Chapter-3

Prison Administration in Post-Independence Era.

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CHAPTER – 3

Prison Administration in Post-Independence Era

3.1. Introductory:

Life is a unique kind of good as it is the necessary condition for the enjoyment of all other goods. Therefore every person, by and large, tends to value prisoner’s life pre-eminently and any society must place a high value on preserving it. Hence, the first and foremost objective of the criminal justice administration is to create an atmosphere of security by maintaining law and order.\(^1\)

Prison administration, which is the fourth and last wing of the criminal justice system is regulated by the Prisons Act of 1894 and Prison Manuals framed by various states. The prison administration of a country is the function of several variables pertaining to socio-economic conditions and practical considerations. The socio-economic conditions vary from country to country and have immense influence on the plans, programmes and policies of a country’s prison administration.

In any democratic society, work in prisons is a public service. Prisons are just like schools and hospitals, which should be run by the civil power with the objective of contributing to the public good. Prison authorities should have some accountability to an elected parliament and the public should regularly be informed about the state and aspirations of the prisons.\(^2\) Ministers and senior administrators should make it clear that they hold prison staff in high regard for the work they do and that the public should frequently be reminded that the prison work is an important public service.

Prisons usually cannot select their prisoners; they have to accept whoever is sent to them by the court or other legal authority. However, it is essential that staff should be carefully selected, properly trained, supervised and supported. The role of prison staff then is:

i. to treat prisoners in a manner which is decent, humane and just;

ii. to ensure that all prisoners are safe;

iii. to make sure that dangerous prisoners do not escape;
iv. to make sure that there is good order and control;

v. to provide prisoners with the opportunity to use their time in prison positively so that they will be able to resettle into society when they are released.

It requires great skill and personal integrity to carry out this work in a professional manner. Prison staff generally works in an enclosed and isolated environment, which over time can make them narrow and inflexible. Generally speaking, prison staffs are held in lower regard than other people who work in the criminal justice field, such as the police. This is often reflected in the pay of the prison staff, which in many countries is very low. As a consequence of this, it is often very difficult to recruit properly qualified staff to work in prisons.

The staff recruited in the prison departments are of the following ranks:

i. IG Prisons and Correctional Services;

ii. DIG Prisons

iii. Superintendents

iv. Assistant Superintendents

v. Jailor

vi. Assistant Jailor

vii. Warder (or guards)

In-fact, the staffing pattern of the prison department consists of four major groups; three on the administrative side, viz. the warder or guarding staff, the middle level supervisory officers and the higher level executives of the establishment and the fourth one consists of the specialists and technical men at various levels.

The internal administration in prisons is an interesting human problem, which calls for a strong sense of discipline on all sides. The success of internal administration in prisons depends largely on a healthy inter-personal relationship amongst the members of the staff and between the staff and the prisoners. Prison administration involves administering various tasks inside the prisons related to the staff, the prisons and the prisoners as well. Various tasks that are governed by the prison administrators include prison discipline, prison labour, prison education, prison hygiene, health of prisoners, and to bring about modernization in prisons.
3.2. Discipline in Prisons

Discipline is the most vital element on which hangs practically everything else connected with the internal administration of the prisons, including all the activities designed for the treatment, reformation and rehabilitation of the prisoners. Effective discipline among the inmates is possible only if there is exemplary discipline among all the levels of the staff of prison establishment. The concept of prison discipline is based on the objectives of imprisonment. Prison discipline has undergone changes from deterrence in the past to rehabilitation in the present context of imprisonment. It has to be maintained with fairness and firmness. It has to cover every aspect of life in the prison. A punishment for indiscipline has to be balanced in relation to the gravity of violation. A positive approach towards prison discipline involves not only a strict adherence to the rules and regulations but also a fair, just and equitable handling of prisoners on the part of the staff.

Though discipline and order shall be maintained with firmness, however, there shall be no more restrictions than required for safe custody and well-ordered community life. The tone of discipline should be adjusted to the requirements of each individual inmate. At the same time, prison discipline should also envisage a tidy ambience in the premises, which is conducive to creative work in the field of culture, literacy and vocational training. There should be three stages for the enforcement of ordinary rules of discipline in prisons as: (i) persuasion, (ii) warning or admonition, and (iii) punishment. In the first instance, when prison rules are violated by a prisoner, jail administrators should try to make that prisoner understand the necessity of observing such rules. They should also be extended their sincerest cooperation so that the prisoner can adjust himself to the routine and purpose of the institution. In case of the violation of these prison rules for the second consecutive time, the prisoner should be given another chance to change his attitude. But at this stage, he must be given formal warning by the jail authority. Though punishment should be regarded as a necessary evil and a measure of the last resort, yet it should be balanced in relation to the gravity of the violation.

Prison discipline should be supported and given human face by:

i. Sympathetic and patent understanding of the predicaments of the inmates, with follow-up guidance and counseling, which will act as an emotional
Counseling will also act as a preventive measure against despondency in their psyche.

ii. Introducing a system of incentives and rewards which will be accorded to the deserving inmates making rapid progress on the path of correction.

iii. Exemplary conduct on the part of the Superintendent, Deputy Superintendent and other prison personnel will go a long way to encourage prisoners to return to the society at large and make it a better place for posterity.

