CHAPTER - II

TRACING THE HISTORY OF PRISONS, EVOLUTION AND MANAGEMENT OF PRISONS AND TREATMENT OF PRISONERS

2.1 INTRODUCTION

Criminology is, ordinarily, the science of crime and the person who studies crime in a systematic manner can be precisely described as Criminologist. The subject of Criminology is to analyze different aspects of crime and device effective measures for the treatment of criminals to rehabilitate them in society as good citizens.

2.2 STUDY OF CRIMINOLOGY

Criminology is an immensely broad subject. It knows no boundaries and becomes involved in all the sciences which deal with man and his social organization. As such criminology is concerned with the study of delinquent and criminal behavior, besides, crime control and prevention of criminal’s treatment and rehabilitation.

2.3 CRIME

Paul W.Tappan defined crime as “an institutional act or omission in violation of criminal law, committed without defense or justification and sanctioned by the law as felony or misdemeanor”. Crime is an act of warfare against community touching new depths of lawlessness.

2.4 CONCEPT OF CRIME

Crime is a legal concept and has a sanction of law. It is also known as a living concept. The “Changing concept” of crime is dependent upon the social evolution of the human being all over the world. It appears in different lights in different countries at different times what is crime in one country, may not be a crime in another. What is a crime at one time may not be a crime at another and vice-versa

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1 Paul W. Tappan Crime, Justice and Corruption, p.10
2.5 GENERAL CAUSES OF CRIME

The causes of crime are one of the important phases of crime problem that requires more discussion, investigation and research and call for more social and Government action. There cannot be a single solitary factor for the commission of delinquency and crime. But it is a result of many factors. Hence the question whether one factor or another causes delinquency and crime is an unsound one. The notion of unitary causation of crime should be substituted for the concept of internal and external pressures and inhibitions. Dr. Jyotsha H. Shah has broadly divided the factors of delinquency causation into two parts viz., (I). Inside the home like Home influences, Home and family in relation to crime, The broken home, Criminality in the family, Impact of criminal convictions, Psychological tensions and emotional disturbances at home (II) Outside the home like Environmental factors, Community, and School.

2.6 PUNISHMENT

Punishment is a means of social control. H.L.A. Hart with Mr.Bean and Prof.Flew has defined “punishment” in terms of five elements: (i) It must involve pain or other consequences normally considered (ii) It must be for an offence against legal rules. (iii) He must be an actual or supposed offender for his offence. (iv) It must be intentionally administered by human beings other than the offender (v) It must be imposed and administered by an authority constituted by a legal system against which the offence is committed.²

2.7 CONCEPT OF PUNISHMENT

The concept of punishment is that of inflicting some sort of pain on the offender for his violation of law. This is an instrument of public justice. To illustrate, if a thief is prosecuted and brought before a Court, his case heard, punishment awarded by the Court and finally executed by the State, then this becomes a punishment in the legal sense. It will not be a punishment in law, if father beats his

son for committing a theft in his house or killing of Naxalites by the State for their anti-national activity without prosecuting them.

2.8 THEORIES OF PUNISHMENT

All punishments take place within a society's ordinary legal and penal systems. In the past, several reasons were given for the justification of punishment. One of these reasons is retribution. Another reason, historically associated with utilitarianism, is that punishment serves to deter others from offending i.e. deterrence. A third reason is partly that punishment or a practice of treatment, secures that fewer offences will be committed in the future, but not through deterrence. This could be described as reformative aspect recommending the ‘moral regeneration’ of individuals as an end itself and also a means for the prevention of crime. These three reasons, each with variants and complexities, have been known as theories of justification of punishment.

2.8.1 Theory of Retribution

Retribution is probably the oldest and most ancient justification for punishment. “You hurt me and I will hurt you” is its literal meaning. The justification for retributive theory of punishments is that the criminal is to be punished simply because he has committed a crime. It is initially based on revenge. Revenge by whom? The victim cannot take the law in his own hands in the modern democratic set up. The Lex Telionis, ‘an eye for an eye, a tooth for a tooth’ cannot be a justification for punishment in the modern society. Punishment is regulated partly by the legislators by fixing scale of penalties and partly by judges and Magistrates by awarding penalties after lawful consideration of the well-being of the offender and his family or of the society as a whole, within the scale fixed by the legislators.

2.8.2 Theory of Deterrence

Deterrence is usually defined as the preventive effect which is actual or threatened punishment of offenders that has upon the potential offenders. The principle of deterrence is of ancient origin and has been prominent throughout history in criminal systems of punishment. According to Sir John Salmond, deterrence is,
“Punishment is before all things deterrent, and the chief end of the law of crime is to make the evil-doer as example and a warning to all who are like-minded with him.”

2.8.3 Theory of Reformation

With the revolutionary revelations of Sigmund Freud and with the growth of Psychology in the 19th century, reformative theory of punishment emerged. The modern penology recognizes that the punishment which is no longer regarded as retributive or deterrent as reformation or rehabilitation. Reformation is defined as “the effort to restore a man to society as a better and wiser man and a good citizen.”

Progressive criminologists across the World will agree that “the Gandhian diagnosis of the offenders as patients and his concept of prisons as hospitals – mental and moral - is a key to the pathology of delinquency and therapeutic role of punishment.” It is, thus, clear that a crime is a pathological aberration, that a criminal can ordinarily be redeemed, that a state has to rehabilitate rather than avenge.

The Indian Jail Committee, 1919-1920 defined the aims of correctional administration as ‘the prevention of further crime and the restoration of the criminal to the society as a reformed character’.

Rehabilitative Ideal of the Reformatory Theory is that measures employed to treat the convicted offender to serve a therapeutic function; that such measures should be designed to effect changes in the behavior of the convicted person in the interest of his own happiness, health and satisfaction and in the interest of social defense.

The reformatory theory of punishment is reflected both in the Constitution of India and in the International Conventions dealing with human rights. Article 21 of the Constitution of India dealing with 'life' and 'personal liberty' guarantees a life of dignity and certainly a life above mere animal existence.

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3 Sir Jon Salmond, “Jurisprudence”, 1947 p.111
4 Prison Commissioners Report, 1912 p.24
5 Justice Krishna Iyer, Mohammad Giasuddin vs. State of Andhra Pradesh, AIR 1977 SC 1926 at page 1928
6 Shyokaran vs. State of Rajasthan 2008 Cr.LJ 1265 Raj
According to Hon’ble Justice Krishna Iyer“If you are to punish a man retributively, you must injure him. If you are to reform him you must improve him. And men are not improved by injuries.”

2.9 HISTORY OF PRISONS

Prison system which is a method of handling criminals was a result of historic accidents. It was not a carefully thought out plan. Prison existed from ancient days. Segregating criminals from society to protect it is an acknowledged necessity of every civilized State. Yet, unduly harsh treatment is not favoured by civilized State. Jail is one of the mysterious sections of the prison system. There have been jails and prisons for thousands of years, but prior to the eighteenth century, they were seldom used to incorporate convicted offenders. Jails, intended as places of “safe keeping” for persons awaiting trial, are at the same time utilized (deliberately or otherwise) as rehabilitation facilities for convicted offenders. Every year approximately lakhs of men, women and children are locked up in jails, convicted or awaiting trial for offences ranging from shop lifting to murder and from political demonstration to treason.

2.10 PRISONS IN THE WORLD SCENARIO

This is discussed under three heads viz., (1) Ancient Times. (2) Middle Age and (3) Modern Era.

2.10.1 Ancient Times

The beginning of prisons can be traced back to the rise of the State as a form of social organization. Corresponding with the advent of the State was the development of written language which enabled the creation of formalized legal codes as official guidelines for society. The most well-known of these early legal codes is the code of Hammurabi, written in Babylon around 1750 B.C. The penalties for violation of the laws in Hammurabi’s Code were almost exclusively centered on the concept of “lextalionis” i.e. law of retaliation where people were punished as a form of vengeance, often by the victims themselves. This notion of punishment as

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vengeance or retribution can also be found in many other legal codes from earlier civilization, including the ancient Sumerian codes, the Indian Manu Dharma Sastra, Hermes, Trismegistus of Egypt and Mosaic Code. The Gally slave was a common punishment in Early Modern Europe.

Some Ancient Greek Philosophers like Plato, began to develop the idea of using punishment to reform offenders instead of simply using it as retribution. Imprisonment as a penalty was used initially for those who could not afford to pay their fines. Eventually, since impoverished Athenians could not pay their fines, leading to indefinite periods of imprisonment, time limits were set instead. The prison in Ancient Athens was known as the Desmoterion (Place of chains).

The Romans were among the first to use the prisons as a form of punishment rather than simply for detention. A variety of existing structures were used to house prisoners, such as metal cages, basements of public buildings and quarries. One of the most notable Roman prisons was the Mamertine Prison, established around 640 B.C. by Ancus Marcius. This prison was located within a sewer system beneath Ancient Rome and contained a large network of dungeons where prisoners were held in squalid conditions contaminated with human waste. Forced labour on public work projects was also a common form of punishment. In many cases, citizens were sentenced to slavery, often in Ergastula (primitive form of prison) where unruly slaves were chained to workbenches and performed hard labour.

2.10.2 Middle Age

During the middle Ages in Europe castle, fortresses and the basement of public buildings were often used as makeshift prisons. The possession of the right and the capability to imprison citizens, however, granted an air of legitimacy to officials at all levels of Government, from Kings to Regional Courts to city councils; and the ability to have someone imprisoned or killed served as a signifier of who in society

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9 Allen, Danielle S. “Punishments in Ancient Athens” Harvard University, Center for Hellenic Studies
possessed power or authority over others. Another common punishment was sentencing people to gally slavery where they were chained together in the bottom of ship and forced to row on naval or merchant vessels. However, the concept of the Modern Prison largely remained unknown until the early 19th Century. Punishment usually consisted of physical forms of punishment, including capital punishment, mutilation and whipping and non-physical punishments such as public shaming rituals like the stock.

2.10.3 Modern Era

During the 18th century, popular resistance to public execution and torture became more widespread both in Europe and United States and Rulers began looking for means to punish and control their subjects in a way that did not cause people to associate them with spectacles of tyrannical and sadistic violence. They began to look towards developing system of mass incarceration as a solution. The prison reform movement that arose at this time was heavily influenced by two somewhat contradictory philosophies. The first was based on Enlightenment ideas of utilitarianism and rationalism, and suggested that prisons should simply be used as a more effective substitute for the punishments inflicted in public corporal punishments such as whipping, hanging etc. This theory often referred to as deterrence, claims that primary purpose of prison is to be so harsh and terrifying that they deter people from committing crime out of fear of going to prison. The second theory which saw prisons as a form of rehabilitation or moral reform was based out of religious ideas that equated crime with sin, and saw prisons as a place to instruct prisoners in Christian Morality, obedience and proper behaviour. The later reformers believed that Prisons could be constructed as humane institutions of moral instruction, and that prisoners’ behavior could be 'corrected' so that when they were released they would be model members of society.

