CHAPTER I

INTRODUCTION

The aim of punishment such as expiation, retribution, deterrence, reformation, prevention and rehabilitation is prevalent in one form or the other among different countries according to their culture and civilization. Punishment as a deterrent is expected to teach a lesson to the offender in order to thwart him from offending again and also to demonstrate to the potential offender the consequences of violation of the law.

When we consider the aim of punishment as deterrent, we also need to consider that the ultimate purpose is to reform the offender for making him as a good citizen. To achieve the ultimate goal of reformation it is absolutely necessary to have the materials and the machinery required for the purpose. A doctor who wants to treat a patient needs a convenient place to examine the patient, medicines and equipment and not the least the doctor himself must be a qualified and experienced person. The situation is similar here—something is wrong with the personality of the offender and in order to repair that personality or to mould it, there is need for a good environment, tools and trained personnel.

In the prison, the offender is treated like a child and he is told when to get up, when to sleep, when to eat, what to eat, what to do and what not to do which are told to the child by the parents or teachers with a view to individualise him. In short, the prisoner has to live in the pri-
It is generally agreed that punishment and treat are integrated and inseparable. However, it needs time for an offender to repent or to realise the wrong done and also for readjustment in the society. Therefore, keeping an offender for a day or two in prison serves no purpose. It needs a minimum period to reform an offender and efforts are necessary to be focused on the individual by providing him healthy education and ameliorating influences to boost up the morale. Here, again, the offender needs to be convinced about the justification of punishment before he is reformed for this; the awakening of his conscience is necessary and the acceptance of punishment by mind and heart comes with it. With proper reformatory programme, it can be achieved and thus it provides necessary frame-work for carrying out proper rehabilitation. Hence, the reformation and rehabilitation programme must include a study of the individual by means of ease work, persuading, treatment of his physical defects, re-education of personality, the removal of attitudes detrimental to organised society and inculcation of the principles of good citizenship and not the least, the reformation programme is to be designed so as to produce desirable change in the personality of the offender.

The sentences of imprisonment provide the frame-work for enforcing treatment programme. For the purpose of achieving the ultimate objective of protection of society and prevention of crime, it is necessary to evolve a hobby mean from different objectives of punishment, and
on that basis, arrive at the appropriate quantum of punishment. Punishment involves the balancing of retribution deterrence and reformation in terms not only of the court and the offender but also of the values of the society in which it takes place. So the proper punishment will have to take into account the various approaches in proper perspective and make use of one or more of them as best suited to a situation. Punishment should not be based exclusively on the nature of crime but must be based on the personality of the offender and also aim at preventing the offender from committing further crimes. The principle of individualisation of punishment is gaining importance today.

The appropriateness of confinement is to be judged by its effects on crime. Crime in absolute terms will 'of course' increase with increase in population from year to year and development of the country. The greater population, the greater will be the number of crimes. Similarly, with the industrialisation of the country, social checks available in the limited community of small places are reduced, resulting in increase in number of offences. "The challenge to effective reconstructive and rehabilitative work of courts, correctional institutions and other treatment measures clearly comes from the amount of relapse into crime as shown by the persons who have been handed by these agencies. If the programmes that offer opportunities of readjustment are neatly able to reconstruct the lives of delinquents and criminals, their
effectiveness should be indicated by the low proportion of relapses among the cases thus, handed. Since the functioning of programmes depends on the time to be spent in jail, the effect of toning down of punishment should be observable from its reflection recidivism" (see ekhabra, 1970)

As we know today, the primitive men were not aware of crime and punishment in the legalistic and bureaucratic manner. "The devil is in him and the devil must be driven away; the major purpose of punishment was to placate the Gods" (see Barhls, 1976) carter (1975) states "there were no statutory crime, no police, no court, no prison ...... prehistoric men thought of good and evil in supernatural terms. Those who acted in a manner destructive to others tended to be viewed as possessed by spirits, which were 'exercised' typically by the death or mutilation of the offender".

In France, the movement of thought had started with voltaine and montesquieu, but it was the publication in Italy in 1764 of Beccaria's Essays on crime and punishment which stirred the penal system of Europe and laid the foundations of criminal science. This potent work stated most of the principles that have come to be accepted as the basis of thought on legal punishment that the sole justifiable purpose of such punishment was the protection of society by the prevention of crime, that for this purpose the principle of uniform maximum severity, particularly capital punishment, was not only wrong but ineffective
and that milder punishments proportioned to the offences, but inflicted with promptness and certainty would be more effective in preventing crime haphazard severity (see Fox 1952), "after the Relentless efforts, for more that a century, of many crusaders of human 8 progressive Romilly in England. The Penn and other Qackers in USA the prison which were orginally conceived of as places for detention to keep offenders pending trial and ultimate punishment, in course of time Become terminy from transt points some emenities were provided, some provision to reform the convicts by the means of Hard work supplemented by education and Religious training were introduce. But, what actually developed was a regime of Imprisonment, known as the terity places of panence where both punishment and reformation were attempt at the same time". (see FENTUM 1973)

Imprisonment is the only sanction that has been devised which at the same time removes the offender from the circumstances in which his criminality was engendered, protects the community by custodial provisions adjusted to the risk that he presents, and provides opportunity for corrective treatment and training in a controlled environment (see Tappan, 1960).

