CHAPTER I

INTRODUCTION

In all ages and societies, though the concept of crime existed according to their cultures and sub-cultures, there are differences in terms of its forms and degrees. As the problem of crime is perennial in nature, it has to be accepted as inevitable and therefore, has to be understood in terms of its universal nature and functional character. Durkheim explicitly states; crime is a social factor and human act. Crime is both normal and functional. No society can be completely exempt from it. Society would like to live in peace but the crimes exist, though its dimension is replete with intrigues of various kinds and challenge human society. Durkheim’s arguments focussing on crime as an inevitable and normal aspect of social life, and is ‘an integral part of all healthy societies’ make a good sense when the complex nature of human beings is viewed in the context of ‘collective sentiments’, the shared values and moral beliefs of society as propagated by Durkheim himself. The gist of Durkheim’s on deviance is given as under.

Since human beings are subjected to different influences, it is ‘impossible for all of them to be alike.’ Thus it is not always possible to share the same restraints so far as breaking the law is concerned. Crime is inevitable whether one like it or not, in every society, it can also be functional, in the sense yesterday’s deviance must become today’s normality in order to have changes. Some kind and degree of change are necessary for society, which can progress rather than stagnating and hence deviance occurs. Durkheim confines to say that if change has to come the collective sentiments must not be too strong and too hostile to change, they must have only ‘moderate energy.’ If they were to be too strong, then they might crush all originality, both the originality of the criminal and that of the genius.

Taking a cue from the above discussion, a basic question arises, i.e., ‘if crime is inevitable, then what would be the function of punishment? Durkheim explains that its function is not to remove crime from society. But rather it is to work for the maintenance of the collective sentiments at their necessary level of strength. According to him (Durkheim), punishment ‘serves to heal the wounds done to
collective sentiments’. Without punishment collective sentiment might result in losing the force to control behaviour, with the result the crime rate might reach the point where it could become dysfunctional. Durkheim views in larger perspective of healthy society which requires both crime and punishment both are inevitable and both are functional fine arguments indeed. It is in this context that the present study analyses the prison life, crime, punishment and after-care services of released convicts.

No matter what constructive activities take place in the prison, what all is said and done; it becomes an unproductive investment if the community does not accept the ex-convict. It is disheartening to note how many ex-convicts discharged into a hostile and rejecting community from ‘correctional institutions’ have re-embraced the criminal way of life because of discrimination, rejection and rigidity?

There are many in-built psychological barriers between the released convicts and community in addition to those that the community may erect. Ex-convicts have been living in an artificial community, perhaps, for a long time; they have had little contact with the family members, although they are rational enough to make decisions; their decisions having been made for them; things have changed from the outside, and the longer they have been away from the home, the more difficult it is to readjust. They must also relearn relations with the loved ones and friends.

Another type of barrier is related to the vocational aspirations of ex-convicts. It has been found that prisoners tend to have higher vocational goals and to expect more specialized occupations and more rapid income than they are able to get. Glaser’s research, for instance, shows that “inmates tend to suffer from the immediate gratification syndrome, which is normal to the young child. Reintegration of the ex-convict into the community is hopefully to be found in a combination of his preparation in the prison institution and acceptance by the community after his release.”

Much remains to be done to awaken the community to its responsibility for accepting and re-integrating ex-convicts. The prisoner and the ex-prisoner generally suffer from low self-esteem. If such people are denied their participation in the decision making process they are deprived of the necessary tools to improve self-image.
However, a large measure of community’s indifference, there are signs of genuine concern. The correctional programmes proposed and practiced at Tihar Jail and efforts of Kiran Bedi to bring together ex-convicts, business people, parole agents and interested citizens to bridge the gap between the ex-convicts and the community must become an eye opener. These correctional systems have involved the families of inmates in pre-release programming to ease their re-entry into the community.

The philosophy of punishing a convicted criminal is also changing. More consideration is being given to treating him as a patient rather than as an object of revenge. Main reasons for this changed treatment include needs for reformation of criminals as well as for developing in them the necessary potentials for successful rehabilitation while serving in prison. These not only help to put the misdirected human energy on the right track and thereby utilise their services for constructive purposes, but also minimise their threat to the rest of the human resources after their release. Thus the correctional treatment of criminals, that is in vogue today in India and in several developed countries, is accepted both in principle and in practice as one of the strategies to develop the human resources.

The correctional treatment implies that once a criminal is given the correctional treatment, he should not commit any more crime. But if we look at the crime statistics and the experiences of prison authorities, we understand that not all correctionally treated and released convicts cease to be criminals. Some are forced into crimes by circumstances or choice, while some get mixed up with the main stream of the society. This dual impact of the correctional treatment on criminals poses several questions, such as, is correctional treatment adequate in quality and content to the needs of the convicted criminals? Does their prison experiences helped them to make or mar their future life when released? Why do some convicts respond to it favourably, while others do not and how does society receive them back? Are there any attempts either by Government or private stretching their arms in helping ex-convicts? It is these questions which not only hold key to the main issue of why all the released convicts do not cease to be criminals, but also unfold three dimensions of the main issue, namely, the treatment, the ex-convict and the society.

This particular issue of why not all released convicts cease to be criminals has attracted the attention of planners, social workers, voluntary welfare agencies and
scholars. It, therefore, suggests that discussion on the issue is, no doubt, available, but is at different levels, namely, ideological, macro and application levels. But micro level discussions based on in depth studies conducted at the grass roots level are very few. Therefore, the present study is aimed at probing into the main issue in the larger context of the impact of the reformative and rehabilitative treatment on the criminals in India, by taking a specific case study of the role of prison life experiences of ex-convicts and after-care services provided or available to the women convicts in Karnataka.

1.1 IMPORTANCE OF THE STUDY:

The prison is an important social system within the wider social network. It is a complex organization involving many roles and functions. The prison system needs to be studied from the viewpoint of law, psychology, education, sociology and criminology needless to say. A Psycho-sociological study by students of criminology on a prison system has an added importance in view of its close inter-relationship between society, crime and criminals, in their wider socio-cultural milieu.

Many persons believe that the prison is society’s mechanism for collective vengeance. It contains the discarded elements of society. It is not often realised that the prison is a creation of the very society itself. Justice A.N.Mulla’s report of the All India Committee on jail Reforms pointed out this point well when it said: “society gets as many criminals as it deserves. Prisons are in a way a reflection of the general social conditions in the community outside. Social factors, such as, the general degeneration of moral values, socio-economic disparities, corruption and the resultant frustration, combined with people’s apathy towards deviants and community’s minimal involvement in the prevention of crime and treatment of offenders, contribute to the creation of conditions, that generate crime in society and retard the progress towards the achievement of correctional goals of reformation and rehabilitation of offenders”. Though the vital social role the prisons play public interest in effective functioning of prisons is not all that of encouraging. Infact, their attitude towards the prison and its inmates rests on apathy or even antagonism. Saxbe’s observation could be noted: he says, “The history of our prisons is in large measure a chronicle of public indifference and neglect”. It is not just disinterestedness that characterizes the attitude of the public towards the convicts in the prison and after release. These are several
misconceptions and prejudices about the prison and convicts. Such prejudices have to be removed. Intensive empirical studies on the prison life of criminals when they are inside the prison and after release becomes of great importance.

1.2 Concepts of Crime and Punishment in Historical Perspective

In any study on prison life, women convicts and their rehabilitation it is imperative to know the concept of crime and criminal in their ideological and historical perspectives. For, the nature of treatment and rehabilitation extended to the convicts depends upon the meaning of crime and criminal accepted by the society and the state.

1.3 Concept of Crime, Criminal and Convict:

The present study frequently uses concepts like crime, criminal and convicts, which have undergone changes from time to time. For instance, crime as a concept has evolved through several stages ranging from its demonological meaning of insult to gods and goddesses to the modern meaning of legally punishable acts. Thus at present it refers to any activity which is illegal. Activities, to which no punishments are attached, may be sinful, but they would not be criminal.

One extensive analysis has resulted in a description of seven inter-related but overlapping differentials of crime. Ideally an act would not be a crime, unless the following seven differentials are present.