Penal transportation of convicted criminals to penal colonies in the British Empire in the America from 1610 to 1770 and in Australia between 1788 and 1868 was often offered as an alternative to death penalty, which could be imposed for many offences.\textsuperscript{15} France also sent criminals to tropical penal colonies including Louisiana in the early 18\textsuperscript{th} Century.\textsuperscript{16} Penal Colonies in French Guiana operated until 1951. Katorka prisons were harsh work camps established in 17\textsuperscript{th} Century in Russia in remote, under populated area of Siberia and the Russian Far East that had few towns or food sources. Siberia quickly gained its fearful connotation of punishment.\textsuperscript{17} One reform of the 17\textsuperscript{th} Century had been the establishment of London Bridewell as the house of correction for women and children.

The first State Prison in England was the Millbank Prison established in 1816 with the capacity for just fewer than 1000 inmates. By 1840s penal transportation and use of hulks was on the decline and the Surveyor-General of the convict prisons Joshua Jebb, set an ambitious programme of prison building in the country, with one large prison opening per year. Pentonville prison opened in 1842, beginning a trend of ever increasing incarceration rate and the use of prison as the primary form of crime punishment.\textsuperscript{18} In 1855 engraving of New York’s Sing penitentiary, which also followed the “Auburn or (or Congregate) system” where prison cells were placed inside of rectangular building that lent themselves more to large-scale penal labour.

In 1786, the State of Pennsylvania passed a law which mandated that all convicts who have not been sentenced to death would be placed in penal servitude to do public works projects such as building roads, forts and mines. Besides the economic benefits of providing a free source of hard labour, the proponents of new penal code also thought that this deter criminal activity by making a conspicuous public example of consequences of breaking law. However what actually ended up happening was frequent spectacles of disorderly conduct by the convict work crews, and the generation of sympathetic feelings from the citizens who witnessed the


\textsuperscript{16} Taylor, Alan, American Colonies, Penguin: London(2001)

\textsuperscript{17} Jonathan W. Daly, Autocracy under Siege: Security Police and Opposition in Russia, 1866-1905 (1988)

\textsuperscript{18} Fox 1952,p.46
mistreatment of the convicts. But this law quickly drew criticism from the humanitarian perspective (as cruel, exploitative and degrading) and from a utilitarian perspective (as failing to deter crime and delegitimizing the state in the eyes of the public). Reformers such as Benjamin Rush came up with a solution that would enable the continued use of forced labour, while keeping disorderly conduct and abuse out of the eyes of the public. They suggested that the prisoners be sent to be secluded “Houses of repentance” where they would be subjected (out of the view of the public) to “bodily pain, labour, watchfulness, solitude and silence joined with cleanliness and a simple diet”.19

Pennsylvania soon put this theory into practice, and turned its old jail at Walnut Street in Philadelphia into a State Prison in 1790. This Prison was modeled on what became known as Pennsylvania system or 'separate system' and placed as prisoners into solitary cell with nothing other than religious literature and forced them to be completely silent to reflect on their wrong.20 New York soon built the New Gate State Prison in Greenwich Village, which was modeled on the Pennsylvania system21 and other states followed. This system’s fame spread and attracted visitors to the U.S.

The use of Prisons in Continental Europe was never as popular as it became in the English speaking world, although State Prison system were largely in place by the end of the 19th Century in most European countries. After the unification of Italy in 1861, the Government reformed the repressive and arbitrary prison system they inherited and modernized and secularized criminal punishment by emphasizing discipline and deterrence.22 Italy developed an advanced penology under the leadership of Cesare Lombroso (1835-1909).23

2.11 SPECIAL TYPES OF PRISON

This topic is dealt with fewer than five sub-titles like the prison for juveniles, women prisons, military prisons, and prisoners of war camps, political prisoners and psychiatric facilities prison.

2.11.1 Prison for Juveniles

Prisons for Juveniles are known by a variety of names including 'youth detention facilities', 'Juvenile detention centers' and 'Reformatories'. The idea of separately treating youthful and adult offenders is a relatively modern idea. The earliest known use of the term 'Juvenile delinquency' was in London in 1816, from where this quickly spread to the United States. The first Juvenile Correctional Institution in the United States opened in 1825 in New York City. By 1917, Juvenile Courts have been established in all but 3 States. It was estimated that in 2011 more than 95000 Juveniles were locked up in prisons in the United States (the largest youth population in the world). Besides prison, many other types of residential placements exist within Juvenile Justice System including Youth Homes; Community based programmes, Training Schools and Boot camps.24

2.11.2 Women Prisons

A growing awareness that female prisoners had different needs than male prisoners led to the establishment of first prison for women in Canada in 1874 (Andrew Mercer Reformatory, Toronto, Canada). The objective of this Reformatory was to create a homelike atmosphere for its female inmates and to teach them the skill necessary to lead a decent life once their sentence expired. The Training offered was intended to instill feminine Victorian virtues such as obedience and servility.

Female inmates experience high rates of rape and sexual violence while incarcerated. Sexual aggression and abuse by male prison staff was widespread. In the United States in 2008 (according to Bureau of Justice statistics) more than 216,600 people were sexually abused in prisons.25 Sexual offences against women prisoners

includes rape, assault and groping during pat frisks. Male correctional officials often violate women prisoners privacy by watching them undress, shower and go to the bathroom. It is observed in a research that "women with histories of abuse are more likely to accept sexual misconduct from prison staff because they are already conditioned to respond to coercion and threats by acquiescing to protect themselves from further violence". In federal women’s correction facilities, 70% of guards are males, reinforcing female inmates’ powerlessness. Incarcerated women suffer disproportionately from HIV/AIDS, infectious disease, reproductive issues and chronic diseases. Within the American Prison System, HIV became more prevalent among women than among men. In 2007, the Bureau of Justice Statistics stated that an average, 5% of women who entered into State Prison are pregnant and in Jail, 6% of women are pregnant.

2.11.3 Military Prisons and Prisoner of War Camps

Captives at camp X-ray is a U.S. Military Prison located in Guantanamo Bay, Cuba where many people were being indefinitely detained in solitary confinement as part of the “War on Terror” The Prisoners were forced to wear goggles and headphones for sensory deprivation and to prevent them from communicating with other prisoners.

Prisons have formed part of Military systems since the French Revolution. France set up its system in 1796. They were modernized in 1852 and they were used variously to house prisoners of war, unlawful combatants those freedom is deemed a national security risk by military or civilian authorities and members of the military found guilty of a serious crime. In the American Revolution, British Prisoners held by the U.S. were assigned to local farmers as labourers. The British kept American sailors in broken down ship hulls with high death rate.

In the American Civil War, at first prisoners of war were released, after they promised not to fight again unless formally exchanged. When the Confederacy

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27 Brown Sherri (April 2011) “Working Women who are survivors of the United States ‘Corrections Systems’.Challenges for Social Service Workers.” Lecture at University of Massachusetts, Amherst MA
28 Shackling of women in custody. The Rebecca Project Retrieved 2011-04-27
refused to exchange black prisoners, the system broke down and each side built large-scale prisoner of war (POW) camps. Conditions in terms of housing, food and medical care were bad in the Confederacy, and the Union retaliated by imposing harsh conditions.  

By 1900 the legal framework of the Geneva and Hague Convention provided considerable protection. In the First World War, millions of prisoners were held on both sides, with no major atrocities. Officers received privileged treatment. There was an increase in the use of forced labour throughout Europe. Food and medical treatment were generally comparable to what active duty soldiers received, and housing was much better than front-line conditions.

2.11.4 Political Prisons

Political prisoners are people who have been imprisoned because of their political beliefs, activities and affiliation. There is much debate about who qualifies as a 'Political Prisoner'. The category of 'Political Prisoner' is often contested and many regimes that incarcerate political prisoners often claim that they are merely 'criminals'. Others who are sometimes classified as 'political prisoners' include prisoners who were politicized in prisons and subsequently punished for their involvement with political causes.

Many countries maintain or have in the past had a system of prisons specifically intended for political prisoners. In some countries, dissidents are detained, tortured, executed and/or disappeared without trial. This can happen either legally or extra legally or sometimes while falsely accusing people or fabricating evidence against them.

Single cells in the B section Court yard of Robben Island Maximum Security Prison was used to house political prisoners in South Africa from 1961 to 1991. Many

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of the people including Nelson Mandela who were involved in resistance against the apartheid Government were confined in Robben Island.

2.11.5 Psychiatric Facilities Prisons

Some Psychiatric facilities have characteristics of prisons, particularly when confining patients who have committed a crime and are considered dangerous. Many prisons have psychiatric units dedicated to housing offenders diagnosed with wide variety of mental disorder. The United State Government refers to psychiatric prisons as 'Federal Medical Centre'. (FMC).

2.12 MODERN PRISONS

To prevent escapes by the Prisoners, Prisons are surrounded by fencing, huge walls, earthworks, geographical features or other barriers. Many modern prisons depending on the level of security are having multiple barriers like a perimeter of high walls, razor wire or barbed wire, concertina wire, electrified fencing, motion sensors, guard towers, secured and defensible main gates, security lighting, dogs and roving patrols in order to prevent prisoners from escape. Remotely controlled doors, CCTV monitoring, alarm, cages, restraints, lethal and non-lethal weapons, riot control gear and physical segregation of units and prisoners must be present within a prison to monitor and control the movement and activity of prisoners within the facility.

Modern prison design has increasingly sought to restrict and control the movement of prisoners throughout the facility and also to allow a smaller prison staff to monitor prisoners directly. Smaller, separate and self-contained housing units known as 'pods' or 'modules' are designed to hold 16 to 50 prisoners and are arranged around exercise yards or support facilities in a decentralized 'campus' pattern. A small number of prison officers, sometimes a single officer, supervise each pod. The pods contain tiers of cell arranged around a central control station or desk from which a single officer can monitor all the cells and the entire pod, control cell doors and communicate with the rest of the prison.

