given certificates by the heads of the institutions and these certificates should be recognised as sufficient for providing them employment outside.
- Prisoners below forty years of age must be given education compulsorily up to eighth standard and they should be taught in five batches for one hour each. The pupil teacher ratio should be 1:20.

- The duties and privileges of prisoners should be printed in bold letters in Tamil and pasted at several prominent places inside the prisons for the benefit of the inmates.

- Panchayat system should be introduced in every central prison with a view to encourage active participation of the prisoners in the organisation of prison life.

- Cholam and ragi should be eliminated from the prison diet and rice kanji, rice pongal and rice upma be given in the morning by rotation. The nutritious diet scheme by omitting cholam and ragi should be brought into force in all the prisons.

- Non-vegetarian diet such as mutton or fish may be provided once every week alternatively. Vegetarian prisoners may be given extra sweet or curd on those days when non-vegetarian food is given to others.

- A pillow stuffed with straw or coconut fiber may be supplied to every prisoner. In cold places like Ooty, Coonoor etc, cumblies supplies to prisoners should be of better quality to protect them from the cold. They should have two cumblies each, one for the floor and the other for covering them.

- Flush out latrine facilities with adequate water supply for flushing and washing should be provided in all the prisons in the State. Every cell should have its own latrine enclosure with water point and vessel while in the dormitory latrine with regular flush out system may be provided the scale of 1:20 prisoners.

- Good drinking water should be kept inside the cell or dormitory to enable the prisoner to quench the thirst wherever required instead of depending on the warders.
• A canteen should be established in every central prison where tooth paste, soap, tooth brush and other articles for the use of prisoners may be supplied.

• Every morning there should be prayer and either physical exercises or yogasanas for all prisoners. There should be a gymnasium in every central prison. Social education inside the prison should be reorganized. Religious and moral education should be meaningfully introduced. Wherever facilities exist opportunities for transcendental meditation may be given. Cultural education should be reorganized.

• One daily paper should be supplied for every twenty prisoner, a weekly for every forty prisoners and one monthly and annual magazine for every sixty prisoner.

• Prisoners may be permitted to keep two religious and ten other approved books of their own. They may also be permitted to keep with them photographs either of their family members or of deities of their religion.

• Work therapy should be reorganized both in central prison, special jails and in sub-jails.

• Intensive agricultural work programme should be adopted in all central prisons with adjacent cultivable land or attached farms.

• Vocational training in small trades and craft should be given to facilitate effective rehabilitation.

• All convicted prisoners with a sentence of more than six months should be classified into three groups namely unskilled workman, semiskilled workman and skilled workman and credited with wages at the lowest prevailing market rate deducting the cost of maintenance. These wages should be apportioned among compensation to victim's family, prisoners’ family maintenance, pocket money for prisoner and a fund for his rehabilitation.

• For under-trial prisoners who volunteer to do work and short termers undergoing sentence of less than six months, an ad-hoc payment of Rs. 2/- per
day for semi-skilled workers and Rs 1/- per day for unskilled workers without making any deduction towards their maintenance may be given.

- Emergency leave for celebrating the wedding of their near relation of their prisoner or for participating in funeral ceremony may be granted by the Superintendent of the central prison subject to certain restrictions.

- Furlough should be granted on the same terms as are prevalent in Karnataka except that neither police report nor the report of the Probation Officer need be obtained for such leave.

- The power to grant parole may be conferred on the Inspector General of Prisons. It is not necessary to call for police report on applications for grant of parole. It will suffice if the Probation Officer's report alone is obtained. The police may be kept informed of the release.

- For premature release of prisoners also the Probation Officers report alone would ordinarily suffice. But if the Judgment of the convicting court indicate that the crime was committed as a result of faction in a village the local police may be informed of the proposal to release such prisoner permanently so that they may object if there is likelihood of breach of peace in the event of his premature release.

- Special remission not exceeding thirty days in a year may be given to literate convicts who are declared proficient on passing certain prescribed test.

- Wages should be given to prisoners working in open air prison on the same scale as those recommended in central prisons.

- During the last year of the period of incarceration in an open air prison as an experimental measure his family members may be permitted to stay with him in a corner of such open air prison.

- Extra remission may be granted to prisoners in open air prisons as recommended by the study team.

- Prisoners sent to Borstal School from Central Prison under section 10 of the Tamil Nadu Borstal School Act 1925 should not be sent back to central
prisons on the completion of their term of detention in the Borstal Schools. They should be kept in the Prison Hostel.

- A Borstal School for girls should be established in Trichy.

- The Superintendent of Central Prisons should give good conduct and proficiency certificate for those prisoners who have undergone industrial training inside the prison after taking the help of the Technical Education Directorate when necessary. It shall be the duty of the District Probation Officer to secure employment for such discharged prisoners either from government industries or public or private sector industrial undertaking.

- Those discharged prisoners who desire to take to agriculture after their release be given encouragement by the grant of land as is being done in Karnataka State.

- All circulars of the government imposing restrictions on the employment of ex-prisoners should be immediately withdrawn and there should be no disability on the employment of discharged prisoners whose conduct is certified to be good by the head of the prisons or correctional institution where he was detained. The existing circular may be made applicable only to those convicts who are not given good conduct certificate by the superintendents.

- At least 2% of the post in the lowest grade of government service should be reserved for discharged prisoners including those discharged from other correctional institutions whose conduct is certified to be good by the heads of those institutions.

- A new Central Prison of modern design and appropriate facilities should be constructed at Puzhal village.

- A new female central prison in the model of Great Britain grouped cottage pattern should be established at Madurai.

- The warders inside the prison need not be armed but an armed striking force should be kept away from the main gate of the prison but available at call.
• The prison staff should be expanded and warders should not be asked to do more than eight hours duty per day. The convict warder system should be abolished.

• The entire prison services should be reorganized, expanded, upgraded and oriented into two separate branches, custodial and correctional, each under a chief officer of the rank of additional superintendent of prison. The later branch will have besides psychologist and a social case work expert, welfare officer on the scale of one for every two hundred prisoner.

• Middle and higher level personnel of all branches of correctional services should get initial and mid-service training in the proposed Regional training school at Vellore.

• Training Programmes should also be selectively arranged in institutions like the Tata Institute of Social Sciences, Madras School of Social work or Madurai School of Social work and Post graduate courses in Criminology provided in Madras University.

• Senior Officers in Prisons and correctional department should be deputed to participate in the various Programmes arranged at the National Institute of Social Defense and in other centers in the country and in foreign countries like United Kingdom, United states of America and Japan.

• Corruption in lower ranks of the prison services should be checked by improving the conditions of service of prison staff, frequent surprise inspection by the superior staff, and utilizing the services of the elected panchayat of the prisoners, giving wages for the work of the prisoners and opening canteens for them in every central prison and special jails.

• Corruption amongst the higher officials of the prison department may be checked by selection of proper officer with qualities of leadership and integrity and having a committee of three members to inspect the quality and quantity of confinement on a large scale received in every prison. Further fixing of firm responsibility and delineation of effective accountability leading
to prompt and deterrent disciplinary action on lapses will have a salutary preventive purpose.

- The rights, privileges and duties of prisoners and the various acts of misconduct and punishment provided for the same should be printed in bold letters in Tamil and fixed up at prominent places throughout the prison and also repeatedly explained to the illiterate prisoners by the welfare officers and social case experts.

- It is not necessary to have an ombudsman to hear and redress the grievances of the prisoners. The judicial officers who are ex-officio visitors of the prison may be directed by the High Court to discharge this part of the duty regularly and more efficiently.

- The non-official visitors also should be required to perform their duty properly. Selection of such visitors should be made carefully by choosing only those who are genuinely interested in prison reforms and prisoners' welfare.

- The Honourable Minister in-charge of prisons and correctional services may visit the prisons periodically meet all the prisoners in the presence of their staff and give the prisoners an opportunity to ventilate their grievances.

- The following acts dealing with prisons should be consolidated into one act entitled "The Prison and Prisoners Act" with separate chapter.

  a. The Prisons Act, 1894
  
  b. The Prisoners Act, 1900
  
  c. The Identification of Prisoners Act, 1920
  
  d. The Exchange of Prisoners Act, 1920
  
  e. The Transfer of Prisoners Act, 1950
  
  f. The Prisoners (Attendance in Courts) Act, 1955
The preamble should be amended so as to bring out prominently the modern view that the main aim of imprisonment is to reform, re-socialize, and rehabilitate the prisoner.

Every officer in-charge of the prison or correctional administration from the highest to the lowest should keep in front of him a placard containing the following words printed in bold letters "REMEMBER THAT THE PRISONER IS THE WARD AND NOT THE SLAVE OF THE STATE"

5.3 MULLA COMMITTEE (ALL INDIA COMMITTEE ON JAIL REFORMS) 1980-83

The Government of India set up the All India Committee on Jail Reforms called as Mulla Committee. As per the resolution number VI, 14016/3 /80-GPA .IV of July 25th, 1980 under the chairmanship of Shri Justice A.N.Mulla, Retired Judge of the Allahabad High Court and a former Member of Parliament.

5.3.1 Terms of the Committee

The terms of the Committee as laid down in the Government of India resolution of July 25, 1980 are:-

1. To review the laws, rules and regulations governing the management of prison and the treatment of prisoners and to make recommendations keeping in view the overall objective of protecting the society and rehabilitating the offenders;

2. To examine the living conditions of prisoners with specific reference to their basic need and provision of facility compatible with the dignity of human life and suggest improvements as considered necessary;

3. To reappraise the policies governing the recruitment, training and development of prison personnel in relation to the objective of custody and correction and to find ways of ensuring that persons with requisite talent, aptitude and ability man the prison service;

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2 The Report of Mulla Committee and Recommendations, 1980
4. To look into the procedure regarding the internal management of prisons with a view to raising the present level of prison security and institutional discipline and to suggest appropriate change;

5. To review the programmes of institutional treatment, education, vocational training, industry, agriculture and such other occupational activities and to suggest measures with a view to develop prisons as correctional centers;

6. To suggest measures for the specialized treatment of women, adolescents, children and mentally sick persons;

7. To review the working of open-air prisons and to suggest measures for improvement;

8. To scrutinize the system of remission of prison sentence, parole and probation and to lay down guidelines for bringing about uniformity and standardization in approach;

9. Any other matter relating to prison administration that the Committee may like to consider.

5.3.2 The Report of the committee

The Committee has given its report in two volumes by discussing the prisons and prison administration under different headings such as introduction, review of prison reform, realities in Indian prison, legislation, prison buildings, living conditions in prisons, medical and psychiatric services, security and discipline, system of classification, treatment programmes, work programmes and vocational training, under-trial and other un-convicted prisoner, women prisoners. Children in prisons, young offenders, prisoners sentenced to life imprisonment, prisoners sentenced to death, sub-jails, open institutions, system of remission, leave and premature release, community involvement in correction, aftercare, rehabilitation and follow-up, organizational structure, development of prison personnel, planning, research and development, national commissions on prisons, national policy on prisons, action plan and summary of recommendation.
The committee in its report observed that attempt has been made to make the report of the committee fairly comprehensive including specific recommendations on various aspects of jail administration and major problems of jail life. The committee has borne in mind the fact that in a country like ours striving for the fulfillment of basic objectives of wide-ranging socio-economic transformation, we cannot lose sight of the proper scale of priorities for national development. However we are convinced that the administration of prisons within any rational scale of the reforms assumes critical importance particularly in view of the fact that our people are citizens of the world's largest democracy. Whenever their liberty is taken away due to certain requirement of law, they must be given a humane, positive and a correctional treatment, if we desire to receive them back in the community of free and equal citizens as improved and better human beings after the traumatic experience of jail life. Inspite of financial constraints, funds will have to be provided for rescuing these unfortunate fellow citizens from perpetual degeneration. With this in mind the committee has made certain recommendation for immediate implementation and others for implementation over a period of time in order to achieve the required transformation in prison administration.

5.3.3 Summary of Recommendations

The committee has given totally 658 recommendations, however the researcher has attempted to bring out here some important recommendations connected with the topic as follows.

- The subject of prisons and allied institutions should be included in the concurrent list of the seventh schedule of the Constitution of India.

- All the acts pertaining to prison administration should be consolidated and a new uniform and comprehensive legislation enacted by the parliament for the entire country.

- In case the subject of prisons and allied institutions is not brought under the concurrent list, the Government of India should prepare a model bill for being adopted by all the States and Union Territories.
• Old prison buildings which have outlived their utility should be demolished. Each State/Union Territory should prepare a comprehensive plan for remodeling and renovation of other existing prison buildings so as to make them functional. Funds for the purpose should be made available by the Central Government.

• There should be four types of living accommodation.
  a. Barracks with accommodation for twenty inmates;
  b. Dormitory accommodation, each dormitory providing accommodation for four to six prisoners;
  c. Single seated room accommodation for prisoners needing privacy for perusing studies etc.,
  d. Cells for segregation of inmates for purposes of security and punishment.

• Cells should be fitted with flush type latrine and existing cell should not be used till the facility is provided in them.

• There should be a separate kitchen for every two hundred inmates.

• New prison building should be constructed closed to city but away from crowded areas.

• Old prison building surrounded by crowded localities should be remodeled to house under-trial prisoners.

• All additional institutions to accommodate any future increase in convict population should be of open or semi-open type.

• Norms of prison diet should be laid down in terms of caloric and nutritional value, quality and quantity. Adequate checks should be provided to ensure that prisoners get diet as per rule.

• Prisoners should get special diet on religious festival and national days as may be specified in rule.
• To break the monotony of prison, diet menu should be prepared in advance under the guidance of nutrition expert.

• Prisoner’s panchayat, under proper supervision of prison staff, should be associated with preparation and distribution of food etc.

• Flush for septic latrine should be provided in every barrack and cell. Adequate number of separate urinals should be provided.

• Every prison should provide cubicles for bathing at the rate of one for ten prisoners with proper arrangement to ensure privacy. Separate platform for washing clothes should be constructed.

• Clothing, bedding and other articles supplied to prisoners should be proper and adequate.

• There should be no limit on incoming letters for prisoners. There should be no restriction on the number of letters the prisoners may send at their own cost. However, at Government cost an under-trial should be allowed to write two letters per week whereas a convict should be allowed to write one letter per week.

• The scale of interviews for convicted and under-trial prisoners should be liberalized. Facilities for interviews of prisoners should be humanized and conditions/procedures governing grant of interviews rationalized.

• Canteen should be organized in all the central and district prisons. Prisoner's panchayat should be associated with management of canteens.

