CHAPTER-VII

ORGANISATION OF PRISONS AND HUMANISATION
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7.1 INTRODUCTION

The success of prisons as correctional institutions contributing to the reformation and rehabilitation of prisoners depends to a large extent on the kind of prison personnel. Merely having rules and regulations governing prison administration is not sufficient as success of the system depends on the manner and spirit in which those rules are interpreted and applied by the staff in prisons, keeping objectives of prison administration in mind. The sanction of incarceration is viewed primarily as an opportunity to rehabilitate the offender and prepare him for useful life in society. This objective can be realised only when the persons who manage the prison also share it. When a prison official does not feel committed to the organisation and its objective, such an organisation is doomed to fail. If the prison is to function as a reformatory, it is immensely essential that the persons recruited should not only have competence, but also the requisite humanistic attitude and orientation.

In a prison one has to deal with human beings whose liberty is curtailed and who are at the mercy of the prison authorities. During their stay in a prison, the prisoners must, be made to feel that they are under the care of fellow human beings. A purely mechanical approach will turn away the prisoners from the administration and creates tension between the prisoners and prison officials. Hence, a prison staff committed to the
ideology of reformation and rehabilitation of prisoners becomes a *sine qua non* for the humanisation of prisons. The training imparted to the prison officials must inculcate an idea in them that every human being has positive traits even if he has undergone a period of criminal life. Every saint has a past and every sinner has a future. It is the responsibility of prison officials to remove the negative traits and bring the positive ones forward so as to make the persons useful members of society.¹

The following analysis deals with the administrative organisation of prisons, powers and functions of prison officials at various levels, the importance of training given to the prison officials as provided by the Prison Act, 1894, the Karnataka Prisons Act, 1963 the Karnataka Prison Manual and the Model Prison Manual.

### 7.2 ADMINISTRATIVE ORGANISATION

The administrative set up of prisons in India comprises two levels of organisation; (1) Head Quarters Organisation, and (2) Institutional Organisation.

**7.2.1 Head Quarters Organisation:** At the Head Quarters, there are the Inspector Generals of Prisons and the Deputy Inspector-Generals of Prisons.

**Inspector-General of Prisons**

The Inspector-General of Prisons is the executive head of the prison administration at the state level. He is appointed by the State
Government and the general control and superintendence of all prisons in the State is vested in him. In exercising his powers he has to act subject to the orders of the State Government. The most important power vested in the Inspector-General of prisons is the power of Inspection. In exercise of this power he has to visit personally all prisons under his jurisdiction. During his visit, he has to inspect all places in the prison, check arrangements for water supply, conservancy, medical facilities and food quality and quantity. He should meet every prisoner and enquire about his condition. If he receives any complaints, he must immediately attend to them and dispose of. Further, he should examine prisoners in irons, labour conditions, warder establishment.

The Inspector-General of Prisons is required to submit to the State Government a Special Report regarding any prison which he considers to be in an unsatisfactory state, with an explanation about the officer in charge. Further, he is mandated to submit an Annual Report to the Government on the prison administration in the State. Thus, the Inspector General of Prisons of the State has to oversee the overall functioning of the prisons in the State. Obviously a great responsibility is imposed on him to ensure effective functioning of prisons and their humanisation. For this purpose he has to constantly monitor the prison conditions and carryout modern reforms in his department. In order to achieve this objective, he has to keep himself abreast of modern thought on the subject of prison administration.
The success or failure of the prison administration to a large extent depends upon his skill and sincerity in discharging his duties as the Chief Prison Officer. In order to discharge the onerous responsibilities of his office, a person having some years of service experience in prison administration should be appointed. Further, the person appointed as Inspector-General of Prison should have fixed term of office, presently the person appointed as the Inspector-General is drawn from the Police Department and he does not have a fixed term.

The National Human Rights Commission (NHRC) has recently taken initiative in highlighting this important defect. The Chair Person has recently written to Chief Ministers of States that qualitative improvements can be brought about in prison administration if Inspector Generals of Prisons are accorded fixed tenures in that post and are appointed after careful selection. The Chairperson further wrote that the Post of the Inspector-General of Prisons, who heads prison administration in the State, is now filled up by officers either from the Indian Administrative Service or the Indian Police Service. The Chair person took pain to observe that the usual tenure of such officers is too brief and most of them view posting as an inconvenient loop-line job and look ahead for suitable posts in the main stream of general administration. The upshot is that the Inspector Generals of Prisons do not continue in this post for a fixed period and become 'birds of passage'. Some times the post remains
vacant for a long time. Such a situation is not conducive to efficient prison administration.  