It is obviously true to say that an establishment, which houses law-breakers and seeks to reform them naturally have to rely heavily on an atmosphere of discipline in order for the effectiveness of its operation. However, prisoners found violating the rules and regulations of the jail discipline can be dealt with by the Superintendent of the jail and be awarded punishments as change of labour, loss of privileges, separate confinement and so on.

Before any punishment is given, a formal warning is personally addressed to the prisoner by the Superintendent, the warning not being treated as punishment. In fact, no prisoner may be punished unless he has been informed of the offence alleged against him and given a proper opportunity of pressing his defence. Besides, no prisoner is to be punished twice for the same offence, i.e. the repeating of the offence.

In-fact, disciplinary problems in prisons, as recommended by Mulla Commission, should be tackled with fairness, politeness and firmness. Besides, discipline in prisons should be firm and positive so that treatment programmes may be carried out uninterruptedly and effectively.

3.3. Labour in Prisons:

Labour in prisons constitutes an important part towards the reformation and rehabilitation of the prisoners. Prison labour is a form of un-free labour used in both past as well as in present as an additional form of punishment beyond imprisonment alone. The concept of prisons labour was popularized in the early 19th century following the introduction of New York’s now famous “get-touch state prison”, Auburn, where inmates worked together in workshops, ate together in dining halls but slept separately at night.
When modern prison system was started in India, there was a notion that prisoners should be employed on hard inhuman labour, with no remuneration to make the imprisonment deterrent. In the light of this, prison labour in India has always been viewed as a mode of punishment. Lord Macaulay was of the opinion that:

i. Prison labour should not be viewed as an ordinary labour in workshop, but should be viewed from the point of producing deterrent effect.

ii. Prison labour should not be viewed from the production point of view to meet the expenses of jail administration.

iii. Prison labour should not be viewed as a training ground to prepare more skilled workers in competition to outside labour.

However, the Indian Jails Committee of 1864 was also of the opinion that prison labour should be viewed as a principle means of enforcing discipline. The Committee proposed three types of prison labour – hard labour, medium labour and light labour – and the proportion of the allotment of labour to a prisoner should be regulated according to the length of his sentence. The logic behind such classification of prison labour into hard, medium and light was to make prison labour punitive and the indulgence of prisoners into such labour. The indulgence of prisoners into labour work was aimed only at the maintenance of prison discipline.

The notion about the prison labour to make the imprisonment deterrent continued till the closing years of nineteenth century when it was agreed upon that reformation and not retribution alone should be the aim of imprisonment and that the prisoners should be put on such forms of labour as will excite his interest and lead him to exert his powers willingly. Thus again, there was a notion of change in the prison labour from making imprisonment deterrent through hard labour towards the utilization of prison labour for the profits of the State. This profit through prison labour remained as a predominant motive till the Indian Jails Committee of 1919 submitted its report in 1920. There was again a change in the motive of prison labour due to the recommendations of the Indian Jails Committee of 1919-20. As recommended by the Indian Jails Committee, “In the selection of prison labour, the main object to be kept in view should be the reformation of the criminal.”

A prison labour can be said to be a successful means of preparing a criminal to return to society as a good citizen if it can teach the habits of an industry and trade.
which they might follow after their release. However, the object of labour in prisons should not only be the reformation of prisoners but also rehabilitation. Dr. Max Grunhut has put in this regard that “the object of prison labour in a rehabilitative programme is two-fold: ‘training for work’ and ‘training by work’” 23. In the light of this, the prison is at the same time a factory and a school24.

However, it is to be noted here that the question of prison labour to be rehabilitative depends largely on the type of society in which the prisoners are to be rehabilitated. If the structure of the outside society is such that there is a huge unemployment or there are no means of overcoming the problem of unemployment by the payment of unemployment allowance or if there is no security of right to work, then it would be very difficult to make the prison labour rehabilitative. For this, there is a need to improve the social conditions along-with the improvement in the techniques of prison labour so as to make the prison labour rehabilitative.

Along-with the labour in the prisons for the reformation and rehabilitation of prisoners, there should be the system of wages to the prisoners for their labour. The subject of wages to the prisoners is one of the most difficult phases of prison labour. Since prison labour being a legal punishment which implies deprivation of liberty, it is, as a rule, the work assigned rather than voluntarily undertaken and thus by law, it is a forced labour. Although being called as forced labour, however, prisoners too are being paid for the labour they do in the prisons. There are various reasons for paying wages to prisoners in order to increase their efficiency and interest in the work and in order to make provisions for the support of the dependents; the other reason being to compensate the victim of their crime and to secure natural justice. In-fact, “wage payment creates friendly attitudes, develops the feeling that one is a useful worker and permits the accumulation of savings for the future”25.

There is a wide difference in the payment of wages to prisoners and outside labour. At the same time, there is also a wide difference in the payment of wages to prisoners in various States and Union Territories of India. As such, the highest payment to the prisoners for their labour in paid in Tamil Nadu. In Tamil Nadu, there are two categories of prison labour i.e. skilled and unskilled. The skilled labourers are paid 40 to 45 rupees while as the unskilled labourers are paid 35 to 40 rupees. So far the payment of wages to prisoners in Jammu and Kashmir concerned, they are paid only 24 rupees as per the revised Jail Manual of the State. Out of this amount, 8
rupees are paid towards Government; 8 rupees are credited into the Personal Bank Account of the prisoners and the remaining 8 rupees are credited into his Personal Pay Account.