• A Board of Visitors should be constituted for every central prison, district prison and sub-jail. The Board of Visitors for an institution should visit such institution at least once in a month.

• Every central and district prison should have two or more medical officers. A Central prison with an inmate population of more than one thousand prisoners should have three medical officers.
At every prison where there is sufficiently large number of women prisoners a whole time lady medical officer should be appointed. At other prisons arrangement should be made for part-time lady medical office.

The prison hospitals should have full contingent staff according to their requirement.

Visiting specialists from local hospitals should be arranged for treatment of ailments requiring specialized services.

From the point of view of security and discipline, prisons should be classified into special security prisons, maximum security prisons, medium security prisons and minimum security prisons.

Every prison should be provided with adequate custodial staff to ensure that no one is required to work for more than eight hours a day, besides a day's rest every week.

The institution of convict officers discharging supervisory and disciplinary duties at present should be abolished in a phased manner.

Newly admitted prisoners should be given a booklet printed in local language containing information regarding regulations governing various aspects of prison life.

Facilities available to prisoners to file appeal/revision/review or to make other application in regard to the criminal cases should be improved. Prisoners may also be provided free legal-aid in such matter.

The procedure for dealing with genuine complaints and grievances of inmates should be rationalized.

Prisoners panchayat should be involved in matters pertaining to inmates' self-management, and self-improvement.

Diversification of institution should be evolved for basic segregation and treatment of homogeneous groups of prisoners. Homogeneous groups of inmates should be kept in appropriate classified institution.
A reception centre should be set up in every central and district prison where prisoners sentenced to more than one year should be initially classified by a classification committee consisting of professional staff.

Provisions of the model prison manual regarding procedure for initial classification, stage of classification and re-classification procedure, decisions of the classification committee, progress reports review of progress re-classification, contents of inmates case file should be adopted by each state and union territory.

Discipline in prisons should be firm and positive so that treatment programmes may be carried out uninterruptedly and effectively. Treatment programme should be individualized.

Diversified educational programmes should be organized for different groups of inmates. Inmates who have reached a certain stage of education should be allowed to continue their education either as regular student of schools / colleges or through correspondent courses.

Literate inmates whose conduct is good should be given training in imparting education to other inmates and they should assist the educational personnel of the institution.

Appropriate recreational and cultural activities should be provided in prisons.

Every prison and allied institution should have a proper library with sufficient number of newspapers, periodicals and books.

Every prison and allied institution should have an annual sports meet. Inter institution and interstate sports meet of inmate should also be organized

Every prison and allied institution should have a committee for recreational and cultural activities comprising carefully selected inmates.

Techniques of casework, group work, individual and group guidance and counseling should be applied in prisons as measures of treatment of offender.
• Community participation in treatment programme should be encouraged.

• A prisoners’ welfare fund should be set up in each State / Union territory.

• Vocational training programmes in self-employing trade and occupation should be organized in every central and district prisons.

• Inmates should be given work experience in section of trade / industry.

• Rationalized wage system should be introduced in prisons and allied institutions State / Union Territory.

• Prisoners should not be made to work in the production unit after lock-up of the prisons.

• Sale should be promoted through the establishment of show rooms and participation in exhibition.

• Training programmes should be designed and planned to suit the needs of prisoners sentenced to short, medium and long term of imprisonment. They may consist of apprenticeship training, on job training

• Prisoners sentenced to medium and long terms of imprisonment should be given training in multiple skills.

• Inmates for open agricultural farm should be properly selected. Prisoners working on farms should be given proper and adequate wages.

• A review of all the police lock-up should be taken up in each State / Union Territory and the living conditions in them should be improved.

• A Board of visitors should be appointed in each district to visit regularly all police lock-ups.

• Recommendation of the law commission with regard to speedy trials and simplification of bail procedures made in its 77th and 78th reports should be accepted and implemented. In addition, bail should be granted to the accused as a matter of right unless proved by the prosecution that he being on bail might endanger the security of the society.
• The provisions of section 167 of the Code of Criminal Procedure with regard to the time limit for the police investigation in the case of accused under-trial prisoners should be strictly followed both by the police and the Courts.

• Rights of under-trial prisoners including facilities of access to legal material, legal counsel and legal aid should be protected.

• Under-trial prisoners should be allowed the facility of canteen available to other prisoners in the prison.

• Bail should be liberally granted to women under-trial prisoners and those not able to furnish security may be released on personal recognition.

• The Probation of Offenders Act should be extensively used for the benefit of women offenders.

• Women prisoners should be lodged in separate institution / annexure meant exclusively for them. All prisons / annexes for women should be staffed by women personnel only.

• Newly admitted women prisoners should be medically examined for pregnancy. Pregnant women prisoners should be transferred to local maternity hospital for purposes of delivery.

• While registering the birth of a child of a woman prisoner, the place of birth should not mentioned as 'prison' if such a birth takes place there; instead the name of the locality should be mentioned.

• Pregnant and nursing women prisoners should be prescribed special diet and exempted from unsuitable types of work.

• Women prisoners should be permitted to retain their 'Mangal Sutra', glass or plastic bangles etc.

• Children (up to the age of five years) accompanying women prisoners may be allowed to be kept with them in specially organized crèches outside the main prison building.
• The investigation of cases of young offenders must be expeditiously done. Bail should be liberally granted in case of young offenders.

• There should be a separate institution for young offenders to be called reception centers Kishore / Yuva Sadan. There should be a separate institution for girl young offenders.

• Reception centers should be organized at district or regional level as per the requirements of each State / Union Territory. The period of detention in a reception center should not normally exceed eight weeks.

• Kishore / Yuva Sadan should be properly diversified and all basic operation / for treatment and rehabilitation of young offenders should be adopted.

• At the end of every six months, the review board should examine the case of every young offender and determine his suitability for release on license. Young offenders offering good prognosis may be kept in Kishore / Yuva Sadan till they attain the age of twenty five years.

• Section 433 A of the Code of Criminal Procedure should be amended suitably so that such lifers who show good prognosis for reformation and rehabilitation can generally be released after 8-10 years of actual imprisonment.

• The Code of Criminal Procedure should be amended to provide for a pre-sentence study of offenders liable to be sentenced to imprisonment for life. The Judge concerned should make use of this material while passing the sentence.

• Life Convicts who offer good prognosis should be transferred to semi open and open prisons.

• Section 30 of Prisons Act 1894 should be replaced by a fresh legislation providing for a more humane and dignified treatment to prisoners under sentence of death.
• When the death sentence becomes finally executable the prisoner should immediately be transferred to a separate enclosure where arrangement should be made to keep him in a cell under constant watch. During the day he may be allowed to associate with other such prisoners.

• All sub-jails should be immediately brought under the administrative control of the respective Inspector General of prisons and only an officer of the Prison Department should be appointed as officer in-charge of the jail.

• The system of supplying cooked food to prisoners in sub-jail on contract basis should be discontinued and proper cooking facilities should be provided to the prisoners as per scale prescribed in the jail manual. The scale of diet for inmates of sub-jails should be the same as that of for inmates of district or central prison.

• Sub-jail should regularly be visited by the Inspector General and Deputy Inspector General of Prisons.

• The scope and purpose of open institutions should be clearly defined in the statute. Conditions of eligibility of prisoners for admission to open institution should be liberalized. The system of wages in open institution shall be rationalized.

• The inmates in open institutions should be granted liberal facilities for functional literacy, recreation, cultural activities, community participation, visit to neighboring towns for marketing and recreational purposes, continued contact with family, remission of sentences, leave and premature release.

• The rules of eligibility in respect of various categories of convicted prisoners for earning ordinary and special remission should be revealed and rationalized. Grant of remission should be properly recorded and authenticated.

• The Government of India should lay down uniform guidelines to be followed by State Government / Union Territory administrations for grant
of State remission. The practice of granting remission on occasions or for reasons not justifiable should be immediately stopped.

- To bring about uniformity in terminology for prisoners' temporary release from prisons, there should be two types of leave; i. Leave and ii. Special leave.

- Rules for eligibility for convicted prisoners for being released on leave and special leave should be reviewed, rationalized and liberalized.

- The period spent on leave should be counted as sentence served while that spent on special leave should be treated as sentence suspended.

- Rules for eligibility of convicted prisoners for consideration of pre-mature release should be reviewed and rationalized.

- Public participation in prevention of crime and treatment of offenders must be made a part of our national policy on prisons.

- A committee should be constituted in each State / Union Territory to identify and enroll voluntary workers and agencies at the State, District and Sub-divisional levels.

- The Government should give due patronage, financial assistance and recognition to voluntary agencies and individuals working in correctional field.

- After-care of prisoners discharged from prisons and allied institutions should be the statutory function of the department of Prisons and Correctional Services as given below.
  
  a. There should be a properly staffed after-care and follow-up unit in the head quarters organization of the department of prisons and correctional services in each State / Union Territory.
  
  b. In the district, Probation Officers should be in-charge of after-care and follow-up work. In large states Regional Probation Officers should be appointed to supervise and co-ordinate the work of the Probation Officers in the district.
c. At the institutional level, this work should be done by officers’ in-charge of prisoners' welfare in close liaison with classification committee.

- After-care Homes should be established to meet the immediate needs of released prisoners.

- There should be at least one voluntary organization in each district to which the work of extending help to released prisoners could be entrusted. The Government should encourage formation of voluntary organization for taking up programmes for the help of released prisoners and should give them necessary financial and other help. Services of voluntary workers in the field should be appropriately recognized.

- Restriction on employment of ex-prisoners in Government service of public sector undertaking should be removed by suitable amendment of the rules.

- Conditions of recruitment and promotion of prison staff should be so fixed as to ensure that persons with requisite qualifications, experience and professional competence are available in the prison service at all levels.

- Basic initial training, in-service training, refresher courses and special training courses should be organized by the training institutions for various categories of personnel.

- Programmes for reformation and rehabilitation of offenders should find place in our national plans.

- Funds for renovation of old building and construction of new building should be made available to the State Governments by the Central Government under plan.

- Sufficient outlays should be earmarked under plan by the Central Government for initiating certain centrally sponsored scheme for the welfare of prisoners.

- Central financial assistance in the form of matching grants or long term loans should be extended to the state Governments for modernization or the mechanization of prison industry and agriculture.
• Other programmes for the development of prisons and development of prisoners should be included in the State plan.

• The Government of India should immediately set up a national commission on prisons and the objectives and function of the commission should be clearly laid down.

• The Government of India should finalize the national quality on prisons on the lines suggested and notify it.

5.4 KAPOOR COMMITTEE 1986

Security and discipline are the basic requirements of any prison system. They are germane to all its activities including those connected with reformation and rehabilitation of prisoners. Society expects that offenders in the charge of prison authorities should be kept in safe custody and incidence of escapes creates serious dissatisfaction among the people. Incidences of escapes have been reported often and in number of cases even highly dangerous prisoners had managed to escape from jail custody. Incidence of indiscipline by the prisoners and serious negligence of duty and malpractices by prison officials were also taking place frequently. All these reflect deterioration in security and discipline both of inmate as well as the staff, in the prisons. As the Government of India felt seriously concerned over these problems, it constituted a group to look into the security and discipline and closely related aspect of prison administration under the chairmanship of Shri R.K.Kapoor ,I.P.S. former Director and the then Advisor in the Home Ministry as per the Ministry of Home Affairs Notification No. V-16014/3/86-GPA-IV dated 28th July 1986 and 13th August 1986.

5.4.1 The terms of reference of the group are as follows

• To examine and review various aspects of administration and management of prisons especially in the context of security and discipline in prisons; and

• To suggest measures for their improvement.

3 The Report of Kapoor Committee and Recommendations, 1986
The group was required to submit its report within six months but the period was further extended till the end of July 1987. The group submitted its report on 29th July 1987.

In its preface, it is observed that the recommendations for improvement in security and discipline in different types of prisons in the country are not aimed at making the lives of the inmates more restrictive or harsh. Better security can be achieved by firm discipline combined with humane behaviour and corrective treatment aimed at promoting self-respect among the prisoners. Programmes for reformation and rehabilitation can be best pursued in a discipline, constructive and secure environment and under the supervision of at least well-trained and motivated staff.

The group exhaustively analyzed the subject of security and discipline in various areas of prison administration based on overall study and examination of the situation prevailing in different States on different headings like present conditions of jails in the categories of prisons and prison buildings, prison architecture and building requirements, security arrangements, some other methods for security, prison staff, staff discipline, training of staff, corruption and malpractices, convict officers, reception and classification of prisoners, discipline of inmate, classification of prisons on the basis of security, problems of under-trials political agitators and other un-convicted prisoners, prison panchayat, cellular accommodation, escort of prisoners outside jails, Court directives and rulings, sub-jails, Tihar jail, role of the center, some public impressions on Indian prisons and security vis-a-vis reformation. The study group in its report gave summary of observation and recommendation totaling 238 in the context of security and discipline in prisons on different headings as listed above.

5.4.2 Some of the recommendations which are relevant to the research topic in question are only given below

- Central and district jails should not have a capacity exceeding 750 and 500 respectively. There should be scope for individual occupancy as far as possible and to plan for room and not cell. Multiple occupancy in the form of room or
dormitory for a maximum of twelve inmates. Both rooms and dormitories should have toilet and bathing facilities.

- Corruption is prevalent in other branches of administration also, but its gravity becomes more if it is related to helpless creatures confined within the high walls of prisons. Also, a corrupt jail official is likely to be slack and negligent in his duties and in enforcement of prison rules and regulations. He would also not be fair in his treatment of prisoners and would be inclined to show favours or be soft towards those prisoners from whom he has taken money or whose services he has used for some undesirable action. In this connection, the study group has recommended certain steps to be taken to control corruption and malpractices in the prisons like
  
  - the disciplinary rules different from those applicable to other civil services, but akin to those of police or para-military forces should be prescribed;
  
  - highest standards of integrity and straightforward dealing should be followed at the time of recruitment and training jail personnel for which adequate procedure should be evolved;
  
  - arrangement should be made for proper training and motivation of prison staff;
  
  - there should be selection of right personnel and improvement in the service condition of the jail staff including the pay scales and promotional prospects;
  
  - an effective system should be evolved for hearing and expeditious disposal of the complaints of the prisoners. Complaint boxes may be installed at prominent places outside the prison and inside the prison.
  
  - purchases should as far as possible be centralized and made from public undertaking so as to minimize the scope of corruption;
  
  - as far as possible community participation of prisoners should be ensured in some aspects of prison management such as hygiene, sanitation, food preparation and distribution.
  