The Chairperson of N.H.R.C. has recommended that officers of proven integrity and competence, with faith in the culture of human rights, should be selected for the post. He has emphasised the need for a fixed tenure as "this will import continuity and dynamism and will also provide efficiency and credible leadership to the prison administration and will also go a long way in improving the quality and promoting concern for human rights in the prison administration". However it is doubtful to get such persons when the present practice of drawing Inspector Generals of Prisons from Police force is continued. The present prison service, which has grown up in the tradition of maintaining discipline by terrorising the prisoners and causing pain, should be changed by creating a separate prison service, trained in humanistic approach.

Deputy Inspector General of Prisons

The Deputy Inspector General of Prisons is the next superior officer in the hierarchy. The Karnataka Prison Manual provides for the appointment of a Deputy Inspector General of Prisons by the State Government. His main duty is to assist the Inspector General in the management of prison institutions of the State. During the absence of the Inspector General of Prisons he shall perform the duties of the Inspector General of prisons. Like Inspector-General, he is also required to inspect fifty percent of the District prisons in his jurisdiction.
other than those inspected by the Inspector General of Prisons. He shall also inspect at least 1/3 of the sub-jails every year.\textsuperscript{15} He has the power to hold spot inquiry in case of accidental and unnatural death of prisoners in jails, or any serious injury to prisoners endangering their live or any outbreak of violence or neglect of duty by the prison staff and also to find out whether there is any negligence on the part of the Superintendent in performing his functions as supervisory officer of the prison and furnish his finding to Government through the Inspector General of Prisons.\textsuperscript{16}

Thus, the Deputy Inspector-General of Prison is essentially meant to assist the Inspector-General in the prison administration and his attitude towards prison administration is as important as that of the Inspector-General of prisons.

7.2.2 Institutional Organisation

The Superintendent

The Prisons Act, 1894 and the Karnataka Prisons Act, 1963 both provide for the appointment of a Superintendent for every prison, who is the officer in charge of prison\textsuperscript{17} and he has to manage the prisons in all matters, as required under Rule 5 of the Karnataka Prisons Rules, 1974.\textsuperscript{18} The Superintendent is the full time officer and the administrator. The general practice of appointing full time superintendent is of recent origin. Earlier, majority of the prisons in India were under the supervision of the civil surgeon of the District or the Assistant Surgeon in the sub division.\textsuperscript{19} They administered the prisons in addition to their duties at their respective
hospitals. They were hardly suited to the job assigned to them as they were, as opined by Bhattacharya, "untrained in modern methods of penology and criminology, over worked in medical duties and elaborate form filling job in the civil hospital and in the jail distracted by inspection of distant dispensaries and private cells post-mortem examination and court attendance as witnesses. This hard worked official had neither the energy nor the time to improve the conditions in jail administration".20

The Working Group of 1972-73 explained the unsuitability of the civil surgeons as superintendents of prisons; "... they can, at best, pay hasty visits, leaving the administration entirely, in the hands of the jailor. They find it physically impossible to exercise regular supervision and control over the various prison operations, nor they were adequately equipped to deal with the intricate problems of the prison administration".21 Gradually, the practice of appointing fulltime superintendents for jails came to be established.

Rule 23 of the Karnataka Prison Manual Provides that the Superintendents of all Central and District Prisons shall be officers specially appointed by name. During the absence of a Superintendent appointed under this Rule, the powers and duties conferred on him by law shall be exercised and performed by the Assistant Superintendent or jailor if so authorised by the Government. Rule 24 requires that the Superintendent shall make himself thoroughly acquainted with the Rules, Acts and Regulations related to jails and shall strictly be responsible for
discharge of such duties and execution of all sentences of prisoners committed to his charge.

