CHAPTER VII

CONCLUSION AND SUGGESTION

“Everything has been said already, but no one listens, we must always begin again”

- Andre Gid - French Thinker & Writer

The Prisons in India are not considered as a house for incarceration to deter criminal behaviour. On the subject of Crime, Mahathma Gandhi, our father of our nation, had once said "Crime is the outcome of a diseased mind and jail must have an environment of a hospital for treatment and Care." Indian Prison Administration is having a strong faith in this principle. Sentence of imprisonment would be justifiable only if it ultimately leads to social defence against crime. Such an aim could be achieved only if incarceration motivates and prepares the offender for a law abiding and self supporting life after his or her release. Imprisonment deprives the offender of his liberty and self determination and the prison system should not be allowed to aggravate the suffering already inherent in the process of incarceration. Hence the prison should endeavour to reform and re-assimilate the offender in the social milieu by giving them appropriate correctional treatment. Thus the objectives of the Prison and Correctional Administration in India are:

- To protect society against crime by secure and safe custody of prisoners and to develop a sense of discipline amongst them;
- To provide such conditions to the prisoners as are conducive to their reformation and rehabilitation;
- To provide basic minimum facilities to the prisoner for maintaining their human dignity;
- To motivate the prison personnel to achieve the above objectives in their management of prisons.

The actual status of the Indian Prisons and Prison Administration has been elaborately discussed in Chapter II while tracing the early history of the Indian
Prisons particularly pre-independence and post-independence period but before judicial intervention on the prison administration in the name of Judicial Activism in the late 70s. In between this period so many Commissions and Committees were formed both at the Central and State Level in reforming the Indian Prisons and Prison Administration. Of course, there was a slow progress in the management of prisons and treatment of prisoners. Only after the intervention of the Apex Court in interpreting the Constitutional Rights in favour of the prisoners in the name of Judicial Activism many improvements were made in the day-to-day routine of the prisoners. In support of this, so many case laws have been cited with detailed discussion in Chapter IV. In fact after Judicial Activism only series of Committees like Justice Mulla (1980-83), Justice Kapoor (1986), National Expert Committee on Women headed by Justice Krishna Iyer (1986-87), were formed by the Government of India and on an off-shoot of the recommendation of these Committees tremendous improvements were witnessed in the treatment of Prisoners, living condition in Prisons, using modernised technologies in the Prison Administration. The immense financial support given by the Government of India under various schemes and the funds spared under the State Budget augmented the needs of the Prison Administration in providing the required facilities under the various treatment programmes in Prisons and also to improve the Prison Administration. After transferring the prison subject from NISD to BPR&D in 1995 remarkable improvements were brought into vogue in the Indian Prison Administration. The preparation of Draft Model Prison Manual, 2003 and Draft National Policy on Prison Reforms and Correctional Administration, 2007 are the contribution of BPR&D. These two drafts are yet to be approved by the Government of India. The compilation of Prison Statistics in India done by NCRB since 1995 is a humongous task. This enables the understanding of the Prison Administration in its totality. The best practices followed in Indian Prisons and the present position are analysed in the later part of Chapter V. The Critical analysis with the available data has also been done in Chapter VI of the Thesis.

In spite of so many improvements made in the Prisons of India as discussed in the earlier Chapters, the present Indian Prison Administration is not free from comments, criticisms, litigations etc from various angles like the Inmates, Public,
Mass-media, Judiciary, Human Rights Commission so on and so forth. This is on the one hand by the Prison Authorities due to the lacuna in executing the due provisions of the Rules and Regulations in letter and spirit and on the other hand by the Prisoners who are not observing the prescribed Code of Conduct as laid down in the manual either knowingly or unknowingly or under the influence of others. The general deviance of the prisoners which are noticed in the walk of life of the prisoners are Smuggling contraband articles including cell phone into prisons while on their admission, return from Court and leave, forming groups and taking an upper hand which leads to unnecessary clash among prisoners and with the Prison Personnel, teasing new prisoners, teaching the trick of the trade in committing offences and converting them into hard core criminals and escaping the clutches of law, Bribing the Prison Officials in order to get extra concession or/and suppress their illegal activities and deviating the Prison Rules. The authoritarian tone of the Prison Officials has not been changed. The principle of the prison is that "Remember that the prisoner is a ward and not the slave of the State". Still the prisons staff are under wrong notion that the prisoners are at their mercy forgetting the fact that they are the Correctional Officers. So Correction necessarily has to be started from the Correctional Officers rather than the prisoners. This is like two sides of the same coin.