1. A crime must have harmful impact on social interest.
2. The arm must be legally forbidden and must have been prescribed in penal code.
3. There must be reckless action which brings about the harmful consequences.
4. Criminal intent or mens-rea must be present.
5. There must be a concurrence of intention and conduct.
6. There must be a causal relationship between the legally forbidden harm and voluntary misconduct.
7. There must be legally prescribed punishment.
Criminal is a person who commits a crime in the above sense. According to law, a criminal is one who has intentionally violated a criminal law. Sometimes a criminal is not treated as such but considered as a suspect until his criminal acts are proved in court.

Scholars who tried to classify criminals in their own ways, ultimately agreed to a logical classification based on scientific cannons. Accordingly, a criminal is person who is in the habit of repeating crime. Besides repetitiveness, deliberation is another characteristic of the criminals. A criminal, therefore, is the one who chooses to commit a crime wilfully and does so whenever there is an opportunity.

Convict is a person on whom charges of crime have been proved and guilt is established and he is subjected to prescribed punishment. In other words, he is a person on whom the court fives its verdict establishing his guilt and imposing penalty, punishment or both.

The way criminals are dealt with has undergone tremendous changes ranging from the punishments in the early society to the correctional treatment in modern times. Besides, mode, method, frequency, duration, extent and the type of treatment also vary from country to country, crime to crime and from person to person. The earlier treatments given to convict include moral teaching and encouragement, so that they learn some values in life. But with the advancement of sciences and technology all over the world, different types of treatments have come to be given to the convicts. These may broadly be grouped into two categories as institutional and non-institutional. The institutional treatments mainly focus general requirements of the convicts, while the non-institutional treatments are mainly parole, probation and after-care services.

In the words of Varma: “there is only one country in the world, which thousands of years ago, made ‘evil thoughts’ also punishable. That country is India”. According to ancient Indian Jurisprudence, the human code of conduct was divided to two parts: Religious Ethics and Moral Ethics. Man had to synthesise both in his life. Every sinful or undutiful act, even if committed in ignorance, had to be answered for. But a wrong act and a wrong thought were not items for punishment”.
Once a crime is committed by a person, in the sense of society, though the offender is liable for correction, he cannot be subjected to permanent segregation from the society. Instead, society should think in terms of reforming him at least to the level of a normal individual. On the basis of reasons for offences, different kinds of offences could be noted. Verma observes “in Russia, every type of crime, including theft, robbery, murder, is treated on the basis of social and economic conditions. In every civilized state, this idea is gaining ground and therefore, society is learning to put the responsibility on the state of reforming and rehabilitating the criminal”.

1.4 Etiology of Crime:

Crime is generally understood to be a manifestation of wide ranging social, economic and psychological problems that exist in varying degrees and levels all over the world. Society has become dynamic and complex, due to rapid changes generated by the process of development in the fields of culture, economy, ecology, politics and psychological spheres. Accordingly several causes of crime have been identified.

Crime may be caused by one or a set of the following reasons.

1.4.1 Social causes: Family disorganisation, absence of social control, defective education, influences of mass media, bad habits like alcoholism, drug abuse etc. Prohibition of widow remarriage, discourage marriage between caste, religion, region, race, evils associated with marriage and dowry system and communal disharmony. Changes in social values – materialism, individualism, rationalism, absence of sex restrictions and social disorganization.

1.4.2 Physical and developmental causes: physical defects and deformities, inferiority complexes, mental defectives – feeble mindedness, mental diseases like epilepsy and emotional disturbances, early sexual maturity and nervous instability. Physical development – age factors, physical maturity, aggressive tendencies etc.

1.4.3 Geographical or environmental causes: Seasonal fluctuations resulting in infanticide, homicide, fatal assaults, patricide, rape etc. climatic factors (temperature, humidity, barometric pressure, change in weather) topography, natural resources, geographical location, fertility of land,
natural resources, geographical location, fertility of land, quantum of rainfall and so on.

1.4.4 Economic causes: poverty, unemployment, under employment, industrialisation, urbanization, greediness, competition, resentment over economic exploitation, commercialised entertainment over economic basis of social prestige and behaviour pattern, economic inequalities, selfishness of the society, acquisitiveness and aggressive pursuit of money and power etc.

1.4.5 Political causes: Criminalisation in politics, power seeking through illegitimate means, inefficient administrative machinery, immorality of officials and administrators, red tapism, lack of integrity, commitment and respect to social values, white collar criminality, operation of patronage system to fill up political offices, practice of fraud in voting and election processes, hand in glow with gang activities etc.

1.4.6 Crime V/S Crime: Rape leads to rape, murder leads to murder, vengeance, enmity, aggression etc.

Thus, causes of crime committed by persons are very many. These causes vary from place to place, person to person, crime to crime and from situation to situation.

1.5 History of Penological Approach:

Concept of punishment has a bearing on concept of causation of crimes. The statements explaining the nature and causes of crime are known as theories of crime. In criminology, there are some such theories, each of which characterises a particular stage of civilization. An understanding of the causes of crime, as conceived in different periods of time, is important, because a punishment prescribed for the crime is usually related to the attribution of the crimes. It also has a bearing on the changes in the penal administration, the treatment of criminals and the resultant changes in the social values. The approaches to penal administration include demonological school, free will school, classical school, ecological or geographical school, Lombrosian School, mental testers and sociological school, which are explained in detail by Sutherland and Cressey.
The different types of punishments which have been existing from early times are


The Indian Penal Code prescribes for the above punishments, excepting the transportation, the penal servitude and the whipping.

1.6 The Origin of Contemporary Prison:

The modern concept of prison (the prison as we understand today) refers to a place for incarceration. Prior to the emergence of this concept at the end of 18th century, Prisons in almost all countries existed as places of detention, mainly for the imposition of punishments such as execution, whipping, mutilation, forced labour, transportation or payment of fine and the like. In other words imprisonment was more a temporary mode of detention than a mode of punishment is a relatively new idea, which reformers felt would be more humane than most of the earlier practices of hanging, transportation, mutilation etc. In England during the 18th century, when transportation was stopped, imprisonment was used as a method of punishment. In U.S.A with the establishment of the first Walnut Street Jail in 1792, death penalties came to be limited to murder. And fine and imprisonment were imposed for most other offences.

The 19th century witnessed significant developments in the prison environment. The inhuman conditions existing in the prisons came to be felt as such by many people. The credit by being the first penal reformer goes to captain Alexander Maconochie of Australia who lived in 1840. He advocated the view that brutality and cruelty debase both person subjected to them and the society tolerating them. He felt that the treatment of the convicts should be so designed as to fit them for return to society purged of criminal tendencies. He introduced a ‘Mark system’ in which convicts would have to earn a fixed number of marks of commendation by labour and good conduct to end their imprisonment. After a initial period of restraint, deprivation and moral instructions to induce penitence, the convict would enter second stage requiring him to earn marks to pay for his shelter, food and clothes. By frugal living, industriousness, and exemplary behaviour he could save his marks to
meet the quota pleading for his release. When a convict’s tally of marks demonstrated his worthiness, he would be permitted to join with five or six other convicts to form task group. This group as a whole is given the responsibility of the maintenance of order.

Another penal reformer who initiated reforms was Sir Walter Crofton. Since punishment had failed to deter hardened criminals, he adopted a method of training then to become normal and socially acceptable individuals. This consisted of three stages of penal servitude. In the first stage the convicts were kept under strong discipline in a cellular prison. For the first four months, the convicts were on a restricted diet and the only work permitted was picking oakum. The skilled convicts were put to work as shoe-makers and tailors in prison workshops. There was no trade training at this prison excepting an hour of schooling per day which included an orientation to the mark system and the consequences of repeating offences after granting ticket of leave. The violent convicts and older ones were kept in separate groups. The violent convicts were put in chains and fed low diet.

In the second stage, the convicts were transported to spike Island prison to labour on fortification, if their conduct justified such action. To progress through four conduct classes, a convict earned marks through orderly demeanour, effort in school and industriousness at work. Modest wages were paid and he was graded according to conduct classes.

