CHAPTER-III

HISTORICAL EVOLUTION OF HUMANISATION OF PRISONS
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3.1 INTRODUCTION

The preservation of order in a society depends to a large extent on the conformity of people to the accepted rules of society. But devising proper methods of dealing with those who deviate from normal behaviour, has been a perplexing problem since the dawn of history. During the long complex history of penal actions against the deviants, all types of reactions have been employed at one time or another. Offenders have been subjected to death or torture, social humiliation such as pillories and stocks, banishment and transportation, imprisonment and financial penalties. In the past two centuries, punishment in the form of imprisonment has been a popular way of dealing with the criminal. A rehabilitative philosophy has emerged maintaining that some form of corrective action should be taken against criminals to deflect them from deviant pathways.

In ancient times, then existing formalized legal codes and state administered procedures of justice adopted retributive punishment. The code of Hammurabi, the earliest known system of law, developed by king Hammurabi of Babylon, in the Eighteenth Century B.C., had the principle of retributive lex-talio-nis or "an eye for an eye, a tooth for a tooth". Death was a frequently employed means of dealing with law breakers, as was mutilation and monetary compensation. In small preliterate societies, secular offenses, not thought to offend the spirits, were handled as private wrongs. These acts were usually left to family or clan groups to settle as they deemed fit, commonly by means of
retaliatory blood feuds. Eventually, pecuniary compensation replaced blood feuds.⁴

3.2 DEVELOPMENT OF PRISONS IN EUROPE

After the fall of Rome in the Fifth Century A.D. and till the beginning of the Middle Ages in the Thirteenth Century, Europe was submerged in what is known as the "Dark Ages".⁵ The Church was an important institution of social control because it had nearly total control over the people's minds. The Church was able to justify cruel punishments for deviants because of the Doctrine of Predestination⁶, which posited that all persons are predetermined to be either saved or damned. The height of ecclesiastical jurisdiction was reached in the establishment of the Holy Roman Empire under Charlemagne in the Ninth Century. The secular arm of the State now supported the decrees of the Church. The Bishops acted as real judges and tribunals or courts were operated by churches.⁷

According to Bartolias the seeds of modern corrections were sown during the period that extended from the Middle Ages to the end of the 18th Century.⁸ According to him the rise of the classical school of criminology, the churches use of the inquisition and imprisonment and the methods of punishment used by the State including imprisonment were the major correctional themes of the period.⁹ The inquisition, initiated in the Fourteenth and Fifteenth Centuries was an attempt to paralyse the will of the people through terrorising. The secrecy of the interrogations, the elaborate secret police system, the torture chamber, the isolation of the prison that held the condemned from the rest of the community
and the dedication and sophistication of the inquisitors, all were part of this reign of horror. Thus, during this period punishment was mostly retributive and devoid of any humane approach.

The Church developed imprisonment during the Middle Ages as a substitute for imposing death sentences. In 1703, Pope Clement XI had Hospice di San Michele built in Rome. This facility, designed for incorrigible youths under 20 years of age, had an inscription over the door which read, "it is insufficient to restrain the wicked by punishment unless you render them virtuous by corrective discipline". A programme of silence, work, and prayer was used to express penance. Separate cells for sleeping and a large central hall for working were also the features of this prison.

Apart from the church, the State had developed its own system of punishment during the period of the Middle Ages. Most punishments were economic, taking the form of fines, confiscations or restitutions. In the Middle Ages, long-term imprisonment was first used when political criminals were incarcerated in the massive structures of fortress cities that were no longer needed to provide defence against roving bands of raiders. These European jails were places for the confinement of prisoners awaiting punishment rather than custodial institutions in which punishment was meted out. Criminals were tortured in a variety of ways like beheading, stoning, hanging, crucifixion, etc.

A wave of humanitarian reform in the 16th Century led to the establishment of the work house or house of correction in England in the 1500s, which constitute forerunners of imprisonment as a form of punishment. A House of
Correction Known as "Bride Well" opened in London in 1557 and it was used for incarceration of vagrants, unemployed persons, orphans, and other individuals kept therein were put to work at various kinds of labour and their services were frequently contracted out to private citizens.16

Many more such institutions were built in the European continent. The Milan House of corrections which was built in the late 1950s, had T-shaped main building which contained 120 sleeping rooms of about 9 by 9 feet each, arranged on three levels and connected by stone galleries. Men were housed in one wing, boys in the second and women in the third wing. The most famous workhouse was established in 1773 at Ghent, Belgium, to cope with the burdensome numbers of vagabonds, beggars, and petty thieves.17 Some of the unique features of this workhouse included isolation of prisoners at night, separation of sexes, and segregation of prisoners of the same sex according to age, length of sentence, and degree of criminality. This institution featured individual cells and certain other characteristics to become common in modern prisons.18 Thus, it can be said that the seeds of modern prison system were sown during this period.

3.3 DEVELOPMENT OF PRISONS IN U.S.A

In America, the jail was designed originally for the detention of persons awaiting trial. It soon came to be used as a place of punishment after conviction. This change was mainly due to the increasing opposition to the use of corporal and capital punishments. Convicted drunkards and vagrants especially, were confined in these institutions. The house of correction began as an institution for
vagrants and it was in no way different from other jails. The conditions in these jails and houses of correction were horrible. The prisoners spent their time without labours, depending upon charity for their maintenance. There was no attempt to treat the inmates even religious services were absent. Drunkenness and vice generally prevailed. With the European influence as forerunner, strengthened by the philosophy of John Howard and spurred on by reformative impulses, the Post-Revolutionary colonists attempted to improve the poor treatment of the convict.