The function of the prison is to keep the offender in custody and transform him into a law-abiding citizen. The prisons as we have today come into existence during the British period, and were a continuation of the British
penitentiaries. Very little money was spent by the rulers (the East India Company) on modifications or renovations in the prisons. The prisons were superintended by the then District Magistrates who bestowed little attention on its management due to their multifarious duties. Noticing the deplorable conditions of prisons, the British administration appointed a committee to find ways and means under the Chairmanship of Lord Macaulay in 1836, which recommended construction of central prisons and giving useful work to prisoners, so as to obviate monotony among them. In 1836-38, the rulers appointed another committee to spell out a solution for the high death-rate prevailing in the prisons. Another committee was set up in 1877 to find out the then existing conditions in the jails.

To give a uniform administration on an all India basis, the fourth committee was constituted in 1888-89. Again, in 1892 a committee was formed with experts like Dr. Walker and Dr. Lethbridge who proposed punishment for prison offenders. These were later incorporated in the prisons Act 1894.
LIFE TERM SENTENCES

WHOLE LIFE CONVICTS

A GENERAL VIEW

The problem of life term prisoners offers a serious challenge to all of our correctional schemes. The gravity of the problem becomes clear we find that the matter has been discussed by experts of many of the international bodies. Life-term imprisonment has been included in the work programmes of the United Nations in the social fields, since 1949, and becomes a priority project in 1958. When the ad hoc advisory committee of experts recommended the consideration of this question be included in the agenda of the second United Nation Congress on the prevention of crime and the treatment of offenders. In 1958 the United Nations European consultative group studied this problem and the information about life-term imprisonment in such countries was discussed by the working group when it met in 1959.

definitions

Many difficulties of short-term and life-term imprisonment were given cannot (Monaco), and Clare (Switzerland) suggested some definitions of life-term imprisonment, irrespective of any time limit. The former suggested that life-term sentences was imprisonment for life-term to make rehabilitation possible; and the latter suggested that it was imprisonment leaving no sufficient time to apply normal medical penal treatment (see U.N. Report 1960).

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"The purpose of deterrence had already been served during detention and trial. A few days or years". (Government of India 1972)

Reckless (1967) in his report on jail administration in India says, "legal substitute should be found for life sentences in India". So the life convicts cases would have to be sentenced to jail for one day to life imprisonment. India needs to recognise life-term sentence is more effective than other sentence for social defence.

"The practice of lightly rendering persons to prison with a life-term sentences has turned out to be a dangerous method. It gives them no training for the future, for a long time. Long sentences for the young is that they passes their whole convicts for low frequency of severe crime by jail convicts Reformation Programmes.

"Bhattacharya says about whole life sentences criminals and short-time criminals must attend Jail Reformatory programme for reform of criminals".

"Bhattacharya says about short-term determination in useless for correction". Because long-term prisoners fear from Jail. As an opportunity of reformatory training, short-term imprisonment is unless (see Bhattacharya, 1961).

Long-term imprisonment is very crucial without training. In suitable cases, for therapeutic treatment have to be regarded.

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"In a study of a few cases of short-term offenders in Gwalior District Jail, there are revealed that in all the cases of life imprisonment, the offenders belong to a sort of derelict class, many of whom were illiterate and belong to the poor economic status of society" (see Tiwari, 1979).

Now the trend has been changed and the criminals are traced out and necessary action taken against him. In India industrialisation is in progress at a very rapid rate of whole life convicts. Somebody says that short-term imprisonment is more harmful than useful. It is too short to exert any efficient and healthy influence upon prisoners. After the short imprisonment their family members and children lose respect for parents and are also released from their control so they turn to delinquency. Short term sentence is useless, it is merely harmful and cruel (see William, 1975), stated that criminals who do not need correction and supervision should be kept out of prison.