In the third stage, the convicts were transferred to a small prison with a population of less than 100 to work under four unarmed guards in projects, such as land reclamation. The working conditions were similar to that of free labour. These units served as filters between imprisonment and custodial release. The purpose was partly to demonstrate that the convict be trusted. The advantages of moral and regular employment were emphasised in lectures to the convicts. Released from prison under ticket of leave was considered on the convicts subsequent avoidance of crimes and evil association. The moral instructor J.P.Organ sought jobs for convicts scheduled for release and supplemented police surveillance through vi-monthly visits to places of employment of the women convicts.
When the idea of imprisonment as preparation for returning the convicts to
the society as normal persons gained grounds, many rehabilitation programmes were
introduced in and out the prison. Improvement of living conditions including food,
medical care, psychiatric and counselling services, sanitation and hygiene,
introduction of human approach in prison discipline, introduction of treatment
programmes like education, work programme and vocational training, convicts
panchayat, open air prison, probation, parole and after care - services are some such
programmes.

1.7 The Prison System in India:

The modern prison as a place of sentence was established during the British
rule. Prior to that, as elsewhere, prisons were used as places for housing temporarily
the accused waiting for punishment or those awaiting trial. Punishments meted out to
criminals in ancient India were cruel and barbarous. For instance, during the
Kautilya’s period an attempt to defalcate official money was met by being burnt alive.
Conspiracy against the king and murder were both met with death penalty. The
rumour monger was a serious crime and was punishable by death. During the periods
of Ashoka and Harshavardhana, punishments tended to be humane and imprisonment
was the most common form of punishment. Another significance of this age was,
there was no death penalty, whatsoever were the crimes and their gravity.

During the middle ages, in Moghal dynasty, the principle underlying justice
was based on old proverb ‘tooth for tooth and eye for eye’. The penal system was
rigorous and punishments were harsh aimed at inspiring fear of law among the public.
No person was spared on the basis of his rank and position. When Peshwas occupied
pivotal positions as kings and rulers in this country, the cannons of Maratha justice
were based on the prevailing social customs, traditions, and beliefs of the people.
Fines, confiscation of property and imprisonment were the common punishment,
while there was no penalty of death. The system of punishing criminals was humane
and, in certain cases, the criminals were only fined and in default sent to prison.
1.8 Modern Era:

The credit of having evolved a systematic penal code which made imprisonment as the chief mode of punishment goes to the Britishers. The Prison administration of today is a legacy of the British Rule, when there was no concern for the welfare of dignified treatment of criminals. Lord Macaulay, author of the Indian Penal Code in 1835, recommended for establishment of such regulations that would make imprisonment a terror to wrong doer.

Since Independence the Government of India is paying special attention to the improvement of conditions in jails. Many committees were set up to enquire into the jails. Many committees were set up to enquire into the jail administration to recommend reform measures and introduced many reforms in the prison administration. Several progressive laws of correctional administration were taken.

Our national leaders, who were imprisoned, could see the hardship of convicts and they felt that they should be relieved from such inhuman conditions, so that they are able to lead life with basic human decency and dignity. In particular Gandhiji endorsed the view of Lord Lytton that,

“Just as we send our sick body to hospitals and not to jails, so must we provide moral doctors and moral hospitals for the sick in mind i.e., criminals. The idea one wish to set before others in this is the substitution of reformation for retribution as the basis of the penal code. Punishment can instil fear, but certainly cannot inspire goodness. Therefore, as means of moral regeneration, punishment should be discarded and other methods should be employed.”

In 1934 Pandit Nehru in prison wrote “Any reform must be on the idea that the convict is not punished but reformed and converted, it would result in a complete overhauling of the prison system”. He further elaborated substitute methods to be employed in future for the treatment and reformation of convicts. He stated that another error, which people indulge in is the fear that if jail conditions improved people would flock in. this shows a clear ignorance of human nature. No one wants to go to prison, however good it might be. To be deprived of liberty, family life and
home surroundings is a terrible thinking. Improving prison conditions does not mean life should be made humane and sensible. There should be hard work, but not the barbarian and wasteful labour of oil pumps or water pumps and mills.

The prison should produce goods either in large scale modern factories where convicts work or in cottage industries. All works should be useful from the point of view of the prison, convict and the public. The work should be paid for at the market rate minus the cost of maintenance of the convict. After a hard eight hour days work, the convicts should be encouraged to co-operate together in various activities – games, sports and readings. They should be encouraged to laugh and develop human contacts with prison staff and other convicts. Every convict must be encouraged to educate themselves to the extent possible. The mind of the convict is cultivated and the prison library, to which there might be free access, should have plenty of good books. He should be encouraged to read and write. All facilities to read newspapers, write letters and have interviews with relatives should be provided freely.

The above ideas of Mahatma Gandhi and Pandit Nehru have influenced the shift in the penal approach from being deterrent to being reformative followed in penal sections in India, particularly after Independence. It is believed that the society is partly responsible for making the criminals. Thus the goal of penal action, which the Government of India has currently accepted, is one of reformation and all the activities initiated from time to time have been towards achieving this goal.

The latest idea of reformation that has come up in prison administration is the preparation of the proposed Indian Prison Bill 1996, by the National Human Rights Commission. The objectives of this Bill, as stated in it, are:

1. To bring in back uniformity in prison administration in the country;
2. To provide framework and entries for life custody and reformative treatment.
3. To rationalise prison treatment to fit the various categories of convicts;
4. To provide for minimum standards of services for the care, protection, welfare, treatment, education and training of the convicts;
5. To devise procedures for handling convicts which are compatible with human dignity;
6. To differentiate institutional treatment that suits their personality, behaviour and custodial and correctional requirements;

7. To lay down mechanisms for co-ordination between prison administration and the components of criminal justice system;

8. To ensure availability of services from other public departments required for effective management, and

9. To forge linkages between the prison programmes and community based governmental and non-governmental resources for rehabilitation and social re-integration of the criminals.

This bill envisages the formation of a basic legal framework for the governance of prisons in the Country and recognition of importance of reformation in the Indian Penal System. Therefore, it could be said that this bill is the consolidation of thoughts and ideas and accepted recommendations of various expert committees set up after carefully looked into the existing prison system.

1.9 Correctional Ideologies:

Criminologists suggested three types of correctional ideologies. These are

1. The Punishment ideology
2. The Treatment Ideology and
3. The Prevention Ideology.

Come salient features of these types are succinctly adumbrated in the following description.

1.9.1 The Punishment Ideology:

Since man's first system of laws was developed, punishment has been officially recognised as means to regulate criminal behaviour. The punishment ideology conceives that the criminal is an enemy of society, who deserves severe punishment for breaking its rules. Another reason for the punishment of criminals is the belief that criminal actions have a deterrent effect both on the offender and on others. Another reason to punish the offender derives from the concept of incapacitation. This theory
ideology asserts that there is no hope for the individual as far as rehabilitation is concerned, and the only solution is to remove of cripple him in some way. The approach is sometimes referred to as the “theory of disablement”, a euphemism for death, banishment, or mutilation. But this theory has undermined the logic behind the punishment ideology.

The punishment ideology is very attractive to those with a strong hostile urge just below the surface who may appear to upright citizens. The punishment ideology, therefore, was found “in the theories on theology, aesthetics, and utility, the idea being that the suffering and “expiation” of the offender serves to cleanse and re-establish accord throughout the society as a whole.” The punishment ideology, in general, has a tendency to be applied without considering the individual nature of those being punished. Because of this reason, prisons are believed to become places, where convicts look to one another for support and, therefore, agents of the law enforcing authority become their enemies. This is one of the major reasons that many authorities on corrections refer to prisons as “schools of crime”.

1.9.2 The Treatment Ideology:

A modern trend is to treat an offender as mentally ill, the neglected or the under privileged and as such type having humane ideology may be described as treatment model. It gives importance to criminal behaviour as a manifestation of pathology than can safely be handled as a “sick” person. But medical approach will not hold good. The treatment model does not “remove” criminal behaviour just as one might remove an infected limb. Rather the “patient” (convict in a prison) is made to see the rewards of positive behaviour and encouraged and is well suited as a model to be adopted.