3.3.1 The Pennsylvania System:

The Walnut Street Prison opened in Philadelphia in 1776 was turned into a penitentiary by a legislative act in 1790. This prison was followed by the Pennsylvania prison at Cherry Hill, opened in 1829. These penitentiaries operated on the solitary system. The Pennsylvania system of prison was characterized by a distinct architecture intended to isolate prisoners from one another. Inmates were kept in single cells in which they took their meals, engaged in individual forms of labour, exercised and contemplated the error of their ways. Strict silence was maintained at all times to ensure that offenders had ample opportunity to do penance for their crimes and to prevent the criminal from contaminating the other. However, this system was criticized by two European visitors, Alexis de Tocqueville and Gustavo as, "this absolute solitude... is beyond the strength of man, it destroys the criminal without intermission and without pity. It does not reform. It kills."
It was soon realised that solitude would be injurious if too long continued, and provision was therefore made for association with official visitor. The prisoners, after a few years, were permitted to work in their cells. In Eastern State penitentiary opened in Philadelphia in 1829, the prisoners were to work alone at such occupations as spinning, weaving and shoemaking and were to do maintenance work outside their cells only when blind folded. This system was found to be impractical and it was formally abolished in 1913.24

3.3.2 The Auburn System:

In Auburn, New York, in 1817 a penitentiary was opened which differed from the Pennsylvania system. This was followed by Sing Sing prison in the same state. These prisons were walled institutions in which inmates were incarcerated in cells in multitiered cell blocks. The prisoners worked together and took their meals in a common dining room. However, nearly total silence among convicts was maintained within a repressive regime featuring striped uniforms, lock step marching and severe punishment for violation of rules like solitary confinement, reduced rations, the lash, irons and other cruel methods.25

Of the two systems, the Auburn system was adopted in penitentiaries throughout the Nation. However, mismanagement and lack of discipline prevailed in these penitentiaries and by 1850 they were no more than custodial institutions. They were characterised by over population, filth, and violence.26

3.3.3 Irish System

The controversy between these systems was diverted by the importation of a new system from Europe and Australia, known as the Irish system. The first
institution based on Irish system was the Elmira Reformatory in New York opened in 1876. Emphasis was placed on education, productive labour, the marks system, the indeterminate sentence and parole, all of which were designed to produce reformation. With the establishment of the Elmira system, the treatment reaction to crime was more explicitly incorporated into institutional policy. Almost all reformatories constructed in the United States since 1875 have been based on the Elmira system. The disciplinary system at Elmira was very severe.27

Over the decades since the beginning of imprisonment in the United States of America, institutions have, gradually, become less severe and more humane places. In 1870 concern for the improvement of prison conditions and reforming of prisoners was approved at the American Prison Congress in Cincinnati, Ohio. The Congress approved the Declaration of Principles, which stated, "... the Supreme aim of prison discipline is the reformation of criminals, not the infliction of vindictive suffering... The progressive classification of prisoners, based on merit, and not on mere arbitrary principle, as age, crime, should be established, ... a penal stage ... a reformatory stage ... a prohibitory stage."28 This Declaration gave impetus to some reformative programmes in prison like classification system, indeterminate sentencing and parole, the implementation of a variety of religious, academic vocational and recreational programme.29

The period between 1900-1930 is known as the period of prison industries. However, the period was marked by a bitter struggle between free
industry and prison industry. The prison industries were attaining a degree of stability, which promised steady employment to prisoners and considerable income to the States under reasonable conditions. But the free industry launched its attacks on prison competition and, aided by both Federal and State Legislations and the Depression of 1929-1933, drove industry out of prisons of a majority of the States by eliminating the sale of prison products in the open market.30

In the 1930s, 1940s and 1950s, it was commonly believed that a major function of the prison should be to rehabilitate offenders. Accordingly, a variety of treatment programmes like psychodrama, transactional analysis, reality therapy, behavior modification etc were employed.31 In 1960s, a new correctional model, community based corrections- was recommended by the Corrections Task Force of the President's Commission on Law Enforcement and Administration of Justice. Reintegration was the philosophy upon which community- based corrections would be heard. The Task and the challenge of the reintegration model was to keep offenders in the community and help them reintegrate themselves into the community life.32 However, this reintegration philosophy could not succeed because of poor management of residential programmes, along with community resistance to it. Moreover the hard-liners put political pressure on department of corrections to upgrade the criteria for eligibility for work release, educational release, and home furloughs, thereby significantly reducing the number of offenders eligible for the programmes.33
It has been opined that, in the mid-1970s, the old punishment model regained popularity. According to this model more offenders were to be imprisoned for longer periods of time to keep offenders off the street and to convince them that crime does not pay. However, the emphasis was on the treatment of the prisoners. Thus Louis P. Carney, opined:

there is more emphasis on treatment in punishment; the general abolition of silence and segregation; introduction of educational activities, recreation, and entertainment facilities; community interaction on a much grander scale than the early Pennsylvania prison reformers could imagine; and more spacious living accommodations, with more air and light uniforms are still usually dreary gray or denim blue, but the old-style stripes are gone, along with the lock step visiting is liberal, libraries are in evidence, medical care is considerate, television and radios are permitted, psychiatric and psychological services are widespread, and talking and others social invocation among inmates and staff are encouraged.34

Thus, a wave of humanisation was sweeping the United States prisons.

3.4 DEVELOPMENT OF PRISONS IN INDIA

3.4.1 Ancient Period

In India, prisons were existing even in Ancient times. Earliest mention of prison could be found in Manusmriti of Manu, the Law giver, who mentioned imprisonment among the three main modes of punishment. He laid down as, “let the king carefully restrain the wicked by three methods: by imprisonment, by putting them in fetters and by various kinds of corporal punishment.35 Manu
believed that the function of punishment is to create terror through the example of the suffering of the offender. Thus, Manu prescribes that all the prisons should be placed near a high road where the suffering and disfigured offenders could be seen. 36 Manu categorically declared that in case a Ksatriya or a Vaisya or a Shudra is unable to pay the fine imposed on him by the State, he should discharge it by physical labour. But the State might not have depended on the honesty and the good faith of the judgment debtor and set him free but kept him in jail till he paid off his debt to the State by physical labour. 37 Manu recommends imprisonment for one year followed by confiscation of the entire property in case of a vaisya who has intercourse with guarded brahmin woman. 38