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33 Hanser Robert D. (2012) Introduction to Corrections. SAGE.
2.13 PRISON POPULATION

It is estimated that in 2010 at least 10.1 million people were imprisoned worldwide.\textsuperscript{35} The United States had the world largest prison population over 2.3 million (one in every 100 American adult was in prison) people in American prisons or jails in 2012 whereas it was 744,000 in 1985.\textsuperscript{36} In California, nearly 158,000 inmates were detained in 2009 whereas the prisons were designed to hold 84,000 inmates only. The incarceration rate in California prisons was at an increasing rate and new prisons could not be built fast enough.\textsuperscript{37} In 2009 China’s prison population is about 1.6 million while the prison population in India was 3, 32,112.\textsuperscript{38}

2.14 PRISONS IN INDIA

In India, the early prisons were only place of detention where an offender was detained until trial and judgment and the execution of the latter. The structure of society in ancient India was founded on the principles enunciated by Manu and explained by Yajnavalkya, Kautilya and others.\textsuperscript{39} In Arthshastra, we find a long list of offences and the penalties therefor. The crimes which offended against person, property, the institution of marriage and administration of justice were regarded very heinous. The punishment for these crimes usually inflicted was mutilation, death and penance. Trials by ordeal were frequently resorted to. In some cases the accused was made to take\textsuperscript{40} a caustic drink and it was believed that if he spoke the truth the drink would do no harm.\textsuperscript{41} Expiation was recognized as a form of punishment.\textsuperscript{42}

Among various types of corporal punishments branding, hanging, mutilation and death, imprisonment was the mildest kind of penalty known in ancient Indian penology. Imprisonment occupied an ordinary place among the penal treatment and this type of corporal punishment was suggested in the Hindu Scriptures. The evil doer

\textsuperscript{35} Walmsley, Roy (October 2010), “World Prison Population List (Ninth Edition)” (PDF) Retrieved 2012-12-17
\textsuperscript{36} Michael Myser (15\textsuperscript{th} March 2007). “The Hard Sell” CNN Money, Time Warner Company, Retrieved 28 June 2013
\textsuperscript{39} Aiyangar, K.V.R., Some Aspects of Ancient Indian Polity. P.94
\textsuperscript{40} Aiyangar, K.V.R., Some Aspects of Ancient Indian Polity. P.,95
\textsuperscript{41} Jayaswal.K.P., “Hindu Polity” p.134-139
\textsuperscript{42} Rapson, E.J., “Cambridge History of India”, Vol.I, p.485
was put into prison to segregate them from the Society. The main aim of imprisonment was to keep away the wrong doer so that they might not defile the members of the social order. These prisons were totally dark dense, cool and damp, unlighted and unwarmed and that no proper arrangements for sanitation and no means of facility for human dwelling.

Kautilya is a forerunner for the prison reforms that are being done today. In his Arthasastra he has prescribed that jail should be constructed in a capital and provide separate accommodation for men and women. He has discussed the problems of prisoner’s life and their welfare. He is of the opinion that every fifth day some prisoners should be made free who pay some money as fine or undergoes some other mild corporal punishment, promise to work for social upliftment. He has also suggested general amnesty on the birth of Prince, Royal Monarch or coronation of Royal Heir and on the occasion of Social Festivals.

In the early years of Asoka there was an unreformed prison in which most of the traditional fiendish tortures were inflicted and from which no prisoner came out alive. In the later period of his rule, particularly when he was influenced by Buddhism many reformative measures in prisons were taken.

During the period of Sultanates there were no regular prisons. Only old Forts and Castles were used as Prisons. During the time of Akbar there were two kinds of prisons. One for criminals who have committed serious offence and other for ordinary criminals. Important nobles and princess guilty of treason and rebellions were imprisoned in fortresses situated in the different parts of the country.

The legal system in the medieval India resembles that of ancient India and the Muslim Sovereigns seldom attempted to tamper with the day-to-day administration of Justice. Crimes were divided into three groups viz. (a) Offences against God (b) Offences against the State (c) Offences against private classes. The punishment for these offences were of four classes: (a) Hadd (b) Tazir (c) Qisas and (d) Tashhir. Hadd means a punishment prescribed by canon law, Tazir is punishment intended to reform the culprits and depending on the discretion of the judge; Quisas is the personal right of the victim or his next of kin to inflict punishment; Tashhir is
public degradation.\textsuperscript{43} The punishment for these offences were fines and confiscation, forfeiture of rank and title, subjecting to humiliations, banishment, whipping, mutilation of offending limbs, execution and other corporal punishments.\textsuperscript{44} Imprisonment was not resorted to as a form of punishment in case of ordinary criminals. It was used mostly as a means of detention only. There were fortresses situated in different parts of the country in which the criminals were detained pending trial and judgment. During the era of modern prisons, imprisonment became conspicuous and the most commonly used instrument of penal treatment.

2.14.1 Types of Prisons

As per the NCRB Reports of 2012, there are about 1394 different types of Jails in India viz., Central Jail (127), District Jail (340), Sub-Jail (806), Women Jail (20), Borstal School (21), Open Jail (46), Special Jail (31) and others (3), with a capacity to accommodate 3,47,859 Prisoners out of which 3,23,573 are Male Prisoners and 24286 are Female Prisoners.

In Tamil Nadu there are about 135 different type of Jails viz., Central Jail (9), District Jail (9), Sub-Jail (95), Women Jail (3), Borstal School (12), Open Jail (2), and Special Jail (5). With a capacity to accommodate 21,951 out of which Male Prisoners are 19510 and Female Prisoners are 2441.

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\textbf{Sl No.} & \textbf{Type} & \textbf{Number of Jails} & \textbf{Capacity} & \textbf{Population of Inmates} & \textbf{Occupancy Rate} \\
\hline
1. & Central Jail & 127 & 146648 & 170358 & 116.2 \\
2. & District Jail & 340 & 126110 & 160678 & 127.4 \\
3. & Sub Jail & 806 & 48474 & 41285 & 85.2 \\
4. & Woman Jail & 20 & 4817 & 3200 & 66.4 \\
5. & Borstal School & 21 & 2438 & 1170 & 48.0 \\
6. & Open Jail & 46 & 4028 & 2847 & 70.7 \\
7. & Special Jail & 31 & 10331 & 5517 & 53.4 \\
8. & Others & 3 & 323 & 80 & 24.8 \\
9. & Total & 1394 & 343169 & 385135 & 112.3 \\
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\textsuperscript{43} Sarkar, J.N., “Moghul Administration”, p.116-124
\textsuperscript{44} Saran, P., “The Provincial Government of the Moghul”, p.382
2.15 PRISONS IN TAMIL NADU

The first prison constructed in the erstwhile Madras Provinces was the Presidency Jail for women in Vellore during the year 1830 and then Madras penitentiary during the year 1837 (subsequently raised to the status of Central jail during the 1867) and thereafter all other prisons were constructed one by one up to the year 1872. After independence Central Prison Puzhal alone was constructed during the year 1981 and some additional accommodation was constructed in old prisons. Except Central Prison Puzhal, all the prison buildings are about 150 years old.

2.15.1 State Prison for Women, Vellore (Now Special Prison for Women)

This prison started functioning from 15.04.1830. This is a pioneer institution in the country started for the welfare of women prisoner. This prison was originally named as Presidency jail for women and then State Prison for Women and now it has been converted as special prison for women. The area occupied by this prison is 13.62 acre. Authorized accommodation is 412 to confine both convicts and remand/under trial women prisoner. It is managed exclusively by women officers and women staff. There is a nursery and crèche available in this prison to look after the welfare of children accompanying the women prisoner.

2.15.2 Central Prison

This prison was originally known as Madras 'Penitentiary' constructed during the year 1837. It occupied about 3.46 acres in the prime central area of the Chennai city i.e. near Central Station. The authorized accommodation of this prison is 1419 to confine convict, remand and under trial, detenues and civil prisoners. The architectural arrangement of this prison is rectangular in shape. Following the construction of the Modern New Prison at Puzhal which is away from the Chennai city this prison was closed. There are other Central Prisons situated at Salem, Trichy, Madurai, Cuddalore, Vellore, Coimbatore, Palayamkottai. The other type of Prisons are Special Prison for Women at Vellore & Trichy, Open Air Prison at Singanallur in Coimbatore, District Prison/Special Jails and Sub-Jails. There is one Borstal School at Pudukottai meant for treating adolescent offenders under Borstal Schools Act, 1925.
2.16 PRISON REFORMS IN INDIA (PRE INDEPENDENCE PERIOD)

The prisons in India were in a terrible condition when the East India Company took over some of the provinces of India. The East India Company, however, was also not so keen to invest money on prison improvement being a non-profitable welfare programmes. Moreover the prison system in the more enlightened countries such as U.S.A and U.K. were also terrible in those days as deterrence was the only aim of a prison sentence.

2.16.1 Prison Discipline Committee (Lord Macaulay Committee) -1836

Our contemporary prison administration is a legacy of the British Rule. Lord Macaulay who later became the author of the Indian Penal Code which provides for imprisonment as the most commonly used instrument of penal treatment, while presenting a note to the Legislative Council in India on 21st December 1935, pointed out for the first time, the terrible condition then prevailing in Indian prisons. He vehemently subscribed to the idea that “the best criminal code can be of very little use to a community unless there be good machinery for the infliction of punishment”. He stressed that “it is, therefore, of the greatest importance to establish such regulations as shall make imprisonment a terror to wrong-doers and shall at the same time prevent it from being attended by any circumstances shocking to humanity.”

Lord Macaulay recommended that a committee be appointed to suggest measures to improve discipline in prisons. Consequently on 2nd January 1936, a committee was appointed by Lord William Bentick to study the conditions of discipline in Indian prisons. Lord Macaulay and some other most distinguished Statesmen and Jurists of the day constituted the committee. This committee known as Prison Discipline Committee gave its report in 1838 to Lord Auckland, the then Governor General. The Committee in its report noted its great disapprobation, the rampant corruption in the subordinate establishment, the laxity of discipline and the system of employing prisoners on extra-mural labour on public roads. Presumably under the influence of the reaction from these officials, the Committee recommended increased rigors of treatment and rejected all notions of reforming criminals through moral and religious teaching, education or any system of reward for good conduct. It
advocated construction of central prisons and that the sentences were sought to be executed in such a way as to deter both the actual perpetrator of crime and the potential offender from committing crime.45

2.16.2 Commission of Enquiry into Jail Management and Discipline-1864

Sir John Lawrence’s examination of the conditions of jails in India lead Lord Dalhousie to appoint the second commission of enquiry into jail management and discipline in 1864. It is interesting to note that the British regime was interested in the prisons only from the point of view of administration and discipline. The sociological ideas of reformation or welfare of inmates had not crystallized till then. The report of the Commission of 1864, therefore, proceeding on the lines of the report of the previously constituted Committee (1836) laid down a system of prison regimentation which with modification may be said to be in operation in the name of prison discipline. The Commission also made some specific recommendations regarding accommodation for prisoners, improvement in diet, clothing, bedding and medical care only to the extent that these were incidental to ‘discipline and management.’ The Commission recommended separation of prisoners – males from females, adults from children. Prison discipline was codified in specific terms and violations made lead to prison offences attracting punishment of solitary confinement, reduction in diet, whipping and hard labour.46

2.16.3 Conference of Experts in 1877

A Conference of Experts met in 1877 to enquire into the prison administration. By that time there were the following five enactments available in the country governing the management of prisons in various States. They are an Act for the better control of the jails within the Presidency of Bombay (1856), An Act for the regulation of jails in the City and Presidency of Bombay and enforcement of discipline therein (1864), An Act for the regulation of jails and enforcement of discipline therein (Bengal – 1864). Madras Jails Act (1860), Prisons Act (1870).

Prisons Act, 1870 was made by the Governor General in Council and the rest by the Governors in Council for their respective jurisdiction. These Acts differed inter se on various important points governing the principles and practices of prison management. The remedy proposed by the conference of 1877 was the enactment of a prison law which could secure uniformity of system at least on such basic issues as reckoning of the terms of sentence. On the basis of the recommendation of the conference, a draft bill was actually prepared but as “circumstances were unfavorable” the matter was postponed.\footnote{\textit{Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter II, Review of Prison Reforms,} p. 8 para 2.4.}

### 2.16.4 Fourth Jail Commission-1888

In 1888, the Fourth Jail Commission was appointed by Lord Dufferin to enquire into the facts on prisons. The object and scope of the Commission as given out in the Resolution appointing the Commission make an interesting reading particularly in view of the fact that after a lapse of almost a century we are still groping for a solution to the same problem.