The treatment ideology did not give special concessions to an offender to do what he likes. Criminal justice does have some punitive aspects but in a correctional programme. Intentions to prepare him for some readjustment with the society are envisaged. This can be done by the therapeutic approach to treatment by psychiatrists helping the offender to adjust. The main purpose of the treatment approach in corrections is to provide a means by which the individual having some kind of defect or problem and can hope to overcome it.
1.9.3 The Preventive Ideology:

The problem of crime cannot be surgically divided from the individual offender, but it can be tackled or removed from the community by sending the offender off to prison. Most of the offenders, generally of not grievous crimes requiring longer period of sentence, normally are released. The problem may take a serious situation, with the rate of recidivism increasing, unless correctional programmes to offenders in prison are effectively taken. Therefore may government agencies turn their attention to the crime prevention as a possible solution, rather than precipitation of recidivism?

Allen and Simonsen, quoting the well known author Emile Durkheim point out that preventive ideology has some positive aspect in diminishing rate of crime. Though it may not help in complete elimination of criminal activities among a child’s behaviour pattern. They observe:

“Those who advocate ideology are well aware that total prevention of crime is probably impossibility. Emile Durkheim believed that crime in some form was an inevitable accompaniment to human society, and if serious crime was prevented, authorities would focus their attention on minor offences. Essentially, the prevention ideology holds that crime may at least be reduced by attacking the social and emotional problems that encourage a child’s criminal inclinations”.

Though the preventive ideology may auger well in controlling crime situations, especially, among children and adolescents, a combination of preventive and treatment ideologies might constitute the most effective and humane organization of corrections, beliefs and practices.

1.10 Alternatives to Incarceration:

Recently, the correctional system has expanded to include three components viz., probation, parole and institutional incarceration.
1.11 Partial incarceration:

One of the earliest bases for releasing convicts before their gull period of sentence was completed is known as parole. In America, the work-release philosophy was fruitfully utilised. This is not intended to substitute for parole, but could be considered valuable tool for correctional admission. It acts as a good chance being provided to an offender to test his ability for adoption of his behaviour in the community when he is ultimately released from the prison. Releasing a convict for some period of a day of for a few days might have some pecuniary benefits. Community’s cooperation is being taken in confidence under such circumstances, which eventually helps him to find his way in becoming, a ‘good’ person, despite his stigma of the prison experience.

Another form of partial incarceration is the ‘furlough’ (leave of permissive absence). Both work release and furlough extend the limits of imprisonment to unsupervised absences from the prison. During crisis situations like death or sickness of a family member, furlough allows legally per home visits, thus giving some respite for convict to better his conduct and also to win the confidence of their family and community.

All said and done, however, most women convicts are aware that they will have a serious problem trying to re-establish or readjust to a life outside the prison, especially if they are jail ‘residents convicts’ long period. Some may even commit a petty offence, of course, deliberately within a short period after release, may be to revert back to ‘safety’, ‘security’, or ‘adjusted life’ of the prison. They may even regard the prison as their “home”, as they have no other way out.

1.12 Crime and Criminology:

A few theoretical studies on crime and criminality are mentioned here to focus attention on behavioural and emotional perspectives with regard to the nature of human tendencies. This study speaks on human behaviour that makes or mars developmental strategy of emergence of crime and attendant deviance and criminality. Such as Freud, Cohen and a few others.
Sigmund Freud’s theory stresses the functional aspect of mental illness and personality maladjustment. The central idea of this theory is that criminal behaviour is the product of psychic adjustment arising out of conflicts among the id, ego and superego. Bronner Healy points out that delinquent behaviour results out of emotional disturbances, which are the result of psychic needs. He concludes that delinquents find substitutive satisfactions for their psychic needs in aggressive or escape behaviour which society considers immoral or illegal.

Cohen Albert K has studied cultural conflict in terms of class conflict and criminal behaviour. His theory assumes that since middle class goals are unattainable and, therefore, meaningless to the working class boy, he reacts with a peculiar reversal process, so that the content of the delinquent sub culture constitutes an inversion, so to speak, of middle class values, by which he formulates the negativistic, malicious and non-utilitarian values which are not acceptable to the society. This theory has been criticised that it assumes a sharp break between the value systems of the middle and working classes and it uses cultural inversion to explain the formation of the delinquent sub-culture, without answering as to why inversions occurs.

One of the studies on crime was made by Sutherland in connection with group influence on the individual. His ‘Differential Association’ theory states that criminal behaviour is learnt in interaction with other persons in a pattern of communication. The principal part of the learning of criminal behaviour is learned, the learning includes these two things: (a) Techniques of committing crimes which are sometimes very complicated and sometimes very simple. (b) The specific direction of motions, drives, rationalisation and attitudes. These specific motions and drives are learned from definitions of the legal codes as favourable or unfavourable. A person becomes criminal because definitions favourable to violation of law outweigh definitions unfavourable to violation of law.

This theory is alleged to be over-simplifying the process of learning of criminal behaviour. Some kinds of criminal behaviour such as violators of ‘financial trust’ cheque forgers, irrational and impulsive behaviour, murderers, non-professional shoplifters and non-career type of criminals are exceptional to this theory.
There are some sociologists like Chambliss, Pearce, Young whose arguments revolve around the relationship between powers of deviance in modern sense. As is known, power is held by those who own and control the productive resources. Laws are passed in the interests of ruling classes, ideologies of which are reflected in strategies of the powerful minority to subjugate the have-nots and to further their own power and control over productive resources. Chambliss believes crime is widespread in every social stratagem or capitalist society and it is largely a phenomenon of working classes. He also argues that ‘organized’ crime is prevalent in other than the working classes also.

Cohen sees that unequal access to opportunities lays down great pressure on lower working class boys who are confronted with ‘cultural deprivation’ due to lack of educational facilities, jobs etc. the frustrations arising out of these factors result in delinquent sub-culture.

Before going into the issue of commission of crimes, it would be worthwhile to shed some light on why the crimes are committed. This has to be considered from the bottom of ideological stance. Scholars have given certain thoughts on this issue, which are felt to be necessary to note. Some of the views are expressed by a few scholars, though briefly, Cohen express from a structural perspective that since there is unequal access to opportunity, there is a greater pressure on certain groups than on others within the social structure to deviate. In his argument he emphasises that lower working-class boys are confronted with ‘cultural deprivation’ due to lack of educational and job opportunities. Stuck at the bottom of the stratification system with avenues to success being blocked, many lower working-class boys suffer from ‘status frustration’, which may ultimately result in a delinquent sub-culture, as Merton observed.

Mertons thinking, as argued by cloward and Ohlin, is much broader based. Merton has explained deviance in terms of the ‘legitimate opportunity structure’, but cloward and ohlin (1961) say that Merton has failed to consider another point, that is ‘illegitimate opportunity structure’. This idea is mooted in the ideas of three possible responses, namely, the ‘criminal sub-culture’, the ‘conflict sub-culture’ and the ‘retreatist sub-culture’. Cloward and Ohlin consider deviance as a normal, non-pathological response to existing social (environment) conditions by certain segments
of society. A person resorts to deviant behaviour because socially acceptable ways of doing things do not produce the desired results. Given this deficiency, the normative rules are irrelevant and meaningless, existence of a condition of anomie. People are, thus encouraged to deviate. According to Cloward and Ohlin, the specific form of gang-delinquency that emerges however, depends on the community.

Miller and W.B.lower arguments differ from both Merton and Cohen in his explanation of lower class delinquency. Firstly, he rejects Merton’s theory that it represents an alternative means of achieving mainstream goals. Secondly, Cohens argument is restricted saying that it results from a delinquent subculture which is a reaction to failure as simply resulting from lower class sub-culture. Miller is at best when he argues that ‘Following cultural practices, which comprise essential elements of the total life pattern of lower class culture, automatically violate certain legal norms. He develops his argument stating that there is a ‘distinctive cultural system’ which may be termed ‘lower class.’ It includes a number of ‘focal concerns’ that is, major areas of interest and involvement.