  - The system of convict officers should be abolished with immediate effect in special security prisons and in jails in major metropolitan cities where
influential / COFEPOSA are lodged. In other prisons, the system of convict officers should be abolished in a phased manner in the next five years. Additional staff should be provided in place of convict warders.

- An in-depth study of the total personality of the prisoners, his economic and social background, the nature of the problem etc should be conducted by the classification committee on the basis of all the documents received from the police and the courts and the information obtained during the course of interview with the prisoner. Adequate resources and facilities for organizing individualized treatment programme for each prisoner should be provided to the various institutions.

- Discipline is essential for the desired safety and security of the prisoners and for the smooth and efficient operation of the institution. Discipline in itself is an element of reform. For proper control and discipline among the prisoners the prison officials should continuously endeavour-

  a. to know the mood, temper, the feelings, degree of tension and alienation of the inmates;

  b. to locate the causes which create serious dissatisfaction and alienation among the inmates and take quick action to remove genuine grievances of prisoners and to give suitable opportunities to them to explain their cases in regard to allegations made against jail personnel;

  c. to avoid revengeful attitude, retributive action and brutality;

  d. to be humane, sympathetic, fair but firm in dealing with indiscipline, disorder and misconduct;

  e. to avoid favouritism and appeasement of inmates;

  f. to identify and segregate inmates who are potentially subversive, violent, aggressive or bully type;

  g. to offer a range of constructive activities for keeping the inmates busy according to individual needs and ability.
• Each prisoner should be provided with a book-let in the local / regional language or in English explaining the disciplinary requirements, his rights, obligation, privileges and regulations governing his treatment. In case of an illiterate prisoner the contents of the book-let should be explained to him orally.

• There should be a waiting room near but not too close to the main gate with sign board in the local language displaying rules and regulations governing the interviews and an adjoining room for searching the visitor before being taken to the interview room. Women visitors should be searched only by women staff.

• A complaint box with serially numbered pages and with prison seal on each page should be kept in the waiting room and available to the visitors on demand. The book should be placed before the Superintendent of jail every day after the interview hours.

• In prisons earmarked for long term convicts a separate and small interview room without any barriers (to be called interview room B) should be provided for such convicts who have constantly shown good conduct for at least five years of their sentence. The prisoner and the visitors should sit on the sides of the table in this room. The prisoner may be allowed to touch the hand of his close relations if he so desires.

• The prison staff should treat the under-trials (even those involved in serious crimes) humanely, politely, decently, sympathetically but firmly.

• All privileges and facilities in regard to interviews, correspondence, meetings with lawyers etc., as are permitted under the rules should be extended to under-trials but without showing favouritism to anyone.

• All efforts should be made to reduce idleness among the under-trials. Reasonable wages and constructive vocational training for even short periods which may be useful to an under-trial prisoner after his release may be good incentive to make him volunteer to work.

• Under-trials should be provided food from the jail kitchen and not allowed to get cooked food from outside or to cook their own food in the jail.
• Under-trials as well as convicts should be represented on the prison panchayat. The panchayat member who do good work and help in inculcating healthy tradition in the prison should be rewarded as per jail rules.

• Sub-jails constitute 62 % of the total number of institution meant for keeping prisoners in all the States and Union Territories. Their management and administrative control, staffing pattern, buildings, types of inmates kept in them vary from state to State. Generally, under-trials are kept in sub-jails and in some places convicts with short term imprisonment are also lodged there. To make improvement in the standard of sub-jails the study group made so many recommendations out of which some of the noteworthy recommendations are given below:-

a. The control over all sub-jails should vest in the prison department. The entire staff for the sub-jails should also belong to that department.

b. New sub-jails should be built at all the places where Courts function so as to avoid the need of transporting prisoners to long distances. The buildings of the existing sub-jails should be improved and basic facilities provided so as to reduce resentment among the prisoners on this account.

c. The maximum capacity of the dormitories in sub-jails shouldn’t be more than ten to twelve prisoners and attached toilet facilities should be provided for each such living room.

d. Proper cooking facilities should be provided in the sub-jails and the system of supply of cooked foods through contractors should be discontinued.

e. Only remand and under-trial prisoners should be kept in the sub-jails. No prisoner convicted for more than one month should be lodged there and separate dormitory should be provided for them. Convict with longer sentence should be transferred to district or central prison.
f. The scale of food for the inmates of the sub-jail should be the same as for the inmates of central prison. The food should be cooked by departmental cooks inside the premises of the sub-jail and proper kitchen should be provided. If under-trial prisoners volunteer to cook they should be paid wages.

g. There should be a separate cells or dormitories with a segregated compound for female inmates of the sub-jails. This portion should be manned exclusively by female staff. The entry to this portion should be through a closed gate locked from inside by the female staff. Where the average daily population of female inmates does not justify the employment of female staff on permanent basis such staff may be arranged on daily wage basis.

h. Facilities like newspapers, radio, games (both indoor and outdoor) etc. should be provided for the under-trial prisoners in the sub-jails. Physical training and yoga classes must be organized.

- The Government of India should play a more active role to lay down policies on prison reforms, ensure their uniform implementation and provide assistance to the States and Union Territories, as in the case of police, even though a State subject.

- There should be effective machinery under Ministry of Home Affairs to deal with prisons. The Government of India should create an organization called the National Institute of Correctional administration, with two wings, one for training and the other for Correctional Services.

- The subject of prisons should be brought in the concurrent list of the constitution to enable central legislation for uniformity in correctional administration.

- The image of the jail department in the eyes of the public and the media is poor. The general effect of this is that whenever the jail administration is subject to complaints, usually an adverse presumption is drawn against it.
Despite various limitations, the jail administration should make concrete and determined effort to improve its image through better performance and efficiency. The State Government should also pay greater attention and higher priority to prison department.

- The people in general and media do not fully know about the prison system, the legal position as it affects the jail administration, the requirement of security and the problems of discipline and control of prisoners. The State Governments and Jail Departments have generally followed a 'closed policy' and do not try to educate the people and the media about the actual position. The press tends to rely on deficient information, rumours, speculation and distortions. The management of prison establishment should therefore gradually adopt an approach of ‘openness’. The people and the members should know about our jails and the penal policy and they should be provided adjective information.

- Mere exhortation in training centers to prison officials to convert the jails into institutions for reformation and rehabilitation of prisoners is likely to have little effect towards orientation of their minds in the direction of new philosophy till the required apparatus, adequate staff and the other resources are provided in the jails. It would, at the same time be incorrect on the part of the jail officials to wait till ideal conditions are created and not to take even limited action, within the ambit of the existing resources, in the direction of treatment programme for prisoner’s rehabilitation and to educate and motivate the staff for the same. They should realize that there is no incompatibility or contradiction between security and reformation and both are complementary to each other.

5.5 NATIONAL EXPERT COMMITTEE ON WOMEN PRISONERS 1986-1987

Focus on Gender justice is a recent phenomenon in Criminal Justice. It has arisen from a realization that women's vulnerability and unequal status do not cease because or when she is taken into safe custody. In fact in many ways, her status in

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4 The Report on the National Expert Committee on Women Prisoners, 1986-87
custody is an extension and reflection of how she is treated and the esteem or lack of it in which she is held outside custody. Although it has taken long, correctional thinking in this country, as elsewhere has finally awakened to the realization that gender parity must be consciously engendered in all phases of the Criminal Justice Process beginning with pre-arrest, arrest, through the stages of trial, conviction, custodialization, conditional and unconditional release and eventually rehabilitation. It is this growing self-consciousness about the frailness and fallibility of what is ‘due process’ in respect of women's right and dignity and status in custody that are behind. The Government of India welcome initiative in setting up a group of interested persons at the national level to take an immediate look at gender dignity and gender justice behind custodial bar.

5.5.1 Constitution and terms of reference of the Committee

The Government of India therefore set up the National Expert Committee (NEC) on women prisoners as per Government of India notification F.9.51/8 WW dated 26.5.1986 in order to identify the gap in or drawbacks of existing facility and services and to evolve a more humane policy towards women offenders under the chairmanships of Mr. Justice V.R. Krishna Iyer, Retired Judge of the Supreme Court of India.

The specific terms of reference of the Committee were to:

1. Study procedures for the handling of women offenders in detention or custody

2. Review conditions governing the treatment of women offenders in police lock-up and penal and correctional institutions.

3. Examine the efficacy of institutional and other services for reformation and rehabilitation of women offenders.

4. Suggest legal, administrative and organizational measures for ensuring fare, humane and effective handling of women offenders at various stages of the criminal justice process.

5. Go into any other aspect relevant to women offenders within the overall framework of the present policy of women's development.
5.5.2 Recommendation of the Committee

Unlike the Report of the other Committees, Summary of its recommendation has not been given in a separate Chapter and it has been given under the chapters wherever necessary. The Recommendation which is relevant to the women prison alone are culled out and enlisted below:

- Separate prisons for women are a more satisfactory custodial option in the spirit of correctional justice, the smaller numbers of women prisoners in comparison to men cannot be held as a valid factor limiting the creation of separate custodial facility.

- In existing prisons where women are in sufficient number, a proper classification system must operate which should include medical, criminological and social assessment of the inmate and serve as basis for specialized and segregated care, treatment, training, education and rehabilitation of the inmates. In existing prisons with fewer inmates, scientific correctional care must be there even if physical segregation is not possible. The classification system should be introduced compulsorily in all prisons and custodial institutions. It should be used as a continuous programming and monitoring device rather than one time activity.

- Medical diagnostic and care facility must be available to inmates routinely and by a female doctor. Where full or part-time medical staff is ill-afforded, local female doctors from Government Health Facilities must be inducted to serve the prisoners on a visiting consultant basis.

- Diet, clothing, and basic living facilities (bath, toilet, personal and environmental hygiene) are due for every prisoner. Whatever adjustments within the prison procedures are possible should be made to help remove minor irritants. The daily routine itself (wake-up and lock-up time) can be staggered to suit seasonal constraints.

- The placement of a grievance box in all prisons where prisoners can drop in their complaints and suggestions and have the confidence that no retribution will accrue to them, will assist in involving inmates in custodial reform. In
view of the predominantly illiterate status of women prisoners, the literate prisoners along with social workers, teachers and probation/welfare officers attached to the prisons should be asked to serve as scribes in recording the prisoner's grievances and suggestions. Some incentive scheme for the best workable suggestion by a prisoner will motivate them to think along positive lines and to relate better to the custodial ethos.

- Children of women prisoners are a bright spot in more ways than one. The Committee noted the overall satisfactory level of the child care in Central Prisons for women. But would like to see the facilities upgraded or created at the lower levels of jails.

- Some specialized attention through wider use of parole, furlough, commutation and suspension of sentence etc. is required to assist the female prisoners to discharge her maternal and bread winner’s role for her dependant older children who cannot be admitted to prison.

- The prison superintendent should be encouraged with discretionary authority to admit any child (of a prisoner mother) under the age limit permissible to prison. Even if the regular magisterial order is not there.

- Keeping in view the lesser security risk posed by women offenders and to suit their psychological needs better, it may be advisable to consider cottage- type, medium security prisons which can provide less formal and more commune type custodial experience.

- Indiscriminate custodialisation of women needs to be discouraged through careful sentencing and much greater reliance on non-custodial options than is currently visible. Further the custodialisation of mentally afflicted (criminal non-criminal lunatic) women must be immediately renounced. Those taken in protective custody should be diverted to separate institutions and increasingly to community based non-formal custodial and correctional options.

- In women's rehabilitation, employment training has a pivotal role. Consequently, work in prison has to be given such potential economic work
and utility that all women in custody are willing to engage in work programmes.

- Current wages in prison are dismally low, more so for women prisoners. These disparities on the basis of gender or unacceptable must be removed. Prison labour must be paid at fair and equitable rate which are of habilitative value. In women's prisons too, the work programme has to be managed as an efficient profitable operation. Privatization with adequate safeguards is one of the options. Another is to get prison industry equated with small scale industry and to qualify for benefits which may help make it more profitable. The setting up of women prisoner's co-operatives is another useful modality.

- Any choice of trade taught to women must take into account their present and potential used for engendering self-confidence as well as self-reliance.

- Existing disparity in wages on the basis of type of work, and in particular between 'light' and 'heavy' work in respect of women prisoners is not necessary and should be removed.

- Education is an important enabling factor as far as women are concerned and that irrespective of their custodial status and classification they must compulsorily enroll in the prisons educational programme. Recreation, sports, singing, acting, painting etc., are other therapeutic arts and activities which can be meaningfully mooted for the return to normalcy and rehabilitation of women prisoners.

- There are two elements that can be of special value to women. One is simple instruction in existing government programme and facilities including school, health center, women and child welfare center, bank, post-office, police station, Court, train station, bus station etc. Knowledge of these services will help enhance the women's functionality. The other is to interact with her in a secular, introspective manner so that it would rid her of custodial stresses. This would entail use of meditation yoga, etc.

- Staff conduct, accountability, orientation etc., are all relevant to organizational efficacy. In this connection the Committee recommended the following:

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a. Adopting a clear policy framework which can give contiguity and thrust to custodial and correctional efforts in various parts of the country.

b. Creating an exclusive prison service with protective representation for women in the service.

c. Ensuring parity in status between custodial and welfare staff and functions within the prison service.

d. Offering better terms of service particularly for junior women staff.

e. Organizing appropriate staff orientation and training.

f. Appointing women Deputy Inspector General in the State Headquarters preferably from prison services, particularly to look after the work relating to women prisons, women prison staff and female prisoners.

- Special institution for female arrestees and under-trial women should be set up in larger cities (at least one per city) in which arrestees on police or judicial remand can be kept. In such institutions minimum basic amenities such as food, water, toilet, ventilation, fair clothing on loan for those who may require, medical care when needed, and child care (through a creche) etc. should be made available in addition for under-trials functional literacy and employment training activities should be offered and inmates motivated to earn while learning.

- In the district separate lock-up for women for each circle of taluq are recommended where no separate institution is justified on account of a smaller population inside the Committee would like the police chief of his state to advice the Government on the criteria of locating separate police lock-up. In this context the use of less formal and less costly buildings are proposed.

- The lock-up for women must ensure privacy and provide basic amenities including those specific to women's needs.
• The power to arrest and confine women should be exercised with much greater discretion than is currently evident with special consideration to the role women play in family. Fine defaulters and casual or minor offenders should not be detained in lock-up but allowed to go on personal bond.

• For overall improvement of police conduct and handling of prisoners and for upgrading the quality of police lock-up, a model police manual must be compiled along the lines of the model prison manual. This should have specific directives on special needs of women arrestees (and children with them), as well as on women police. A section on the right, privileges and responsibilities of arrestees are under-trials should be inserted in the manual. Guidelines on minimum standards of space and amenities should also be included.