To keep himself well informed about the happenings in prison, he is required to visit prison twice a day. The Manual requires him to make such a visit on every working day, Sundays and prison holidays also. During his visit, he should inspect barracks, yards, cells, cooking places, latrines and every part of the prison, daily at odd hours. The Superintendent should accompany the Inspector General of Prisons and Deputy Inspector General of prisons during their inspections or visits to the prison and should accompany official visitors also, if they request his presence during their visits. The Superintendent should visit the jail hospital daily and see that proper arrangements are made for the safe custody and treatment of the sick prisoners and see that discipline is maintained as far as is consistent with medical treatment.

The Assistant Superintendent

The Assistant Superintendent appointed in certain prisons is required to assist the Superintendent in his administration of the prison. His duties include visits to all parts of prisons daily, to secure the safe custody of prisoners and to enforce discipline amongst the subordinates and prisoners. He has no power to punish prisoners but shall report any misconduct on their part to the superintendent. It is his duty to see that no ladder planks, ropes, chains, implements or materials of any kind likely to facilitate escape are left unnecessarily exposed or without surveillance.
at any time in the yards. All such articles as well as tools of all kinds when not in use must be kept in their respective places. He should at once communicate to the Superintendent every circumstance, which may come to his knowledge likely to affect security, health or discipline of prisoners and subordinate officers which may require the attention of the superintendent.

The Assistant Superintendent should inspect the jail to carry out field inspection of the jail in accordance with the questionnaire approved by the Inspector General of Prisons. During these inspections he shall personally see every prisoner confined in the jail, inspect the yards, wards, cells and other enclosures and shall examine the conservancy arrangements and furnish diary of inspection to the Superintendent of the jail. Thus, the Assistant Superintendent discharges a variety of duties and assists the superintendent in proper and effective administration of the prison.

Chief Jailor, Jailor and Deputy Jailor

Section 4 of the Karnataka Prisons Act, 1963 provides for the appointment of a jailor for every prison. Under sub-section (1) of section 15 of the said Act, the jailor shall reside in the prison and not to concern himself in any other employment. Wherever the Chief Jailor is appointed, he shall perform the duties of a jailor, under section 16 of the said Act. Where a Chief Jailor/Jailor is appointed to a prison, he shall subject to the orders of the Superintendent, be competent to perform any or all of the
duties and be subjected to all the responsibilities of a jailor under the Act or any rules there under.29

The Jailor is the Chief Jailor's immediate assistant. The following duties pertain to the jailor and may be assigned to him: (a) Superintendence of the admission and search of prisoners; (b) Custody of the clothing store, issue of new clothing and maintenance of clothing required; (c) custody of prisoner's private clothing; (d) examination, weighment and storing of all grains and other articles of diet; (e) Supervision, of cleaning of grains, vegetables and other articles of diet; (f) weighment and issue of rations; (g) mustering of jail guards at morning and evening parade and (h) maintenance of extra articles purchased by civil debtors.30 Jailor has to reside in the quarters provided for him near the prison and shall not remain absent from duty except during the time fixed by the superintendent.31 The Superintendent shall lay down in his order book a list of duties, which shall be performed by jailors, care being taken to see that they are allotted a fair share of the work and that those portions of work for which they are most suited are assigned to them.32

The jailor has been made responsible for the observance of all prescribed rules and orders for the supervision of the subordinate staff and shall share the Chief Jailor's responsibility of maintenance among prisoners and subordinates.33 Thus, the Jailor is an important prison official who is vested with many administrative powers and has to discharge important duties.
Subordinate Staff

Section 7 of the Karnataka Prisons Act, 1963 requires that all officers should obey the Superintendent and officers subordinate to the Jailor shall perform the duties imposed on them by the Jailor. Section 8 of the Act provides that no officer of a prison shall have business dealings with prisoners and section (a) precludes jail officials from having interest in prison contract. This prohibition prevents the interference of their personal interests in discharge their duties.