In understanding the etiology of crime, the role of the actor is important. Mohanty sufficiently mentions come authors and his nothings are obviously very significant. In his own words: “Criminologists like Sutherland (1942 and 1974), Shaw (1966), Burt (1925), Thrasher (1963) and Booth (1903) search the etiology of crime in the operating milieu of the actor. These authors emphasize the role of various social deprivations as the cause of crime. Besides, they also view delinquency as a learned behaviour. Companionship factor has been considered to be very important in explaining the causation of juvenile delinquency and crime. This has been studied from three angles. Firstly, there are many specific offences which are committed by a company of two or more than two persons. Secondly, the persons are likely to fall in company of bad elements who are committing crime, and thirdly, a person may learn certain tricks from older offenders when in custody”.

1.13 Punishment and Reformation:

A Few lines on punishment and reformation have to be understood in controlling criminal activities in societies. Punishment has been defined in various ways. Reckless views punishment as a means of social control which seeks redress for a wrong, an injury or for violation of law and custom. To Barlow punishment was an
action designed to deprive a person of things of values because of something that person has done or is thought to have done. Tappan sees punishment as means of retribution or social retaliation. Punishment is the means through which society conveys its disapproval to the offender. This disapproval may take many forms which differ in their purpose and intensity.

Punishments may be classified into three broad categories, namely, Retributive, Deterrent and Reformative.

1.13.1 Retributive Punishments:

Retributive punishments are those that believe in the principle of revenge or inflicting ‘punishment for the sake of punishment. The essence of retributive punishment is well reflected in the principle of ‘eye for an eye and tooth for a tooth’. The main aim of retributive punishments is to teach a lesson to the offender for what he has done to the society. A person who has wronged another deserves to be paid back in the same coin. He should be made to suffer for his misdeeds. The harsh and cruel punishment, in earlier times which inflicted either death or severe physical injury is instances of retributive punishments.

1.13.2 Deterrent Punishments:

To ‘deter’ literally means to ‘prevent’ or restrain through fear’. Punishment has also been used to ‘deter’ potential wrong doers from the commission of similar or worse crimes. The person undergoing punishment becomes an example for all to see. This is the reason why public punishments were in vogue for a long time. Flogging or hanging a criminal in public was intended to leave a lasting mark on the psyche of those who watched the fate of a fellow human being.

1.13.3 Reformative Punishments:

The retributive and deterrent punishments have no intention, whatsoever, of returning the offender as a ‘changed human being’ to society. While retributive punishments believed that ‘punishment was an end in itself’, deterrent punishments visualized punishment as a ‘means to an end’, that end being preventing others from indulging in similar acts. Neither has a humane element.
But the dawn of the eighteenth century saw the rise of new ideas on crime and punishment. Crime came to be considered as an injury to society and punishment viewed as a means of preventing crime. Punishments such as death penalty, transportation of criminal’s and cruel corporal punishments came to be viewed as not effective in eliminating crime, or even in lessening crime. The idea that punishment must lead to the resurrection of a criminal led to the emergence of a new concept of punishment in which more stress came to be placed on the ‘treatment’ than on the ‘punitive’ aspect of punishment. The modern concepts of imprisonment, probation and parole are off-shoots of this line of thinking.

1.14 Prison System, Prison Administration and Reform

The crime has to be dealt with effectively in order to keep the society in peace since time immemorial and for that penal action is the only serious measure by which the evils of crime can be controlled, if not completely eradicated. Penal action would mean introducing prison systems and subsequently their administration, depending upon, the nature and type of prisons vis-à-vis crime. Prison systems have come into being in almost all countries, in one form or the other, from historical times. As prisons are a natural concomitants of crime, it is very necessary that their historical perspectives are focussed at least, with regard to some important countries, more particularly India, albeit briefly. There are also other aspects like open and closed prisons and Recidivism which are also required to be discussed. This is precisely done here.

1.15 Prison System: Historic Dimension:

On prison systems, the earlier history recurs nature and type of prisons that dealt with crime, criminals and punishment. For instance, Diaz has the following observation on the subject:

Prisons in the shape of dungeons existed from time immemorial in all old countries of the world, but prison sentence as a specific punishment is of relatively recent origin. Infact prisons, as we know it, came into existence as an interim house of detention of the person accused of an offence, pending his trial and appropriate punishment. But when it came to be realised that detention in isolation from his family and his community could itself be considered a mode of inflicting, pain on an
offender all countries took to it as an easy pattern of punishment to replace the old
punishments, mostly of a corporal nature. The earlier prisons that were organized in
this connection were not much different from the old dungeons.

Treatment of criminals by putting them into prisons as form of punishment has
been the thinking of those who were at the helm of affairs of kings and Rulers, from
earlier times. For instance, in the laws of Hammurabi and in the Mosaic laws as well,
as in laws of more recent times up to a few centuries ago, the ruling principle of
punishment was the law of retaliation, “lex Talionis” or “an eye for an eye; a tooth for
a tooth”. It was the classicists and later the neo-classicists of Italy as well as Jeremy
Bentham and John Howard of U.K., who brought new dimensions of Justice and
Humanism to bear upon the concept of punishment and its practical implementation.
Retribution and Expiation as objectives of punishment were largely superseded by
Deterrence of the offender and of others around him and the protection of society and
confinement in prison seemed to answer the last purpose quite effectively. But the
credit for turning the search light from the much maligned positivists of Italy led by
Cesar Lombroso. Later statisticians, psychologists, sociologists as well as enlightened
practitioners of law entered the lists and widened the scope of criminological and
penological studies. After all, ‘Criminality’ is a psychological ‘learning’ process and
‘criminal behaviour’ takes shape only when the sociological ‘opportunity’ presents
itself for interaction with the former. When crime does occur, statistical studies,
classifications of crime and societal reactions to crime become concomitant features.
A plausible explanation is that the social responsibility for the growth of criminal
behaviour would make it evident that society has a resultant responsibility for
correction, reformation and rehabilitation.

On human behaviour, especially criminal, Diwakar observes criminal
behaviour is a shade of general human behaviour, which is explained as any other
human behaviour. Criminology, as a social occurrences, and its task is to explain the
criminality in the behaviour of the person concerned. Under the impact of social
sciences, criminologists discovered the ‘criminal’ as a concept but without any
identity in flesh and blood.

Prisons in the middle ages, in England and Europe, came in for severe
criticisms as the general conditions there in was one of lechery, debauchery, moral
corruption and pestilence. In the American colonial period, persons of both sexes and of all ages are confined in cramped, primitive quarters, lacking the most rudimentary facilities. Inmates were dependent on the benevolence of friends or sympathisers for food and clothing. Condemnation of jail conditions has been wide spread since 1700’s, but efforts at reform have been largely insufficient and inefficient as a study reveals.

Indian mythology is full of references to the institution of prisons in India. It was known that prisons existed as early as five thousand years ago, chankya, in his Arthashastra has stated that old forts were used for keeping the prisoners, chained and hand-cuffed. He advised the king to build prisons on the main roads so that others may take a lesson from the sufferings of the prisoners. Later, Vijayanagara kings and polygons used to keep their prisoners (especially political cones) in forts.

In India, the present jails have actually come into existence in a very crude form since the sixteenth century. In the late 18th and early 19th centuries, a change came about in the thinking on prisons. Criminologists advocated that the punishment given to any person must be proportionate with the seriousness of the offence and according to the gravity of the particular situation. Emphasis also shifted from the penal-correctional objectives of imprisonment to the correctional objective viz., correction, reassessment and rehabilitation of the criminals in society.