• The arrested women can and must be made produced. The presence of another woman while a woman is arrested is necessary and made mandatory.

• The feasibility of having police lock-up completely controlled by women police station is questionable given the prison numbers and training of women police and the present site of their equipment. Through adequate training in the art of self-defense, assured mobility in the form of a vehicle and office tools of modern technology they would find it feasible, manage police station and police lock-up independently. The Committee however felt that a mixed corpse of men and women but specially trained and sensitized to dealing with women managing police lock-ups and police station is a more acceptable solution.

• Service in prison must be developed as a profession. The Committee endorsed the recommendations of Jail Reforms Committees and other groups to have an Indian Prison Service. This will give due recognition, security, and motivation to the prison cadre.

• Women representation in Prison Service must be enhanced through reservation both at recruitment time and during the service. Placement and promotion
must be linked to training. In lieu of career opening women staff must be adequately compensated.

- The custodial culture must change. The institutional ethos must shift from 'management and control' to 'development' of both staff and inmates.

- Prisoner's handbook written in simple local language must be compiled and made available to the custodial staff as well as to the literate prisoners.

- At the time of admission and through fortnightly orientation sessions, women in custody must be made aware of their rights and duties while in custody and of basic prison procedures. For literate prisoners the prison should display the fundamental rights of the prisoners written in an easy, readable text, in a central location in the prisons.

- The prison manual must be physically available in every jail for easy reference.

- A separate volume on the custody and treatment of females needs to be developed.

- Social, legal and emotional support to women inmate should be extended through a socio-legal counseling cell and by means of legal-aid camps held in prisons. This cell consisting of a legal social worker should be managed and sponsored jointly by the law schools and school of social-work.

- A panel of visitors should be appointed to every custodial institution to serve as a monitoring and enforcing mechanism. The panel must involve only committed workers with the necessary time and interest in working and not become a parking place for well-meaning but unproductive 'distinguished women'.

- For optimum effect, the conscientization of the women in custody has closely linked with her total awakening and enhancement of her personal capability both within the prison and outside. General literacy, work training and legal literacy are the three tire in this endeavor to convert the women offender into a non-offender and to give her gender dignity.
• Legal-aid at State expense is a constitutionally mandated provision. Section 304 of the amended Criminal Procedure Code reflecting Article 39-A of the Indian Constitution requires legal-aid to be provided to the accused at State expense. Case law has further given flesh and blood to this constitutional entitlement. However the enforcement of this provision leaves much to be desired. In respect of women particularly those held in wrongful custody or under-trial women, the relevant provision needs to be rigorously enforced. Enforcement is generally a two way lane. The system itself should be revamped and stimulated to deliver a service better and as a parallel measure the people should be educated and empowered to demand the service to which they are entitled.

• The code of ethics of the legal profession needs to be drafted in order to clearly outline the ethical responsibility towards women in custody. In this context attention is drawn to the declaration containing principles of medical ethics for the protection of witness and detenues adopted by the United Nations General Assembly in December 1982. A similar declaration could be evolved for the legal-aid profession. Accountability of the profession to observe the code should be ensured through self-monitoring by the profession and by exemplary punishment of acts of delinquency by the profession.

• Women should be rapidly educated in their basic rights in the criminal justice process on the basis of well-conceived material and through effective instructional modality suited to their literacy level, occupational and household schedules and cultural preferences. Such orientation can be offered to them through work places, adult and extension education, distant education and instructional media, Mahila Mandal and like groups.

• Educational curriculum in schools and colleges and in formal and normal education can also include elementary and simple lessons in law and legal processes relevant to the daily life of the woman.

• The Committee endorses the proposal of the previous prison reforms committees as follows.
a. To abolish simple imprisonment and imprisonment below three months
duration;

b. To resort to such alternatives to imprisonment as public censure,
compensation to victims and corrective labour.

c. Substitute payment of fine through non-monetary means such as
assigning offenders to compulsory work centers or to stagger fine
repayment mechanism and

d. Widely apply the principle of awarding pre-trial release on personal
bond without sureties as laid down in Hussainara Khatoon and to make
the necessary provision in law to reflect this principle.

- The Committee view Probation as a sound alternative to custodialisation
particularly in respect of women since they pose lesser risk than man. The
same applies to wider use of parole or furlough in case of women.

- The Committee proposed two counterpart agencies keeping in view the wider
involvement of non- governmental resources in carrying out the function of
probation, parole and after-care. The first is socio-legal counseling cell to
work in prisons under the prison department's overall supervision but managed
and staff from school of law and social-work. The other is a center for relief to
the discharged prisoners to operate at the district level and to offer legal social,
economic welfare and emotional support to the prisoners outside the prison
under one umbrella. A released prisoner here refers to those released on
probation, parole or on completion of sentence or for any other reason.

- The Committee endorses the principles of decriminalization and
depenalisation and suggests that the law commission be asked to prepare a
report on these issues particularly keeping in view their bearing on women.

- The Committee feels the sentencing criteria must be better stated, streamlined
and applied in order to promote equity in sentencing. This can be done through
preparing indicative standard on criminal justice, and on sentencing
procedures and alternatives as well as model sentencing act, model penal code
and guide for judges in choosing disposition etc. The Law Commission is urged to prepare such compilation.

- Informal mechanisms such as Lok Adalat are welcome modalities. The Committee recommends setting up Women's Court, Family Courts and Nari Bandigriha Adalat (Women Prison Court) to serve women and prisoner women respectively. Such institution preferably headed by women and committed to less formal procedures of adjudication will help to ensure speedy and specialized attention to women within the criminal Justice system.

- Women must be associated with the Nyaya Panchayat in larger numbers so as to cater to the special needs of women. The Nyaya Panchayat has a special potential for mediatory of conciliatory justice which can have an effective prophylactic values. The presence of women in the Panchayat is bound to improve the anticipatory and preventive intervention on behalf of women in need.

- Competent women from various fields such as law, social-work, voluntary work, teaching, medicine and other field can be appointed to serve as Special Women Magistrate on the lines of Special Executive Magistrate appointed to assist in executive function in Western Indian States.

- Board of Visitors to various custodial institution, People Vigilance or Watchdog Committee may be set up to operate at any stage of the criminal justice system with the purpose to monitor condition in various custodial places - prisons, police lock-up, social welfare custodial institutions and mental homes wherever women may be confined.

- The role of women lawyer is likewise of pivotal importance. The potential for the successful deployment of female lawyers in public interest litigation is just as promising their role in advancing in the status for prisoners through habeas corpus writs. Women lawyers can use their talents effectively through legal counseling and legal-aid to render strategic assistance where it is most needed. They can also help train a second front of para-legal workers, legal- aides and investigators.
• Involving women's movement groups in the welfare of women prisoners and in crime prevention and correctional work. Women's groups must accept women offenders actual and potential as one of the priority groups on their own agenda. Preventive work in criminality is like preventive work in health. Preventive action by women's groups appropriately aided by State and Central Government has to begin with sensitizing and mainstreaming those families of women.

• The media's impact on law is undeniable. The status of the dignity of the women and the injustice dealt out to her need to be investigated much more thoroughly and the findings widely disseminated through national and local radio, press, television, films and other media network. Mobile women's exhibition, street theaters, women melas and village cattle fairs are some of the modalities that are currently in use or are promising as focal points for media supported awakening of women to their roles, responsibilities, injustices and indignities.

• A set of concrete guidelines evolved to meet the special needs and disabilities of women in the criminal correctional process will enable the functionaries of the system (police, prosecution, courts, prisons and correctional personnel) to reorganize their approaches and procedures in functionally meaningful manner to serve gender justice. Keeping this in view the Committee recommended for the formulation and adoption of National Policy on Custodial Justice to Women. The Committee drafted a draft policy on this and has appended to Part - II of its report.

• In order to assist the process of national concerted action and to specifically overdue the implementation of the proposed National Policy on Custodial Justice to Women. The Committee recommended for the creation of a statutory autonomous body to be designated as the National Authority on Custodial Justice to Women (NACJW). The Committee also recommended that there should be counterpart of the National Authority on Custodial Justice for Women and of the Ombudsman for custodial institution in the States also. The State level set will have functions similar to the Central authority.
• The Committee proposed that one member be designated from the NACJW as the Ombudsman for custodial institutions for women in India. This can be done on a rotating basis for a fixed item which can allow for continuity without sacrificing efficiency. The Ombudsman's specific role will be focus on delinquent custodial practices and procedures and to enforce remedial action. As far as possible this function could be women member of the NACJW.

• The Committee strongly endorsed the undeniable merit in uniform judicial and correctional processes and equitable custodial conditions for all citizens irrespective of where they live. This is the essence also of the equality clause in the Constitution.

• There is need to have a comprehensive Prison and Prisoners Act which can bring together in a single act the provisions presently dispersed in several acts.

• A comprehensive code to cover the administration of all custodial institutions and the treatment of inmates of such institutions with special provisions for the treatment and handling of women should be formulated. In this regard, a draft proposal containing Suggestions for a Legislative Cum Administrative Code for Custodial, Correctional and Habilitative Justice to Women has been compiled by the Committee which is enclosed in Part - II of its report for consideration of individual State as well as the Central Government.

The Committee in its concluding chapter has observed that the Criminal Justice System must clean its soul before it can make itself and the process of correction and reform healthy. Every single operator of Justice and correction must re-orient the approach to disseminating justice so that at each step and each phase of the system the offender is removed one step away from deviance, and moves one step closer to reform.

5.6 BUREAU OF POLICE RESEARCH AND DEVELOPMENT AND CORRECTIONAL ADMINISTRATION

The National Institute of Social Defense was in-charge of the administration and management of prisons and other correctional institutions since 1975. However, this work was transferred to the Bureau of Police Research and Development by the
Government of India as per the Ministry of Home Affairs order OM No.VII 11018/14/92-GPA.IV dated 16.11.1995. BPR&D was set up on 28th August 1970 in furtherance of the objectives of the Government of India for the modernization of the Police Forces. It has evolved as a multi faceted consultancy organization. At present it has four divisions - Research, Development, Training and Correctional Administration. The function of the Correctional Administration is as follows:

i. Analysis and study of prison statistics and problems of general nature affecting prison administration.

ii. Assimilation and dissemination of relevant information to the States in the field of correctional administration.

iii. Co-ordination of Research Studies conducted by Regional Institute of Correctional Administration and other Academics / Research Institutes in Correctional Administration and to frame guidelines for conduct of Research Studies/Surveys in consultation with the State Government.

iv. To review training programmes keeping in view the changing social conditions, introduction of new scientific techniques and other related aspects.

v. To prepare uniform Training Module including courts, syllabi, curriculum etc., for providing training at various levels to prison staff in the field of Correctional Administration.

vi. Publication of reports, newsletters, bulletins and preparation of audio-visual aids, etc., in the field of Correctional Administration.

vii. To set up an Advisory Committee to guide the work relating to Correctional Administration.

With the transfer of the work relating to prisons by the Ministry of Home Affairs, the BPR&D has been seriously concerned about the modernization of the prison system in the country in the light of the directives issued by the Supreme Court in a number of Judgments pronounced from time to time. The Apex Court in Ramamurthy vs. State of Karnataka (1996) brought to the fore an urgent need for bringing uniformity in laws relating to the prisons and has directed the Central and
State Governments to formulate a New Model Prison Manual. Earlier the All India Committee on Jail Reforms, 1980-83 had also emphasized the need for a consolidated law for prisons. In pursuance of the recommendations of the above Committee and the directives of the Apex Court, with the approval of the Ministry of Home Affairs, the BPR&D attempted to formulate Draft Model Prison Manual and Draft National Policy on Prison reforms and Correctional Administration.

5.7 DRAFT MODEL PRISON MANUAL, 2003

With the prior approval of the Ministry of Home Affairs, the BPR&D constituted 8 member Model Prison Manual Committee at the National level for the formulation of a Model Prison Manual under the chairmanship of Shri. L.C. Amarnathan, Director General, BPR&D.

5.7.1 Terms of Reference of the Committee

The terms of reference as laid down in the BPR&D Office memorandum 40/3/2000-Prisons/BPR&D, Dated November 15, 2000 were as under:

i. To review the laws, rules and regulations governing the management of prisons, treatment of prisoners and to make recommendations for devising good practices and procedures on the basis of comparative analysis of the provisions of the State Prison Manuals by identifying gaps in their provisions for managing and administering prisons.

ii. To examine various aspects relating to treatment of prisoners with special reference to their basic minimum needs compatible to the dignity of human life in the light of the recommendations made by the All India Committee on Jail Reforms 1980-83, Supreme Court Judgment and various International Instruments to which India is a party.

iii. To look into the procedures regarding the internal management of prisons with a view to uphold the rights of the prisoners and the development of prisons staff in terms of custody, security, institutional discipline, institutional programme for the specialized treatment of women, adolescence, children and mentally


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sick persons, staff recruitment and training and to suggest measures with a view to develop prisons as correctional institutions.

iv. To scrutinize and analyze the implications of the proposed prison management bill being finalized by the Ministry of Home Affairs, Government of India.

v. To finalize the Draft of Model Prison Manual by evolving national consensus on the relevant issues relating to prison reforms in India.

vi. Any other matter relating to management of prison administration that the Committee may like to consider.

5.7.2 Working Groups of the Committee

The Committee appointed six working groups comprising senior prison administrators from various states consisting of one convener, one co-convener and two or three members in each group assigning them the following subjects.

Working Group 1. Organizational structure.

Working Group 2. Living conditions of prisoners.

Working Group 3 Under-trials, detenues and high security prisoners.

Working Group 4 Remittance of sentences, open institution and young offenders.

Working Group 5 Prison discipline, women prisoners and visitors.

Working Group 6 Correctional programme.

On the basis of intensive discussion and deliberations on the subjects assigned to it, each working group submitted the Draft for the consideration of the Committee who in turn prepared the present draft of the Model Prison Manual on the basis of a national consensus evolved through a cross-section of prison administrators and experts drawn from various parts of the country. It would not be out of place to mention here that the Draft National Policy on Prisons as proposed by the All India Committee on Jail Reforms 1980-83 was given due consideration by the Committee while preparing the Model Prison Manual. The Draft Model Prison Manual has been
circulated in January 2004 to all States/Union Territories for their comments. After examining the comments received and after acceptance by the Government of India only the Draft Model Prison Manual will be implemented. If it is implemented it will truly represent the best of wisdom from all over the country to bring prison system in tune with the Constitutional provisions, Supreme Court Judgments and the International Instruments subscribed by India.