Since the prison population constitute, short, medium and long term prisoners, these handle such a short-term offender during their trial period. The life convicts are to under to the prison process such as medical admission, medical check up; classification, diagnosis; vocational training, work, recreation; leisure time activities release and other care, while short-term offenders who are sentenced to shorter periods are ultimately not get these programmes and rehabilitated.
PRESENT STUDY

In the present study, a sentence ranging from one day to 20 years has been treated as a life-term sentence. These sentences are generally awarded for felony offences. The consequences of the sentence is that life-term prisoners are subjected to many hardships.

As a result, there is danger of their becoming hard and criminals. So far no rehabilitation or correctional scheme could be devised for these but short-term offenders owing to the shortness of their stay in prison, so they are untouched by the correctional or rehabilitation.

While the aim of correction is to diagnose, treat, and restore the offender to a normal living and develop his personality, so that he many function usefully in society, it is possible in the case of long-termers.

It is a very serious problem to the prison to provide any suitable institutional programme to life-term offenders as a consequence of their long-sentences.

The purpose of the present study is to focus attention on questions such as these: what treatment to they get while in prison? So the existing institutional programme benefits them to resocialise when they come out of prison? To be more specific, the
chief objectives of the present study are:

(a) To spell out the problems faced by the convicts while they are in custody;

(b) To throw light on the careers of these offenders and to determine the extent of their rehabilitation;

(c) To find out the problems faced by the law enforcement agencies in dealing with the whole life offenders;

(d) To determine the judicial attitude towards these offenders. Assuming that life-term sentence is the only remedy among other things, and looking to the objects and results the proposed study will, it is hoped that contribute towards the—

I Development of Remedial measures and modifications in the existing traditional programmes.

II Promotion of changed attitude and approach on the part of the custodial staff.

III Evaluation of suitable alternatives to life-term sentences.

While approaching the problem of life-term sentences, it should first be observed that there is no-body agreed upon definitions of the term "LIFE-TERM", according to the dictionary meaning, life-term is insufficient period, in the present study. Life-term sentence has been determined mainly on the basis of length of imprisonment. With this perspective, the study proposed to test the following principles Hypothesis:-
I. Constructive institutional programmes exist for the life-term offenders.

II. The life-term offenders have poorly Socio-economic Background.

III. The majority of the short term offenders are recidivists.

IV. While in prison, they learned the scales and tricks of the hardest criminals.

V. The people who sentence them are either not familiar with the probation of offenders or are skeptical about the efficacy of the probation and parole system;

VI. While sentencing the offenders, the personnel Social background are not taken into consideration only the types and nature of offence.

VII. These Termers are trusted either by the prison authorities, or the police, with the results that they are intervested with any responsible work in the prison and are also harrassed by the police when they come out of prison.

VIII. A large number of life-termers can be away from the criminals habits if they are given correctional treatment in freedom.

**COVERAGE**

Keeping in view the requirements of the study. The Central Jail TIHAR has been selected. Delhi has been, for long, an a significant commercial and industrial centre, and there are also
located several defence organisations. Consequently, the population composition is characteristically heterogeneous; in the predominantly Hindi speaking population, there is found a large sprinkling of others linguistic groups. It may also be noted that the city has more foreigners, as well as people from all walks of life. These features, in turn, have influenced the decision to choose Central Jail "TIHAR", for the study. The demographic characteristics of Delhi-Cosmopolitan city are as follows:

**DEMOGRAPHY**

In the demographic studies, the population characteristics are usually given consideration (see Donald, 1966). The density of population Delhi is 178 persons Sq.Km. it has an area of 1485 Sq.Kms. Delhi as population of 6196414 persons which includes 3422550 Males and 2773864 females. The literary status of Delhi is 46.74% for males and 24.88% for females. It lies between the Institute of 28.38 N and longitude of 77.12%.

Towards covering rather disparate population characteristics (see Stephon and M.C. Carthy, 1963), and maintaining necessary confidence level (see Sjoberg and Nett, 1968), a relatively large sample of about 30% has been deemed necessary. In order to achieve efficiency in the collection of data(see Moser, 1959) and to achieve representativeness and precision (see Which, 1958).

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A multi stage stratified sampling design with probability proportionate to size (see Sheddcor and Cochran, 1968) has been decided upon. The Central Jail THAR has an average population of 2242 prisoners in a day.

Since it is to be a sample drawn from the prison population, the life prisoners have been grouped into three strata according to the nature of their offences whom passing their whole life convicts. Viz offences against person, offences against property, and offences under special and local laws. From these strata, prisoners have been randomly selected so as get the number of the above categories proportionate to size. Thus, sample comprises 23 places including work place, and blocks over hall sampling fraction of 0.354 allowed in the respect of short-termers. Pleading the mind admission and release of the samples. In order to end up with the desired sample of about 30%, care has been taken (see Table 1;01) In order to have althrough under standing of the problems. The jail selected official, and Magistrate have been also contacted to elicit their views and reaction in respect of the life convict.