In case of outside world, labour is sold to the employer in lieu of wages, which is not the case in respect of prison labour. Prison labour is compulsory as a part and parcel of punishment. But humanitarian consideration demands the payment of wages. Secondly, when the notion of imprisonment has changed to rehabilitation, it is needless to add that the payment of wages for prison labour is definitely an incentive for good work and ultimately helps in the rehabilitation. It is also the need of prisoners’ families. However, the fact that prisoner is provided free shelter, food and clothes may not come in the way of low rate of payment for prison labour. In this regard, Dr. Glaser writes, “If prison pay is to be a greater incentive to rehabilitative effort in prison, not only should every inmate be able to earn pay, but the pay should not be provided at a uniform rate to all inmates, for that would eliminate the monetary advantage in improvement”. At the same time, the time duration for the prisoners to do labour work inside the prisons has also been fixed as a result of the recommendations of Pakwasa Committee which was constituted soon after the independence in 1949.

In-fact, an increase in the rate of payment of wages to prisoners raises the question of the problem of fixing payment of wages to free labour. The society will not approve this idea of paying more wages to prisoners than for the free labour or make prison life more favourable than the life outside. The solution here is not to keep the prison labour underpaid but with the increase in the payment of wages, the minimum requirements of the outside people should also be taken into consideration. But the efficiency of prison labour may not be compared with outside labour as the conditions of working and aims are not different.

3.4. Prison Education and Religion:

Education is recognized as one of the basic human needs and a human right. It is so also for the prison inmates. According to Article 26 of the Universal Declaration of Human Rights, “Everyone has the right to education”. In the recent times, there has been an increasing amount of interest internationally in prison education and education to the inmates after their release from the prisons. Many people who are
in prison have poor standards of education. A significant proportion of prison inmates lack their basic skills of reading and writing. This lack of education might be the reason for their entry into prisons and it might have played a part in their committing a crime.

Education is a process of adjustment to social environment. It is the heart and soul of the correctional process, which brings about “sublimation of the anti-social instinct in a criminal” by slowly moulding his knowledge, character and behaviour. It helps the offender to ultimately resettle in society. Centuries of bitter experience tells that society cannot be adequately protected only by inflicting retributory and deterrent punishments on an offender against it. It is, therefore, essential that prisons should seriously provide for the training and education of every criminal and endeavour seriously to develop in him a sense of self-confidence and personal responsibility.

The objective behind educational programmes in prisons should be to channelize prisoners’ energies into constructive and creative pursuits, instilling in them a sense of confidence, developing social responsibility and consciousness, fostering them the habits and attitudes necessary for adjusting in the community, creating an awareness of the futility of leading a criminal life and uplifting them morally, mentally and socially. A comprehensive educational programme in a prison should aim at the following:

i. providing opportunities to the illiterate inmates to achieve at least a certain minimum level of education;

ii. extending facilities to literate inmates to advance their educational standards;

iii. developing a better understanding of the duties and obligations of a citizen;

iv. improving the attitude of inmates towards society and fostering a desire to live as good citizens;

v. assisting the development of good social and ethical habits and attitudes so that the inmates may properly adjust their lives in the community;
vi. helping them to improve their personalities and ability for social adjustment through individual and group guidance in social living;

vii. developing a point of view which will make the futility of a criminal way of life apparent to the inmates, making them aware of the advantages of a law-abiding life;

viii. stimulating sustained interest and effort towards self-improvements and

ix. developing social consciousness and a sense of social responsibility\textsuperscript{29}.

In response to the functions of prison education, a question is bound to arise here as to what type of education should be given to prisoners, who should teach them and whether the aims are achieved in accordance with the present social set-up?

The course of education and its methods must depend on the age of prisoner, his or her personal status, occupation, past records and period of imprisonment. For instance, the education of a juvenile delinquent is bound to be different from that of a hardened criminal. Similarly, there would be some differences in the provision of educational programmes for short-term prisoners compared to long-term prisoners. The prison population being diverse in terms of wide variations of intelligence and interests, it is necessary “to organize different educational programmes to suit the needs of different inmate groups”\textsuperscript{30}. While formulating such programmes, the prison administrators are required to pay due attention to financial constraints.

In-fact, the term education is being used in a very broad sense in contemporary correctional programmes. It includes “all intentional efforts to direct inmates away from crime by means of non-academic as well as academic measures”\textsuperscript{31}. From this point of view, education of prisoners is almost synonymous with the treatment of prisoners. This conception of prison education has been more vividly expressed in the New York State Correctional Law as:

“\textit{The objective of prison education in its broadest sense should be the socialization of the inmates through varied impressional and expressional activities, with emphasis on individual inmate needs. The objective of this programme shall be the return of these inmates to society with a more wholesome attitude towards living, with a desire to conduct themselves as good citizens and with the skill and knowledge, which will give them a reasonable chance to maintain themselves and their dependents through honest labour. To this end, each prisoner shall be given a}”

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programme of education which seems most likely to further the process of socialization and rehabilitation...\textsuperscript{32}"

For jail purposes, education has been broadly divided into two categories: general and vocational. The purpose of general education is the removal of illiteracy and the creation of a sense of social responsibility. At the same time, the vocational education to prisoners helps to get themselves involved in various jobs after their release from the prison. Through vocational education, the prisoners are inherited with the skills and knowledge about various types of occupations they perform in prisons as discussed earlier in this chapter.