The Draft Model Prison Manual contains detailed Rules and Regulations regarding the Prison Administration on different headings like Definitions, Institutional framework, Head quarters organization, Institutional personnel, Custodial Management, Maintenance of prisoners, Medical care, Contacts with the outside world, Transfer of prisoners, Execution of sentences, Prisoners sentenced to death, Emergency, Education of Prisoners, Vocational training and work programme, Welfare of prisoners, Remission, Leave and Special Leave, Premature release, Prison discipline, After-care and Rehabilitation, Open institutions, under-trial prisoners. High security prisoners, Women prisoners, Young Offenders, Board of visitors, Staff development and miscellaneous. For developing prison system in the country as an effective instrument for the reformation and rehabilitation of offenders, the Draft Model Prison Manual aims at

i. Bringing in basic uniformity in laws, rules and regulations governing the administration of prisons and the management of prisoners all over the country;

ii. Laying down the frame work for both sound custody and treatment of prisoners;

iii. Rationalization of prison practices to cater effectively to various categories of prisoners;

iv. Spelling out minimum standards of institutional services for the care, protection, treatment, education, training and re-socialization of incarcerated offenders;
v. Evolving such procedures for the protection of human rights for prisoners as they are entitled to within the limitation imposed by the process of incarceration;

vi Individualization of institutional treatment of prisoners in keeping with their personal characteristics, behavioral pattern and correctional requirements;

vii. Providing a scientific basis for the treatment of special categories of prisoners such as women, adolescents and high security prisoners;

viii. Outlining an organization of the Department of Prisons and Correctional Services which is conducive to its declared objective and to delineating the duties and functions of the staff at various levels.

ix Developing co-ordination between the Department of Prisons and Correctional Services and other components of the Criminal Justice System;

x. Ensuring availability of the necessary service input from other public departments in an efficient functioning of prisons;

xi. Forging constructive linkages between prison programmes and community based welfare institutions in achieving the objective of the reformation and rehabilitation of the prisoners;

xii. Leaving flexibility in the suggested provisions so as to allow for adaptation to local conditions without undermining uniformity in rights and duties of prisoners.

Prison Reform is a continuous process and the present Draft Model Prison Manual seeks to provide a framework for such reforms with respect to treatment of prisoners of all categories and improved living and working condition for the prison personnel.

5.8 COMMITTEE ON REFORMS OF CRIMINAL JUSTICE SYSTEM (MALIMATH COMMITTEE) 2003

The Committee on Reforms of Criminal Justice System was constituted by the Government of India, Ministry of Home Affairs by its order dated 24th November 2003.

6 The Reforms of Malimath Committee, 2003
2000 under the Chairmanship of Dr. Justice V.S. Malimath to consider Measures for revamping the Criminal Justice System.

5.8.1 Constitution of the Committee

A five member committee under the Chairmanship of Dr. Justice V.S. Malimath, Former Chief Justice of Karnataka and Kerala High Courts, Chairman, Central Administrative Tribunal, Member National Human rights Commission was formed for the following purpose

5.8.2 The terms of reference of the Committee are

1. To examine the fundamental principles of criminal jurisprudence, including the constitutional provisions relating to criminal Jurisprudence and see if any modifications or amendments are required thereto;

2. To examine in the light of findings on fundamental principles and aspects of criminal jurisprudence as to whether there is a need to re-write the Code of Criminal Procedure, the Indian Penal Code and the Indian Evidence Act to bring them in tune with the demand of the times and in harmony with the aspirations of the people of India;

3. To make specific recommendations on simplifying judicial procedures and practices and making the delivery of justice to the common man closer, faster, uncomplicated and inexpensive;

4. To suggest ways and means of developing such synergy among the Judiciary, the Prosecution and the Police as they restore the confidence of the common man in the criminal justice system by protecting the innocent and the victim and by punishing unspARINGLY the guilty and the criminal;

5. To suggest sound system of management on professional lines, the pendency of cases at investigation and trial stages and making the Police, the Prosecution and the Judiciary accountable for delays in their respective domains;

6. To examine the feasibility of introducing the concept of "Federal Crime" which can be put on List I in the VII Schedule of the Constitution.
5.8.3 Recommendations of the Malimath Committee on reforms of Criminal Justice System

The Committee on reforms of the Criminal Justice system headed by Justice V.S Malimath, submitted its report in April 2003. The report, popularly known as Malimath Committee report highlighted various issues related to the Criminal Justice Administration and recommended an over haul of the Criminal Justice system. Although there was no separate section on Prison Reforms, various observations made by the Commission have a direct bearing on Prison Reforms. The recommendations are given under the following heads viz. Need for Reforms, Adversarial System, Right to Silence, Rights of the Accused, Presumption of Innocence and Burden of Proof, Justice to Victims of Crime, Police Investigation, Public Prosecution, Courts and Judges, Trial Procedures, Witnesses and Perjury, Vacations for the Courts, Arrears Eradication Scheme, Offences, Sentence, Sentencing and Compounding, Reclassification of Offences, Offences against Women, Organized Crime, federal Crimes and Terrorism. Economic Crimes, Training - A strategy for crime, Vision for the future. The salient features for the reforms which are relevant to the rights of the prisoners are discussed below.

5.8.4 The salient features of the recommendations of the Report

i. Need for Reforms

It is the duty of the state to protect fundamental rights to its citizens as well as the right to Property. The Criminal Justice System which was devised more than a century back in order to protect the rights of the innocence in order to punish the guilty has become ineffective. A large number of guilty unpunished in a large number of cases, the system takes years to bring the guilty to justice and ceased to deter criminals. Crime is increasing rapidly every day and types of crimes are proliferating. The citizens live in constant fear. It is therefore, that the Govt. of India constituted the present committee to examine all the functionaries of the criminal justice system, fundamental principles and relevant laws.
ii. Adversarial System

In order to ensure fair trial in particular, fairness to the accused and to strengthen the proactive role of the judges, to give directions to the Investigating Officer and prosecuting agencies in the matter of investigation and leading evidence with the object of seeking the truth and focusing on justice to victims, the Committee felt that section 54 of the Evidence Act be substituted by a provision on the following lines: "in criminal proceedings the fact that the accused has a bad character is relevant". A previous conviction is relevant as evidence of bad character.

iii. Right to Silence

The right to silence is fundamental right guaranteed under article 20(3) of the Constitution which says that no person accused of any offence shall be compelled to be a witness against himself. As the accused is in most cases, the best source of information, the committee feels that without subjecting the accused to any duress, the Court should have the freedom to question the accused to elicit the relevant information and if he refuses to answer, to draw adverse inference against the accused and the accused should be required to file the statement to the prosecution disclosing his stand. To bring this principle into vogue, it has recommended the substitution of section 13 of the Code with sections 313A, 313 B, 313C. This recommendation has been accepted and suitable amendments have been made by inserting section 313(5).

iv. Rights of the accused

The accused has several rights guaranteed to him under the Constitution and relevant laws; has a right to know all of them; how to enforce them and whom to approach when there is a denial of those rights. Hence, the Committee has recommended the inclusion of all these rights in the Court as a Schedule in their respective regional language and published in a form of pamphlets for free distribution to the accused and general public.

v. Presumption of Innocence and Burden of Proof

The Committee after careful assessment of the standards of proof came to the conclusion that standard of proof beyond reasonable doubt presently followed in
criminal cases should be done away with and recommended in its place a standard of proof lower than 'proof beyond reasonable doubt' and higher than the standard of 'proof on preponderance of probabilities.' The Committee therefore favours a midlevel standard of proof 'Courts conviction that it is true' and has recommended accordingly.

vi. Courts and judges

The Commission is deeply concerned about the deterioration in the quality of judges appointed to the Courts at all levels. Hence, the mere entrustment of the power of appointment to the National Judicial Commission alone will not ensure the appointment of competent and upright Judges. A proper process is needed to ensure objectivity and transparency in this behalf. There are also complaints of serious aberrations, in the conduct of judges. Under Article 235 of the Constitution, the High Court can exercise super vision and control over the subordinate Courts. There is no such power conferred either on the Chief Justice of the High Court or the Chief Justice of India. The provisions for impeachment is quiet difficult to implement. It is felt that the Chief Justice should be conferred certain powers to enforce discipline and to take some corrective or advisory measures against his colleagues whenever aberrations in their conduct comes to notice. Suitable recommendations have been made in this regard.

vii. Trial procedures

The Committee is concerned with enormous delay in decision making particularly in trial courts, at present and large number of cases in which punishment is two years and less should be tried as summons case. The summary procedure prescribed by sec. 262 to 264 of the Code, is exercised properly would quicken the pace of justice considerably. However, the number of cases which are presently tried summarily is quiet small and maximum punishment that can be given after a summary trial is three months. In order to speed up the process, the Committee feels that all cases in which three years and below should be tried summarily and the punishment that can be awarded in summary trial should be increased to three years. At present, only specially empowered Magistrates can exercise summary power. The definition of the expression petty offences, it restricts it to those offences punishable only with fine, not exceeding Rs. 1000. This provision empowers the Magistrates to specify in
the Summons, the fine which the accused should pay, if he pleads guilty. This procedure is simple and convenient to the accused, as he need not engage the lawyer or appear before the Court, if he is not interested in contesting the case. In order to give benefit of this provision, the Committee has recommended suitable modifications of the expression petty offence by giving the power of dealing with such offences to all Judicial Magistrates of First Class and the limit of Rs.200 fixed for the value of the property should be enhanced to Rs.5000 and enhance the power of sentence of imprisonment from three months to three years. The relevant amendment to section 260 has been proposed.

viii. Witnesses and perjury

The prosecution mainly relies on oral evidence of witnesses for proving the case against the accused. Unfortunately, there is no dearth of witnesses who give false evidence with impunity which is the major cause of failure of the system. Taking action against perjury is not only cumbersome but also dissatisfactory. Many give false evidence either due to inducement or threats to him or to his family members. There is no law to protect the witnesses. Apart from this, the witnesses are treated very shabbily; no facilities and are having to wait for the long periods; their cross-examination is unreasonable and occasionally rude; not given the T.A., D.A. promptly; having to come to court unnecessarily and repeatedly as the large number of cases are posted and adjourned on frivolous grounds. Recommendations are made to sort out this problem.

ix. Vacations for the Courts

In view of the large pendency and mounting arrears of criminal cases, it is recommended that the vacation for the High Court and the Supreme Court are reduced by 21 days and the working days are increased to 231 and 206 days respectively.

x. Offences, Sentence, Sentencing and Compounding

Since the I.P.C. was enacted in the year 1860, many developments have taken place; new forms of crimes have come into existence; punishments and fines for some crimes were proving grossly inadequate; variety of punishment prescribed is limited.
There is thus a need to have new forms of punishments such as Community Service, disqualification from holding public offices, confiscation orders, imprisonment for life without commutation or remission etc.

The I.P.C. prescribes only maximum punishment for the offences, in some cases minimum punishment is also prescribed. The Judge exercises wide discretion within the statutory limits without any guideline to regulate his discretion. As a result of which there is much variants in the matter of sentencing. The fines were prescribed more than a century ago, and the value of the rupee has gone down considerably; the practice of jailing women who are pregnant or having young child is very cruel and most unreasonable. So the Law Commission has recommended that the offences for which death is the punishment, the sentence or "imprisonment for life without commutation or remission" be prescribed; wherever fine is prescribed as one of the punishments, the fine amount shall be increased by 50 times; the pregnant women or a women with child below seven years is sentenced to any term of imprisonment shall remain under house arrest; defaulters in payment of fine may be ordered for community service instead of imprisonment; including more offences in the category of compoundable offences and without the leave of the court. Hence the Committee is in favour of reviewing the I.P.C.

5.9 DRAFT NATIONAL POLICY ON PRISON REFORMS AND CORRECTIONAL ADMINISTRATION-2007

It has been felt since long back that there is an immediate need to have a National Policy on Prisons. The working group on prisons which was constituted in the year 1972 by the Ministry of Home Affairs, Government of India for the first time emphasized the need to have a national policy on prisons with the following salient feature.

i. To make effective use of alternatives to imprisonment as a measure of sentencing policy.

ii. Emphasizing the desirability of proper training of prison personnel and improvement in their service condition.

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iii. To classify and treat the offenders scientifically and to lay down principles of follow up and after-care procedures.

iv. Emphasizing on the development of prisons and correctional administration which should no longer remain diverse from the national development process and the prison administration should be treated as an integral part of the social defense components of national planning process.

v. Identifying an order of priority for the development of prison administration

vi. Inclusion of certain aspects of prison administration in the five year plan.

vii. Amendment to the Constitution to include the subject of prison and allied institution in the concurrent list, the enactment of suitable legislation by the center and state and the revision of State Prison Manuals

The All India Committee on Jail Reforms 1980-83 headed by Justice A.N.Mulla also underlined the need for a national policy on prisons with an objective to endeavour the prison reforms and re-assimilate offenders in their social milieu by giving them appropriate treatment.

5.9.1 Constitution of the Committee for preparing the Draft Policy

In pursuance of this recommendation the Ministry of Home Affairs, Government of India vide their notification OM No. 16011/2/2003-PR dated 1st December 2005 constituted a Committee under the chairmanship of the Director General, Bureau of Police Research and Development for preparing a draft policy paper on the strategy relating to prison reforms and correctional reformation. The composition of the Committee as follows: 12 Members Committee under the Chairmanship of Shri. N.C.Joshi, Director General, BPR&D was formed for the purpose.

5.9.2 Terms of Reference of the Committee

The terms of reference of the Committee are as follows:

1. To review the present status of the legal position and suggest amendments if required on the prison related laws enacted by the Center and State.
2. To review the recommendations made by the various committees and cull out tangible recommendations which are required to be implemented by the Center and States.

3. To review the status of implementation of these recommendations with reference to (a) Physical conditions of prisons (b) Condition of prisoners (c) Correctional Administration (d) Any other issues related to Modernization of prisons and Correctional Administration.

4. Suggestions regarding alternative to imprisonment.

The Committee had undertaken a broad based consultation process to formulate views on individual subjects covered in the terms of reference. Recommendations tentatively finalized respecting terms of reference have been discussed at various forums in different parts of the country with the active participation of all the stakeholders, including NGOs of the Criminal Justice System in general and Correctional Administration in particular. The draft recommendations on the terms of reference were circulated among all the States/Union Territories and a copy of the same was sent to the Ministry of Home Affairs with a view to obtain their views and suggestions to finalize the draft policy paper. The valuable inputs received from these deliberations have been used to refine the Draft National Policy paper. Besides, a core group consisting of eight members was constituted by the Committee to prepare a draft paper on the basis of these items as input so received for national policy. The BPR&D placed the Draft Policy Paper in the Meeting of Advisory Committee on Prison Reforms held on 3rd November 2006 for discussion to make this document more viable. Finally the present draft national policy was prepared and submitted in 2007 by Dr. Kiran Bedi I.P.S., during her tenure as DG, BPR&D and Chairman of the Committee.