The modern concept of imprisonment did not emerge till the end of the 18th century. However, places detention existed where the anti-social elements of society were detained. Early prisons were generally used as housed of detention for those awaiting trail, transportation or death sentence. Confinement was preliminary to the appropriate punishment, such as execution, banishment, fine or even for the release of the prisoner after trial. In other words, prisons were places of temporary housing where inmates actually availed the actual punishment decree as Guha Roy observed. Prior to the 18th century, in almost all countries, imprisonment the modern concept of ‘prison’ got wide coverage, only after the establishment of the Walnut Street Jail in 1790 was used more as a mode of detention than punishment. No doubt there was the idea, prior to 1790 that the there were places of detention. Locking up criminals in dungeons and jails was a practice that was in vogue as far back as recorded history. But confinement was the mode of punishment largely reserved for those awaiting trial
or the hangman’s noose. It was only in the last two centuries that imprisonment was considered as a mode of penal sanction and the concept of modern prison, combined both the methods of punishment and reform. A glimpse of severity of capital punishment can be had from the literature available on these subjects. For instance, on USA, Russia, China and Japan and Britain detailed accounts are available on these subjects of prison systems in these countries from the historical perspectives. Since the focus of the present research is on India and Karnataka in particular necessary attention is given here.

The history of prison system and administration in India has its roots from the ancient times. So, the history of imprisonment in India has to be dealt with from this dimension, in order to understand the development from the early times from the past to the present times. This is done in three periods viz., 1) Ancient times, 2) The Pre-Independent India and 3) Independent India.

1.16 Prison System and Prison Administration in Ancient India:

Ancient law givers like Manu, Yajnavalkya and Kautilya prescribed very harsh and cruel forms of punishment for those breaking the law of the land, the most common forms of punishment being hanging, mutilation and death penalty. Prisons of those days were known to be “dark, dismal and dingy places which were not really fit for human habitation”. Not many records are available about the prison system in India during the ancient times. The Kautilya’s Arthashastra is the well known treatise which has dealt with prison system. Kautilya laid down that a prison should be constructed in a capital and should have separate accommodation for men as well as women. His thoughts included prisoners who paid some amount as a time or agreed to undergo some form of corporal punishment or promise to work for social uplift should be set free.

Kautilya had emphasized on administrative aspects also. For example, a jailor should always be alert and watchful and supervise overall functioning of the jail. One can see the intellect of Kautilya for efficiency in prison administration, for he lays down a rule that if a prisoner moved out of his cell on any count he was fined rupees twenty four and the warder who was in league with the prisoners was fined double the amount. In case the warder acted in such a way as to disturb normal prison life the
higher authority would levy a fine of rupees five hundred. If a prisoner was put to
death the warder was levied a fine of rupees one thousand upadhya cites other
punishments that kautilya had recommended.

Emperor Ashoka, the great king was more ruthless in early years of his rule.
Ashoka has suggested the most barbaric forms of torture on the offenders. The
chinese traveller, yuan Chwang, has recorded the miserable conditions of prisoners in
ashoka’s times. Later Ashoka’s approach towards prisoners was said to have
undergone a change after he embraced Buddism. During the later part of his rule he is
said to have brought about many reforms in prisons as pointed out by Dikhithar and
these are contained in the Topra Pillar Edict of Ashoka in which three days respite to
prisoners who were condemned to death and awaiting their sentence as given. Das,
Mohanty and Hazary, Guha Roy and Datir, have given various accounts of prisoner’s
pitiable conditions existed during the times of kings Harshavardhana, Bimbisara and
others and one fact clearly emerges that conditions in prisons were far from
satisfactory, and yet emphasis was laid on punishing criminals by imprisoning them in
structured prison houses.

In India, historians recognize medieval period and so far as prison system and
criminal justice were concerned, there were similarities as Guha Roy notes. During
the Mughal rule the most commonly imposed punishments were fines, forfeiture of
rank and title, humiliation, banishment, whipping, mutilation of limbs and various
other types of corporal punishments.

Though the system of detaining offenders of several types in prisons prevailed
during the Mughal period knowledge on any rules in operation for punishment and
imprisonment is scant. Studies show that there was no fixed period for imprisonment
and that when a person spent in a prison was decided at the discretion of the quazi or
the magistrate who has a right to send anyone to prison for an offence for which the
punishment could be awarded. Freedom would be granted only when an offender
showed signs of repentance.

Datir has given an account on the prison system during medieval times.
According to his description, foreign travellers to India have written accounts on the
prison system as it was existing during the Mughal Period, when they visited India.
Their accounts reveal that there was nothing like a well structured of ordered prison system during that period. Datir quotes Monserrrate, a traveller, as having given a lucid account of the systems of imprisonment prevailing at the time of his visit, according to which ordinary criminals were kept under guard in irons, but not in prison. Prisoners sentenced to imprisonment were sent to the jail at Goalevis (Gwalior) where they rotted away in chains and filth, and so on. Almost similar situation existed during the reigns of Akbar, Jahangir and Shahjahan. But on important feature was the concessions provided for prisoners, such as, for instance prisoners used to be released on special occasions. The occasions being birth of a crown prince, recovery of the Emperor of his sons from prolonged illness of some occasional Royal visit to a prison fortress.

During the Maratha period, imprisonment was an effective mode of punishment. The various forms of punishment were death, mutilation and fines, and it was not much different from that of the Mughal Penal System. Mohanty and Hazary mention that existence of some rooms being reserved for prisoners in forts popularly known as the Bandhikhanas or Adabkhanas and that the culprits who had committed serious crimes were sent to such forts from different places. They were treated according to their statues in life, and the type of crime they had committed. Persons of lower castes and those considered as adulterous women, both of higher and lower castes were forced to do hard labour work on building fortresses. The ranks of prisoners determined their quantity and quality of ration. They were given leave for visiting their homes for attending religious rites like annual sraddha of their ancestors. Peshwa was the religious head of the State. He used to finance them for performing their rites and rituals inside the prison. If prisoners were fall sick, they were released.

It was significant to note that the political prisoners were well treated, though their communications with outside world and also with their own relatives were prohibited. They were supplied extra comforts and were given first class food. The narration, though short, makes one to observe that in Ancient India, or during the medieval period, imprisonment was not regarded to be a form of punishment. The main features of the prison system until the British came on the scene, around the 17th century, were that 1. Prisons in the modern sense were not existed; 2. Even when there were prison houses or rooms, there were no proper administration system of prisons.
as such; and 3. Any kind of prison services, trial of offenders, or regular courts, with
detailed statutory regulations were not there.

1.17 Prison administration and Reform in Pre-Independent India:

The prison administration and reform as it exists in India today is the result of
the British when they came to India to rule. The British colonialists tried to impose on
the Indian people their own systems whether it was administration or prison. So when
it came to prison system, they tried to impose imprisonment as punishment to the
wrong doers. Guha Roy, Bhushan, Datir, Madan and Nagaraj have given a
summarised accounts on the historical perspective of the British prison system and
prison administration. The researcher has leaned on their accounts in presenting the
following account.

The system of imprisonment as it was conceived by the British was a great
leap in the history of penal reforms as it greatly helped the abolition of antediluvian
system of barbarous punishments. The British had to face the responsibility of
administering a system of criminal justice when the Regulating Act in 1773 was
passed and the Supreme Court was established at Calcutta. It was empowered to deal
with all relating to civil, criminal, admiralty and ecclesiastical jurisdiction. The British
also intended to introduce English rules of law and English Superintendence of law
and justice. Around 1790, a law forbidding mutilation was introduced in Bengal. The
Criminal courts were directed to inflict imprisonment with hard labour in its place.

By nineteenth century English has had come to be applied to Indians. The
Indian Penal Code and Criminal Procedure Code were enacted in 1859 and 1860
respectively. The Indian Penal Code defined each offence and prescribed punishment
for it while the Criminal procedure code laid down the procedure for prosecuting
criminals. Imprisonment as a form of punishment (or the modern prison system)
which was first applied in India in 1773 came to be applied on an uniform basis
throughout India in 1860 as Madan observed in his study. Till 1835 the British did not
consider any move to improve jail conditions which were far from satisfactory. As a
result of this indifference of the rulers, naturally the conditions in Indian jails had
deteriorated considerably.
In India the first experiment in prison reforms began in the year 1835. Under the Company rule where were 143 civil jails, 75 criminal jails and 68 mixed jails. Divakar writes that the Jails which could provide accommodation to as many as 75,100 inmates were built in Bengal, North-Western provinces, Madras and Bombay. These institutions were under the control and management of District Magistrates who were under the control and management of District Magistrates who were known for their indifference to the problems of prisoners. In 1835 Lord Macauly drew attention to the horrible conditions then existing in Indian Jails. But this came as boon to Indian system and Constitution as it was the beginning of the movement for prison reforms in India. Sir Metcalfe who was then the acting Governor General set up the ‘prison Discipline Committee’ in which Lord Macauly was also a member. The committee dealt with such matters as housing of prisoners, discipline, health, diet, rewards and punishments, education, labour and suggested a number of reforms. The prison Discipline Committee in its report severely criticized the corruption of the subordinating establishment, the laxity of discipline and the system of employing prisoners in extramural labour on public roads.