The Model Prison Manual, has, in this regard, suggested the provision of following facilities which may be given to prisoners:

i. Books in the library should cater to the needs of different educational standards, satisfaction of intellectual needs and development of knowledge of the inmates;

ii. The prison library shall be properly equipped with books, magazines and newspapers. These shall be issued to the prisoners so that they are encouraged to develop reading habits;

iii. A librarian should be employed for the management of books and other reading material. The librarian should arrange for and make available books on various subjects for satisfying the needs of prisoners;

iv. Donation of books by NGO’s should be encouraged and welcomed.

v. Public and government schools should be encouraged to adopt the educational programmes being run inside the prison for prisoners\textsuperscript{33}.

Prison education is sometimes carried out within the prison jurisdiction itself and sometimes is provided by outside bodies. An example of such bodies is IGNOU (Indira Gandhi National Open University). Inmates in our country are now able to access free distance education according to their own choice. IGNOU in the last quarter of 2009 has decided not to charge any fee from prisoners while offering them courses. According to the registrar of IGNOU, in a notice sent to all its regional directors, heads of schools, divisions and centres, “all jail inmates in the country will now be able to access free and quality education according to their choice. This is an
opportunity offered to them, to return to the mainstream of life with quality education and future development both morally and vocationally". He further said that the jail inmates will not be required to pay even the examination and late fees. They can enrol at anytime of the year, appear as and when they are ready for taking their examinations and get certificates\textsuperscript{34}. A detailed account of the State/Union Territory-wise educational facilities provided to prisoners is given in table 3.1.

Table 3.1.

<table>
<thead>
<tr>
<th>S.No.</th>
<th>State/UT</th>
<th>No. of prisoners benefited by</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Elementary education</td>
<td>Adult Education</td>
</tr>
<tr>
<td>1</td>
<td>Andhra Pradesh</td>
<td>5570</td>
<td>25587</td>
</tr>
<tr>
<td>2</td>
<td>Arunachal Pradesh*</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>3</td>
<td>Assam</td>
<td>344</td>
<td>1699</td>
</tr>
<tr>
<td>4</td>
<td>Bihar</td>
<td>103</td>
<td>28</td>
</tr>
<tr>
<td>5</td>
<td>Chhattisgarh</td>
<td>853</td>
<td>484</td>
</tr>
<tr>
<td>6</td>
<td>Goa</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7</td>
<td>Gujarat</td>
<td>2017</td>
<td>280</td>
</tr>
<tr>
<td>8</td>
<td>Haryana</td>
<td>82</td>
<td>426</td>
</tr>
<tr>
<td>9</td>
<td>Himachal Pradesh</td>
<td>18</td>
<td>4</td>
</tr>
<tr>
<td>10</td>
<td>Jammu and Kashmir</td>
<td>333</td>
<td>132</td>
</tr>
<tr>
<td>11</td>
<td>Jharkhand</td>
<td>1273</td>
<td>3215</td>
</tr>
<tr>
<td>12</td>
<td>Karnataka</td>
<td>633</td>
<td>798</td>
</tr>
<tr>
<td>13</td>
<td>Kerela</td>
<td>30</td>
<td>15</td>
</tr>
<tr>
<td>14</td>
<td>Madhya Pradesh</td>
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<td>15</td>
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<td>396</td>
<td>2722</td>
</tr>
<tr>
<td>16</td>
<td>Manipur</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>17</td>
<td>Meghalaya</td>
<td>0</td>
<td>15</td>
</tr>
<tr>
<td>18</td>
<td>Mizoram</td>
<td>0</td>
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</tr>
<tr>
<td>19</td>
<td>Nagaland</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>20</td>
<td>Orissa</td>
<td>394</td>
<td>648</td>
</tr>
<tr>
<td>21</td>
<td>Punjab</td>
<td>291</td>
<td>183</td>
</tr>
<tr>
<td>22</td>
<td>Rajasthan</td>
<td>308</td>
<td>437</td>
</tr>
</tbody>
</table>
The above table 3.1 shows that the number of prisoners who have been provided elementary education in the prisons throughout the country score 29107 in number; adult education has been provided to 60029 inmates; 2564 prisoners has been provided with higher education; a total of 2778 prisoners got benefited from computer courses in the prisons across the country. Taking into consideration the State of Jammu and Kashmir, we see, from table 3.1, that the number of inmates who have received elementary education are 333 in number; 132 inmates have received adult education; 43 got benefited from higher education and the number of inmates who have undergone computer courses score 25 in number. Though the overall beneficiaries of education score 94478 in number but for J&K, the score of the beneficiaries of education remained only 533 in number.

In-fact, education is the base of modern correctional process, which not only brings about sublimation of the anti-social instinct in a criminal but also helps him in his ultimate resettlement in society.