Rule 108 of the Karnataka Prison Manual provides, “All prison officers shall treat prisoners with good temper humanity, strict impartiality and shall listen patiently and without any irritability to any complaint or grievance, while at the same time maintaining strict discipline, and enforcing observance of the rules and regulations. It is important that every complaint made by a prisoner should be heard with attention in order that grievance may be redressed and that no cause for discontent may be allowed to remain”. This is a very vital provision as it deals with the core issue of humanisation process. Another provision of the Karnataka Prison Manual which is humanistic in its content is Rule 109 which provides that, no prison officer should under any circumstances, punish any prisoner except under the Superintendent’s order or threaten any prisoner with punishment or use violent, abusive or insulting language to any prisoner. All conduct intended merely to irritate or annoy any prisoner shall be avoided. Prisoners shall be addressed by their proper
names or numbers. This provision is intended to protect the dignity of the prisoners. Similarly, Rule 110 provides that no prison officer shall on any pretext strike a prisoner except in self defence or in the repression of disturbance and no more force shall be used than is absolutely necessary.

Under Rule 112, the prison officers are prohibited from unnecessarily developing familiarity with prisoners. Further, no prison officer shall have any financial dealings with prisoners, nor shall he possess prisoners' property. No prison officer shall correspond with discharged prisoners. The officers are prohibited from having any direct or indirect interest in any jail contract.

Rule 119 provides that for the following offences a prosecution may be launched unless the Inspector-General otherwise orders in which case the offences shall be punished departmentally; (1) wilfully or negligently permitting an escape; (2) committing any offence punishable under section 42 of the Karnataka Prisons Act, 1963; (3) immoral conduct with regard to any prisoners; (4) any offence punishable under chapter IX of the Indian Penal Code. No person who has been convicted and punished with imprisonment shall be employed in any prison without the special sanction of the inspector-General.

The Warders Establishment

The following grades of Warders are on the establishment of the Karnataka Prisons Department- (i) Chief Warders; (ii) Head Warders, (iii) Warders. The Chief Warder is subject to the general control of the jailor.
and he is the head of the warder establishment. He is responsible for its work and for the due carrying out of all rules relating to it and to the guarding of the jail.

The prison officers who are in immediate contact with the prisoners are the warders. They have to keep a close watch on the prisoners' behaviour and their work. It is their duty to bring to the notice of their immediate superiors any signs of sickness amongst prisoners or of any prisoner complaining of sickness. They are required to treat prisoners with humanity and bring their complaints and grievance to the notice of their superiors with least delay. They should also see that the prison premises are kept clean.41

Guard

Jail Guard is the lowest ranking prison official. The guard in a prison enjoys a unique position. He is both a worker and a manager. He is managed in a system of regulations and controls from above, but he also manages, in a corresponding system of regulations, the inmates who are in his charge. It is he who is in direct contact with prisoners. As a result, he is ensconced in a position that can determine the course of reformation. His attitude, his approach, hence assumes greater significance in the context of any reformatory programme. For inmates he is the provider of goods, services, protection and averment. According to Susan Strum, guards as a group are critical to the successful implementation of prison reform policies and they act as filter through
which reforms concerning treatment of inmates, programming, and service delivery must pass. The main preoccupation of guards is with maintenance of order, 'because, they stand to increase their power by promoting the importance of order to the institution'. All other institutional goals are subordinated to and furthered by the pursuit of order. And, dehumanisation must be tolerated, if not celebrated to maintain order. The commitment to order provides guards with a justification for brutal punishment and harsh disciplinary measures.

The present insistence on humanitarianism and treatment in prisons has the effect of the introduction of conflicting directives for guards. Thus they are expected to enforce rules and maintain discipline, but at the same time they are undertake reformation. Guards perceive reforms as a threat to their autonomy and power. Reforms that introduce programmes and service increase the movement of inmates through the prison and impose additional demands on guards to provide service and supervision. As a result, guards are more likely to embrace traditional norms and goals. Lombardo feels that the guards often view reforms imposed upon them by administrators or through the judicial process to be unwise, unsound, impracticable and likely to lead to the system's collapse. This perception, obviously, affects the humanisation process in prisons.

At higher level, the picture is no different. The higher administrators tend to share the guards' custodial perspective and are
likely to adopt the norm or order and control as the predominant institutional goal. Consequently, the prison administrators may tend to reject the notion that systemic change is either required or desired for a prison system operating under the traditional control model. Bringing about a change in their attitude towards their work is a difficult task. Therefore, the perception of reformation should influence the decisions of authorities recruiting personnel for prison administration.