Consequent to the recommendations of the committee the first Central Prison was built at Agra in 1846. It was followed by the construction of Central Prisons in cities such as Bareilly and Allahabad in 1848. Lahore in 1852, Madras in 1857, Bombay, Ajipore, Banaras and Fategarh in 1864 and Lucknow in 1867. The year 1844 saw the appointment of the first Inspector General of Prisons in the North-West Frontier Province followed by the appointment of Inspector General’s in 1860. There was also appointment of Inspector General of Prisons in 1882 the North-Western province which employed Civil Surgeons as Superintendents of District Jails. Bhushan notes that the experiment proved so successful that the Government of India had issued orders in 1864 that all provinces should employ civil surgeons as superintendents of district jails.

In 1844 saw the appointment of the first Inspector General of Prisons in the North-West Frontier Province followed by the appointment of Inspector General’s in 1852 in Punjab, Bengal, Bombay and Madras in 1854 and Central Provinces in 1862. There were also appointments of Inspectors General of Prisons in 1882 the North-Western Provice which employed Civil Surgeons as Superintendents of District
Jails. Bhushan notes that the experiment proved so successful that the Government of India had issued orders in 1864 that all provinces should employ civil surgeons as superintendents of district jails.

In 1864, a second Prisons Commission was appointed by Sir John Lawrence who was the then the Governor General of India. The committee had found that in the preceding ten years not less than 46,308 deaths had occurred inside the prisons and sickness and mortality rates were found to be high. The reasons attributed mainly to the following factors like a. Overcrowding; b. Bad ventilation; c. Bad conservancy; d. Bad drainage system; insufficient clothing; f. Sleeping on the floor; g. Deficiency of personal cleanliness; h. Bad water; i. Extraction of labour from unfit prisoners and insufficient medical inspection as Divakar mentions. It was noted that the recommendations of the committee were implemented, there was some reduction in the mortality and sickness rates.

Space for housing prisoners was another important factor. So the Second All India Committee recommended a minimum space of 54 superficial feet and 640 cubic feet per prisoner. Chandra opines that the thinking of administrators was therefore, concentrated on such issues like better accommodation, regular medical inspection, improved diet, bedding and clothing of prisoners. The Third All India Jail Committee, appointed in 1877 composed entirely of officials who were actually engaged in prison work. It reviewed jail administrative system and made significant recommendations relating to mainly the receipt of supplies and maintenance of accounts.

The Fourth All India Jail Committee appointed in 1888 was more or less a ‘business like report’ as it simply reviewed the existing conditions in jails. The work of the Fourth All India Jail Committee was supplemented by the Fifth All India Committee of 1892. It reviewed the entire mechanism of jail administration in India.

The year 1897 considered as a landmark in the history of prison reforms in India because in 1897 the Reformatory School Act was legislated which altered the then existing legislation on the subject. As per the changed directives, courts were instructed to send young offenders who were below 15 years of age to reformative schools rather than sending them to prisons. In 1900 the Prisons Act was passed. Accordingly, buildings had gradually provided, dietaries laid down, systems of labour elaborated, a national remission system developed, insanitary conditions, partly
corrected and death rates reduced as has been mentioned in the report of the Indian Jails Committee (1919-20: 13). Yet it had not achieved significant progress in the reformation aspects of prison administrative machinery.

A comprehensive enquiry during the twentieth century was undertaken by the Indian Jails Committee of 1919-20. This was the Sixth All India Committee on Prison and Prison Reforms. Alexander Cardew was appointed as Chairman of this committee, visited Penal institutions in Great Britain, U.S.A., Japan, Philippines, Hongkong and Burma and studied the conditions then existing in the Indian Jails. The Committee recommended that imprisonment, besides preventing the recurrence of crime in prisons should also concentrate on restoring the convicted person to society as a reformed being and as good citizen.

The Report of the Committee contained several recommendations, dealing among others, with such subjects as prison staff, separation and classification of prisoners, prison labour and manufacture, discipline and punishment, reformatory influences in prison, prison hygiene, medical administration, and aid to prisoners on release, probation and borstal treatment as Bhushan has mentioned.

1.18 Independent India:

After India’s Independence, the Constitution of India which came into force in 1950, retained the position of Government of India Act 1935 in so far as the matter of prisons was concerned and kept ‘prisons’ as a state subject by including it in List II – State list of the Seventh Schedule.

The first decade after Independence was marked concerted efforts for improvement in living conditions in prisons. Jail reforms committees were appointed by different State Governments, in order to humanizing jail conditions and to evolve a scientific method of treatment of prisoners. The State level committees made lot of efforts to bring some prison reform, but the real Prison Administration and Reform Movement directed towards progressive path, when Walter C. Reckless, the well known criminologist and corrections expert visited India in 1951-52. Reckless visited a number of jails spread over different parts of the country as suggested ways and means so that Indian Prison conditions could be improved upon. His report laid the foundations of a new era in the Indian Prison Reform Movement. Reckless pleaded
for transforming jails into reformation centres and also recommended for establishment of a cadre of well trained prison personnel who could work selflessly. Reckless advocacy of development of a full time probation system and revision of Boards for after-care services and also the establishment of an Integrated Department of Correctional Administration was a real progressive recommendation.

In recent years, a Report of the All India Committee Jail Reforms (1980-83) came into existence. As this report was by a jail committee on Jail Reforms headed by Justice A.N.Mulla, it was known as ‘Mulla Committee’. The report contained number recommendations of far reaching significance. The report contained a total of 658 recommendations. The Committee’s recommendations need to implement in too.

Recent developments and thinking on prison administration and reforms and correctional ideology to tackle the issue of commission of crimes and its consequences discussed, although briefly. As stated earlier, the prison reforms focussed in the various Acts right from the 19th and 20th centuries till India’s Independence and after that continue to dominate the field of prison system and reform. Some thoughtful ideas were provided by senior officials who had first hand information on the subject. For instance, Jadhav and Mallaih had presented their papers and their ideas have been found relevant and meaningful. The following few paragraphs highlighted their studies incorporating this views on the subject are given here.

The Government of India appointed the All India Jail Manual Committee (1957-59). A draft on Model Prison Manual was prepared and the same was circulated to all the States for eliciting and revising State Manuals, A Working Group on Prisons was set up, and later the All India Committee on Jail Reforms (1980-83) was appointed by the Government of India.

The All India Jail Manual Committee (1957-59) and the All India Committee on Jail Reforms (1980-83) have made copious recommendations keeping in view the realities in Indian Prisons and also with a view to modernizing the Indian Prison System and reforms. The basic questions to be asked are whether the present prison system has to be modernized and also whether correctional work is being developed on scientific foundations? Has the correctional service been professionalized? Have various institutions for adults, adolescents and children become centres of correctional
treatment. In short, a question whether the component of correctional work in these institutions is satisfactory needs to be answered. An attempt is made to delineate the correctional ideologies and work, which is as follows.

1.18.1 Social Defence:

A new concept of ‘social defence’ has emerged due to the necessity of criminal activities and to tackle the issues relating to criminals and correctional ideologies. ‘Social Defence means protection of society through prevention, investigation and detention of crime and exposure of criminals to protective and correctional treatment. Social defence system covers the judiciary, the police, the correctional services and other institutional and non-institutional services and after-care services. It has been recognized that only through an effective and strong system of social defence that the problem of crime can be adequately combated.