**Prisoners’ Religion:**

Religion plays a vital role in changing the mindset of the prisoners especially those who are hardcore criminals. There are various categories of prisoners in the prisons...
which has so far been discussed in the previous chapters, however, on the basis of the faith of prisoners, there are different prisoners following different religions. These prisoners are allowed to practice their religion, obtain and keep written religious materials, see or communicate with a religious leader, and obey the rules of their religion that do not however endanger the order and security in the prison. The prisoners should be given equal treatment regardless of the circumstances of their faith. They should not be denied permission to exercise their religious beliefs. This concern with equal opportunities lies in the heart of debates about social justice. The sense that individuals or groups may be systematically prevented from obtaining goods or services to which they have a right leads to a sense of injustice. James A. Beckford writes, “there is no justice in arrangements that exclude entire categories of people from their entitlements”\textsuperscript{35}. Access to such goods as education, health-care, religion, and so on is often central to philosophical and legal discussions of equal opportunities. The sentiments of religion among the prisoners play a key role in their reformation since no religion teaches criminality to its followers. There is a deeply held belief among many criminologists that religion plays a profound and necessary role in the creation and maintenance of a moral and law-abiding community. Indeed this kind of belief in the social effects of religious practice has inspired a great deal of religiously motivated social action aimed at rehabilitating the prisoners.

All Religious and National festivals are celebrated by one and all inside the prisons. On Republic Day and Independence Day, National Flag is hoisted in all the prisons. All religious festivals like Holi, Diwali, Id, Guru Parv, X-mas etc. are celebrated by one and all. On Raksha Bandhan Day, sisters or other related sisters are allowed to meet the inmates and tie Rakhies. Sweets are prepared inside the prisons and sold to the visitors. This is a big occasion which helps the jail administration to convey to the prisoners that "We Care"\textsuperscript{36}.

The Indian prisoners are not so well catered for with regard to their religion. The Moslem and the Hindu-and the various other denominations of India-have simply got to bid farewell to their religion when they enter the prisons\textsuperscript{37}. A Hindu or a Moslem, in his conception of God and worship, is by nature very fervent and intense- and therefore every reasonable facility ought to be afforded to him with a view of giving him a chance to be religious during his sojourn in the jail.

The Indian Constitution through article 25(1) speaks of ‘the freedom of religion’. It provided: "Subject to public order, morality and health and to the other provisions of
this part, all persons are equally entitled to freedom of conscience and the right, freely to profess, practice and propagate religion”. Prisoners are human beings and so they neither lose their citizenship nor other rights which are not covered and prohibited by the prison rules. They can exercise and profess any faith or religion even behind the bars. It is the duty of the prison authorities to respect the religious beliefs of the prisoners. An international declaration states: “If the institution contains a sufficient number of the prisoners of the same religion, a qualified representative of that religion should be appointed or approved. If the number of prisoners justified it and conditions permit, the arrangement should be made on full time basis”. “So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance”\textsuperscript{38}. It is submitted that least consideration is given to the religious beliefs of the prisoners in India. The practical utility of this right has not been realized by the authorities who administer the prisons.

As per the UN Standard Minimum Rules for the Treatment of Prisoners, if the institution of prison contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be made on full-time basis.

3.5. Prison Hygiene and Health of Prisoners:

Maintaining hygiene and provisions for the health of prisoners are of vital importance on the ground that correctional institutions accommodate a large number of inmates and manage them. Probably, bad hygiene risks spreading diseases rapidly among inmates, which may result in their deaths. Thus, good hygiene and health-care are the fundamental pre-requisites to be addressed by prison authorities in order that inmates spend their sound lives in prisons\textsuperscript{39}.

Those who are lodged in prisons retain their fundamental right to enjoy good health. Good health is important to everyone. It affects how people behave and their ability to function as members of the community. It has a particular significance in the closed community of a prison. By its nature, the condition of imprisonment can have a damaging effect on both the physical and mental well-being of prisoners. There is a notion that prisoners should not leave prison in a worse condition than they were when they were imprisoned. An adequate care of prisoners’ health will not only
require provision for medical aid but various other facilities in regard to food, clothing, sanitation and so on.

Food is the first essential element for life and existence of a human being. Therefore, it is one of the most basic obligations on the part of the prison administrators to provide prisoners with sufficient food and drink to ensure that the prisoners do not suffer from hunger or any illness associated with under-nourishment. Meals should be provided at regularly spaced intervals within each 24 hours period. Arrangements should be made for prisoners to eat their meals in circumstances that are appropriate. “The Deputy Superintendent or Assistant Superintendent in-charge of ration stores and the Medical Officer shall survey all articles for the consumption of prisoners from suppliers or jail gardens⁴⁰.”

The Jail Manual of J&K State (2000) suggested that there shall be two scales of diet: one for labouring prisoners and the other for non-labouring prisoners. “The diet of any individual prisoners may, on medical grounds, be modified on the recommendation of the Medical Officer but the diet of any section or group of prisoners shall not be changed without the previous sanction of the Inspector General except in case of emergency when the Medical Officer may change the same⁴¹.”

Clothing and bedding is the second necessary requirement of prisoners which the prison administration is bound to supply to the prisoners. The State Jail Manuals prescribe the scales of clothing for convicts. The superior class and under-trial prisoners are allowed to wear their own clothes. The State Jail Manual suggested that Inspector General shall with the previous sanction of the government, fix the scale of clothing and bedding and other necessaries of equipment, to be provided in respect of prisoners and may, with the like, sanction from time to time:

i. vary the scale of clothing and bedding generally or that prescribed in respect of prisoners of any class;

ii. prescribe a special scale in respect of the prisoners confined in any jail, or in the jails situated within any specified local area;

iii. prescribe a special scale in respect of any period or periods of time or during any session of the year and;

iv. vary the shape, size, material or quality of any article prescribed in any scale of clothing or bedding⁴².
As such following scales of clothing, bedding and other essentials are prescribed for convicts by the State Jail Manual:

**i. Bedding Items for both male and female prisoners:**

- Barrack blanket: 6 (Six).
- Bed-sheets: 2 (Two).