**TABLE 1;01 : SHOWING THE DISTRIBUTION OF RESPOND IN THE TARGETED SAMPLE**

<table>
<thead>
<tr>
<th>Starata Dacoty</th>
<th>Type</th>
<th>Below 20 years Sex</th>
<th>21 to 40 years murder</th>
<th>41 to 60 Robbery</th>
<th>61 to all others</th>
<th>Total</th>
<th>Sampling fraction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stratum I</td>
<td>160</td>
<td>9</td>
<td>12</td>
<td>3</td>
<td>-</td>
<td>120</td>
<td>0.343</td>
</tr>
</tbody>
</table>
The individual respondents included in the samples for the present study are as follows:

**DETAILS** | **RESPONDENTS**
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Life - termers | 320
Magistrates | 037
Jail Officials | 123

TOTAL NO. OF RESPONDENTS | 480
DATA COLLECTION

In the view of the research problem, the objectives of the study and the samples, both interview technique and the questionnaire method have been preferred. It is often observed that a questionnaire suffers from several handicaps (see Sellitz, Etah, 1976).

The questionnaire does away with the respondents hesitation. Does not to face the researcher, afford his time a bring to speak out his opinion. The questionnaire has aimed at factual information and opinion. In the order to bring evidence to bear upon the Hypothesis under study, scheduled and questionnaire have been drafted at the Central Jail Gwalior, District Jail Sagar and the Judges court Sagar, Gwalior in the questionnaire. The Respondents have been not required to sign or record their names. The interview shedulement for the life-term offenders has been and translated into Hindi. Interview shedulement for Jail officials and the questionnaire for judicial officers have been in English.

The researcher contacted personally the Deputy Inspector General of Prison and the Assistant Inspector General of Prison, Delhi, and requested them for their co-operation, which has been generally helpful in getting the maximum from the respondents. Besides, the researcher also contacted personally the Registrar. This Hazari Courts, who provided the names and addresses of the judicial Officers. As many as 218 questionnaires
were sent to the judicial officers of the lower courts, district courts, hight courts and the Supreme Court. Except for 37 questionnaires, none of the addresses were either sent their questionnaire or returned the same despite repeated reminders. One of the judges of the supreme court returned the questionnaire expressing his regret for in habilitating in responding to it with a note that such filling up of questionnaires is against the rules for a sitting judge of the court. The researcher was intending to refer to some of the case files of the long-term offenders and on this matters co-operation of the High Court, Delhi was totally absent. News the less, the researcher contacted some of the Magistrates at their and residences to have the questionnaires duly filled with all the efforts only 37 responses could be obtained. The process of Dala Collection has been from the period 1st Jan., 1985 to 31st July, 1985. (See Appendices A,B and C).

The nature of this study is such that a large amount of secondary has to be collected at various Libraries. Such as those of the National Institute of Social defence, New Delhi, Institute of criminology and forensic science New Delhi, bureau of Police research and development, New Delhi, British Council Library New Delhi, American Library Delhi, and the university libraries of Sagar and Delhi.

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ANALYSIS

During of process of data collection the analysis plan has been up-dated, the code book developed earlier has been modified whenever, needed. Care has been taken to eliminates in consistencies and omissions. In valid and in applicable responses have been done away with the neumerical symbols assigned to the responses in tools have been coded, and yeilding 179 variables and life-term offenders, 55 variables on judiciary, and 66 variables on Jail Officials. They have been checked, rechecked and verified before these codes were punched on 80 column computer cards. Three card per case have been used in the case of life term offender and one each for other cases. Before processing the data, a print out was taken of print out and verified on the machine. Owing to the largeness of the data a Binary coded decimal(B.C.D) has been created on a Magnetic tape to reduce error—during the computer processing.

The report embodying the analysis is devided into seven chapters including the introduction chapter—I provides an Introduction dealing with the historical background and importance of the problem.

Chapter two is based on primary data collected from Jail Officials and the secondary data thus collected for the study.

Chapter three is mainly on the basis on primary data through interview schedule with life-term offenders.
It highlights the personal characteristics family background socio-economic set up of these offenders.

Chapter four is also based on primary data, and highlights the views and opinions of the life-termers.

Chapter five is based on the Primary and Secondary data. Thus, collected for the study and highlights the views and opinions of the judiciary about the life-term sentence.

Chapter six is based primarily on the relevant literature connected with the alternatives of life-term sentence.

Chapter seven provides an overview, conclusions and policy suggestion.

The bibliography is provided at the lists references which have been cited in the study schedules and questionnaires used for the study also presented at the end.