The administration of Jails with respect to economy, sanitation and discipline has for many years received the careful attention of the Governor-General in Council. Three Commissions (in 1836, 1864 & 1877) have under the orders of the Government of India, considered and reported on the general principles which ought to be observed in the management of Indian Jails. There is on the part of Governor-General in Council no wish to reconsider the principle so laid down, but an examination of the statistics of Jails in different provinces and even of prisons in the same province shows that great diversity of practice exists in carrying the principles into effect. The Governor-General in Council is not to be understood as advocating absolute uniformity of administration in all provinces in connection with jail administration. He admits that local circumstances must always give rise to diversities of practice. But an examination of the provincial report for some years practiced by him that the divergences in regard to the cost of maintaining prisoners in regard to their sanitary conditions and in regard to discipline point to the existence of defects which is desirable to remove. There being no longer doubt regarding principles and the question being one of practice, it appears to His Excellency in Council that
improvement can be best be effected by means of a careful and thorough examination of experts on the spot into the causes which operate in certain provinces and certain Jails to produce a variation.

The Jail Commission of 1888 visited various provinces and made an exhaustive enquiry into all matters connected with jail administration. The Commission was of the opinion that uniformity could not be achieved without enactment of a single prisons act. On the basis of the recommendation of the Jail Commission of 1888, a consolidated Prison Bill was prepared. Commission’s recommendations in regard to jail offences and punishments were specifically examined by a conference of experts on jail management from all Provinces, which was convened for the purpose in 1892 at Calcutta. They provided in the Bill for such prison punishment as gunny clothing, imposition of iron on hand and feet, penal diet, solitary confinement and whipping.

The draft bill was circulated to the local government with a letter addressed by Mr. C.J.Lyll, the then Secretary to the Government of India, Home Department in March 25, 1893 requesting the local government to forward their observations on it and after incorporating such observations as were necessary, the Bill was presented to the Governor-General’s Council. Thus came into being the Prisons Act, 1894 which is the current law governing management and administration of prisons in India. The Britishers had found it efficacious for the achievement of their political ends to run prisons according to the provisions of this Act. Even after 66 years of independence, it has hardly undergone any substantial change in the hands of our own government, although a lot of new thinking has emerged on the objectives, management and administration of prisons. The enactment of The Prisoners Act, 1900 also is an outcome of the recommendation of this Commission.

2.16.5 Indian Jails Committee 1919-1920

The first ever comprehensive study of prison problems was made by the Indian Jails Committee. This Committee examined the conditions of prisons not only in India but also in England, Scotland, U.S.A, Japan, Philippines and Hong Kong. It

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49 Prison Reforms Commission, 1978-70 Vol.1 Chapter II Historical Background p.5 Para 2.3
produced its report containing as many as 584 recommendations which is indeed a landmark in the history of prison reforms in India. It can, in all fairness, be called the corner-stone of modern prison reforms in the country. For the first time in the history of prisons ‘reformation’ and ‘rehabilitation’ of offenders were identified as the objectives of prison administration.

The Committee recommended that the care of criminals should be entrusted to adequately trained staff, selected and recruited after careful scrutiny. It recommended that the salary of the prison personnel should be sufficient to secure and retain faithful service. It rejected the idea of excessive employment of convict officers and recommended the reduction of such excessive employment. Executive and clerical duties were recommended to be separated. The Committee also recommended the induction of technical staff in Jail service. As for improvement of physical condition the Committee recommended diversification of institutions stating that separate jails should be marked for various categories of prisoners. It recommended a minimum area of 75 square yard per inmate within the wall of the jail. It deprecated overcrowding and recommended remedial measures to prevent it. The Committee strongly repudiated the presence of children in jails meant for adult prisoners. It recommended the creation of Children’s Court for hearing all cases of juvenile delinquents and their housing remand home. The Committee made a forceful plea for introduction of warning, probation, and fine for work in lieu of short-term imprisonment. With a view to continuing the process of evolution of prisons problems and bringing in jail reform the Committee recommended that a conference of Inspector General of prisons be held every alternative year.

The recommendation of the Indian Jail Committee though radical in the light of the sociological thought of the day, could not be implemented due to particularly, two reasons. In the first place the diarchical system introduced by the Government of India Act, 1919 left the subject of prisons to the consideration and judgment of the provincial government without any effective supervision and control of the Central Government. As an obvious result most of the provincial government relegated the administration of prisons to a lower priority, neglecting the valuable recommendations for prison reforms made by the Committee. The other reason why the recommendation of the Committee could not have a substantial impact on the
prison administration in the country was the political atmosphere that prevailed throughout the nation during the decades following the submission of the report. Widespread political agitations and government’s pre-occupation in quelling them over-shadowed the question of prison reforms. People were generally pre-occupied with the wider and more important problem of achieving political independence and their attention was drawn to the prevailing bad conditions of prisons only when they were imprisoned during the political struggle.

However, following the recommendation of this Committee only, the Presidency of Bombay, Calcutta and Madras could achieve some innovation in the field of criminal justice by enacting Children Act in the early twenties. In 1923 Section 560 of the Criminal Procedure, 1898 was also amended to facilitate the suspension of sentence in selected cases.

The Constitutional changes brought about by the Government of India Act, 1935 which resulted in the transfer of the subject of Jail to the control of provincial government further reduced the possibilities of uniform implementation of the recommendation of the Indian Jail Committee in the country. The periods from 1937 - 1947 was important in the history of Indian prisons because it arose public consciousness and general awareness for prison reforms at least in some progressive States. Efforts of some of the eminent freedom fighters who had known the conditions in prison succeeded in persuading the Governments of these progressive States to appoint committees to further enquire into prison conditions and to suggest improvement in consonance with the local conditions. Some of the Committees appointed and the progressive legislations passed during this period were: Mysore Committee on Prison Reforms, 1940 - 4, 1 Uttar Pradesh Jail Reforms Committee, 1946. The Bombay Jail Reforms Committee, 1946 - 48, The Madras Probation of Offenders Act, 1936. The Bombay Probation of Offenders Act, 1936 The C.P. and Berar conditional release of Prisoners Act, 1936.

Besides, the first Jail Training School was established at Lucknow in 1940 for the training of Jail Officers and Warders.50

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2.17 PRISON REFORMS IN INDIA (POST INDEPENDENCE PERIOD)

When India gained independence in 1947, the memories of bad conditions in prisons were still fresh in the minds of political leaders and they, on assumption of power, embarked upon effective prison reforms. However, the Constitution of India which came into force in 1950 retained the position of the Government of India Act, 1935 in the matter of prisons and kept 'Prisons' as a state subject by including it in list II - State list of the VII schedule. The first decade after independence was marked by strenuous efforts for improvement in living conditions in Jails. A number of Jail Reforms Committees were appointed by the State Governments apparently to achieve certain measure of humanization of prison conditions and to put the treatment of offenders on a scientific footing. Some of the Committees which made notable recommendations on these lines were: East Punjab Jail Reforms Committee 1948 - 49, Madras Jail Reforms Committee, 1950 -51, Jail Reforms Committee of Orissa, 1950 - 55, Jail Reforms Committee of Travancore and Cochin, 1953 - 55, Uttar Pradesh Jail Industries Inquiry Committee, 1955 - 56. Maharashtra Jail Industries Re-organization Committee, 1958 - 59.

Unfortunately, the spirit and enthusiasm with which the subject of prison reforms was taken up by various governments did not last long. The reports and recommendations of these committees, desirable and important though they were, were not implemented in an effective manner. However, a few new ideas of prison reforms were introduced in the country are as follows: Availing of furlough and parole by prisoners, Granting nominal wages for prisoners for the work done by them, The introduction of Panchayat system with a view to improve the living condition of prisoners, Development of open prisons which serve as a half-way house for long term prisoners for their transition from prison to open society, Establishing a Jail Officers Training School at Pune.51

2.17.1 The Tamil Nadu Jail Reforms Committee 1950-1951

In Tamil Nadu, a Jail Reforms Committee was constituted on 3rd July 1950 with Thiru K.S. Krishnaswamy Iyengar, Retired Judge of the High Court, Madras, as

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Chairman. After visiting various Prisons in Tamil Nadu and one Prison in Kerala, the Committee submitted its report on 31<sup>st</sup> October, 1951. The Committee reaffirmed the view that the ultimate purposes of Jail Administration should be only reformation and rehabilitation and not revenge. The following important recommendations were made by the Committee. a. The distinction amongst Jails, class I and class II should be abolished. b. Classification of Prisoners and their confinement should be modified. c. Military Prisoners should not be sent to Civil Jail and d. Form type minimum security Prisons were suggested for star class prisoners.

The Committee was of the view that Prisons rarely reform a convict and that imprisonment should be resorted to only when no other method was suitable. It also recommended the provision of library, visual education, religious instructions, games etc. and emphasized the importance of jail discipline, sanitation and health, reorganization of industries, agriculture and prison labour, liberal grant of parole and after-care were also suggested. These recommendations served as guidelines for several subsequent improvements made in the prisons of Tamil Nadu.  

2.17.2 Report of Dr. W.C.Wreckless

While local Committees were being appointed by State Governments to suggest prison reforms, the Government of India invited technical assistance in this field from the United Nations. Dr. W.C. Reckless, a U.N. Expert on correctional work, visited India during the years 1951-52 to study prison administration in the country and suggest ways and means of improving it. His report ‘Jail Administration in India’ is another land mark in the history of prison reforms.

Dr. W.C.Wreckless recommended inter-alia the removal of juvenile delinquents from adult Jails, Courts and Police Lock up; the development of whole time probation and after-care services; revising boards for selection of prisoners for premature release; the establishment of new jails to perform specialized function; the revision of the jail manuals; training programme for the warder and superior staff of prisons; the introduction of legal substitutes for short sentence; expedition in Police

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52 Prison Reforms Commission, 1978-79 Vol.1 Chapter II Historical Background p.5 Para 2.5  
and Court action; reduce the number of under trial prisoners and their period of remand to jail; the establishment of an Advisory Bureau for Correctional Administration at the Center; the development of a Professional Conference among the superior staff members concerned with the care and treatment of juveniles and adult offenders and the establishment of interrelated department of correctional administration including Jails, Borstal, Probation and After care. During his stay in India Dr. W.C. Wreckless conducted the first special course for senior prisons Officers at Bombay in 1952 (Eighth Conference of the Inspector General of Prisons).  