Kautilya, in his Arthashastra, prescribes that a jail should be constructed in the capital providing separate accommodation for men and women, well guarded at the entrance. The provision of separate accommodation for women was a measure intended to protect them even in jails. 39 Kautilya further prescribed that the Superintendent of Agriculture should employ slaves, labourers and prisoners for sowing seed on crown lands which have been satisfactorily ploughed. 40 According to Kautilya, the following persons, among others, were to be arrested on suspicion and committed to prison lest they perpetrate crime - persons having no ostensible means of livelihood or having slender means, those who frequently change their residence, caste, and the names not only of themselves but also of their family, who conceal their avocation, who travel singly in solitary places like forests and mountainous tracts, who hold secret meetings in lonely places, who lurk in dark behind walls, and those who have acquired notoriety by their
crimes. Sukraniti, however, was less stringent and authorised detention in the following cases only— one whose activities were secret, one who lived on alms though capable of collecting wood and grasses earning his livelihood by honest labour, one who wandered about leaving his parent and family and one who pursued penances and learning without maintaining relatives. Sukra's work on polity was referred to in the Mahabharata and was freely quoted by Kautilya in his Arthasastra and by his epitomist Kamandaka in his Nitisara. Quotations from Sukraniti are also found in panchatantra and other works.

Kautilya showed a sympathetic attitude to certain categories of prisoners by way of grant of remission. He prescribed that on special occasions the prisoners should be released. He provided that on the King's birthday or on every full moon day, prisoners who were young or very old or suffering from diseases as well as those who had maintained a good conduct might be released on payment of fine or on binding themselves by an agreement to pay fine for the offence for which they were released.

Kautilya also provided for prisoners to be released periodically in consideration of the amount of work they had done or if they were prepared to undergo the corporal punishment of whipping or pay fine in cash. Prisoners should also be released on the coronation ceremony of the prince or on the birth of a son to the king or on the victory day in connection with the conquest of any territory. This provision regarding remission on special occasions is a clear indication of humanitarian consideration shown by Kautilya towards the offenders. There are many other historical records about the practice of grant of
remission to prisoners. In Delhi ToPra Pillar Edict No.IV, Asoka, the Emperor promulgated that he would give three days respite to prisoners on whom judgment had been passed and who had been condemned to death. In the V Pillar Edict of Delhi ToPra, he said that he let off prisoners 25 times in 26 years. In the first separate Edicts at Dhauli, Asoka addressed his officers of justice in the capital to act so that even a single person should not unnecessarily suffer imprisonment or pain. This clearly shows the concern of Asoka for justice.

3.4.2 Mughal Period:

During the Mughal period in India the punishment was given mostly as a retribution or deterrence. As in ancient India, during this period also, imprisonment as a method of punishment was not a normal feature of the legal system. Punishments were meted out side the prison and very few persons were sent to prison. The principal forms of punishment were capital punishment, mutilation, flogging, banishment fines and imprisonment.

The chief feature of imprisonment of the period was that no period was fixed for it. The Quazi and the magistrate had a right to send any one to prison for the offence of crime for which the punishment could be awarded and the accused had to show signs of repentance to secure freedom. There were three noble prisons or castles at Gwalior, Ranthambore and Rohtas. Fort of Ranthambore was used as a temporary prison for criminals condemned to death punishment. After two months of their arrival, they would be pushed down the hill to their death. Rohtas prison was used to keep those nobles who were condemned to perpetual imprisonment from where very few returned home.
The historical accounts recorded by several travellers during the period clearly show the appalling conditions existing in the prisons of the Mughal period. Monserrate reported that the ordinary criminals were kept under guard in irons, but not in prison. Princes sentenced to imprisonment were sent to the jail at Gwalior where they rot away in chains and filth. Nicolai Manucci records as, "when the prisoners were taken to the prison, they were usually loaded with iron fetters on their feet and shackles on their necks". For temporary confinement, there were Chabutra-kotwali, police lockups. There are frequent references in the news letters of Aurangzeb about the confinement of thieves, robbers and even guilty officers in these lockups.

According to Muslim law, the Qazis or magistrates were expected to visit prisons and inquire into the conditions there and release those who showed sign of repentance. Usually, they neglected their duty. The only redeeming feature for the prisoners was that orders for their release were issued on special occasions. Those occasions were birth of a crown prince, recovery of the Emperor or a royal prince from long illness, or visit of the Emperor to some of the prison fortresses during royal tours. On the birth of prince Salim, Akbar ordered that all the prisoners in the imperial dominions who were shut up in the fortresses on 'account of great accounts' were to be released. Soon after his accession, Jahangir ordered the release of all those persons who had been imprisoned for a long time in forts. In 1618, he inspected the condition of the prisoners in that Fort. With the exception of those convicted for murder or other dangerous
crimes, he freed them all and to each one in accordance with his circumstances
gave them expenses and dress of honour. 56

There were standing instructions during Shahajahan’s reign that whenever the Emperor passed by a fort, the cases of the prisoners there should be brought to his notice. 57 In the beginning of his reign he visited the Fort of Gwalior, and gave orders for the release of all prisoners excepting those charged with very serious crimes. In the eleventh year of his reign, he again happened to pass by the fort. 56 He inspected the cases of the prisoners there and found only 11 with sentences of long duration and set them free. 59 On the occasion of the celebration of recovery from illness of the favourite princess Begam Sahib, Shah Jahan released prisoners in 1638. In the 46th year of his reign in 1703, Aurangzeb ordered Mohammad Mas’ud that all the prisoners confined should be set free with the exception of a Faqir. 60 Thus during the Mughal period prisoners were released on special occasions.