### 7.3 RECRUITMENT

A proper manpower planning with a humanistic goal should be adopted at the stage of recruitment itself. That can ensure the recruitment of personnel oriented to the value of human rights. Further, the manpower planning for future organisation of prison department in each state has to be done keeping in view the multi-dimensional role of this department in respect of institutional treatment, probation and aftercare of adult and young offenders. The recruitment bodies should consist of experienced prison administrators, social workers criminologists and psychologists. The working group of 1972-73 in its report stated, "the selectors of personnel in this area of public administration, as in the other uniform-services, have to look for physical fitness and courage, leadership and non-management qualities as well as the dependability which is guaranteed by a balanced personality. In addition they will have to look for endurance qualities, a broad interest in social welfare and a flair for human relationship".

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In order to attract persons having these qualities, the prison service needs to offer good service conditions. Salaries paid to them must be commensurate with their responsibility. Thus the Model Prison Manual suggested that the correctional staff should be paid salary sufficient to secure and retain faithful service, Conditions of service should afford necessary safeguards against risk and handicaps involved in the service.\textsuperscript{53}

The actual position of prison service presents an altogether different picture. The deficiencies in the prison service in India was highlighted by Dr. Reckless in these words: "the jail department of India, as it is true elsewhere, is a disadvantaged department. No secretary is really interested in jails. The Police get the lion's share of government consideration, because of internal security. Government and Public many times look upon jail administration as corrupt and brutal. The department is likely to get bottom consideration in the priority list. The jail officials feel that they are definitely disadvantaged in conditions of service as against the police especially in pay scale".\textsuperscript{54} These observations of Dr.W.C.Reckless made several decade ago, are still relevant.

The prison officials work without any holidays. This continuous work requirement creates lot of stress in them, which is not good for correctional work. Further, the prison staff are required to spend most of their time in administrative and clerical work and policing work in the yards of the prison. Consequently, they are left with little time to involve
themselves in any correctional work. Thus, the welfare activities in jails are not separated from the general administration. There is a need for separating welfare activities from the general administration to enable the welfare officers to perform their duties properly and effectively.

7.4 TRAINING OF PRISON OFFICIALS

The Training and training system is like an umbilical chord between an employee and the organisation. Training gives nourishment of knowledge and skill to the employee, which will promote the organisational development. Training programmes are promoted for the acquisition by employees of the knowledge, values, attitudes, commitments and skills needed to protect and improve the organisation and develop new pattern of behaviour and ethical responsibilities of individuals and groups as a whole towards the growth of the organisation. A sound training module and a strong healthy environment are the source guaranteed for attaining the objectives. Training as a developmental activity, induces every individual to act efficiently, both physically and mentally. Training is one of the best tools to motivate and change the behaviour of the employees.55

In prison administration, in-service training of prison officials assumes a greater significance as it can produce change in their attitude, which can enable them to understand and appreciate the need for adherence to human rights norms in prison administration which is very
vital for the humanisation of prisons. Modern prison administration is a highly specialised professional job.

A properly trained staff will always be an asset in the effective implementation of correctional policies and programmes. In this regard Model Prison Manual has contemplated that the training programme for correctional personnel should aim at (i) acquainting correctional personnel with scientific and progressive methods of correctional administration (ii) making them conscious of their responsibilities and also of the role they have to play in a welfare state (iii) broadening of their cultural and professional interests, experience, refining their abilities and skills, improving their performance of administrative duties, providing them with experience to meet future needs of the department in positions of higher responsibilities and (iv) inculcating esprit-de-corps amongst the correctional personnel. This training module lays focus on improving the professional competence of the prison officials.56

For, imparting training to the prison officials adequate number of training schools are required to be established. Dealing with the work of these training schools, the Model Prison Manual provides that, such a training institute should provide training, research methods, organisation work, and publication of pamphlets, papers, hand books, correctional journals, etc. Similarly Mulla Committee also emphasised the need for setting up proper training institutions at the state, regional and national levels. The Committee opined that training to the security staff should be
imparted at state level and training institutes for officers at the executive level should be established at the regional level, catering to the needs of groups of states and union territories. The Committee has also suggested that the Central Government should establish a training institute at the national level to meet the training needs of senior officers. Apart from imparting training in policy formulation, planning, and various aspects of management, this institute is also expected to play an useful role in imparting an All India perspective for the development of prisons and other correctional services to these officers.