2.17.3 All India Jail Manual Committee 1957

In pursuance of the recommendation made by Dr. W.C. Wreckless and also the Eighth Conference of the Inspectors general of Prisons, the Government of India appointed the All India Jail Manual Committee in 1957 to prepare Model Prison Manual. The All India Jail Manual Committee was also asked to examine the problems of prison administration and to make suggestion for improvements to be adopted uniformly throughout the country. The report of the All India Jail Manual Committee and the Model Prison Manual prepared and presented by that Committee to the Government of India in the year 1960 are commendable documents on prisons. They not only enunciate principles for an efficient management of prisons but also lay down scientific guidelines for corrective treatment of various classes of offenders. The Committee examined the laws affecting the custody and treatment of offenders and suggested amendments to provide a legal base for correctional work. While laying down the guiding principles for prison management, the Committee wrote:

"The institution should be a Centre of correctional treatment where major emphasis shall be given on the reduction and reformation of offender. The impacts of institutional environment and treatment, shall aim at producing constructive changes in the offender, as would be having profound and lasting effects on his habits, attitudes, approaches and his total value schemes of life."  

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54 Prison Reforms Commission, 1978-79 Vol.1 Chapter II Historical Background p.5 Para 2.6
Among the various recommendations of the Committee, the following are the important ones: 1. The Correctional Services, i.e., the prisons, probation, after-care and institutional services for children should be integrated under a Director or Commissioner of Correctional Administration and be under the control of the Home Department 2. An O & M Division should be established to devote exclusive attention to the orderly growth and dynamic development of the organization 3. The Deputy Inspector General should be in charge of various divisions and there should be a separate Deputy Inspector General for Health Services in Prisons 4. The probation system should be used on a more extensive scale than at present in order to reduce the pressure on prisons 5. There should be a well arranged network of diversified institutions. The Committee remarked, “If the institution has to be a place of corrective treatment, or if it has to function at least as a place where the offender will be saved from getting further demoralized or disintegrated, there is no other solution than to lay the foundation of scientific correctional work through a properly planned system of classified institutions 6. A Central Bureau of Correctional Services should be organized at the Union Level 7. A Central Advisory Board should be set up by the Government of India and there should be a Research and Planning Unit in each State. 8. An All India Correctional Services should be set up 9. There should be a separation of executive and clerical functions and of executive and accounts functions 10. There should be a State after-Care Organization in each State 12. The Jail Manual should be revised periodically 13. Solitary confinement as a form of punishment should be abolished. 14. Regarding classification of prisoners the committee remarked: “Classification is a method by which the treatment programme is adjusted to the inmate’s changing needs. Classification procedure does not end with initial study and planning of programmes. It has to be a dynamic process, operating right from the admission of the inmates till his release. It has to pervade the entire institutional activity.”

2.17.4 Central Bureau of Correctional Services 1961 / National Institute of Social Defence 1975

In pursuance of the recommendation made by Dr. W.C. Wreckless and The All India Jail Manual Committee, the Central Bureau of Correctional Services was set

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56 "Prison Administration in India", VidyaBhushan, p.34 - 37
up under the Ministry of Home Affairs in 1961. The functions assigned to it were:

1. To formulate a uniform policy and to advise the State Government in the latest methods relating to Jail administration, Probation, After-care, Juvenile and Remand Home, Certified and Reformatory Schools, Borstal, Protective Homes, Suppression of Immoral Traffic etc. 2. To standardize statistical form and collect, collate and interpret the statistical data relating to prevention of crime and treatment of offenders on all India basis. 3. To exchange information between India and foreign government and with United Nations. 4. To promote research and staff training including establishment and control of central institutions (when possible), afford aid and guidance to such other institutions which are undertaking study, survey and other required research and experimentation in the field and to disseminate information and stimulate interest by publication of bulletins, promotion of conferences etc., for the above purpose with a view to secure the necessary appreciation of progressive correctional methods and public co-operation for rehabilitation of offenders and prevention of crime.

The Central Bureau of Correctional Services took up vigorously with the State Government the matters relating to prison reforms with particular emphasis on the implementation of the recommendations made by the All India Jail Manual Committee and the revision of State Jail Manuals on the lines of the Model Prison Manual. In order to take up the review on these matters it organized an All India Seminar on Correctional Services in 1969. It also organized Inter-State Study team on open prisons and other correctional services. A central Advisory Board on Correctional Services was also constituted in 1969.

The Bureau organized the year 1971 as 'Probation Year' all over the country. The purpose was to create a general awareness amongst the principal branches of the Criminal Justice System viz. the Judiciary, the Police, the Prosecution and the Correctional Administration about the use of Probation as an effective non-institutional mode of treatment. Due to the important contribution made by this Bureau only the Regional Institute of Correctional Administration at Vellore was established in the year 1979 for the southern zone comprising the States of Tamil Nadu, Andhra Pradesh, Kerala and Karnataka.
In 1964 the Central Bureau of Correctional Services was transferred from the Ministry of Home Affairs with the newly created Department of Social Security now known as Ministry of Social Welfare. However, the Bureau continued to be attached to the Ministry of Home Affairs for various matters concerning Jail administration and reforms. In 1975 the Bureau was reorganized into a National Institute of Social Defense. While through the Ministry of Home affairs, the Institute deals with administration and management of prisons and as the technical agency of the Ministry of Social Welfare, it assists the Government in the prevention and control of juvenile delinquency, welfare services in prisons and probation and allied matters.\(^{57}\)

### 2.17.5 Working Group-1972

In 1972, the Ministry of Home Affairs, Government of India constituted the Working Group on prisons to further examine this problem. It submitted its report in 1973. Its main recommendations are summarized herein: 1. Improvement of existing buildings and construction of new buildings for under-trials and the various categories of prisoners. 2. Construction of residential accommodation for the staff. 3. Modernization of industry and agriculture in prisons and correctional institutions. 4. Provisions of scientific and technological facilities in prisons, such as security firefighting alarm and communication arrangements. 5. Basic refreshed and specialized training of prison personnel from the policy making to the lowest level.

The Group expressed its view that the prison reform should form part of the National Plan and therefore they must have a place in the formulation of the Fifth Plan. While agreeing with the recommendations of the earlier committees and commissions, it made a pointed reference to several specific features. It recommended that the main elements of National Policy on the Prison and Correctional Administration should be as follows: 1. A suitable system should be established for co-ordination among the judiciary, the police and the prison and correctional administration for the effective prevention of crime and treatment of offenders. 2. The objectives of punishment are diverse. In recent times, retribution has been mostly discarded and deterrence and incapacitation have become of limited relevance to

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certain types of offenders only. The supreme aim of punishment has now to be the protection of society through the rehabilitation of the offenders. The re-assimilation of the offender in society and the prevention of crime should be the principal goals for the Criminal Justice System. Accordingly, the goals of the prison administration will be the employment of all resources, human and material, to provide scientific treatment to every offender according to his peculiar needs and circumstance. 3. The concepts of deprivation of liberty and segregation from society should be limited mostly to the habitual, the incorrigible and the dangerous criminals. Short term imprisonment does not serve any useful purpose. The fullest possible use should be made for the various alternatives to imprisonment, as well as of open prison. Non-institutional or semi institutional forms of treatment should be resorted to as far as possible. 4. Simple imprisonment should be abolished as a form of punishment. 5. Scientific classification of prisoners' and diversification of institutions are essential for treatment programmes in prisons. 6. Juveniles and young adults should be kept away from adult institutions. Institutions for them should be provided with special facilities for treatment and rehabilitation. 7. It is necessary that there should be close coordination between the prison and the probation and other correctional services. It follows that the prison administration should be treated as an integral part of the Social Defence component of the national planning process. 9. Free legal aid should be provided to all indigent prisoners. 10. The prisons should have facilities for work programmes aimed at equipping the offenders for return to society with skills to help in their socio-economic rehabilitation. 11. The treatment services in prisons should include proper medical and health services, diversified educational, vocational training, correctional social work, counseling and self-discipline and cultural activities in consonance with the social and criminal history, the physical and mental capacities and the length of the sentence of individual prisoners. 12. The interests of prisoners and of vocational training should not be subordinated to considerations of financial gain from prison agriculture and industry. 13. Prisoners should be provided with minimum facilities for a simple living with proper clothing and accommodation, segregation, personal hygiene, sanitary facilities, a balanced healthy diet, open area for exercise and recreation on accepted minimum standards and opportunities of communication with the outside world through liberal system of interviews and
correspondence. 14. The prison administration should encourage inmates’ participation in institutional management in suitable areas such as sanitation, canteen food and cultural activities and the cultivation in the prisoners of a sense of responsibility and participation. 15. There should be a systematic periodical review to determine which offenders can be safely released prematurely, subject to specified conditions or otherwise. This may be coupled with a system of parole supervision. 16. Under-trial prisoners should be lodged in separate institutions as far as possible and facilities should be provided to them for work on a voluntary basis. 17. The prison administration should develop cadres of prison officers with basic academic qualifications and specialized training in the theories and practices of correctional work and institutional management. 18. Suitable pay scales, prospects for promotion, opportunities for professional growth and job satisfaction should be provided to the prison staff so that they may develop the image of an important social service. 19. A humane, efficient and well organized system of after-care and the rehabilitation of offenders should be continuous part of the prison programmes. 20. The Union and State Governments should declare unequivocally that there will be no bar or restriction on the employment of ex-convicts of specified categories in the public services after a due scrutiny of the prison reports certifying to their abilities and qualities. 21. The prison administration should systematically involve enlightened individual citizens, associations, societies and other community agencies in the treatment, after-care and rehabilitation of offenders.

Though the Working Group’s report was submitted as early as in 1973, apparently its recommendations were put in cold storage by the State Governments. The Government of India, therefore, in their letter dated 7th February 1976, suggested that those recommendations of the Working Group which have no financial implication may be implemented immediately.58

2.17.6 Justice Ismail Enquiry Commission-1977

On 12th May 1977, the Tamil Nadu Government constituted a Commission of enquiry consisting of Hon’ble Justice Thiru. M.M.Ismail to enquire into and report about the alleged ill-treatment and beating of political prisoners in Madras Central

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58 Prison Reforms Commission, 1978-79 Vol.1 Chapter II Historical Background p.7-8 Para 2.10 - 12
Prison. The learned judge submitted his report in September 1977. The first part of the report deals with exclusively with allegations of the ill-treatment and beating of certain political prisoners and suggestion made for taking suitable action against the erring Prison Officials. In part II of his report the learned Judge has exhaustively discussed the Prison Administration in general, the conditions in prisons, his suggestion for prison reforms, rights of prisoners and other ancillary matters. Dealing with delay and indifference to Prison Reforms the Hon’ble Justice has observed as follows:

Thus it will be seen that neither ideological motivation nor practical recommendation for effecting the necessary changes is wanting and what is really wanting is the determined will to put these things into practice. But that will is lacking because of the public apathy and indifference to the prisons and prison life and also because of paucity of funds. The Government should not consider any amount of money spent on prisons and prison life as a luxury. So long as prisoners have not been cast out of the society and they continue to be the members of the society, though segregated temporarily, are expected to rejoin the main stream of the society after the release, it is the duty of the State to spend for the rehabilitation, reformation and re-entry into the main stream of the society. The importance of spending money on such measures cannot be any less than spending money on the health or education of the people. It is this aspect that has to be repeatedly stressed in order to create an active living and continued interest in the public so that in response to such public interest, the Government of the day may take necessary steps.