About the prison system that existed in pre-British period, the Board of Administration reported to the Court of Directors that, imprisonment was not a native punishment. Debtors were chained to gateways to pickup their food from charitable passers-by, probably there were not even hundred men in confinement at any one time during Ranjeet Singh’s reign. The common punishment was to cut off noses of thieves, to hamstrung burglars and take off the hand, sometimes both hands of dacoits. Under the Durbar there were sometimes 50 or 60 thieves, debtors and murders at one time crowded into a single unventilated room in the old Kotwalee in the city. Some of these, by the help of bribes or by the influence of
of their partisans, might get enlisted in the army, or even obtain a rank in it. Such was, often, the case in Ranjeet Singh's time. A dry well is now shown at Amritsar where prisoners were confined, and every sirdar and jageerdar chained up at will his own defaulter, or took his own measures extract his dues from him.\textsuperscript{61} Thus, during the Moghal period imprisonment was not a form of punishment.

\textbf{3.4.3 Modern Prison System}

In India the year 1835 marks the beginning of prison reforms. In that year Lord Macaulay arrived in India as a Member of the Indian Law Commission. He drew the attention of the Government of India to the terrible conditions in the Indian Jails. While presenting a note to the Legislative Council in India on December, 21, 1835, he strongly subscribed to the idea that:

it is scarcely necessary to say that the best criminal code can be of very little use to a community, unless there be a good machinery for the infliction of punishment. Death is rarely inflicted in this country at present, and it must certainly be the wish of the Government and of the Law Commission that it should be inflicted more rarely still. The practice of (Public) flogging has been abolished, and we should, I am sure, be most unwilling to revive it... \textsuperscript{62} Imprisonment is the punishment to which we must chiefly trust. It will be resorted to in ninety-nine cases out of every hundred.\textsuperscript{63}

He further said:

It is therefore of the greater importance to establish such regulations as shall make imprisonment a terror to wrong doers and shall at the same time prevent it from being attended by any circumstances shocking to humanity. Unless this be done, the code, whatever credit it may do to its authors in the opinion of
European jurists, will be utterly useless to the people for whose benefit it is intended.64

The horrible conditions in Indian prisons obtaining in the middle of the 19th Century could be well judged by the fact that Lord Macaulay, while giving an account of the conditions prevailing at Alipore Jail at Calcutta condemned them as "shocking to humanity" and "great dishonor on our Government." "Hundreds of the worst and most desperate criminals" he wrote, "are collected in one great body and no visitor could enter the gates without danger."65

On the recommendation of Lord Macaulay a committee was appointed for the purpose of collecting information, "as to the state of Indian prisons and of preparing an improved plan of prison discipline... and to suggest such reforms as may make the place (the jail at Alipore) a model for other prisons."66 The council appointed a committee on January 2, 1836 Known as the Prison Discipline Committee with Hon'ble H. Shakespeare as president and Lord Macaulay as one of the members. The committee reported in 1838 to Lord Auckland, the then Governor-General, and noted with great disapprobation "the rampant corruption in the subordinate establishment, the laxity of discipline, and the system of employing prisoners on extra-mural labour on public roads, with out exception the worst method of treatment that has been provided under the British Government for this class of persons".67

The Committee itself was not free from the enduring influence of these vices. Its views and observations unmistakably reflect the attitude of the English rulers towards India. It supported the retributive justice by saying that the great
end of punishment is, "to deter all men from crime who are capable of committing it and susceptible of the fear of punishment. This single object of punishment is of such paramount importance that no secondary object ought to be aimed at in any such way that thereby this main object will be attained in any material degree less perfectly than would otherwise be the case." 68

The Committee in its recommendations deliberately rejected all reforming influences such as moral and religious teaching, education or any system of regards for good conduct and suggested the building of central prisons where the convicts might be engaged not on manufactures which it condemned but in some dull, monotonous, wearisome and uninteresting work in which there shall be wanting even the enjoyment of knowing that a quicker release can be got by working harder for a time. 69

The purpose of prison Administration, as viewed in its Report, was to make "the Gaol a place of dread through a ruthless process of severe privation, really hard work, solitude, silence and separation." 70 Despite its advocacy of the theory of retribution in prison administration, the Prison Discipline Committee of 1836-38 had still made some positive contributions in the sphere of prison reforms in India. It advocated for proper buildings and intramural employment and "laid the foundation for further progress, and its vigorous grasp of principle placed the subject of prison reform in India on a higher plane than might otherwise have been at once attained". 71

In pursuance of the recommendations of the Committee many central prisons were constructed - Agra in 1846, Bareilly and Allahabad in 1848. at

In 1844 the first I.G. of Prisons was appointed in the North Western Province (U.P.). Initially, his appointment was made on an experimental basis for two years and was extended for another four years. In 1850 the Government of India made it a permanent post and suggested that each province should appoint an I.G. of prisons. In 1862 the North-Western Province employed Civil Surgeons as Superintendents of District Jails. Subsequently seeing the success of this system Government of India issued orders in 1864 that all provinces should employ Civil Surgeons as Superintendents of District Jails.

In 1864, Lord Dalhousie appointed the second commission of Enquiry into Jail Management and Discipline. The Mulla committee opined, "It is interesting to note that the British regime was interested in the prisons only from the point of view of administration and discipline. The sociological ideas of reformation or welfare of inmates had not crystallized till then". The idea of humanisation of prisons was not at all considered. Second Prisons Commission was appointed to minimise high death rates in prison and for considering other aspects of jail management. The committee found that during the preceding ten years not less than 46,309 deaths had occurred within the walls of the Indian prisons. The committee concluded that the sickness and mortality might be considered as mainly attributable to (i) over crowding, (ii) bad ventilation, (iii) bad conservancy, (iv) bad drainage, (v) insufficient clothing, (vi) sleeping on the ground, (vii) deficiency of personal cleanliness, (viii) bad water, (ix) extraction of labour from...
unfit persons, and (x) insufficient medical inspection. The committee also considered the problems of juvenile delinquents, female prisoners, jail discipline, classification of convicted prisoners, habitual prisoners, and recommended a number of measures for the improvement of prison conditions.\textsuperscript{76}