Dealing with the kind of training to be imparted to the prison officials in these institutions, The Model Prison Manual emphasised the following:

i) Interpretation of policy by senior officers from Head Quarters during their visits;

ii) Library and reading facilities for staff members;

iii) Lectures by professors from the universities or schools or social workers on subject related to correctional work;

iv) Fortnightly talks on correctional methods by the superintendent or any other senior officer;

v) Reading of papers, case histories, etc. by institutional personnel;

vi) Monthly discussion on improvement in administrative procedures, methods and organisations etc. Unfortunately the Manual has not
given enough thrust to develop human rights orientation in the training programmes. This is a very serious lacuna in the Manual.

7.5 ROLE OF NATIONAL HUMAN RIGHTS COMMISSION

The National Human Rights Commission (NHRC) has evinced keen interest in improving the human rights aspects of prison reforms and management. The Commission along with the British Council, Bureau of Police Research and Development (BPRD), Penal Reforms and justice Association (PRAJA) has embarked on a project on 'Human Rights and Prison Management'. This collaborative project aims at raising awareness on human rights amongst prison officials and improving prison management systems with special reference to promoting good management practices, gender sensitivity and a rising revenues for jail management. It further seeks to gain from the experience of the United Kingdom in prison management through a training visit of a group of 16 Indian Prison Officials to that country and using this group as a resource for designing, developing and implementing a training programme for 320 prison officials in India.58

According to Mr. Andy Barclay of the International Centre for Prison Studies (ICPS), London, a partner in the project, the international modes of good prisons need to be made available to develop appropriate policies on prison. Human rights for prisoners will be achieved only when the prison managers have the support of the government and well-trained personnel to do the work. He said that training which was being given by
the ICPS to jail officers in a number of European Countries have brought about considerable change in the management of the prisons. According to him some of the most important themes for training in human rights in prisons ought to be maintenance of human dignity, health rights of prisoners, making prisons safe places, making the best use of prisons, prisoners contact with outside world, complaints and inspection procedures, categorising prisons into special schemes and prison management and training of staff.59

The NHRC had also organised a workshop on "Human Rights in Prison Administration" for middle level prison officials of the rank of prison Superintendents and Deputy Superintendents from 28 February 2000 to 1 March 2000. The object of the Workshop was to sensitis[e prison personnel who deal directly with prisoners and generate awareness among them regarding the human rights of prisoners.60

The Commission has come to a conclusion from the information gathered from various prisons in the country that many of the prison officials have not been adequately exposed to human rights values in their training and they do not have an understanding and appreciation of human rights norms and international human rights standards.61 The commission has therefore proposed that re-orientation courses should be held for prison officials, as this will enable them to understand and appreciate the need for adherence to human rights norms in prison administration and in the discharge of their duties.62
7.6 DISCRETIONARY POWERS OF PRISON OFFICIALS AND THEIR CONTROL

Vesting of discretionary powers in the administrative authorities is an established practice of governance. Considerable discretion exists in prison administration. Perhaps, it is in prison administration one finds lowest public visibility in discretionary decision making. Until recently, prisons functioned far removed from the public eye and the authorities utilised their discretion in any manner they thought consistent with their control policies and goals.\textsuperscript{63} Even the Courts, under whose authority a person is incarcerated, refused to interfere in prison administration by adopting “hands off” doctrine. Vesting of broad discretionary powers in prison authorities can be very harmful as the prisons operate as “total institutions’ away from the public view and whatever misuse of power takes place goes unnoticed. The decision maker can have such unrestricted latitudes, that even obviously unwise choice are open to him. Persons similarly situated may be treated unequally for improper reasons, the decision maker may take irrelevant considerations, leaving out relevant ones and cause untold miseries.\textsuperscript{64}

An apparent solution to this problem is the enactment of a more comprehensive and detailed legislation. But, there are obvious limitations on the extent to which legislators are willing or able to control the actions of an administrative agency by developing a detailed legislative scheme. In India the legislators have totally abdicated their responsibility to enact a
progressive modern legislation in place of the existing archaic statute – the Prisons Act, 1894, a product of the time when retribution theory of punishment was predominant. Several State legislations which are enacted in recent years have not brought any significant changes.