**ii. Clothing (for Men):**

- Shirts: 2 (Two) (for 6 months).
- Trousers: 2 (Two).
- Caps: 2 (Two).
- Towel: 2 (Two).
- Pheran: 1 (One) (to be replaced after two years) in jails located in winter zones.

**iii. Clothing (for Women):**

- Saries/Salwar-Kameez: 2 (Two).
- Peticoats/Blouses: 2 (Two).
- Caps: 2 (Two).
- Towel: 2 (Two).
- Pheran: 1 (One) (to be replaced after two years) in jails located in winter zones; sanitary pads are also provided to women prisoners as may be prescribed.

Besides these, all prisoners should be issued with suitable footwear.

Sanitary arrangements in most of the jails are extremely unsatisfactory. In regard to the sanitary arrangements, All India Committee on Jail Reforms (1980-83) has observed that flush latrines are available in a very few prisons. In most of the prisons, open basket-type latrines are still in use. Proper ratio of latrines to prisoners is not being maintained. Latrine and urinal facilities in barracks/dormitories for use at night are very inadequate. As a result, they over-flow during the night. In most of the
prisons, latrines have not been provided in cells; only pots are kept there for answering the calls of nature. A perpetual stinking smell pervades the atmosphere of most of the prisons. For satisfactory sanitary arrangement in jails, the Committee laid down the following guidelines:

i. The ratio of latrines to prisoners should be 1:6.

ii. The system of open basket-type latrines should be discontinued and the system of carrying night soil as head-loads should be stopped forthwith.

iii. Flush/septic latrines should be provided in every barrack and cell and;

iv. Adequate number of separate urinals should also be provided⁴⁵.  

As suggested by J&K Jail Manual⁴⁶, every prisoner shall be required to cover his excreta with scoopful of powdered dry earth of which a sufficient quantity shall be provided. No water shall be allowed inside a latrine but water for personal ablution and a place for washing shall be provided outside, close to the latrines. Soap should be issued to the prisoners for washing their hands after ablution. Besides, all prisoners should be required to bath as frequently as necessary. In the temperate climate, they should be encouraged to have daily baths unless medically exempted. In the hot climate, facilities should be provided for the labouring prisoners to have a bath in the afternoon as well.

In-fact, to look after prisoners’ health, is one of the fundamental duties of prison administration. Prisoners are also a part of the larger mainstream of society who have transformed into criminals, yet they need to be tackled with intense care so as to re-adjust them and rehabilitate them again in the wider society as a good citizen.

3.6. After-care and Rehabilitation:

Richard J. Gordon⁴⁷ has rightly put forth that: “A person who is committed to prison must lead a productive life and not be a burden to the state while in the process of rehabilitation and reformation into a law-abiding and responsible citizen”.

Before the beginning of the 20th century, very little was done in India to help the released prisoners to start a new and honest life⁴⁸. But after the advent of freedom to India, various committees and commissions stressed on the life of prisoners after their release from the prisons. Various suggestions and recommendations have so far been put forth from time to time by these committees regarding the after-care and
After-care service is based on an approach of help, service, guidance, counselling and protection. It is a helping process, a service programme and a constructive vigilance over a particular condition of the individual which had handicapped him. It is the bridge which can carry him from the artificial and restricted environment of institutional custody, from doubts and difficulties, hesitations and handicaps to satisfactory citizenship, re-settlement and to ultimate rehabilitation in the free community.

After-care service to prisoners forms an integral part of the correctional work. The basic objects of after-care services are:

i. to extend help, guidance, counselling, support and protection to all the released prisoners wherever necessary;

ii. to help a released person to overcome his mental, social and economic difficulties;

iii. to help in the removal of any social stigma that may have been attached to the inmate or his family because of incarceration;

iv. to impress upon the individual the need to adjust his habit, attitude, approaches and value schemes on a rational appreciation of social responsibilities and obligations and also of requirements of community living;

v. to help the individual in making satisfactory re-adjustment with his family, neighbourhood, work-group and community;

vi. to adjust the individual in functioning as a self-dependent and self-reliant socially useful citizen;

vii. to assist in the process of individual’s physical, mental, vocational, economic, social and attitudinal post-release readjustment and ultimate rehabilitation;

viii. to complete, in all respects, the process of inmates’ final re-adjustment, resettlement and rehabilitation in the free community.

Keeping in view the above objects of the after-care services, there should be full coordination between the correctional services and the after-care services. The moment prisoner is lodged into the four walls of the prison building, consideration
should be given to his post-release needs and he should be encouraged and assisted to maintain or establish such relations with the persons or agencies outside the institution that may promote the best interests of his family and his own social rehabilitation. The Jammu and Kashmir Jail Manual\textsuperscript{51} has suggested following matters, which need to be kept in view while planning after-care help to released prisoners:

i. Subsistence money to cover initial expenditure after release till such time as the released person reaches his family or obtains employment;

ii. Provision of food;

iii. Temporary accommodation till housing arrangements are made;

iv. Assistance in getting employment;

v. Liaison with and assistance to prisoners’ family during the period when he is serving the sentence;

vi. Help in maintaining continuity in relationship with family/neighbours/employers/community, etc.;

vii. Guidance in getting married and setting up a home and re-settling in life.