Due to the implementation of the recommendations of the committee, the death rate in prisons was considerably reduced.\textsuperscript{77} Prison discipline was codified in specific terms and violations were made prison offences, attracting punishment of solitary confinement, reduction in diet, whipping and hard labour.\textsuperscript{78} In 1870 the Government of India passed the prisons Act to amend the law relating to prisons in the country. It laid down that there should be a superintendent, medical officer, a jailor and such subordinate officers as the local government thinks necessary.\textsuperscript{79} The Superintendent was authorized to appoint with the approval of the I.G of prisons, the jailor and the Deputy Jailor.\textsuperscript{80} The Superintendent was empowered to deal with disciplinary matters, labour, expenditure, punishment and control and correspondence on all matters connected with the prison with and through the I.G.\textsuperscript{81}

The Act provided for the separation of prisoners. Civil prisoners were allowed to follow their respective trades and professions with the permission of the Superintendent.\textsuperscript{82} Prisoners sentenced to simple imprisonment also were allowed to work and no prisoner not sentenced to rigorous imprisonment was to be punished for neglect of works.\textsuperscript{83} The Act defined the list of prison offences and empowered the Superintendent to punish offenders by solitary confinement for any time not exceeding seven days, by close confinement for any time not
exceeding three days, by a diet reduced to such extent as the local government may prescribe by corporal punishment and by hard labour for any time not exceeding seven days. The Act tried to give effect to the recommendations of the Committee of 1864.

In 1877, the third All India Jail Committee was constituted comprising entirely of officials concerned with the prison work. The committee reviewed the jail management generally and concerned itself more with the matters of details in prison work than with the general aims and principles of administration. In 1888, Lord Dufferin appointed the Fourth Jail Commission on an All India basis. The object and scope of this commission as given out in the resolution appointing the Commission make an interesting reading, as it has still a contemporary relevance.

The Commission of 1888 visited various provinces and made an exhaustive enquiry into all matters connected with jail administration. It was of the opinion that uniformity could not be achieved without enactment of single prisons Act. The Commission made an exhaustive inquiry, and submitted their report in 1889 which dealt with prison discipline and management in all its aspects. The Report covered the entire gamut of internal management of jails and laying down of rules for prison management. The Commission recommended for the separation of undertrial prisoners and the classification of prisoners into casuals and Habituals. Most of the recommendations of the Commission were incorporated in the jail manuals of various provinces. On the basis of the recommendation of the Jail Commission of 1888, a consolidated
Prisons Bill was prepared. Commission's recommendations in regard to jail offences and punishments were separately examined by a conference of experts on jail management from all provinces, which was convened for the purpose in 1892 at Calcutta.

The draft Bill was circulated to the local Governments with a letter addressed by Mr. C.J. Lyall, the then Secretary to the Government of India, Home Department in 1893 requesting the local Governments to forward their observations on it and after incorporating such observations as were necessary the Bill was presented to the Governor-General's Council.

The Government of India passed the prisons Act, 1894 which is the existing law governing management and administration of prisons in India. The Britishers had found it efficacious for the achievement of their political ends to run prisons according to the provisions of this Act. The Act is largely based on deterrent principles and reflected the contemporary English public opinion on the subject. The legislators were concerned more with prison working than with prison treatment and gave more consideration to prison offences and punishments than to its effects.

The Act along with other various prisons Acts and regulations led to considerable material progress. Buildings had been gradually provided, dietaries laid down, systems of labours elaborated, a rational remission system developed, unsanitary conditions partly corrected and death rates reduced. Despite such material progress, the jail administration in India still lagged on its reformative side. The influence of the Report of the Prison Discipline Committee of 1836-38
was not yet completely eliminated. It still "cast its long shadow over the dull, bleak and cheerless Indian prisons and retarded all serious attempts at reform. The administrations were still in no mood to regard the prisoner as a human being and seek to reform him by humane methods, as opposed to methods of torture of either body or mind. He was looked upon as a mere cog in the jail wheel that turned on and on so ruthlessly. All emphasis was given to the material well-being of a prisoner- his diet, health and labour totally ignoring the possibility of his moral or intellectual reclamation."\textsuperscript{91} This opinion gives a clear picture of the prison conditions prevailing at the time.

In 1837 the Reformatory Schools Act was passed which is considered as a land mark in the History of prison reform movement in India. Under the Act, the Courts were directed to send a "youthful offender" to a reformatory school instead of a prison\textsuperscript{92}

The prison problems in the country were examined comprehensively by the Indian Jails Committee 1919-20. This Committee produced a report which is indeed a land mark in the prison reforms in the country. It can be considered as the corner stone of modern prison reforms in the country. For the first time in the history of prisons 'reformation' and 'rehabilitation' offenders were identified as the objectives of prison administration. The Committee observed, "[t]he Indian prison administration has lagged behind on the reformatory side of prison work. It has failed so far to regard the prisoner as an individual and has conceived him rather as an unit in the Jail administration machinery. It has little lost sight of the effect which humanising and civilising might have on the mind of the individual
prisoner.... The whole point of view needs to be altered, not merely isolated
details, and the primary duty of keeping people out of prison needs to be more
clearly recognized by all authorities and not least by courts."\textsuperscript{93} It also stated,
"the aim of prison administration is the prevention of further crime and restoration
of the criminal to society as a reformed character."\textsuperscript{94}