The detention of large number of people under MISA and COFEPOSA focused the attention of the Government of Tamil Nadu to the imperative need to reform the prison administration and improve amenities in the Prison. An assurance to the effect was also given by the Hon’ble Minister for Law on the floor of the assembly which resulted in the appointment of the Tamil Nadu Prison Reforms Commission on 24th February 1978.59

59 Prison Reforms Commission, 1978-79 Vol.1 Chapter II Historical Background p.8 Para 2.14 - 16
2.18 TYPES OF PRISONER

As per the Prisons Act 1894 prisoners are generally classified as Criminal Prisoner, Convicted Criminal Prisoner and Civil Prisoner. As per Sub section 2 of Section 3 under head 'Definition' of the Prisons Act 1894, "Criminal Prisoner means any prisoner duly committed to custody under the writ warrant or order of any Court of authority exercising criminal jurisdiction or by order of the Court martial". As per Section 3(3) of the above Act 'Convicted Criminal Prisoner' means any criminal prisoner under sentence of a Court or Court Martial and includes a person detained in prison under the provisions of Chapter VIII of Criminal Procedure Code, 1882 (10 of 1882) or under the Prisoners Act, 1871 (5 of 1871). As per section 3(4) of the above Act 'Civil Prisoner' means any prisoner who is not a criminal prisoner. Prisoners may also be classified according to the term of imprisonment, ailment, age, sex, political cause, cases of civil nature and cases of Preventive arrest.

2.18.1 Term of imprisonment

According to the term of imprisonment prisoners may be classified as Remand, Under-trial, Convict, Short-term, sentenced to simple imprisonment, sentenced to life, death and solitary confinement & habitual.

2.18.2 Ailment

According to ailment the prisoners are categorised as leper prisoner and Mentally ill prisoner.

2.18.3 Age

According to age the inmates are classified as Juvenile in Conflict with law, Adolescent, Adult Prisoner.

2.18.4 Sex

The prisoners are segregated according to sex viz male and female.

2.18.5 Political Cause

The term political prisoner has not been defined in any criminal law or the so called Prisons Act 1894. One of the terms of reference to the Prison Reforms
Commission 1978-79 was to examine the existing provision of laws and rules relating to treatment and detention of political prisoners to make recommendations for amendments if necessary. In accepting the views of Shri. R.R. Thalavai, Ex-political prisoner and a freedom fighter who has suggested that only those persons who by non-violent means commit offences following strictly the principle of Sathyagraha as explained by Mahatma Gandhi and are convicted should be classified as political prisoners.

The Prison Reforms Commission attempted to define a political prisoner as follows:

"Anyone who, for the purpose of furthering any political cause or for any general public benefit and for his personal advantage, contravenes the law and thereby is detained or is sentenced to imprisonment for an offence without either instigating or abetting in the commission of any act involving using of force or violence and without having acted either dishonestly or fraudulently and without causing loss or damage to any property, provided that none shall be called a political prisoner unless his speech and action have been throughout non-violence". The expression 'dishonestly and fraudulently' will have the same meaning as is given in section 24 & 25 of Indian Penal Code

In the revised Tamil Nadu Prison Manual the above said definition of the term Political Prisoner was fully adopted and certain other specific rules have been framed for the treatment of political prisoners. All such political prisoners on their conviction shall be classified as “A” Class prisoners and under-trial political prisoners shall be kept in "special class."

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61 Tamil Nadu Prison Manual, volume II Chapter XL Political Prisoner, p.159 para.868-875
2.18.6 Cases of Civil Nature

“Civil Prisoner” means any prisoner who is not a criminal prisoner.\textsuperscript{62} For the purpose of treatment of civil prisoners in prison exhaustive rules have been framed in Tamil Nadu Prison Manual. Civil Prisoner shall form a separate category for purpose of confinement and they shall be segregated from the under-trial prisoners and the convicted prisoners. No civil prisoner shall be compelled to work against his will.\textsuperscript{63}

2.18.7 Cases of Preventive Arrest

Article 22 sub clause 4-7 of the Constitution of India deals with preventive detention. Preventive detention means detention of a person without trial and conviction by a Court, but merely on suspicion in the mind of an executive authority. Preventive detention is fundamentally and qualitatively different from imprisonment after trial and conviction in a criminal court. Preventive detention and prosecution for an offence are not synonymous. Some of the laws connected with this are Central Laws connected with the detention of persons under preventive laws. Some of the laws connected with this are NSA, 1980 (National Security Act), COFEPOSA Act, 1874 (Conservation Of Foreign Exchange and Prevention of Smuggling Activities Act), PBMSECA, 1980 (Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act), NDPS, 1988 (Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act). As far as Tamil Nadu is concerned the following are the State Laws connected with the preventive detention is “Tamil Nadu prevention of dangerous activities of bootleggers, drug offenders, forest offenders, goondas, POTA (Prevention of Terrorism Act,) TADA (Terrorists and Disruptives Act) Immoral Traffic Offenders and Slum Grabbers Act”.\textsuperscript{64}

2.19 INSTITUTIONS OF INCARCERATION

The institution meant for incarcerating an adolescent offender is a Borstal School as per the The Madras Borstal School Act, 1925. A woman arrested under the

\textsuperscript{62} Section 3(4) of the prisons act 1894
\textsuperscript{63} Tamil Nadu Prison Manual, volume II Chapter XXXIX Civil Prisoners, p.156-158, Rule:846-867
provisions of Immoral Traffic in Persons Act is a Protective Home. A detailed discussion is made hereunder.

2.19.1 The Madras Borstal School Act, 1925

This is an Act to deal exclusively with adolescent offenders. The Adolescent offenders are committed to Borstal Schools for a term most conducive to his reformation and the repression of crime. There is one Borstal School at Pudukottai for men in Tamilnadu and there is a long felt need for opening a Borstal School for women

Adolescent Offender

Adolescent Offender means "any person who has been convicted of any offence punishable with imprisonment or who having been ordered to give security under section 118 of the Code of Criminal Procedure has failed to do so and who at the time of such conviction or failure to give security is not less than 18 nor more than 21 years of age".

2.20 PRISON ADMINISTRATION IN INDIA

In the words of Mahatma Gandhi, "Crime is the outcome of a diseased mind and jail must have an environment of hospital for treatment and care." Imprisonment as a mode of dealing with offenders has been in vogue since time immemorial. Though the foundations of the contemporary Prison Administration in India were laid during the British period, the system has drastically changed over the years especially since the dawn of independence as it was dealt with exhaustively supra under the head 'Prison Reforms Pre-Independence' and 'Post-Independence Period.'

The four links that form the chain of Criminal Justice Administration are 1. The Legislature 2. The Police 3. The Judiciary 4. The Jails. Prior to the passing of the Government of India Act, 1935, the subject of Jails was in the central list and after the passing of the Act only, this subject was transferred to the then provincial government. Now the prisons are placed as State Subject under Article.246 of the

65 Section 2 (1) of The Tamil Nadu Borstal Schools Act, 1925
Constitution of India including it in the Seventh Schedule, List II, and State List Entry IV which read as follows:

"Prisons, Reformatories, Borstal Institutions and other Institutions of the like nature and person detained therein, arrangements with other States for the use of Prisons and Institutions."


2.20.1 Prisons Act, 1894

The Prisons Act, 1894 is the only enactment to deal with the prisoners and prison matters in any State after independence to run the Prison Administration. The Act has hardly undergone any substantial change even after the lapse of 120 years. The Act, besides containing the provisions regarding management of Prisons, deals with the discipline of the prisoners interse and their living conditions. Since the subject of Prisons and allied institutions is included in the Seventh Schedule of the Constitution of India, in pursuance of Section 59 of the Act the State Government by notification in the Official Gazette is empowered to make rules under this Act.

2.20.2 Model Prison Manual, 1960

The All India Jail Manual Committee 1957-59 prepared and presented the Model Prison Manual in the year 1960 which is a commendable document on prisons. The Model Prison Manual, 1960, not only enunciates principle for an efficient
management of prisons but also lays down scientific guidelines for corrective treatment of various classes of prisoners.  

2.20.3 Institutions connected with Prison Administration

The Central Bureau of Correctional Services which was set up by the Government of India under the Ministry of Home Affairs in the year 1961 was assigned with the function of control and Management of Prisons in India. In 1964 the Central Bureau of Correctional Services was transferred from the Ministry of Home Affairs with the newly created Department of Social Security now known as Ministry of Social Welfare. However, the Bureau continued to be attached to the Ministry of Home Affairs for various matters concerning Jail administration and reforms. In 1975 the Bureau was reorganized into a National Institute of Social Defense. While through the Ministry of Home affairs, the Institute deals with administration and Management of Prisons and as the technical agency of the Ministry of Social Welfare, it assists the Government in the prevention and control of juvenile delinquency, welfare services in prisons and probation and allied matters. Later, the work related to the Management of Prisons was transferred to the Bureau of Police Research and Development by the Ministry of Home Affairs in 1995.

2.20.4 Prison Administration in Tamil Nadu

The subject of Prison Administration in Tamil Nadu for all practical purposes is under the Home Department under the Ministry of Law. The Inspector General shall be the Head of the Prison Department and shall subject to such general or special orders as may be issued by the Government from time to time exercise control and superintendence over all prisons in the State and shall be responsible for the internal management and the economy of the Prison Department. An I.P.S. Officer in the rank of Additional Director General of Police is the Inspector General of Prisons. He is assisted by one Deputy Inspector General of Prisons at Head Quarters and four

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Deputy Inspector General of Prisons at the ranges viz. Chennai, Madurai, Trichy and Coimbatore. There are 13 Superintendents of Prisons (Central Prison for males - 9, Special Prison for women -3, Borstal School - 1). The Superintendent is the Officer-in-charge of the Prison. He shall be responsible for the policy of the Government pertaining to prison administration, the care and welfare of the prisoners and their proper training for rehabilitation in society. Among other things he shall plan, organize and control all the institutional programmes, activities and operation. He shall endeavour to develop an institutional atmosphere for correctional work. He shall also exercise general supervision over security and custody arrangements and have custody of secret and confidential documents.

2.21 TREATMENT OF PRISONERS

The philosophy of reformation and rehabilitation of offenders cast upon the prisons, the responsibility of utilizing the period of imprisonment of offenders for their treatment with a view to modifying their behaviour to resocialise them as a matter of fact the contents of the daily routine of prisons have to be planned in such a way that the course life of inmates tend to flow towards the ultimate aim of their rehabilitation in the society. The entire atmosphere of prisons, including the behaviour of the prison personnel, should be surcharged with positive values and the inmates should be exposed to a wholesome environment in which they can retrospect and reform themselves. Such congenial atmosphere is an essential pre-requisite for the execution of any reformatory treatment. Apart from this, the inmates have to be given specific treatment programme in accordance with their different need and personality characteristics.

But it was indeed a sad revelation that there was neither a healthy atmosphere for executing any sustained programme of behaviour modification nor any planning for specific treatment programme in Indian Prisons. There was even no clarity about the components of correctional treatment among prison administrators anywhere in India. Prison administrators were least bothered about this important aspect of prison work. In fact no heed has been paid either to the report of the All India Jail Manual Committee 1957-59 in which the question of correctional treatment and training has
been elaborately discussed or to the Model Prison Manual, 1960, in which some of the basic concept and procedure for treatment programmes have been incorporated.\(^69\)

At this juncture, it would be appropriate to quote the ignominy of imprisonment in the words of Pandit Jawaharlal Nehru from ‘Prison Land’.