The after-care plan should be subject to such changes as would be found necessary by the after-care service officer. The welfare and after-care officer should intensify his work during the pre-release period. With the gradual awareness of this social responsibility, the basis of punishment, which was formerly retributive and deterrent in nature, has now been accepted as reformative and rehabilitative.

3.7. Prison Visiting System:

One of the main objectives of incarceration right from the inception of this concept in a sovereign state is to curtail the freedom of a person once he is found to have violated the established law of land. Prisons grew to be the places of low visibility where inhuman and even cruel conditions had always prevailed. There has always been a possibility of the infliction of injury and injustice on the inmates who are always lashed in these closed institutions.

Since prisoners are totally under the control and supervision of the prison staff for almost all their basic needs, the potential for human rights violations increases
tremendously. At the same time, the practice of locating prisons outside the city-limits closes them to public participation and scrutiny. This perpetuates an atmosphere of secrecy where corruption and violence can be breed in the absence of transparency. In order to improve the condition of prisons and to ensure that the prisoners’ rights are not violated, it is important to establish a system through which prison conditions and the behaviour of staff can be constantly monitored. One such mechanism is that of the prison visiting system where people from the outside community are appointed by governments to go into the prisons and monitor the situation there.

The plan of appointing persons – official and non-official – to serve as visitors to jails seems to us to form a very valuable part of the Indian System of Jail Administration. In the first place, it ensures the existence of a body of free and unbiased observers, whose visits serve as a guarantee to the Government and to the public that the rules of the Prisons Act and Prison Manuals of different states are duly observed and that abuses would be speedily brought to light. In this respect, the Indian System is superior to that followed in other countries where the visitors became a part of the prison organization, with definite powers and duties, and so became more or less identified with the prison administration. In the second place, the existence of non-official visitors is specially valuable as supplying a training ground where members of the public can obtain an insight into jail problems and learn to take an interest in prisons and prisoners. It is of great importance to create such an interest in the public mind and the appointment of non-officials is one of the best methods of promoting this end.\(^{52}\)

Usually, the visitors of jails shall be:

1. either ex-officio officials;
2. or non-officials appointed by name.\(^{53}\)

The State Government shall constitute a Board of Visitors comprising official and non-official members at District and Sub-Divisional level. The District Judge is the Chairman of the Board of Visitors at District level and Sub-Divisional Magistrate at the Sub-Divisional level. The Board of Visitors, as suggested by Model Prison Manual India – 2003, shall meet in the office of the Superintendent of Prisons at least
once in every quarter. The Board of Visitors comprise the following official members:

i. Commissioner of the Division,

ii. District and Sessions Judge,

iii. District Magistrate,

iv. Sub-divisional Magistrate,

v. Deputy Inspector General of Police,

vi. District Superintendent of Police,

vii. Director Social Welfare Department.

The Commissioner and Session Judges shall visit the jails at their head quarters once every six months. However when they are on tour to some other districts of their division, they can visit the jails there also. As such, “District and Sub-Divisional Magistrates or Magistrates subordinate to them and appointed by them in this behalf shall visit the jails in their jurisdiction once every quarter”.

Among the non-officials members, the Board of Visitors comprise the following:

i. Three members of the legislative assembly of the state of which one should be a woman,

ii. A nominee of the State Commission for Women,

iii. Two social workers of the District/Sub-Division of whom one shall be a woman.

During visits to prisons, a visitor (the member of the Board of Visitors) shall enjoy the right to converse secretly and separately with any prisoner who is willing to talk to the visitor. However, such separate interaction between a visitor and a prisoner shall be held in a place within the prison within the sight of a prison officer. The visitor, immediately after such conversation with a prisoner, shall inform the chairman of the Board in writing about what transpired in the conversation with the prisoner. The chairman shall take up the matter with the Superintendent of Prisons if he thinks it necessary.
Every visitor should have, as suggested by Jammu and Kashmir Jail manual 2000, the power to call for to inspect any book or other record in the jail unless the Superintendent declines on the ground that its production is undesirable. The Board of Visitors, which comprise both official and non-official members, at every visit shall:

i. Inspect the barracks, cells, wards, work-shed and other buildings of the jail generally and cooked food;

ii. Ascertain whether considerations of health, cleanliness and security are attended to, whether proper management and discipline are maintained in every respect and whether any prisoner is illegally detained or is detained for an undue length of time while awaiting trial;

iii. Examine jail registers and records;

iv. Hear, attend to all representations and petitions made, by or on behalf of prisoners and;

v. Direct, if deemed advisable, that any such representations or petitions be forwarded to government.

For all central and district jails where female prisoners are confined, the All India Committee on jail Reforms 1919-20 has recommended that lady visitors should be appointed. Not only do women notice small matters that escape men’s notice but female prisoners will confide matters to women which they will not tell to male visitors. Lady visitors have the same powers and duties as that of the male visitors except that their functions shall extend only to the female prisoners and female wards and that they shall have nothing to do with the male portion of the jail.