5.9.3 **Content of the Draft Policy**

The Committee in its Draft National Policy has given its report in four parts in accordance with the terms of reference as mentioned above.
5.9.4 Salient features of the Draft National Policy

The Committee in Part-I of the Draft National Policy has exhaustively discussed about the Historical Review of Prison Reforms in India since the visit of Lord Macaulay in late 1935 and his contribution as Chairman of the Prison Discipline Committee - 1836, till the submission of Draft National Policy, 2007. The details of the Committees and Study Groups on Prison Reforms established in between this period were also highlighted in this Draft paper of which the remarkable ones are given below:

Second Commission of Enquiry on Prison Management and Discipline 1864
Sir John Lawrence

Conference of Experts to enquire into prison Administration 1877

Fourth Jail Commission to enquire into prison Administration (which paved way for the passing of the existing Prisons Act, 1894) 1888

All India Jail Committee - Corner stone of Modern Prison Reforms 1919-20

Report of Dr. W.C. Reckless an U.N. Expert on Correctional work 1951-52

Eighth Conference of the Inspector General of Prisons 1852

All India Jail Manual Committee 1957

Establishment of Central Bureau of Correctional Services 1961

Re-organization of Central Bureau of Correctional Services into National Institute of Social Defense 1971

Working Group on Prisons 1972

Report of Seventh Finance Commission on upgrading the standard of Prison Administration 1978

All India Committee on Jail Reforms (Justice A.N. Mulla) 1980-83

National Expert Committee on Women Prisoners (Justice V.R. Krishna Iyer) 1986

All India Group on Prison Administration - security and Discipline (Shri R.K. Kapoor) 1986

Bureau of Police Research and Development as a Nodal Agency at the National Level in the Field of Correctional Administration with Specific Charter of Duties 1995

All India Model Prison Manual Committee 2000
The Prisons Act, 1894 has generally remained unchanged except some minor amendments executed by the individual States from time to time to suit their local condition. However with the passage of time, the conditions of prisons have changed considerably due to Judicial as well as human rights activism besides them the notable initiatives of the Center / State Governments. Hence the Committee has examined thoroughly the Prisons Act, 1894 which is the basic legal framework available on prisons followed by some other enactments concerning prison management. The Committee has analyzed the existing Prisons Act, 1894 in detail taking into account the suggestions/recommendations made by different Committees/Commissions/Study Groups constituted for the improvement of the prison conditions and management and also the directions of the Honourable Supreme Court in this direction and proposed amendments indicating the observations of the Committee on each and every provision of the Act.

Besides Prisons Act the Committee examined the relevant provision in the Constitution of India, Probation of Offenders Act, 1958, Criminal Procedure Code, 1973, Representation of People’s Act, 1951, Juvenile Justice Act, 2000, Mental Health Act, 1987 and Indian Penal Code, 1860 and has suggested suitable amendment.

5.10 REPORT OF THE STEERING COMMITTEE ON EMPOWERMENT OF WOMEN AND DEVELOPMENT OF CHILDREN (2007-2012)

In the context of the preparation for the Eleventh Five Year Plan (2007-2012), the Planning Commission constituted a Steering Committee on 'Empowerment of women and Development of Children' under the Chairmanship of Dr. Syeda Hameed, Member, Planning Commission along with 56 Members, 1 Member Secretary and 5 co-opted Members as per Office order No. PC/SW/1-23 (2) / 2005 - SD & WP, Government of India, Planning Commission (WCD Division)

5.10.1 Terms of Reference of the Committee

The Committee was formed to suggest ways and means for the empowerment of women in eleventh Five Year Plan

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5.10.2 Salient feature of the Committee

The Report of the Steering Committee on Empowerment of women and Development of Children has not contributed remarkably towards the rights of women prisoners but for upliftment of women socially, politically and economically.

5.11 JUSTICE VERMA COMMITTEE REPORT 2013

A three Member Committee under the Chairmanship of Justice Verma Committee was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhance punishment for criminals accused of committing sexual assault against women. The Committee submitted its report on January 23rd, 2013.

5.11.1 Terms of Reference of the Committee

The Committee was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhance punishment for criminals accused of committing sexual assault against women.

5.11.2 Content of the Report of the Committee

The Committee in its report made recommendations on laws relating to rape, sexual harassment, offences against women in Conflict areas, acid attack, trafficking, child sexual abuse, punishment for crimes against women, medical examination of victims, police electoral and educational reforms.

5.11.3 Salient features of the Report

This report completely favours the victims of the above mentioned offences and disfavour any right being given to the accused and the recommendations are not only stringent towards the accused but also punitive.

I. In the case of Rape

1. Any non-consensual penetration of a sexual nature should be included in the definition of rape as rape and sexual assaults are not merely crimes of passion but an expression of power.

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2. Marriage should not be considered as an irrevocable consent to sexual acts and therefore the exception given to marital rape as per IPC is recommended to be removed.

3. With regard to an inquiry about whether the complainant consented to the sexual activity, the relationship between the victim and the accused should not be relevant,

II. In the case of Sexual Assault

1. The term outraging the modesty of woman is not defined in IPC and assault or use of criminal force on woman with intent to outrage the modesty of woman with intent to outrage her modesty is punishable under Section 354 IPC and where penetration cannot be proved, the offence is categorized as defined under section 354 IPC.

   All forms of sexual contact which are non-penetrative should be regarded as sexual assault.

2. Sexual assault should be defined so as to include all forms of non-consensual, non-penetrative touching of a sexual nature and should be determined on the basis of the circumstances.

3. Sexual gratification as a motive for the act should not be a prerequisite for proving the offence.

4. The offence should be punishable with 5 years imprisonment or fine or with both.

5. Use of criminal force to disrobe a woman should be punishable with 3-7 years of imprisonment.

III. Verbal sexual Assault

   Presently use of words or gestures to "insult a woman's modesty" is punishable with 1 year imprisonment or fine or both under Section 509 of IPC which is recommended to be repealed and use of words, acts, or gestures that create an
unwelcome threat of a sexual nature should be termed as sexual assault and be punishable for 1 year imprisonment or fine or both.

IV. Sexual Harassment

The recommendations made by the Committee on the sexual harassment of women at workplace (Prevention, Prohibition and Redressal) Bill, 2012 is pending in Parliament. This recommends the inclusion of domestic workers within the purview of the bill and its recommendation regarding the reconciliation to be made between the complainant and the respondent is contrary to the Supreme Court Judgment in Vishaka vs. State of Rajasthan. It also recommends for the payment of compensation to be paid to the woman who has suffered sexual harassment by the employer. The bill requires the employer to constitute an internal complaints Committee to receive complaints and this recommendation defeats the very purpose of the bill.

V. Acid Attack

The Committee recommends that this offence should not be clubbed with the section for grievous hurt and the punishment should be enhanced from 7 years imprisonment to 10 years imprisonment. It also recommends the creation of corpus fund to compensate the victims of crimes against women

VI. Offences against women in Conflict areas

The Committee recommends that the requirement for prosecution of armed forces personnel should be specifically excluded when a sexual offence is alleged; the witnesses should be protected; training of personnel against commission of such crimes; Special Commissioners to be appointed in conflict areas to monitor and prosecute sexual offenders.

VII. Trafficking

The Committee recommended that the provisions of the IPC on slavery to be amended to criminalize trafficking by threat, force or inducement. It also recommended criminalizing employment of a trafficked person; placing the juvenile in women protective homes under the legal guardianship of High Courts and taking steps to reintegrate the victims into the society
VIII. Punishment for crimes against women

The Committee has rejected the proposal for chemical castration as it fails to treat the social foundations of rape. It opined that death penalty should not be awarded for the offence of rape as there was considerable evidence that death penalty was not a deterrence to serious crimes. It recommended life imprisonment for rape.

IX. Medical examination of victims

The discontinuation of the two finger test to determine the laxity of vaginal muscles; non reliance of previous sexual experience of the victim for determining the consent or quality of consent given by the victim is recommended.

X. Police Reforms

The chief recommendation is to establish the State Security Commission to ensure that the government do not exercise influence on the State police.

XI. Electoral Reforms

The Committee has recommended the amendment of the Representation of People Act, 1951 in order to disqualify those against whom charge sheet is filed and the Court has taken cognizance of theses offence as it is currently provided for, in the case of candidates of crimes related to terrorism, fairness of elections, sati and dowry.

XII. Educational Reforms

The Committee has recommended that children’s experiences should not be gendered; sex education should be imparted to children and that Adult literacy programmes are necessary for gender empowerment.

5.12 CENTRAL ASSISTANCE FOR MODERNIZATION OF PRISON ADMINISTRATION

The seventh Finance Commission in its report of 1978, on an analysis of the material received from Finance Commission, Ministry of Home Affair and the Department of Social Welfare in the Government of India and also from the State
Governments came to the conclusion that Jails have been neglected for too long and that there has been practically no environment in their environment or in the method of handling prisoners. It identified different areas needing urgent attention. It took a view that priority should be firstly to ensure that adequate direct expenditure was incurred on the prisoners, secondly to bring improvements in amenities in respect of water supply, sanitary, electrification etc., and thirdly to provide for the construction of additional accommodation in States where these were found short of the minimum requirements. The Commission considered necessary that a norm of Rupees 3/- per head for diet and Rs.1/- per day per prisoner for other items like medicine, clothing etc should be a minimum. In all, at least a minimum of Rs. 6/- per prisoner should be provided. Accordingly the Commission recommended first time in the history of Prison Administration an allocation of Rs.48.31 crores to all States in this regard. The Government of India is allocating funds in all the Five year plans subsequent to the Seventh Finance Commission for all the States and Union Territories in India for the improvements to be made in prisons.

The scheme for modernization of prisons was launched in 2002-2003 in partnership with the State Governments on cost sharing basis in the ratio of 75% Central and 25% (State) with the objective of improving the condition of prisons, prisoners and prison personnel. The components include construction of new jails, repair and renovation of existing jails, construction of additional barracks, improvement in sanitation and water supply and construction of staff quarter for prison personnel, purchase of security gadgets, barbed wires, flood lights, CCTV, Metal detector, mechanization of the industry etc., The scheme was extended up to 31.3.2009 without affecting total outlay of Rupees 1800 crores. A second phase has been envisaged in 2009 with a financial outlay of Rs.3500 Crores. Apart from the regular component for the modernization of prison, the Government of India allocated fund under the second phase for education, vocational training, recreational, reformation and rehabilitation programmes; training of prison personnel, involvement of community / NGOs; alternative modes of punishment and after-care institutions.
5.13 PRESENT POSITION IN INDIA

The present condition of the Indian prisons is not as bad as it was in the pre-independence period. It is no doubt that the improvement in the prison conditions was slowly progressing after independence until the intervention of Judiciary in late 70s. Thanks to the recommendations of various Committees formed at Central and State level pertaining to the Prison Administration which has laid strong foundation for protection of the rights of the prisoners and also to take all possible measures to improve the standard of treatment meted out to prisoners in prisons. The Judiciary went a step further in protecting the rights of prisoners by interpreting the Constitutional rights in favour of the prisoners in the name of Judicial Activism, issued series of directions and orders. The active participation of NGOs to undertake welfare and rehabilitative measures lessened not only the burden of the government but also helped in proper pre-release programmes. The present position and the best practices introduced and followed in Prisons of various States and Union Territories in India are discussed as given below:

5.13.1 Improvement in the living condition

The repairs and renovations of the existing buildings has been undertaken to the extent possible. Additional accommodations have been constructed and some new jails have also been opened with an ultimate aim of accommodating offenders in proportion to the committal of offenders/prisoners which is increasing day by day.¹⁰ The total capacity of the jails in the country is 3,47,859 as against the total prison population of 4,11,992. The occupancy rate is 118.4%. Thus overcrowding is brought under control considering the early eighties.

5.13.2 Clothing and Bedding

As regards clothing and bedding there is self-sufficiency, as they are being produced in the prison textile industry. Remand prisoners who do not have adequate clothes are also provided with sufficient bedding and clothing. In Tamilnadu, the uniform of 'B' class convict prisoners was changed from half-pants to trousers in

¹⁰ The National Crime Record Bureau, Ministry of Home Affairs, 2013
2012. Terricotton pants and shirts and large sized blankets are issued to the convicted prisoners.

5.13.3 Diet

In almost all the jails in India variety of food is being served according to the menu for all the seven days as laid down in the respective jail manuals of the States and Union Territories. In Tamilnadu, apart from the regular food, all the non-vegetarian prisoners are supplied with 115 grams of chicken once in a week and vegetarian prisoners are supplied with potato curry and a banana once in a week. In Kerala prisons, vegetarian inmates are issued vegetarian dishes instead of fish and mutton. If circumstances demand wheat is also substituted to rice. In open prison, inmates are given a harvest feast at the close of every harvest. In general, the prisoners are given feast menu / special diet on local festival days and important national holidays.\(^\text{11}\)

Modern Kitchen / highly automated kitchen is being maintained in different prisons in India. In the State of Chandigarh, chapatti machine which is capable of making 1300 chapattis at a time has been installed in 2007 itself and the facilities like, Potato peeler machine, Atta (dough) machine, electronic boiler and cold storage room are available in the prison kitchen. In Tihar jail, cooking of food is through Piped Natural Gas (PNG) fuel instead of LPG Cylinders and kitchens are equipped with wheat grinding, atta kneading and masala grinding machines for the preparation of food in hygienic manner and electronic chymnies and exhaust fans are provided for proper ventilation. Hot food trolley is provided for serving hot food to prisoners. In Tamilnadu, stainless steel plates and mugs are provided to prisoners. Stainless Steel cooking vessels and Trolleys are used in prisons. In West Bengal, LPG is gradually being introduced in the kitchen in a phased manner to keep the environment hygienic and clean. In Gujarat prisons, the milk made products like Chocolate Bars, Cheese, Ghee, flavoured ice creams, shrikhand and sweet curds are issued to prisoners in Prison Canteens as it is an anti-dote for those inmates who are tobacco addicts. As a milestone, outsourcing of food, in Bangalore prisons commenced from May 2007, for the first time in the country where the prisoner's food was outsourced by partially

\(^\text{11}\) Upneet Lalli, Identificatin of Best Practices, 2011
entrusting the work of providing food (Saviyoota making tasty food for lunch & evening meals) through Akshaya Patra Foundation, ISCKON Bangalore.