"High walls and iron gates cut-off little world of prison from the wide world outside. Here in this prison world everything is different; there are no colors, no changes, no movement, no hope, and no joy for the long term prisoners, the 'lifer'. Life runs its dull round with a terrible monotony; it is all flat desert land with no high points and no oasis to quench one's thirst or shelter one from the burning heat. Days run into weeks, and weeks into months and year till the sands of life run out.

All the might of the State is against them and none of the ordinary checks are available. Even the voice of pain has husked, the cry of agony cannot be heard beyond the high walls. In theory there are some checks and visitors and officials from outside go to inspect. But it is rare for a prisoner to dare to complain to them, and those who dare have to suffer for their daring. The visitor goes, the petty gaol official remain and it is with them that he has to pass his days. It is not surprising that he prefers to put up with his troubles rather than risk an addition to them".\(^70\)

In this connection Justice Krishna Iyer rightly observed that deprivation of personal freedom must be goal oriented and humanely restorative, apart from being deterrent. The insulated years behind the insensitive bars must possess a hospital, if correction is a social purpose, as Gandhiji often insisted. In prison treatment must therefore, be geared to psychic healing, release of stresses, restoration of self-respect and cultural normalization apart from training to adapt oneself to the life outside.\(^71\)

It is the prime responsibility of the Prison system to save the simple, impressionable first offenders from the damaging and dehumanizing impacts of the concentrated sub-culture of the prison such as prison grape vine, prison code language, under-world in the prison, undesirable activities such as gambling, homosexuality, auto-erotic practices, domination of goondas prisoners, favouritism,


\(^{70}\) Jawaharlal Nehru, India and the world, P.108-129.

corruption etc. In addition to this protective aspect, there is also the reformatory aspect which requires prison administrators to properly plan the daily-routine of prisoners and to develop balanced, wholesome and diversified treatment programmes for various categories of offenders requiring treatment and reformation.\textsuperscript{72}

2.21.1 Elements and Components of Treatment Programmes in Prisons

Treatment of offender in prison should be looked at from three angles; (i) the essential pre-requisites for carrying out appropriate treatment programmes conducive to rehabilitation of offender. (ii) Variety and contents of treatment programmes and (iii) evolution of the effectiveness of treatment programmes. Looked from these angles the elements and components of treatment programmes in prisons can be identified as follows:-

1. A relaxed positive and constructive atmosphere in the institution

The atmosphere in a prison depends on many factors such as the faith and belief of persons at all levels responsible for prison administration in the improvability of offenders, operational philosophy and character of prison personnel, tone of discipline in the institution, importance attached to care and welfare of inmates and the opportunities created for the re-education of offenders. If these factors are positive they will help in creating a relaxed, positive and constructive atmosphere in which the inmates will feel the prison personnel are genuinely interested in their welfare and in their ultimate re-assimilation in society as a useful citizen. But the present atmosphere of prisons is artificial, highly tensed and surcharged with distrust. Unfortunately in the Indian Prison situation, as it exists at present, prisoners are treated as if they have been sent to prisons not only "as" punishment but even "for" punishment.\textsuperscript{73}

2. Good personnel – inmate relationship based on mutual trust and confidence

For making treatment programmes effective it would be necessary to develop good relationship between the prison personnel and inmates. Prison personnel will

\textsuperscript{72} Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.127, para 10.3.
\textsuperscript{73} Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.128, para. 10.5 & 10.6
have to develop friendly but not too familiar a relationship between themselves and
the inmates, and for that, the quality of prison personnel will have to be improved. But
in general, there is total lack of such mutual relationship; at times goondas prisoners
virtually run the prisons and the prison staff were under their mercy; the
administration was inefficient.  

3. Study of the individual inmate; initial classification

Classification is a method by which study of the offender, understanding his
problems, treatment planning, execution of treatment programmes and adjusting and
changing the treatment according to requirements are coordinated in an individual
case. It is a method by which treatment programme is suggested to inmate's changing
needs. Classification procedure does not end with initial study and planning of
programme. It has to be a dynamic process, operating right from the admission of the
inmate till his release. Classification of prisoners should be made on the basis of age,
sex, physical and mental health, length of sentence, degree of criminality and
character. So also factors like sequence of an offender's criminal behavior, his social
processing, his sophistication in crime, possibilities of contamination, requirements of
gradation in custody, educational and vocational training needs, urban and rural
background, possibilities of social adjustment and rehabilitation needs etc, should be
taken into consideration. One of the main reasons of the lowering down of the
efficiency of the prison system, mixing of inmates without scientific classification
which adversely affects the discipline in prisons and morals of prison personnel.

4. Firm and positive discipline

Security and discipline are closely related aspects of prison administration.
They assume special importance and have always been given priority in the
management of prisons. Prison discipline has to be positive and constructive but firm.
This is possible only when every prisoner gets reasonable physical care as is
guaranteed under the rules and regulations. The de-congestion of prisons and

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74 Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter
X, Treatment Programmes, p.129, para .10.7
75 Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol.I, Chapter
Committee, p.180
improvement of living condition would go a long way in improving discipline in prisons.\textsuperscript{76}

5. **Attending to the immediate and, urgent needs and problems of inmates**

The process of treatment should begin right from the time of admission of the inmate in prison. A newly admitted inmate faces a number of problems of adjustment with new environment. The regimented routine of institutional life, the pattern and timings of prison food and anxieties about health, family and domestic problems such as land, litigation etc., keep bothering him. He attempts to seek adjustment with inmate group and prison personnel and with the work allotted to him. If these urgent needs and problems are explored, identified and attended to by prison personnel sympathetically and with understanding, the inmate will get a lot of relief. This will also enable prison personnel to establish a rapport with the inmate and secure his cooperation in the effective implementation of treatment programmes.\textsuperscript{77}

6. **Attending to long term needs, planning a balanced and diversified training and treatment programme consisting of work and vocational training, diversified education, recreational, cultural activities, etc.**

**Work and Vocational Training**

The programmes of work and vocational training in prisons were stuck up in the quagmire of traditions embedded in the prison system for decades together. Prison industries have not been modernized and they are not in a position to train prisoners for the competitive labour market in the free community. There is a lot of unemployment and under employment in prisons. Programmes of work and vocational training in prisons have not been developed with a view to imparting requisite skill, habits of hard and concentrated work and fostering in inmates desirable attitude towards work. Prisoners consider prison work as a main ingredient of their punishment and a sort of enforced drudgery through which they have to go during their period of incarceration. If a prison has to function as a center of correctional

\textsuperscript{76} Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter VIII, Security and Discipline, p.97, para.8.1 - 8.4

\textsuperscript{77} Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.129, para.10.9
treatment the entire outlook towards prison work programme must undergo a complete change. Work which is purposeful and meaningful and which can impart new set of values and a positive attitude towards work has to be the central focal point round which all the institutional activities should be planned and developed.\textsuperscript{78}

**Education**

Education is an important component of correctional treatment. In the context of prison programme education should be taken in its broader perspective. Educational activities in prisons should be diversified. Education is a harmonious and all round development of human faculties mental and physical. It is a process by which the knowledge, character and behaviour of the inmates can be moulded. Education is a preparation for social life. It helps to acquire such knowledge and skill as it would help the inmates in his rehabilitation in society.

**Recreational and Cultural Activities**

Life in prison is extremely monotonous, routinized and regimented. Conditions of living in many prisons have become so degenerated that prisoners have to undergo a very depressing experience. Even otherwise, in the monotony of prison setting, recreational and cultural programmes assume a special significance. They offer opportunities to prisoners for relaxation and some joy. Recreational and cultural activities aim at providing opportunity to inmate for restoration of energy, cultural development, channelizing surplus energies in a useful manner and for establishing useful relationship in group situation. To put in a nut shell the recreational and cultural activities should be treated as essential component of a total treatment programme in prisons. Few examples of recreational and cultural activities that could be extended to each inmate or groups of inmates depending upon various factors in the prison setting are: outdoor games, indoor games, gymnastics, films, music, community and folk dances, drama, arts and crafts and reading.\textsuperscript{79}

\textsuperscript{78} Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.129, para.10.10

7. Helping the inmate to maintain continuity of his contact with his family and community and outside world

Every prisoner looks forward to go back to his family and community and to resettle there. Maintaining continuity of contact with family and community is very important from the point of view of a prisoner's ultimate re-settlement in society. This can be achieved through letters, interviews, release on leave and special leave, premature release etc.\(^\text{80}\)

8. A good system of incentives for self-discipline such as remission, leave, transfer to semi-open and open institutions and pre-mature release

Extending facilities like award of remissions, grant of leave and transfer to open and semi-open institutions constitute a good system of incentives for self-discipline and behaviour modification of inmate.

**Remission**

Remission system aims at the reformation of a prisoner. The scheme is intended to ensure prison discipline and good conduct on the part of the prisoners and to encourage them to learning and better work culture, with the prospect of their early release from prison as an incentive. Remission is a concession, which can be granted to prisoners by the State Government or by the Head of the Prison Department and Superintendent of prisons. The concession is subject to subsequent withdrawal / forfeiture / revocation. The State Government reserves the right to debar / withdraw any prisoner or category of prisoners, from the concession of remission. Remission is intended to be an incentive for good behaviour and work. It should be granted on the basis of an inmate's behaviour, work and general response to various institutional activities. Remissions will be of the following type. Ordinary remission, Special remission and State Government remission.\(^\text{81}\)

\(^{80}\) Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.131, para.10.17

\(^{81}\) Draft Model Prison Manual, 2003 chapter XVI Remission Para 16.1, 2, 3, &5
Leave and Special Leave

Leave and special leave to inmates are progressive measures of correctional services. The release of a prisoner on leave not only saves him from the evils of incarceration but also enables him to maintain social relations with his family and the community. It also helps him maintain and develop sense of self-confidence. Continued contact with family and the community sustain in him a hope for life. The provision for grant of leave should be liberalized to help a prisoner to maintain a harmonious relationship with his family. The privilege of leave should, of course, be allowed to selective prisoners on the basis of well-defined norms of eligibility and propriety. Leave is not a right but a concession which may be granted to prisoners. This concession is subject to cancellation. The State Government / Inspector General reserves the right to debar / withdraw any prisoner, or category of prisoners from the concession of leave.\textsuperscript{82}

Open / Semi-open institutions

The system of open institution has been in operation since Post-Independence period. It is not only far cheaper to control and run the open-institutions than the closed institutions, but this system has also a definite rehabilitative value and restores dignity of the individual and gives him self-reliance and self-confidence besides instilling in him a sense of social responsibility which is necessary for an effective and useful community living. In this perspective it is disheartening to note that the prison authorities are reluctant to transfer prisoners to open prisons and are not putting to full use even the existing capacity of open-prisons. Greater attention, therefore, needs to be paid to the transfer of prisoners to open institutions so that more and more convicted prisoners may avail of the benefits of these progressive institutions. This will require not only liberalization of the conditions of eligibility for admission to open-institutions but also better control and supervision from the head-quarters of the prison department besides establishing more open and semi-open prisons in all States.