In pursuance of the above objectives, the Committee of 1919
recommended as (1) as far as possible, every prison should be under the
superintendence of a trained expert who should devote his whole time and
attention to the subject and the number of prisoners who can properly be
entrusted to the care of a single superintendent must not exceed a certain
maximum; (2) the prison staff, from the jailor down to the warder should be
recruited with care, properly trained and paid a salary sufficient to secure and
retain faithful service; (3) prisoners in jail shall be so classified and separated that
the younger or less experienced shall not be contaminated or rendered worse by
communication and association with the older or more hardened offender; (4) the
prisoners, while in prison, should be brought under such humanising and
improving influence as will not only deter them from committing further crimes but
will also result in a real reformation of their character; (5) to help prisoners to
secure an honest living after their release; (6) since imprisonment is generally an
evil, measures such as extension of the probation system, prohibition of petty
sentences of imprisonment, extension of the period for payment of fine in
reasonable cases as determined by the court and the practice of payment by
installments should be adopted as far as possible; (7) measures for revision of
every sentence of long imprisonment and grant of increased remissions for good behaviours should be taken to shorten imprisonment; (8) the prison establishment should be divided into two branches, to be separately recruited; (a) executive, consisting of jailors and deputy jailors and, (b) clerical, consisting of clerks, accountants and storekeepers; (9) as regards classification of prisoners the committee formulated a revised definition of the term 'habitual' so as to make the existence of one or more previous convictions, or of an order to find security under sections 110 and 118 Cr.P.C., an essential condition. For all non-habituals it recommended a further sub-classification into two classes; (a) star and (b) ordinary; (10) The award of corporal punishment for prison offences, should be restricted to mutiny and to serious assaults on public servants or visitors; (11) To provide prison incentives such as extended remission, facilities to write two or more letters and get visits from relatives or friends.; (12) In the selection of prison labour, the main object should be to reform the criminal and to produce goods similar in quality to those obtainable in the open market. The use of power-driven machinery in jails was considered by the committee as essential; (13) Arrangements for education up to the elementary stage and restricted to prisoners not over the age of 25 were recommended in all Central and District Jails. Every prison should contain a library of books suitable for issue to prisoners and endeavour should be made to provide religious and moral instructions for all prisoners avoiding interference with genuine or caste prejudices of prisoners; (14) The commitment to prison of children and young prisoners, whether after conviction or while on remand, was contrary to public
policy. Remand Homes and Children's Courts should be provided for such children and the procedure in these courts should be as informal and as elastic as possible. Probation officers should be appointed to aid the courts in obtaining information about children and to supervise them after their release. Adolescent offenders should not be sent to ordinary jails but to special institution, which should be reformatory in character.\textsuperscript{96}

The Committee made forceful plea for introduction of warning, probation fine for work in lieu of short term imprisonment.\textsuperscript{97} The Committee Report gave a phillip to the prison reforms in the Country. The Report influenced directly or indirectly the enactment of many legislations like Borstal Act, the Children’s Act, Probations Acts, etc.

However the recommendations of the Committee received a set back due to several reasons and could not be implemented effectively. Mainly the diarchical system introduced by the Government of India Act of 1919 left the subject of prisons to the consideration and judgment of the provincial Governments without any effective supervision and control of the Central Government. As an obvious result most of the provincial Governments relegated the administration of prisons to a lower priority, neglecting the valuable recommendations for prison reforms made by that Committee.\textsuperscript{98}

Secondly, the political turmoil of the time also over shadowed the question of prison reforms. However the political unrest led to the arrest of large number of political leaders. The years 1921-22 were the years of Non Co-operation.
Movement in India. Many leaders criticised the rotten prison conditions and forced the provincial Governments to enquire into them. Thus a Jails Enquiry Committee was set up by the Uttar Pradesh Government to make enquiries into the jail administration and the organisation of jail service with particular reference to the management of central prisons and the larger District Jails. The Government of India Act, 1935 transferred the subject of jails to the provincial Governments which prevented the uniform implementation of the recommendation of the committee of 1919. But the efforts of some freedom fighters who had suffered in the various jails created an awareness about the stinking prisons. They succeeded in persuading various provincial Governments to appoint committees to further enquire into prison conditions and to suggest improvements in consonance with their local conditions.

During this period many progressive legislations like- (i) the Bombay Probation of Offenders Act, 1936; (ii) The G.P. and Berar Conditional Release of Prisoners Act, 1936; and (iii) The U.P. First Offenders Probation Act, 1938 were passed. The Constitution of India which came into force in 1950 retained the position of the Government of India Act 1935 in the matter of prisons and kept prisons as a state subject by including it in List II- State List of the Seventh Schedule.

During the first decade of India's independence efforts were made at the state level to improve the prison conditions and humanise prison administration. A number of Jail Reforms Committees were appointed by the State Governments for the purpose. Though the reports of these committees were not
implemented with elan by the State Governments, which had appointed them, still there were some positive gains. Prisoners could now avail furloughs and parole. They were granted wages, even though nominal for the work done by them. The introduction of panchayat system led to the improvement in the living conditions of prisoners. Open prisons were set up as half way houses for long-term prisoners for their transition from prison to open society. A jail officers Training School was set at Pune in 1955. However, the total impact of these measures on prison conditions was not significant.

In the meantime the Government of India invited technical assistance in this field from the United Nations. Dr. W. C. Reckless, an United Nations Expert on correctional work, visited India during the year 1951-52 to study prison administration in the country and to suggest ways and means of improving it. In his Report- 'Jail Administration in India', he made a plea for transforming jails into reformation centres and advocated establishment of new jails. He opposed the handling of juvenile delinquents by courts, jails and police meant for adult offenders. He advocated that a cadre of properly trained workers was essential to man prison services. His recommendation gave a fillip to specialised training of correctional personnel. The revision of out dated jails manuals and introduction of legal substitutes for short sentences were recommended by him. He advocated the development of full time probation and revising boards for the after care services and also the establishment of selection of prisoners for premature release.
His other important recommendations included (i) the establishment in each state an integrated Department of correctional administration comprising prisons, Borstals children institutions, probation services and after care services; (ii) establishment of an Advisory Board for correctional Administration by Central Government to help the State Governments in the development of the correctional programme; (iii) the creation of a national forum for exchange of professional expertise and experience. He also suggested that a conference of senior staff of correctional department be held periodically at regular intervals.103

The Eighth Conference of the I-G prisons held in 1952 in Bombay gave a push to the prisoners rights movement in the country. The conference stressed the need to revamp the state jail Manuals. The year 1955 is significant in the annals of prison reforms because it was in this year whipping of prisoners was abolished. And, on the international front, the United Nations held its first congress on the prevention of crime and treatment of offenders at Geneva. The Congress approved the United Nations standard Minimum Rules for the treatment of prisoners and urged the Member Nations to modify their national practices accordingly.104