The prison authorities are vested with a very wide discretionary power in matters of prison discipline and prison offences. This power is sought to be regulated through rules provided by the prison manual. The following analysis deals with discretionary power of the superintendent of prison to punish for prison offences.

7.6.1 THE DISCRETIONARY POWER OF THE SUPERINTENDENT TO PUNISH FOR PRISON OFFENCES

Under section 46 of the Prisons Act, 1894 the superintendent is vested with the power to award various punishments. This power to punish for prison offences is subject to certain procedural safeguards. Thus, the Karnataka Prison Manual provides that whenever prisoners are produced before the Superintendent for punishment, he should conduct a thorough enquiry in a fair manner. The Manual cautions that the enquiry should not become a mechanical process for awarding punishment. Every precaution should be taken to ensure that the inquiry is conducted in an orderly manner. The officer who had conducted the preliminary investigation should present his report and witnesses. The accused and his witnesses should be heard. After the Superintendent has been satisfied that all relevant facts of the case have come to light, he should...
record his decision in the register. After the enquiry the punishments should be promptly implemented as per prescribed rules. The procedure to be adopted by the Superintendent in enquiries as per the Manual appears to be fair.

However, the Superintendent has unfettered discretion in matters of prison offences. Thus, he has the power to decide whether an act is an offence under prison rules or the Indian Penal code. His decision is not subject to any control. It is he who has to decide and determine the punishment given from the range of punishments available. Some of the punishments provided under the Prisons Act, 1894 are most inhuman. They are:

a) Fettering

Section 56 of the Act provides most inhuman and arbitrary power to the superintendent to confine any prisoner in irons "whenever he considers it necessary" (with reference either to the state of the prison or the character of the prisoners) for the safe custody of such persons. His powers, though, subject to such rules and instructions as may be laid down by the Inspector-General with the sanction of the State Government could hardly be considered as effective control over the arbitrary exercise of power by the Superintendent.

Under the Karnataka Prison Manual, the Superintendent is empowered to award the punishment of fetters up to a maximum period of ten days. The Inspector-General of Prisons is empowered to award this
punishment up to a maximum period of one month. The fetters should be composed of two iron chains joined together by a link and attached to ankle rings. Its total weight should be three pounds. In awarding this punishment, the Superintendent must act very cautiously and employ it very rarely.

Section 57 prescribes another most barbaric punishment that the prisoner under sentence of transportation, may, subject to any rules made under section 59, be confined in fetters for the first three months after admission to prison. Similarly section 61 of the Karnataka Prisons Act, 1963 provides for similar punishment to prisoners sentenced to life imprisonment. This compulsory fettering of all life convicts during first three months after admission is without any rationality and smacks of retribution.

b) Whipping

Whipping is another notorious punishment, which finds place in the Prison Act, 1894. Whipping as a punishment will have a highly degrading effect on the victim prisoner. For what offence this punishment may be awarded has to be laid down by Rules made by the State Governments. Many states like West Bengal, Karnataka have already abolished this punishment.

c) Separate confinement

The Karnataka Act has retained the punishment of separate confinement. This punishment as a mode of prison punishment has been
opposed on the ground that it is disastrous to the physical and mental health of the confined. There is a need to subject this punishment to more restrictions. The Superintendent is empowered to award this punishment up to one month at one time. The Inspector- General may extend this period up to three months. Before implementing this punishment, the prisoner should be examined by the medical officer and obtain a certificate that the prisoner is fit to sustain the punishment. Prisoners under this confinement may be allowed, at the discretion of jail Superintend half an hour exercise, bathing and wc facilities, receiving letters, allowing to read religious and moral books, interviews with the family members etc. These concessions may have the effect of reducing the cruelty of the punishment, but still the solitary confinement can never be considered as having any reformative effects. Hence, it cannot be justified on any rational grounds.

Section 53 of the Karnataka Prison Act 1963 provides that if any prisoner is guilty of any offence in respect of any prison discipline which, by reason of his having frequently committed such offences, or otherwise, and the superintendent is of the opinion that it is not adequately punishable by the infliction of any punishment, which he has power under the Act to award, he may forward such prisoner to any first class magistrate having jurisdiction, together with a statement of circumstances. Such magistrate may there upon inquire into and try the change so brought against the prisoner and sentence him to imprisonment which may
extend to one year. Thus, when any heinous offence is committed by a prisoner, it shall be considered by a judicial magistrate. This procedure would ensure fairness for the concerned accused prisoner.