Even though some of the recommendations of the Committees which involve huge financial commitments are accepted in principle, they could not be implemented due to financial constraints, such recommendations could be implemented in a phased manner. Unless and otherwise an equilibrium is maintained between both levels, the optimum level of achievement could not be achieved and there will be always shortcomings, commission and omission on both the ends. On careful analysis of the Conditions prevailed in the olden days, various recommendations and suggestions made by different Committees/Commissions on Prisons in India, the Directions of the Apex Court on Prison Administration and the current position and best practices followed in Indian Prisons the researcher would like to suggest the following in further improvement of the Prison and Prison Administration in India.
7.1 SUGGESTIONS


- Including the subject of Prisons and allied Institutions in the Concurrent List of the VII Schedule of the Constitution of India.


- Revising the good old manuals of States / Union Territories where the revision has not been taken up on the lines of model prison manual.

- Extensive use of Probation Services in deserving cases by amending the appropriate provisions of the Probation of Offenders Act, 1958, adequately strengthening the infra structure of the Probation Services and arranging sensitization programmes regularly for judicial Officers, Prosecuting Officers and Police Officers.

- Insertion of a new Section 357-A in the Cr.P.C., 1973 for the payment of compensation to the victims of crime out of the earnings of the Prisoners under Wage Earning Scheme.

- Amending the existing section 320 (1) of the Cr.P.C., so as to declare more offences compoundable.

- Amending the existing Section 167 (3) of the Cr.P.C suitably so as to introduce the system of video Conferencing in which the alleged offenders are produced before the Magistrate through videoconferencing instead of physical presence in the Court for pre-trial i.e for adjournment or extension of the Judicial Remand.
• Amending the existing sections 164, 267 & 275 of the Cr.P.C. to enable the trial through Video Conferencing.

• Insertion of a new sub-Section 305- A in Cr.P.C so as to expedite and 'dispose off' the trial cases of Under-trial Prisoners in custody by giving top-priority.

• Insertion of a new sub-section 305-B in the Cr.P.C so as to provide lesser punishment in uncontested matter and also on free and frank admission of guilt.

• Inserting a new sub-section 44-A in the Cr.P.C. to minimise the need for the arrest in pursuance of the guidelines of the Hon'ble Supreme Court in Joginder Kumar vs. State of Uttar Pradesh Cri.L.J 1994 SC 1981.

• Issuing appropriate direction by the State Government and Registrar of High Court for the effective implementation of the Section 436-A wherein liberalising Bail Provision has been liberalised for under-trials lodged in the Prisons who has undergone detention for a period extending upto one-half of the maximum period of imprisonment specified for that offence and that he shall be released by the Court on his personal bond with or without sureties in order to decongest Prisons.

• Amending the existing Section 53 of the Indian Penal Code so as to include the Community services as one of the punishments prescribed under this Section.

• Amending suitably the existing Section 433 of the Cr.P.C so as to consider and release under the Advisory Board Scheme the Lifers who offer good prognosis for reformation and rehabilitation even before the completion of 14 years of actual imprisonment say 8-10 years.

• Expediting the work carried out at present in different Jails regarding the renovation, repairs, construction of additional accommodation and new Jails.

• To assess the feasibility of constructing additional accommodation in the existing Jail and constructing new Jails in other areas wherever required.

• Diversification of institution should be evolved for the basic segregation and treatment of homogenous group of Prisoners instead of keeping heterogeneous
group of Prisoners under one roof. Segregating Prisoners according to their age, sex, conviction, security, period of detention etc., (Convict Prison, Remand Prison, Borstal School, Open Prison, Female Prison, High, Middle and Low Security Prison etc.,) will help the Prison Administration in maintaining security with minimum staff and to implement the welfare and rehabilitative programmes effectively in Prisons wherever and to whomsoever necessary.

- Identifying the factors responsible for vitiating the atmosphere of the Prison Institution such as accommodation, hygiene, sanitation, food, clothing, medical facilities etc., and taking proper and immediate action at all levels effectively for rectification.

- Strictly following the Rules and Regulations prescribed for the scientific classification of prisoners in letter and spirit with the support of Custodial and Correctional Staff and even NGOs.

- Prison Work Programmes and Vocational training should be integrated with National Economic Plans.

- Public participation in prevention of crime and treatment of offenders should be made a part of the National Policy on Prisons.

- Relieving the Custodial Officer from all the clerical work as their primary duty is to supervise Prisoners and maintain security in the Prison.

- Considering the meagre strength of Correctional Officers in Prisons like Welfare Officers, Psychologists, Social Case workers, Probation Officers etc., their strength should be increased in proportion to the inmate population so that individual attention on Prisoners on various spheres of correctional activities (Technique of case-work, Group work, individual and group guidance and counseling) could be taken up effectively.

- Participation of outside agency shall be encouraged for utilising the potential prison labour available in plenty as an outsource by allowing the agency to start gainful trade by providing necessary infra-structure facilities in prison.
- The feasibility of privatising the Prison Industry may be assessed through a pilot study wherever necessary as the custodial staff who presently manage the industries are lacking in experience in such industries.

- Allowing NGOs and Philanthropists who are really interested in the welfare of Prisoners liberally in all the treatment programmes in Prisons like Classification, Education, Vocational training, Medical and Health care, Sanitation and Hygiene, Recreation Activities etc.