Influenced by the above developments, the Government of India appointed the All India Jail Manual Committee in 1957 to prepare a Model Jail Manual. The Committee was also asked to study the problems of prison administration and to make suggestions for prison reforms to be adopted uniformly throughout the country. After making a detailed study of the prison system in India, the Committee stated, "the prison should be a center of
correctional treatment where major emphasis shall be given on the reduction and reformation of the offender. The impact of institutional environment and treatment, shall aim at producing constructive changes in the offender, as would be having profound and lasting effects on his habits, attitudes, approaches and on his total value schemes of life."105

The Committee recommended for (i) providing a net-work of diversified institutions for different categories of prisoners in order to fulfil appropriate requirements of security and treatment for them; (ii) introduction of a scientific system of classification based on a careful study of a number of factors including offenders' personal background and their responsible institutional treatment; (iii) various measures relating to accommodation, buildings, equipment, education, work and employment, discipline and prison management; (iv) the establishment of a Central Bureau of Correctional Services was strongly advocated.106

Accepting the recommendation for the establishment of such a Bureau, the Central Bureau of Correctional Services was set up under the Ministry of Home Affairs in 1961. This Bureau was required to act as a central technical advisory body. The functions assigned to the Bureau were - to formulate an uniform policy and advise state Governments on the latest methods relating to jail administration, probation, after-care, juvenile and remand homes, certified and reformatory Schools, Borstals and protective home, suppression of immoral traffic, etc; to collect and interpret statistical data relating to prevention of crime and treatment of offenders on an All India basis; to promote research and staff training including establishment and control of central Institutions, afford aid and
guidance to such other institutions as undertaking studies, surveys and any required research and experimentation in the field; and to disseminate information and stimulate interest by publication of bulletins, promotion of conferences, etc. for the above purpose with a view to secure the necessary appreciation of progressive correctional methods and public cooperation for rehabilitation of offenders and prevention of crime.

The Bureau concentrated on the implementation of the recommendation of the All India Jail Manual Committee and the revision of the State Jail Manuals on the lines of the model prison manual. For this purpose it organised an All India Seminar on correctional services in 1969. The Bureau also organised Inter-State Study Teams on open prisons and other correctional services. The Bureau successfully persuaded the four southern states - Karnataka, Andhra Pradesh, Kerala and Tamil Nadu - to agree to set up a regional Institute for the southern Zone, which came into being in 1979 known as the Regional Institute of Correctional Administration, Vellore.

Despite such multi-pronged efforts to improve the prison conditions not much progress could be made due to official apathy and bureaucratic bungling. In 1972, the Government of India Ministry of Home Affairs appointed a Working Group on prisons which presented its report in 1973.

The Working Group was assigned the task of (i) examining the physical and administrative conditions of the jails in the country and suggesting ways and means for their improvement; (ii) laying down standard in respect of different
services and facilities in the jails; (iii) laying down an order of priorities for the prison development schemes; and (iv) considering other allied matters concerning prisoners.\(^{107}\)

The working group emphasized the need for a National Policy on prison and Correctional Administration. The following were identified as the main elements of the proposed National Policy,

(1) A suitable system should be established for coordination among the three organisations of the criminal justice system, i.e., the police, the judiciary and the prison and correctional administration, for the effective prevention of crime and treatment of offenders;

(2) The government should make effective use of alternatives to imprisonment as a measure of sentencing policy. The concepts of deprivation of liberty and segregation from society should be limited mostly to the habitual, the incorrigible and the dangerous criminals.

(3) The aim of the prison administration will be the employment of all resources, human and material, to provide scientific treatment to every offender according to his peculiar needs and circumstances.

(4) Development of prisons and correctional administration should no longer remain divorced from the national development process and the prison administration should be treated as an integral part of the social defence components of national planning process.
(5) Certain aspects of prison administration should be included in the Five Year Plan;

(6) The amendment to the Constitution to include the subject of prisons and allied institutions in the Concurrent List and the enactment of suitable legislation by the Centre and the States, and the revision of state prison manuals.

(7) The prison administration should systematically involve enlightened individual citizens, associations, societies and other community agencies in the treatment, after care and rehabilitation of offenders.108

In 1975 the Bureau was reorganized into the National Institute of Social Defence with the following functions:- (i) to undertake research on social defence; (ii) to compile, process and analyze statistics on social defence; (iii) to develop, promote, sponsor and undertake training/orientation in the field of social defence; (iv) to draft model legislation and rules in the field of social defence; (v) to advise the central and state Governments/Union Territories Administrations on social defence problems and provide technical services, facilities for preparation of schemes, formulation of projects, drafting of legislation, etc; (vi) to provide a forum for the exchange of information on social defence among States/Union Territories and voluntary organisations and thus to serve as a clearing house for information in the field of social defence; (vii) to create public awareness on social defence problems specially with regard to preventive and rehabilitative role of the community; (viii) to assist the Government of India for...
the exchange of information on social defence with other countries and with the United Nations or other specialised agencies; (ix) to establish liaison with universities, research institutes and voluntary organisations for appropriate attention to social defence; (x) to bring out publications in the field of social defence, both popular and scientific.  

The Institute has been concerned with a wide range of preventive, curative and rehabilitative services in various areas of social defence, including welfare of prisoners, prison reforms and administration, juvenile vagrancy, delinquency and crime, probation, beggary, social and moral hygiene, alcoholism, gambling, suicide and drug addiction. As the subjects relating to economic and social planning as well as criminal law and criminal procedure code are the concurrent responsibility of Central and State Governments, the Institute as an organ of the Central Government has been playing a significant role in this regard. While through the Ministry of Home Affairs, it deals with the administration and management of prisons, as a technical agency of the Ministry of Social Welfare it assists the Government in the prevention and control of juvenile delinquency, welfare services in prisons, probation and allied measures. The Institute has been playing an important role in bringing about uniformity in the rules and regulations governing jail administration and to standardise service in keeping with their overall objective of the reformation and rehabilitation. For this purpose the Institute has laid emphasis on the guidelines contained in Modern Prison Manual of 1957 and recommendations of the working group.
At the instance of the Central Government, the Seventh Finance Commission considered the problem of prisons. The Commission recognized that jails had been neglected for too long and that there had been practically no change in their conditions. The Commission opined that certain basic areas should be urgently addressed by the Government. Firstly to ensure that adequate direct expenditure was incurred on the prisoners; Secondly, to bring improvements in amenities in respect of water supply, sanitary conditions, electrification, etc., and thirdly, to provide for the construction of additional jail capacities in states where these were found short of the minimum requirement.