Apart from the food items provided to prisoners at Government cost the prisoners can avail facilities of Prisoners Canteen existing in almost all Prisons where they can purchase as per the ceiling, items like coffee, tea, bun, biscuit, toilet soap, washing soap, comb, fruits, stationery articles and such other articles as permitted by the Superintendent of Prison / Prison Manual of the respective State / Union Territories out of the money that stands in their PCP account.

5.13.4 Health and Medical Care

Prisoners are provided adequate medical facilities through the prison hospital functioning in almost all the Central Prisons and Districts Jails. In case of emergency and specialised treatment, the prisoners are referred to the nearest District Head Quarters Hospital. Facilities like Ambulance, Clinical Laboratory, Electro-Cardiogram, Auto Blood Analyser and Portable X-Ray Equipment are available in all Central Prisons. The Ambulance (Maruti Omni) Van Services are extended to 9 Female Sub-Jails and 2 Female Special Sub-Jails in 2007. Tooth powder and toilet soap are issued to the prisoners for better health care and sanitary napkins are issued to all female prisoners based on needs. This concession is also being extended to the prisoners in Karnataka. Two disposable shaving razors are provided once in a month instead of traditional knives to the male prisoners confined in prisons to avert communicable diseases among the prisoners. 6307 Fans for the use of prisoners in all prisons except Puzhal Prison complex (already provided) at a cost of 126.14 Lakhs have been provided in Tamil Nadu. 150 bedded hospital with Medical, Surgical, Tuberculosis, Psychiatric Wards, and round the clock Casualty Services are available in Tihar Jail.

A minor operation theater, investigation facilities like X-Ray, ECG, pathology and Bio-chemistry are available. Psychiatric, de-addiction and dental units are available. Delhi prisons have taken a major initiative in the field of management of drug abusers / addicts by setting up of 120 bedded de-addiction centre and it is ISO Certified. Alipore Central Correctional Home in West Bengal is a referral hospital for the Pathological, Radiological and Surgical facilities. Periodical Medical Camps are
being conducted in all Prisons to periodically check the prisoners and diagnose and treat them with the assistance of NGOs and leading private hospitals in the area. The health camp under "Varumun kappom Thittam" is being conducted in the Prisons of Puducherry. 50 grams of tooth powder and 150 grams of bathing soap are being issued to the prisoners in Karnataka State at Government cost.

5.13.5 Sanitation & General Cleanliness

Generally in maintaining the Cleanliness and Sanitation, the services of prisoners who are unskilled and who are not employed in Prison Industries are utilised for this purpose. As such there will not be any problem in upkeeping the cleanliness and sanitation for the administrators. The Prison Department of the State of Karnataka has constructed 27 Echo-friendly Urinals and Latrines each under their aegis. A very high level of sanitation and hygiene in all the Jails of Tihar is maintained by removing the garbage on daily basis through private agency. Rain water harvesting system is functioning in the prison to recharge the level of ground water. RO System is functioning to ensure the supply of pure and safe drinking water in all the Prisons. Two Sewerage Treatment Plants have been set up to recycle the resultant water for horticulture and toilet. Sewerage Treatment plant is constructed at Vishakapatnam. The Construction of Sewerage Treatment Plants at Model Central Jail, Kanda (Shimla) in the State of Himachal Pradesh is in progress. In Andhra Pradesh, Toilet at the ratio of 1:6, Bathroom at the ratio of 1:10 is provided. All the living accommodation is provided with fans, tube lights and adequate ventilation. Prisoners are regularly supplied with toilet soap, washing soap and coconut oil.

5.13.6 Vocational Training

Towards the object of making the life of prisoners more meaningful and useful while in custody and afterwards, various skills are imparted to the prisoners to help them integrated into society after their release. While long term prisoners are provided with opportunities in acquiring skill in various prison industries, short term prisoners are imparted training in different vocational programmes like masonry, plumbing, electrical wiring, house wiring, motor driving, motor mechanics, radio repairing, lesson on type-writing, television / computer repairing, cell repairing, weaving,
pottery, jelly making, ornamental fish cultivation, apiculture, vermiculture, tube well repairing, tailoring, cooking, hospitality, soap-making, sawing, book-binding, printing etc., In Tihar women jail, the vocational training programme like cosmetology, pottery designing and painting, candle making, weaving behind the bars (like purse, bags, make-up kits) papad & papad making, dhoop and agarbathi making, achaar making, yummy pickles of mango, mixed vegetable, (seasonal) etc.,

Technical Training Centres have been setup in all central prisons, Special Women Prisons, Borstal School, and Pudukkottai for imparting Vocational Training Programmes to the prisoners under the Tamil Nadu Skill Development Mission. So far, a total of 796 prisoners have enrolled in different Vocational Programmes. In Midnapore Central Correctional Home in West Bengal, Vocational Training Centre was started in collaboration with Don Bosco Prison Ministry in 2012 with 1300 inmates. Similar Vocation Training Centers were started in Krishna Nagar District Correctional Home and Berhampur in late 2012, NABARD is helping with fund and infrastructure to conduct vocational Training Course in West Bengal. Jute Craft is very popular in Dum Dum Central Home. The sale proceeds of all products made by all inmates during such training programme and afterwards for their welfare activities. The Government of Kerala, has formally inaugurated Vocational Training Programme on 26/2/2015, at Central Prison, Kannur to train 135 inmates in Electrical Wiring, Motor Winding, Plumbing, Coconut Tree Climbing, Beautician Course, Computer Hardware Course, MS Office Foundation Course with the help of RUDSET, a Voluntary Organisation functioning in Thaliparamba, Kannur. The Government of Kerala, allocated 5.05 Lakhs for this purpose. RUDSET will give certificates to the inmates on completion of the Course and also help them to start entrepreneurial ventures after their release. Vocational Training Programmes like Chef / Cookery, Driving course are also to be introduced.

5.13.7 Prison Industries

The Prison Industry had its genesis in the recommendations of the Committee appointed in 1836 - 1838 of which Lord Macaulay was a Member. The Report had mainly stressed on the provision of proper accommodation and intra-mural employment to the inmates which laid foundation for the further progress of the
Prison Industry and manufacture. As the prisoners sentenced to rigorous imprisonment have to be necessarily extracted work in the past, various strenuous type of works were given to the inmates like running of the oil mill, stone breaking, grinding etc., The prisoners are also engaged in Conservancy work, washing the clothes, cooking, cleaning etc., The remuneration given to a prisoner was in paise only. Thus the Jail Industry started developing slowly as the working knowledge of the different trades so gained by the prisoners would help them to earn their livelihood after their release from prison. Previously, conventional industries like weaving, carpentry, tailoring, black smithy, paper making, leather works etc., were popular in prisons. Following the recommendations of various Jail Reforms Committees and the financial assistance sanctioned by the Government of India and the concerned States, paved the way for the better management of Prison Industries by modernising the existing industries and by introducing new trades to suit the present condition like Aluminum Utensils, Textiles, Weaving, Carpentry, Sawing, sealing Wax, Soap, Candle and chalk making, Hand-made paper making, Book-binding, Mat-weaving, Boot-making, Tailoring, Tag-making, Nursery, Agricultural Production, Compost-making, Phenyl making, Bakery Unit, Mustard oil industry, umbrella making etc.,

With financial assistance being given by Government of Tamil Nadu during the year 2013, the following improvements have been made in the prison industry. Purchase of machines and equipments to modernize the carpentry units at Central Prison, Vellore, Cuddalore, Salem and Trichy at a cost of Rs.18 lakhs; Purchase of machines and equipments to modernize the carpentry units at Central Prison, Vellore, Cuddalore, Salem and Trichy at a cost of Rs.18 lakhs; Purchase of Air-jet Weaving Machines with accessories to upgrade the weaving industry in Central Prison Coimbatore at the cost of 1.50 Crores.

5.13.8 Work Programmes outside the Prison Complex

Engaging prisoners with good conduct in Work Programmes outside the Prison Complex is an effective step towards reintegration of the prisoners in the society. In Vadodara Central Prison in Gujarat State, this practice was started on an experimental basis to gauge the public response by employing 17 prison inmates in providing different services like Tea Pakoda Shop, Leather repairing workshop,
Tailoring shop, Saloon etc., As there was tremendous response and enthusiasm from the people in making use of the services offered by these inmates, the scheme was implemented in full scale from 2006. In Lucknow Model Prison of the UP State the prisoners from 'Ganga Bhavan, are given full chance to increase their earnings by working outside the prison by establishing and operating shops, like Tea Stall, Pan Shop, Barber Shop, Tailoring Shop etc., outside the jail but within the jail complex, outside the jail complex and VIP Road with the consent of the Superintendent of the Jail. Prisoners are also allowed to work on daily wages of Rs.135/ in the Institute of Sugar-cane research. This novel scheme is introduced in several other jails also. Recently in Tihar Jail Complex Food Court has been opened by the prisoners. Samosas and other snacks along with drinks like Lazzi, a Thali with variety of Vegetarian Dishes are on the Menu of the Food Court. This simple restaurant has both indoor and outdoor seating arrangement for forty five customers. The restaurant does not have a full kitchen and most of the food is from prison Canteen which is also run by inmates.

5.13.9 Wage Earning Scheme

Wage Earning Scheme is being followed in almost all prisons where Prison Industries are functioning. Under this scheme prisoners are categorised as Skilled, Semi-Skilled and Unskilled and differential rate of wages is given to prisoners. The prisoners wage earned by the prisoners is credited to his 'Personal Cash Property Account' (PCP). The State of Manipur pays very low wages to its prisoner’s i.e.Rs. 8, 10 and 12 whereas the Union Territory Pudhucherry pays the highest i.e., 150, 160,170 respectively as per the Prison Statistics India 2013. In Delhi Prisons 25% of the wages earned by the prisoners is deducted and paid to the common fund called Victim Welfare Fund. In Tamilnadu 50% of the wages earned is deducted as recovery for upkeep of diet and cloth and 20% for Victim Compensation Fund and rest 30% is given to the prisoners as wages.

5.13.10 Petrol Pump in Prison Premises

As an unique project in the Prisons of the country, the Government of Chattisgarh accorded sanction in 2004 to run a petroleum retail outlet adjacent to the
Central Prison, Raipur for the rehabilitation and welfare of the prisoners in the State. In order to start the petrol outlet a sum of Rs.11, 44,939/- was taken from Jail Employees Co-operative Consumer Store Committee of Central Jail, Raipur. The profit earned out of this would be shared between the society and welfare of all the Convicted Prisoners of the State. Petrol outlet named Astha Petrol Pump for welfare and rehabilitation of prisoners commissioned its service on 3rd July 2004. The petrol pump crossed a monthly turnover of Rupees ten million in the month of September 2008 with a net profit of rupees 23 lakhs. Out of this petrol pump, the Society accumulated total asset of Rs.45, 93,720/- in the year ending 2008, whereas a sum of Rs.2, 23,698/- is contributed towards welfare and rehabilitation of the prisoners.

Petrol Pumps run by reformed jail inmates started in the premises of Kadappa Central Jail in the South Central part of Andhra Pradesh in late 2011. It is reported that the monthly turnover amounts to nearly 1.8 Crores which is the highest sale in comparison to 48 Petrol Stations in the District. It is also reported that eight more such filling stations in different Districts of the State viz. Hyderabad, Cherlapalli, Warangal, Rajamundry, Adavivaram (Visakapatnam), Nellore etc. Petrol Bunks run by prisoners at Cherlapalli and Chanchalguda shared a major portion of the profit earned in Crores by prison industry during the year 2014.

5.13.11 Education

Education has become a compulsory activity in all prisons as it is one of the most important component of the treatment programme. In all prisons, Prison Schools are run by limited teaching staff only. The prisoners are permitted to pursue their higher education at Government cost. The NGOs and volunteers from nearby Schools and Colleges are doing immense service for the prisoners to pursue their education by all means like guidance, supply of materials. Literate prisoners are allowed to help the prisoners who are pursuing their higher education and also share the responsibility of the Prison School Teacher. In almost all prisons, the Prisoners are allowed to acquire further qualification on different Educational Programmes like Education Programmes like Adult and Formal education, Elementary, Middle, Secondary, Higher Secondary, Graduation and Post-Graduation, Diploma Courses. IGNOU, National Institute of Open Schooling (NIOS) are contributing their mite for the
Higher Education of Prisoners. Certain Central Jails are declared as Examination Centers for the Prisoners to write their Board Examination.

The Mahatma Gandhi Community College has been established in all Central Prisons, Borstal School in Pudukottai to impart 9 different types of Diploma Courses like Catering Assistant, Four Wheeler Mechanism, DTP operation etc. In 2011 & 12 out of the 261 prisoners enrolled in the Diploma Course 185 prisoners appeared for the examination and 175 prisoners passed the examination. Among the five prisoners bagged 'Gold Medal'. In 2012 & 13 out of the 420 prisoners appeared 345 passed the Exam. Technical Training Centers have been set up in all Central Prisons, Special Prison for Women and Borstal School, Pudukottai for imparting Vocational Training Programme to the Prisoners under the Tamil Nadu Skill Development Mission. So far a total of 1796 prisoners have enrolled under different programmes such as Carpentry, Masonry, Automotive servicing, Computer Basic Training, Tailoring, Plumbing, Hospitality, Cooking etc. In West Bengal, Rabindranath School and Nethaji Subash Open University is helping the interested inmates in undertaking higher studies. In Pondicherry Distant Education Programme is conducted by the Allgappa University, Karaikudi. In Maharashtra State like other regular courses prisoners are encouraged to appear for English, Sanskrit and Hindi Examination conducted by various Educational Institutions. During the academic year (2013-14) 2654 inmates are continuing Elementary, Adult, Higher and Computer Education.