- Increasing the rate of wages of the prisoners since the wages now paid to the prisoners in most of the Prisons is not on par with the market rate.

- The practice of granting Furlough or Home leave my be extended in Indian Prisons unanimously as it is now in vogue in limited States only because it is unique in computing leave period towards the sentence and not at large period as in the case of other kinds of leave

- The system of mobile complaint box which was introduced at first in Tihar Jail may be strictly followed in all the Prisons in India as it will be an effective method of ventilating grievances for inmates.

- The existing strength of Prison Staff in all categories should be increased in proportion to the souring prison inmate population and immediate step should be taken to fill up the vacant posts.

- To review the prolonged cases of under-trial prisoners in prison periodical meetings should be conducted regularly with the Magistrate, Police and Prison Officers.

- As per the existing provision the duties, rights and privileges of Prisoners should be printed in bold letters in vernacular language and pasted at several prominent places inside the Prison to make the prisoner aware of the same. Ahead of this, marquee of the above with picturisation may be installed in conspicuous places for better understanding and learning of the prisoners.

- The system of Non-official visitors should be revived by appointing persons who are genuinely interested in Prison Reforms and Prisoners Welfare.
• To promote Prison Products Show Rooms, Stalls and Exhibition Prison Bazaars, outlets and the like in all the States.

• Constituting Committee in each State/Union territory to identify and enroll voluntary workers and agencies at the State, District and Sub-divisional levels.

• The appropriate Government should give due patronage, financial assistance, recognition to voluntary agencies and individuals working in correctional filed.

• After care Home with sufficient infrastructure shall be established in all States to meet the immediate needs of the released prisoners.

• The Services of Probation Branch shall be utilised by strengthening the Branch.

• Prisoners Welfare Fund with Government contribution shall be created in all the States to undertake various welfare measures for Discharged Prisoners and their families.

• Establishment of permanent Prison Adalat in all Central and District Prisons where Remand and Under-trials are confined to avoid congestion in jails and also to take up speedy trial.

• To ensure transparency in Prison Administration, dissemination of information about Prison and Prisoners should be provided through News letters, Prison Magazine, Website, short films documentaries etc.

• Women Court and Women Adalat headed by women may be established in all the States for the speedy disposal of the cases of women offenders/prisoners.

• To alleviate the misuse of Adolescent offenders by the Adult Prisoners in Prisons they may be segregated and confined in Borstal Schools (Remand) as is now existing in Tamilnadu.

7.2 TESTING OF HYPOTHESIS

The hypothesis proposed is tested in the research study with the findings on various points raised. Of course, the spirit of the Judiciary in establishing the rights of
the Prisoner is in the right sense and full vigour. As directed by the Apex Court in Ramamurthy vs. State of Karnataka (1996), in bringing uniformity in laws relating to the Prisons, on the approval of the Ministry of Home Affairs the Government of India constituted a Model Prison Manual Committee at the National Level for the formulation of Model Prison Manual. One among the terms of reference prescribed for the Committee is to examine various aspects relating to the 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 Judgements and various International Instruments to which India is a party. Taking all these into consideration only the Draft Prison Manual was prepared and submitted in 2003 which represents the best of wisdom from all over the country to bring prison system in tune with the Constitutional provisions, Supreme Court Judgements and International Instruments. The rights and duties of Prisoners are clearly spelt out. The Government of India constituted a Committee in 2005 for preparing the Draft National Policy under the Chairmanship of the Director General of BPR&D. The Committee prepared the draft and submitted it to the Government of India in 2007. These two Drafts are yet to be approved by the Government of India. Apart from this the specific directions regarding the welfare of Prisoners and improvement in the treatment programme, daily routine etc., are being implemented within the budget available in each State/Union Territory. The Scheme which involves huge financial implication is being taken up in a phased manner. Obviously the financial assistance earmarked both at the Central and State Governments are steadily increasing. Certain State/Union Territories have taken effective steps in revising their Prison Manuals. Taking into account the directions of the Apex Court and the recommendations on the Welfare of Prisoners. Notice containing the important rules regarding the duties, rights and privileges, do's and dont's, in vernacular language are being pasted in prominent places in Prisons. Prisoners on admission are given pamphlets containing the gist of Rules and Regulations contained in Prison Manual. The Illiterate Prisoners are made aware of it on admission by Prison Staff/Literate Prisoners. Eventually, at times it becomes an impossibility due to overcrowding and dearth of hands. The present position of the Indian Prisons with best practices followed at present are discussed
vividly in later part of Chapter V. The critical analysis is done in Chapter Vi with the available data shows that considerable improvements have been made. At the execution level deviance is being noticed both on the side of the Prisoners and the authorities which is already discussed in the second para above. Even then the Indian Prisons are marching in a progressive direction.

"Our Report is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning"

- Winston Churchill