In-fact, visiting prisons is an important function on the part of the prison administration to make an insight into the overall functioning of the system at various periods of time. Besides the visit of the prisons by the Board of Visitors, there is yet another type of visit to prisoners from their spouses and this type of visit is called as conjugal visit. A conjugal visit is a scheduled extended visit during which an inmate of a prison is permitted to spend several hours or days in private, usually with legal spouse. Conjugal visit is defined as; “A visit by a person to his or her institutional spouse (for example, a prison inmate) during which privacy is provided to the couple, usually to permit them to engage in sexual relations” (Webster’s Dictionary).
Most of the couples who prefer such visits want complete privacy area where they can perform their satisfactory sexual intercourse process without any disturbance from outside. Moreover, they also want to realise the actual prison life in which person is completely cut-off from outside world and he is bound to oblige rules of the prison. Such visits not only provide privacy to couples but also motivate them to obey strict rules and regulations of prison life that also help them in their routine life. If they fail to obey the rules of the prison, they will disqualify and cannot continue their visits in the future. This incentive brings a dramatic change in their life and people start avoiding violations and illegal affairs and they live a happy and healthy life with their spouse and family. These visits are made in cabin in which a person feels that he is struck in a tight boundary and cannot take freedom. These visits have so far been adopted by different countries like Australia, Brazil, Canada, France, Mexico, Saudi Arabia, USA, UK, etc. The system of conjugal visitation in our prisons has not so far been adopted and put into practice, though it has been suggested earlier by some Indian criminologists yet they have been criticized on certain grounds.

Mridul Srivastava maintained that sex behind bars is an open secret. Srivastava studied 1000 married male prisoners in Jails in Lucknow and New Delhi, of whom eighty two percent said they had sex or attempted to have sex with other male inmates. He further found in his study that inmates aged 19 to 26 were sometimes forced into sex by older men. Srivastava has maintained in his report that prisoners were permitted conjugal visits under the British Colonial Rule, which ended in 1947 after India gained independence from the British. Although Srivastava recommended that the system of conjugal visits should be introduced in the Indian prisons, however, he was criticized by S.P. Singh, one of the Senior Officials at Lucknow Jail, on the ground that “If we allow meetings between married convicts and their wives in isolation, unmarried prisoners might ask for call girls. Jails are an institution to reform prisoners, not to brothel”.

In order to prevent the inmates from being caught up by the STD’s (Sexually Transmitted Diseases) like HIV/AIDS, there is a need to introduce the system of conjugal visits in the jails regardless of the circumstances, as it has been witnessed that most of the prisoners in Indian jails suffer from HIV/AIDS and to reduce this risk through the implementation of the conjugal visits.
3.8. Modernization of Prisons:

As has been mentioned earlier in previous chapters, prison is a State Subject under List II of the Seventh Schedule to the Constitution of India. The management and administration of prisons falls exclusively in the domain of the State Governments and is governed by the Prisons Act of 1894 and the Prison Manuals of the respective State Governments. Thus, States have the primary role, responsibility and authority to change the current prison laws, rules and regulations. Central Government has been providing financial assistance to the State Governments in this important area of criminal justice system (CJS) since 1987. During 1987-92, an amount of Rs. 45 crore for all states put together was released under the non-plan scheme of the modernization of prison administration.

In its report, the Seventh Finance Commission laid down the requirements of the modernization of prisons and correctional services for the first time. Thereafter, Government of India has constituted an “All India Group on Prison Administration: Security and Discipline” in July 1986 under the Chairmanship of Shri R. K. Kapoor. The Committee emphasized the need to upgrade the infra-structure of prisons all over the country. Consequently, the Ministry of Home Affairs has started a scheme for the modernization of prisons from 1987 onwards to provide central assistance to the states for the modernization of their prisons.

The Seventh Finance Commission took a view that priority should be given:

i. to ensure that adequate direct expenditure was incurred on the prisons;

ii. to bring improvements in amenities in respect of water supply, sanitary facilities, electrification etc. and;

iii. to provide for the construction of additional prison capacities in states where these were found short of the minimum requirements.

In addition, 10th Finance Commission has also recommended an amount of Rs. 41.44 crore for repair and renovation of jail buildings and Rs. 24.87 lakh for medical facilities in jails. The above grants were released to the State Governments during 1996-2000.

A Centrally Sponsored Modernization Scheme for the Modernization of Prison Administration was introduced the scope of which, as recommended by Draft
National Policy on Prison Reforms and Correctional Administration 2007, should be expanded by including the funding of the creation of infra-structure for setting up of correctional services, court rooms, video-conferencing facility, new medical units, acquisition of ambulances and prison vans, application of modern technology, in-house garbage disposal on scientific lines, etc. At the same time, State Governments should prepare their action plans for the creation of prison infra-structure for the approval of Central Empowered Committee constituted by MHA. State Governments should also sanction the adequate custodial as well as correctional staff to operationalize the newly constructed prisons under this scheme in order to achieve the goal of modernization of prisons and prison reforms.

In-fact, prison administration being the last wing of the CJS has a major role to play in the governance of the prisons, prisoners and the staff as well. Without good administration, the smooth functioning of the prisoners is not possible.
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6. Ibid.

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41. Ibid. pp.244

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44. Supra note 6, pp.66.

45. The All India Committee on Jail Reforms (1980-83), Vol. I, pp.74-75

46. Supra note 10, pp.265


49. Supra note 10, pp.304

50. Ibid.


52. Report of the Indian Jails Committee 1919-20, pp.259

53. Supra note 10, pp.411

54. Ibid.

55. Ibid.

56. Supra note 12, pp.286

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59. Ibid, pp.414

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