The Delhi Tihar Prison has 1172 inmates inclusive of 5 MBA Students. Bangalore University in Karnataka State has launched in October 2006 a scheme of imparting education in different courses at Graduation and Post-Graduation level for 500 prisoners for free of cost. So far 351 Prisoners have enrolled in this scheme. In Punjab State, Punjab University is providing the entire course to jail inmates through Distance Education Centre and more students have completed their graduation, post-graduation and even Ph.D. In the recently formed Telengana State a novel scheme ‘Vidyadanam’ was launched for prison inmates on 11th July 2014 to provide education to all illiterate prisoners with several existing literate prisoners toning the role of teachers to other inmates.
5.13.12 Prison Bazaar

Prison Bazaars have been set up in 2013 in the campus of all Central prisons in Tamil Nadu and an outlet of Prison Bazaar has been set up at Prison Head-Quarters at Chennai. The articles manufactured within prisons such as Bakery Items, Paper Cups, Greeting Cards, Leather Shoes, Wallets, Mineral Water, Nursery Products, Detergent Soap / Powder, Candles, Mosquito Nets, Rain Coats, Ready-Made Garments, Honey, Masala Powder, Handicrafts, Envelopes, Note-Books, Gum, Organic Vegetables, Compost manure, Pancha Kaviyam etc., are sold in this Bazaar. Other out-lets such as food Courts, Laundry, Saloon also are to be included in this Bazaar.

5.13.13 Recreation of Prisoners

Life without any recreation can indeed be very monotonous for anyone and that too it will be unbearable who are behind the bars. So, Prisoners are provided with facilities like reading books in libraries, newspapers and magazines provided in prisons, hearing radio programmes, watching T.V. Programmes, Film Shows either participating in the cultural programmes or seeing the same which are organised in prisons on important festivals and National Holidays, celebrating religious festival along with the co-inmates and even with their family members on special occasion on general permission by the prison authorities, painting, playing with musical instruments, participating in sports activities in the prisons and tournaments organised within the prison and among the prisoners, Yoga & Meditation, Religious preachings etc.,

In Tihar prisons, sports like volley ball, cricket, basket ball, kho-kho, kabbadi, chess, carrom etc., are organised during inter sports festivals which are popularly known in the jail as "Tihar Olympics". Inter-Jail cultural meets titled "Ethnic Tihar" is held during spring season every year in which, competition in music, dance, sher-o-shairili, Qawalli, painting, quiz etc., are organised for inmates. On Raksha bandhan day, sisters and brothers are allowed to meet the inmates and tie Rakhi's.

In Karnataka State, World Space Radios have been installed at Central Prison, Mysuru, District Head-Quaters sub-jail, Kolar, Dhumkur, Hasan, Mandia and Open
jail, Koramangala and it is proposed to extend the facilities to all the remaining jails. Prisoners are trained in Theatre art and encouraged to stage dramas. The talent of enactment by the inmates of Central Prison, Bangalore and Mysore, the famous drama Madhavi written by well-known play-wright Late Shri. Bhisma Sahani, which was staged at Karnataka Exhibition Center and viewed by a galaxy of Play-Wrights and Artists along with the public has been highly appreciated. The dramas like 'Kurukshetra' enacted by the inmates of Bangalore, 'Taledanda' by the inmates of Mysore and Kasturiba shows the theatre art of the inmates in prison. Prisoners in different correctional home in West Bengal have been given practice in folk-song by renowned folk singer Tapan Roy. Theater workshop and Dance Workshop are being conducted by eminent scholars in the field. The Kabadi Team formed out of the inmates of the Correctional Homes in West Bengal made its presence in the professional field. It took part in the All Bengal Championship at Haldia during February and they qualified upto Quarter-Finals. Likewise the Kabadi Team participated in different Tournaments in the State. In foot-ball six teams from Central Correctional Homes each comprising of 18 inmates have been formed and they are given practice under one Coach and one Manager over a period of time. Tournament was conducted among six teams in September 2012. The Alipore Correctional Home was the runner up. A step ahead in this regard, the IFA has been moved seeking affiliation for this Correctional Home Scheme so that they can participate in the Foot-Ball League.

5.13.14 Interview and Telephone Facilities

Interview with kith and kin, friends and Legal Advisors is extended for inmates in prisons as per the provisions in the respective Prison Manuals of the State / Union Territories and the modality, frequency and periodicity of the interview differs from State to State. Interview with kith and kin, friends and Legal Advisors is extended for inmates in prisons as per the provisions in the respective Prison Manuals of the State/Union Territories. Suitable waiting rooms / Sheds for the visitors to wait for their turn for interview are provided in all prisons. Interview rooms are generally situated near the main gate of the correctional homes and wire mesh partition is put up between the inmates and the interviewers. But of late, remodelling of the place of
Interview in prisons has been done by providing ample space with unbreakable glass partition where the prisoners can have meaningful interview without any disturbance. In Tihar jail there is model interview hall where the prisoners meet their relatives or friends separated by see-through toughened glass and in sound proof environment and prisoners can converse through a one to one Micro Phone System. In most of the prisons Interview Application is provided free of cost and even by NGOs and it can also be downloaded from Prison Website. Booking facility for fixing up of appointment for interview with inmates is made available in the Delhi Prisons.

Telephone Booth Facilities is extended to prisoners to have an easy and quick communication with relatives and friends and also to avoid smuggling of Cell Phone and Sim Card in Prisons of States like West Bengal, Delhi, Karnataka and Tamilnadu. In West Bengal, the unique sim-less telephone facility has been designed with Vodafone Essar East Limited and it was inaugurated in Dum Dum Central Correctional Home.

5.13.15 Open Air Prisons / Open Colonies

In order to save the lifer and long termer from the ill effects of confining continuously in closed prisons, the idea of Open Air Prisons/ Open Colonies dawned in the minds of the Eminent Penologists and Criminologists and those who are interested in the rehabilitation of the prisoners. Soon after the visit of Dr. W.C. Wreckless, the first Open Air Prison was set up in Maharashtra. Totally there are 53 Open Prisons in India to accommodate 4316 inmates. Out of this, 23 are at Rajasthan; 10 are at Maharashtra and the rest are distributed throughout the country. One Open Air prison at Maharashtra is named as Biju Patnaik the Ex Chief Minister of Odisha was opened in 2005 and is well known for its Aromatic and Medicinal Plants apart from its regular activities. A solar Power System has been installed with the help of an NGO named ‘Arupa’ Mission Research Foundation, Bhubaneshwar for operating irrigation pumps and providing lights. This NGO has assisted the prison in renovating the prison walls, marketing Jail Products and planting fruit bearing and flowering trees and Jatropha. Those who are having agricultural background and interested in farming and who have completed considerable portion of the sentence are only selected for the confinement in Open Air Prison. They are given concession in diet,
accommodation, earning of wage on remission etc., Normally Agricultural work and other connected work like Cattle Rearing, Sericulture and Apiculture are being carried out in such Open Air Prison / Open Colonies.

As a unique project, industrial production with the help of Private collaboration is being carried out in Aurangabad Open Prison, Maharashtra. The Prison Department entered into a Contract with an NGO (Samajik Seva Bhavi Sansth) symbiotic collaboration for the production of articles and their sale by providing land and working prisoners. Under this scheme the Prison Department was able to provide work for almost 250 Prisoners per year during the years 2002 - 2005 and that it was possible for the Prison and the Government to earn a total amount of Rs.2,78,58000/-. Apart from one Open Air Prison at Singanallur in Coimbatore District, a new Open-Air Prison was opened on 9.12.2013 in Sivagangai District at Purasadaiudaippu village at a cost of Rs. 246.93 lakhs to accommodate 150 convicted male prisoners.

In West Bengal Open-Air Correctional Home at Lalgola was set up in 1987 in 100 Acres of land with more than 1,000 Mango Trees and a pond to accommodate 100 inmates with 20 cottages in the campus where the prisoners are able to stay along with their families. Prisoners are allowed to purchase Goats and Cows with their own money for rearing and selling. Besides they are given training in some Vocations like Television repairing, Motor Mechanic / driving, Cane work, Electrical Wiring, Motor Pump Repairing with the help of Government Institution and NGOs like Don Bosco Prison Ministry and Rama Krishna Mission Ashram. The Project for preservation and restoration of heritage structure which was going on in Lalgola Open Prison in partnership with Indian National Trust for Art and Cultural heritage (INTAC) bagged the USA Ambassador's Fund for Cultural Preservation Award for 2007, with cash award for Rs. 28,00,000 (64,553 dollars). Three shops outside the Open Prison have been constructed where at present laundry, Electrical Goods Shop and Stationery shops are being run by the inmates. Tea Stall and Saloon are also run by the inmates.

5.13.16 Video Conferencing

A major problem of the Indian Prison System is a huge under-trial population. Around 65-70% in the country has led to the problem of over-crowding in Prisons.
The under-trials have to be produced before the Magistrate in a timely manner for expeditious disposal of the cases. However escorting the prisoners is a huge problem as it is the responsibility of the Police who happen to be over burdened and are put on various duties like security, Bandhobust etc., Also funding, man power, vehicles are often in short supply. It is not unheard of, for prisoners to escape enroute, smuggle contraband or being attacked by rival gangs outside. As a solution to all these problems faced by the Prison authorities the system of Video conference, wherein the prisoners are produced before the Magistrate through videoconference system was started first in Andhra Pradesh (2001) in India. The system is existing in many other States like Tamilnadu, Maharashtra, Karnataka, New Delhi, Chattisgarh, Jharkhand, West Bengal, Gujarat, Haryana etc.,

The introduction of the Video conference solution has eliminated the need for the alleged offenders to physically appear in the Court to stand for pre-trial i.e for adjournments or extension of the judicial remand. The State of Andhra Pradesh is now planning to install a Polycom Multipoint Control Unit (MCU) to allow simultaneously multi-party conferencing of suspects in different jails with the Magistrate. In order to produce offenders before Magistrate through the video conference, the appropriate Government has obtained approval for the amendment to Section 167 (2) of Cr.P.C. The proposal to amend the Section 164, 267 and 275 of Cr.P.C to enable trial through Video conferencing is under consideration in certain States. Video conference facility was inaugurated in Tamil Nadu Prisons with effect from 1.07.2004. At present the video conference system covers 17 locations spread over all Central Prisons and Special Prison for women and 64 Court Complexes covering 276 Courts. In order to improve the system further the Government of Tamil Nadu sanctioned 312 lakhs in 2011 and 691.50 lakhs in 2013 to extend the facility to another 28 and 60 locations respectively.

Prison Adalat is being conducted in most of the prisons which aims at speedy disposal of the minor cases on plea bargaining basis by which over-crowding is controlled to certain extent.
5.13.17 Use of Different Technologies in Prison

The use of the ensuing technological systems etc., are now actively in use in most of the Central Prisons and District Prisons for maintaining strict security and discipline and better management of prisons like CCTV Surveillance system, Biometric Finger Identification System (BMFIS), Improved Arms and Amunitions (.100 INSAS Riffle in place of old.303), Hand-Held Metal detectors, Public Address System, Portable Search Light, ISDN Line, Walkie-Talkie, Mobile Phone Jamming system (Cell Phone De-activator), Flood Light in Watch Tower, High Mast Flood Light in open area, Live Wire Fencing, Computerisation, Laminated Photo Identity Card of Prisoners, Three-tier Security of Prison Complex, Intelligence- cum - Police wing, Bomb Detection Equipments, Raising the height of Perimeter walls from 14 to 18 feet, Prison Management System, Prisoners' Information System, Visitors' Management System, Prison News Letter / Website etc.

5.13.18 Statistics regarding Prisons in India - 2013

The present position regarding the Indian Prisons as per the 'Prison Statistics India 31.12.2013' published by The National Crime Records Bureau, Ministry of Home Affairs, Government of India, and New Delhi is given below:
<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Variables</th>
<th>In India</th>
<th>In Tamil Nadu</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total number of Jails</td>
<td>1391</td>
<td>136</td>
</tr>
<tr>
<td>2</td>
<td>Total capacity of Jails</td>
<td>3,47,856</td>
<td>22,101</td>
</tr>
<tr>
<td>3</td>
<td>Total number of jail inmates</td>
<td>4,11,992</td>
<td>14,721</td>
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<tr>
<td>4</td>
<td>Occupancy rate</td>
<td>118.4%</td>
<td>66.6%</td>
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<tr>
<td>5</td>
<td>Inmates trained under various vocational training programme</td>
<td>63,977</td>
<td>3010</td>
</tr>
<tr>
<td>6</td>
<td>Gross value of sale proceeds / earning ( Rupees in lakhs)</td>
<td>14,432.9</td>
<td>1293.6</td>
</tr>
<tr>
<td>7</td>
<td>Death Natural in India (1482) &amp; Unnatural (115)</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Death Natural in Tamil Nadu (64) &amp; Unnatural (10)</td>
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<td>74</td>
</tr>
<tr>
<td>8</td>
<td>Escape in India from prisons (103 ) outside prison (72) police custody (242)</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Escape in Tamil Nadu from prisons (5 ) outside prison (-) police custody (5)</td>
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<td>10</td>
</tr>
<tr>
<td>9</td>
<td>Rehabilitation In India of prisoners including financial assistance:</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Legal - Aid provided</td>
<td>67386</td>
<td>113</td>
</tr>
<tr>
<td>10</td>
<td>Wages paid per day per convict:</td>
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<td></td>
</tr>
<tr>
<td></td>
<td><strong>I. Highest: Pondicherry:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>a. Skilled</td>
<td>170</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>b. Semi-skilled</td>
<td>160</td>
<td>80</td>
</tr>
<tr>
<td></td>
<td>c. Unskilled</td>
<td>150</td>
<td>60</td>
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<tr>
<td></td>
<td><strong>II. Lowest : Mizoram</strong></td>
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</tr>
<tr>
<td></td>
<td>a. Skilled</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. Semi-skilled</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td></td>
<td>c. Unskilled</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td><strong>Education:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Elementary Education</td>
<td>37,027</td>
<td>68</td>
</tr>
<tr>
<td></td>
<td>Adult Education</td>
<td>53,720</td>
<td>1664</td>
</tr>
<tr>
<td></td>
<td>Higher Education</td>
<td>8,311</td>
<td>757</td>
</tr>
<tr>
<td></td>
<td>Computer Course</td>
<td>7,356</td>
<td>478</td>
</tr>
<tr>
<td>12</td>
<td>Total Staff strength</td>
<td>51,818(1:8)</td>
<td>4099(1:4)</td>
</tr>
<tr>
<td>13</td>
<td>Training of Jail Officials</td>
<td>5,315</td>
<td>414</td>
</tr>
<tr>
<td>14</td>
<td>Prison Budget (2013-14) (Rupee in lakhs) (Increase by 14.3%)</td>
<td>3,74,496.7</td>
<td>27,236.8</td>
</tr>
<tr>
<td>15</td>
<td>Actual Expenditure (2013-14) ( Rupees in lakhs)</td>
<td>3,32,837.8</td>
<td>22,633</td>
</tr>
</tbody>
</table>

(Expenditure per inmate per year Rs.24,768/-)