The rules governing the eligibility of prisoners, to transfer for open prison vary widely from State to State. In some States these conditions have been liberalized from time to time. The previous experience has completely falsified the fear about

\textsuperscript{82} Draft Model Prison Manual, 2003 chapter XVII Leave and Special Leave Para 17.1, 2, & 3.
escape from open prison. In fact, there were fewer escapes from open prisons than from closed prisons. It is interesting to analyze the inmate population of the open prison that 70% of the prisoners in open prisons were those who had been sentenced to imprisonment for ten years or above including life-term.83

Open Institutions are of the following types: Semi-Open Training institution, Open Training institution, Open Work Camp, Open Colonies

Wages to the prisoners confined in these institutions should be higher than that of those at the close institutions. Extra concession on the usual grant of remission, leave, letter writings, interviews etc. may also be given for those who are confined in these open institutions. While the inmates are living in open conditions in these open institutions, they may also be allowed to stay with their family members for short duration as the State Government may decide. This concession should however, be granted on a selective basis and after a thorough study of each and every case. Such a periodical stay with their family members will be helpful in keeping the inmates close to their family groups.84

9. Individual guidance, counseling casework, Group activities, group guidance and group work

Techniques of case-work and group work which aim at helping the prisoner at the individual level and in a group situation should be treated as important components of the total treatment programmes. Prison officers of all rank should be trained in these techniques so that they can help prisoners at the individual level through case-work and can utilize group situation in a prison for group work activities, ultimately aiming at helping a prisoner to appreciate his individual problems as well as problems of group adjustment. In this regard the services of the correctional officers than the custodial officers like Psychologist, Social Case Expert and welfare officer will be of immense help to achieve this goal.85

10. **Social implantation of proper habits, attitudes and approaches, preparation for social living**

Social implantation is another important component of the treatment programme. Wrong attitudes and habits and anti-social approaches have to be removed from the thought process and value schemes of the anti-social persons. Anti-social value scheme should be replaced by useful and proper habits, attitudes and approaches. This can be achieved through individual and group guidance and through exposure of inmates to an atmosphere of wholesome opportunities which should predominate and permeate an institution. Prison personnel should be given specific training in these fields.  

11. **Psychotherapy**

Psychotherapy is an effective approach for treatment of prisoners who suffer from some degree of mental disorder and mental defects. The appointment of psychiatrist will be useful in developing psychiatric services in prisons.

12. **Supportive therapy**

In the prison world inmates have to face many anxieties about themselves and about their family members. During their stay in the prisons a number of situations arise, resulting from their own interaction with fellow inmates and the staff or from some unfortunate happenings with their family, land or property, by which they get emotionally upset. Such situations do not require so much a scientific treatment as a sympathetic approach and support from persons in immediate contact. In times of crisis and calamities prisoners need this support to face like situation resilience. Prison personnel of all categories should be oriented and trained to extend such support whenever a situation of emotional depression arises in the life of an inmate.

This approach generally called supportive therapy is primarily a human approach i.e. an approach of helping the human being in times of crisis. Supportive therapeutic approach grows out of the faith and belief of prison personnel in higher human values.

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86 Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.132, para. 10.19

87 Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.132, para. 10.20
and develops through a continuous process of training. This approach should percolate from the senior prison administrators to other personnel functioning at the field level in a prison setting.\(^8\)

13. **Personal positive influence of institutional personnel**

Personal influence of prison personnel plays a very important role in the total treatment programme of prisoners. The sociological principle of suggestion and imitation operates effectively in prison situation. The models of behaviour presented by prison personnel are likely to influence the behaviour of prisoners. Wrong models and patterns of behaviour presented by staff will have damaging effect on the prisoners. On the other hand, if prison personnel are consciously aware of the principle of suggestion and imitation and also about the positive operational philosophy of behaviour, they can operate at a useful level. The aspect of operational philosophy of behaviour has to be constantly instilled in prison personnel through continuous training. In the long run all these factors can prove helpful in moulding the attitudes of prisoners and in their ultimate re-assimilation in the society.\(^9\)

14. **Periodical review of progress, reclassification**

Treatment programme in prisons should be assessed and evaluated continuously till the release of prisoner. Such evaluation can be done independently by scholars and researchers. Classification has to remain a dynamic operation. This can be achieved through review of inmate's progress. Initial classification and review of progress i.e., reclassification procedure together afford opportunity for the scientific handling of offenders. The reclassification procedure aims at continuous study of the offender and his response to training and treatment. It maintains an informed continuity in the institutional handling of the offender.

15. **Review of sentence and pre-mature release**

The system of review of sentences for the purpose of pre-mature release of prisoners exist in all the States and Union Territories and Jail manuals provide for the

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\(^{8}\) Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.132, para.10.22

\(^{9}\) Report of the All India Committee on Prison Reforms (Mulla Committee) 1980-83, Vol. I, Chapter X, Treatment Programmes, p.133, para.10.23
procedure for such review and release of prisoner. Section 432 of the Code of Criminal Procedure empowers the appropriate Government to suspend the execution of sentence of any prisoner or to remit the whole or any part of his sentence. In some States special legislation have been enacted to provide for release of prisoner prematurely on grounds of good conduct. In some other States prisoners are released under Advisory Board Rules, Shortening of Sentence Rules or Advisory Board Rules. However all these provisions for review of sentences draw their legal strength from section 432 of Code of Criminal Procedure.

Release of prisoners pre-maturely either on specified conditions or unconditionally is prevalent in almost all the country and such pre-mature release is generally termed as 'parole'. Pre-mature release is an accepted mode of incentive to a prisoner as it saves him from the extra period of incarceration which, on the one hand is not needed for his reformation and rehabilitation and on the other, may be counter-productive. It reinstitutes an offender in the society prior to the expiry of his sentence in recognition of his good conduct and responsiveness to correctional treatment. The purpose is to snap off incarceration as soon as institutional treatment is considered no longer necessary. This system of pre-mature release drives the blind, mechanical aspect out of the execution of fixed sentence and renders them somewhat indeterminate and purposeful in relation to reformation and rehabilitation.

The procedure and practices in regard to review of sentences for pre-mature release vary from State to State. Conditions of eligibility, constitution of recommendatory boards, processing of papers and the procedures of obtaining bonds differ from one State to another. There is also a lot of confusion about the terminology used to denote the review of sentences for pre-mature release. The whole question of pre-mature release of prisoners should be given dispassionate thought and appropriate steps be taken to ameliorate the adverse psychological effects of the execution of fixed sentence. At this context there is need for bringing about uniformity in all these aspects.  90

16. Planning for release, pre-release preparation

The Superintendent shall arrange for a pre-release programme which is meant for Re-orienting the inmate about his responsibilities and social obligations; Re-affirming the need for self-respect; Setting in an attitudinal preparation for smooth return and re-adjustment to the inmate's family and community life; Preparing the inmate for his conditional release and for his post-release adjustment;

The pre-release programme shall preferably be conducted on every Sunday or frequently as may be possible for a period of one month, by assembling all the prisoners due for release the next month and lecturing to them on common subjects, some of which are indicated below; Health and hygiene; Family planning; Conditions of living in the society; likely problems and realities which the inmates may have to face after release and how to face them; The economic problem, job opportunities; working of the Employment Exchange; Suitably advising them to get admitted in the After-Care Homes, Budgeting and balancing family income: Proper use of leisure, utilization of facilities and resources available in the society (e.g.) libraries, night schools, vocational guidance centers and vocational training institutions; Dangers of drinking, gambling, bad companionship, venereal diseases and the like; Informal discussions aiming at group guidance; individual counseling and guidance.

Either the Superintendent or any other prison official shall conduct the programme. The local Regional Probation Officer, wherever such post is available shall have his turn on a day in consultation with the superintendent. The Welfare Officer and the Social Worker of the prison shall meet the prisoners due for release and render such help as are possible. The Superintendent of the After-Care Home shall also meet such prisoners in prisons and explain to them the benefits they will derive by joining the After-Care Home. If any member or representative from the Discharged Prisoners Aid Society, if any, in existence, is willing, he may also be permitted once in a month to give pre-release advice to prisoners and explain to them the help that the Discharged Prisoners Aid Society will render after their release, if approached.91

91 Tamilnadu Prison Manual, volume II Chapter XXXI Release, p.124, Rule.607,608 &610
17. **After-care and follow-up**

The process of after-care and rehabilitation of offenders is an integral part of institutional care and treatment. These two should never be delinked. The after-care of a prisoner is an extension of the institutional treatment programme. Hence the administrative machinery for carrying out these programmes should be effectively integrated in the Department of Prisons.

It is clear that after-care and follow-up service is not required by each and every inmate leaving the prison. A large number of prisoners coming from the rural areas and agrarian and business communities are generally accepted back into their family. They are re-assimilated in the social milieu without much difficulty. They require only some continued contact with their kin and some pre-release counseling to bridge the gap between their life in the prison and that in the free society.

There are other prisoners who resist follow-up action as they consider it a kind of surveillance on them. But majority of the inmates welcome such programmes which help them settle in the society after their release and get themselves rehabilitated beyond the possibility of reverting to crime.

While the individual is under institutional care and treatment the Welfare Officer of the prison should take all possible steps to co-ordinate with the after-care services. The Welfare Officer should contact the inmate during the admission of the prisoner itself. Such an early contact will be helpful in planning overall help for the inmate and their family. The Welfare Officer should meet the inmate at least once a month throughout the stay of the prisoner in the institution.

The participation of Non-Governmental agencies in the rehabilitation programme should be extensively encouraged. Voluntary organizations which wish to help the Government in rehabilitation projects should be given necessary financial and other help. Their services should be given due appreciation by the Inspector General of Prisons. The public should also be educated about the need for rehabilitation of ex-prisoners through print and audio-visual media. Continuous
liaison should be maintained with the agencies / individuals who are willing to give employment to released prisoners.92

18. Community participation

A criminal is not born but only made. If so, who is the culprit? It is the society like his family, peer group, school and the socialization process to which he is subjected which are basically responsible for making a criminal. Under these circumstances, by sending the offender to a prison and segregating him from the society it cannot rest with peace that the interest of the society is defended and the society is safe. As the policy being correction and not elimination, it is the bounden duty of the society or the community to contribute its might in the rehabilitative process. The society which was the root cause for the culmination of the offender, can never and ever disown the responsibility. The prison staffs who are expected to correct the offenders are not able to do so for one reason or other. Moreover they do not have proper training in the rehabilitative measures to be undertaken to the prisoners. The appointment policy and the meager training given to the custodial officers also concentrate on custody and security only and not on correction. Correctional staffs are inadequate. There was an air of secrecy around the prison so far. Only recently, the transparency in administration has started having inroads in prison administration. This paves way for the community to participate in the correction and rehabilitation of prisoners. Therefore, the involvement of the community in supporting the prison administration in the process of reformation and rehabilitation since from their admission in prisons itself is the absolute need of the hour.