The All India Committee on Jail Reforms (1980-83) has made several recommendations. Despite the recommendations the prison system has not been modernized and put on scientific foundations according to the views of several police officers like Jadhav and Mallaih. What are the reasons for this? First, at the political level there is no will and determination for urgently handling the crime problem as social problem on scientific basis. The higher echelons of bureaucracy functioning at the secretariat level there is no will and determination for urgently handling the crime problem as a social problem on scientific basis. The higher echelons of bureaucracy functioning at the secretariat level in the State Capitals, perhaps, do not consider the problem of modernizing prison system as a very urgent problem. The public at large is apathetic towards the urgent social problem of crime. The political leaders, the higher echelons of bureaucracy operating in the corridors of power, the organisations of correctional administration so not have the needed zeal to the problem of tackling crime as this subject in particular, occupy a very low priority. With such a state of affairs it is argued that the Indian Prison System has been still trudging through the timeworn grooves of routine prison management as laid down by prison manuals prepared from time to time depending mostly on earlier rules and regulations.
1.19 Prison Manuals:

Review of prison manuals in the contest of prisons administration is necessary. Even though a Model Prison Manual was circulated to all the States and Union Territories in the sixty’s, the work of revising and updating State/Union Territories. Prison manuals have lagged behind to keep with the changing times and thinking. In Maharashtra the prison manual has been revised and that in a number of States and Union Territories the old manuals with some minor changes are still in vogue. This state of affairs is indicative of the anxiety of the respective Governments to update the prison system on progressive and scientific lines. Recently a draft on the proposed Indian Prisons Bill, 1996 is in circulation. It is believed that one of the principal reasons why most of the prison manuals have remained unrevised is because of paucity of funds. In a developing country like India were the problem of crime is assuming serious proportions day by day and if for reasons of inadequacy of funds prisons are not modernized, the correctional system might fail to keep up with the spiralling crime problem, and then one can only say that it is indeed an unfortunate and regrettable situation.

Needless to emphasize that if the correctional services have to shape as per the modalities of the needs of present times, the above suggestion of the All India Committee and Reforms have to be acted upon without any further delay. In fact, these recommendations have been made by almost all the committees over the last four decades but regrettable they have remained mostly un-implemented. As a consequence of not following a dynamic policy of development of personnel, to adequately meet the new challenges presented by the problem of crime and delinquency, the entire field of correctional services in India has become depressed and dejected. As stated above, nothing concrete, tangible and constructive can be built up in a field which is disillusioned and dejected is the view of many correctional experts. In so far as the states are concerned, there is the urgent need for meaningful action-oriented programmes. As the focus of the study is Karnataka, the various programmes of prison administration and its reforms initiated are discussed here from the historical and present context.
1.20 Prison Administration in Karnataka:

Prison to 1983 there was hardly anything that could be called prison administration or prison management in the erstwhile Princely State of Mysore. Nagaraju sums up the situation on the prison system in the earlier Mysore State thus:

“With the assumption of Power by the British Government in 1831 some improvements in the management of prisons could be noticed. The situation which prevailed during the period between 1831 and 1856 can be seen from the record of “General Memorandum on Mysore” drawn up by the then Commissioner, Sir Mark Cubbon. According to this memorandum “there were 8 Jails in all at that time- three in the Bangalore Division, three in the Ashlagram Division, one in Chitradurg Division and one in Nagar Division. Of the three jails in the Bangalore Division, the Town Jail Consisted of three “Compartments” known severely as “the Felson’s Jail”, The Debtor’s Jail” and “The Insane Ward”.

1.21 Psycho-Social Problems of Women Convicts:

In discussing the importance of psycho-sociological factors, mental health cannot be put aside, albeit detailed analysis needs separate study. Nevertheless, some aspects of these factors at the conceptual level are briefly dealt with here. People today demand psychology more than before. Greater functional knowledge of how man behaves as he does in tackling the complexities of everyday life, and how this behaviour can be modified to fit him in new situations is needed today. They also demand modern social work, actual field programmes for rescuing persons from ills associated with tension, conflict and frustration, multiplying everyday in his inner and outer milieu; and finally, to strengthen his bonds of mutual help and adjustment in society. Such a need is all the greater in prisons, where administrators in generally, lack behind in paying due attention to the techniques of behaviour modification and fail in recognising and utilising the great role of social milieu for modifying human behaviour. It shows the effort to look at the problems that confront a convict through the lens of dynamic psychology, to suggest therapeutic prison handling for the reformation of offender and to develop programmes for resocialisation and rehabilitation of convicts in terms of modern social work practices.
The behaviour of an individual is influenced, in a large way, by his personal situation. The psychologists elaborate that it is his ordinal position among brothers and sisters; love and affection received from the parents and other members of the family successes and failures at school, play, work and in community interactions the degree and equality of acceptance, recognition, and or, rejection and repudiation by his companions, that shape his status, role and functioning in society. What determine the response and reaction is not the external world of events as such, but what they mean to him. The ‘stimulus value’ of persons and events is a highly subjective phenomenon, and therefore, a relative one. The individual consciously, makes a selective perception and interpretation of the environmental press. Individuals interpretation is important, because however large or well defined an economic distress or social stress be, its impact on the person depends on whether he attempts to face and challenge the issues, or chooses to give up and surrender himself to the situation.

Every person, now and then, experiences some dissatisfaction or unhappiness in his dealings with others. A normal healthy person is able to face such moments of dissatisfaction, without losing his mental equilibrium. She takes a lesson from such unpleasant occurrences or encounters, and develops a better strategy to deal with such situations in the future. While there are persons whose threshold of tolerance for frustration is so low that instead of being activated to take a lesson and do better in the future, be tries to withdraw to a lower level of primitive behaviour, which the psychologists term regression. She may close his eyes to the reality and take recourse to one or the other ‘defence mechanism’, in weaving out a pattern of response. Thus, he may be able to obtain immediate relief by the satisfaction of some uppermost urge ruling at that hour, but in the final shape of things she may loose the battle and lend himself into larger and more complex problems. Commission of crime is one such illustration.

The incidence of crime represents a clash between the demands of the person and his social perception. It is an open exhibition of disruption of the existing healthy adjustment, which the person so far had with the reality demands. The ‘person’ and ‘reality’, both are dynamic organizations, which remain in a state of constant flux of alteration and reformation. A disruption of the existing bond, calling for a new realignment, may be caused both a change in the arrangement of reality forces, and
changes in the state of the person, or partly in one and partly in the other way. The mental health approach emphasises that crime epitomises breach of social bonds between the person and the community and spotlights the arena that calls for attention and urgent repairs.

Table 1.1 ACTS AND RULES:

Legislation pertaining to the management and administration of prisons in Karnataka is scattered in different Acts and Rules as follows:

<table>
<thead>
<tr>
<th>Sl. no</th>
<th>Acts</th>
<th>Rules</th>
<th>Manual</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Karnataka Prisoners Act,1963</td>
<td>Borstal School Rules,1969</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Borstal School Act,1963</td>
<td></td>
<td></td>
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</table>

Table 1.2 Central Prisons of Karnataka State

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Type of the Jail</th>
<th>Name of the Jail</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CENTRAL PRISONS</td>
<td>BANGALORE</td>
<td>Parappana Agrahara, Bangalore-560100</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>BELGUAM</td>
<td>Hindalaga, Belgaum-591 108.</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>BELLARY</td>
<td>Bellary- 583103</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>BIJAPUR</td>
<td>Bijapur-586 107.</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>GULBARGA</td>
<td>Gulbarga-585 102.</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>MYSORE</td>
<td>Ashoka Road,- Mysuru -570 007.</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>DHRARWAD</td>
<td>Dharwad-580 008</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>TUMKUR (Women)</td>
<td>Tumkur-572101</td>
</tr>
</tbody>
</table>
Pictures of Central Prisons of Karnataka State

Tumkur Women Central Prison

Bangalore Central Prison
Karnataka State Prisons Department Head Office
Karnataka Map of Central Prisons of Karnataka