Thus, it is amply clear that the superintendent of a prison is vested with wide discretionary power in matters of prison offences. The retention of certain inhuman punishments has aggravated the seriousness of the problem of arbitrariness. One way of controlling the arbitrary exercise of disciplinary powers is by providing for the review of decisions by others. Review of administrative decision-making can be achieved in various ways. Firstly, there should be a provision for formal or informal review of the actions of the Superintendent by superior officers within the administrative hierarchy. Superior officers, who are close to the decision making process, can best provide day to day review. The other methods include review by the courts and by other persons outside the prison system. External review is important because review by superiors, in a prison hierarchy, is influenced by the need to maintain organisational relationship, a factor which may not always facilitate fair and impartial review.69

7.7 CONCLUSION

Primary aim of imprisonment is to re-educate the offender for the purpose of realigning and reorganising his life for smooth re-settlement in society. The treatment of offenders in prison should aim at instilling in them the will to lead law-abiding and self-supporting lives after their
release. The treatment should foster their self-respect, self-discipline and sense of responsibility. To achieve this, the prisons should have properly trained personnel. The effectiveness of the institutional discipline and the impact of treatment mainly depend on the quality of the correctional staff.

The prison administration shall provide for careful selection of prison personnel, since it is on their integrity, dedication, humanity, potency, and personal suitability for the work that the proper administration of the institution depends. They should be paid adequate salary and they should have a civil service status with security of tenure. The Inspector-General prisons should have similar fixed term of office and the present practice of appointing senior police officers as Inspector-General prisons should be dispensed with. On joining their duty, the prison officials should be given adequate training in correctional administration. Their general service conditions should be improved so that the prison service can attract best talent. The prison personnel shall be properly selected and adequately trained in various aspects, of intuitional management, as well as in theories of correctional work. The welfare of the personnel shall be adequately attended to.

Vesting of discretionary powers with the prison authorities is inevitable. But, since the prison authorities exercise their powers away from the public eye, opportunities to misuse powers are abundant. Most of the cases of misuse of powers may go unnoticed. In view of this, there is a need for providing for external review by courts and by other persons.
outside the prison system. The setting up of courts within the principal prisons which are independent of prison authorities would go a long way in controlling arbitrary exercise of discretionary powers by the administrative authorities.
NOTES AND REFERENCES

2. Section 3, The Prisons Act, 1894.
4. Id. Rule 10(a).
5. Id. Cl.(b) to (h).
6. Id. Rule 11.
7. Id.
10. Id.
11. Id
12. See preface to the *Report of the All Indian Committee on Prison Reforms* (1980-83) (Mulla Committee ) at p.XXII.
15. Id Rule 19.
18. Id. Section 10.
20. Id.
21. Id.
23. Id. Rule 36.
24. Id. Rule 34.
25. Id. Rule 60.
26. Id. Rule 62.
27. Id.
28. Id. Rule 63.
31. Id. Rule 91.
32. Id. Rule 92.
33. Id. Rule 93.
34. Id. Rule 113.
35. Id. Rule 114.
36. Id. Rule 115.
37. Id. Rule 116.
38. Refer to chapters XI, Indian Penal Code. The chapter deals with
offences by or relating to public servants (sections 161 to 171).
40. Id. Rule 125.
41. Id. Rule 136.
42. Susan Sturm, Resolving Remedial Dilemma: Strategies of Judicial
Intervention in Prisons. 138 UNIV. PEN. L. REV. 805 (1990) at
816.
43. *Id.* at 817.


45. Susan Strum *Id.* at 819.

46. *Id.*

47. Lambardo, *Id.* at 129-32 cited by Susan Sturm at 189.

48. *Id.* at 820.


50. *Id.*

51. *Id.* at 189.


57. *Id.* at 64-65.


59. *Id.*

60. *Id.*., Vol.7, April 2000 at 3.

61. *Id.*

62. *Id.*


66. *Id.* Rule 240 (vii) (a) –(b).

67. The Prisons Act, 1894, Section 46 (12).

68. *Id.* Section 46 (8).

69. James Jablonski, *supra* note no.64 at 338.