Although the governments both at the Centre and in the States, were in possession of a large number of reports and recommendations coming from prison reforms commission/committees, working group Seminars, Conferences, etc. touching on almost every aspect relating to prisons and prisoners, not much was done because in most of the states such recommendations involved financial implications, were either dropped or deferred. Further, as a result of administrative lethargy and weakening of supervision and control, the problems and sufferings within the closed world of prisons kept on mounting and failures of the system began to surface.

A Conference of chief secretaries of all the States and Union Territories was convened by the Government of India on April 9, 1979 to laydown guidelines for standardization of prison conditions through out the country. On the basis of the consensus arrived at the conference regarding the prison administration, the
Government of India requested the State Governments and Union Territory Administrations as:

(i) to revise their prison manuals on the lines of the model prison manual by the end of the year;

(ii) to appoint Review Committees for under trial prisoners at the District and State level.

(iii) To provide legal aid to indigent prisoners and to appoint whole-time or part-time law officers in jails;

(iv) To enforce existing provisions with respect to grant of bail and to liberalize bail system after considering all aspects of it;

(v) To strictly adhere to the provisions of the Code of Criminal Procedure, 1973 with regard to the limitations on time for investigation and inquiry;

(vi) To ensure that no child in conflict with law be sent to the prison for want of specialized services under the children Act;

(vii) To have at least one Borstal School set up for youthful offenders;

(viii) To create separate facilities for the care, treatment and rehabilitation of women offenders;

(ix) To arrange for the treatment of lunatics in specialized institutions;

(x) To provide for special camp accommodation under conditions of minimum security to political agitators coming to jails;

(xi) To prepare a time-bound programme for improvement in living conditions of prisoners with priority attention to sanitary facilities, water supply, electrification and to send it to the Ministry of Home Affairs for approval;
(xii) To develop systematically the programmes of education, training and work in jails;

(xiii) To strengthen the machinery for inspection, supervision and monitoring of prison development programme and to ensure that the financial provisions made for the upgradation of prison administration by the Seventh Finance Commission are properly utilized;

(xiv) To organize a systematic programme of personal training at State and Regional levels;

(xv) To abolish the system of convict officers in a phased manner;

(xvi) To mobilize additional resources for modernization of jails and development of correctional services in jail;

(xvii) To set up a State Board of Visitors to visit jails at regular periodicity and to report on conditions prevailing in the jails for consideration of the State Government;

(xviii) To examine and furnish views to Government of India on proposal for setting up of the National Board of Visitors.\textsuperscript{114}

The above plan of action proposed by the Central Government was yet another, one which failed to take off. Again in 1980 the Government of India considered it necessary that a comprehensive review of prison administration in the country should be made and suitable measures for its improvement should be initiated. Thus it appointed the All India Committee on Jail Reforms headed by Justice Anand Narain Mulla. This Committee submitted its report in 1983.\textsuperscript{115}

The Committee expressed its anguish at the deteriorating conditions of prisons in India, which according to the committee was the lack of national
commitment arising out of a national consensus on the goals and objectives of prison administration and modalities of achieving them.

The committee recommended a National Policy on prisons to the Government of India for its adoption. The goals and objectives of prisons in India, according to the National Policy on prisons, are to protect and to reform and reassimilate offenders in the social milieu by giving them appropriate correctional treatment. ¹¹⁶

3.5 CONCLUSION

During the past two centuries, imprisonment has emerged as an important form of punishment. Before the 18th Century, though the prisons existed they were not used to punish, but to keep the accused till his punishment. During that period the reaction to crime was mostly influenced by retributive theory of punishment. Death, mutilation, whipping, flogging and other forms of corporal punishment were frequently used to deal with lawbreakers. The construction of various houses of correction on the European continent was the first step in the direction of humanitarian outlook for condemned criminals. Similarly, the opening of penitentiaries at Pennsylvania and Auburn helped to reform the prison system in U.S.A. Over the years, the prisons in U.S.A. have become less severe as the emphasis has shifted to the treatment of prisoners.
In India, though prisons have been in existence since ancient times no records are available about the actual prison conditions existing in ancient times. However, various foreign travellers have recorded the appalling conditions existing in the prisons of the Mughal period. During this period the criminals were subjected to brutal methods of punishment. The arrival of Lord Macaulay in India marked the beginning of a new era in the history of prisons in the country. He firmly subscribed to the idea that imprisonment should be the chief form of punishment in ninety-nine cases out of every hundred. Lord Macaulay was chiefly responsible for the appointment of a committee to study and collect information about Indian prisons. Lord Macaulay, though expressed his concern about the shocking prison conditions, favoured the establishment of such regulations as shall make imprisonment a terror to wrong doers. The prison Discipline Committee appointed in 1836 also supported the retributive justice and rejected all reforming measures. The Committee laid emphasis on the construction of proper buildings. The Prisons Act, 1870 made some provisions for the improvement of prison conditions. Similarly, the prisons Act, 1894 laid more emphasis on prison discipline and prison administration. The Act was based on deterrent principles and reflected the contemporary English public opinion. However, the Act led to considerable material progress in prisons.

The Report of the Indian Jails Committee 1919-20 is considered as a landmark in the history of prison reforms in the country as it recognised for the first time the reformation and rehabilitation of offenders as the objectives of prison administration. The recommendations of the committee could not be
implemented uniformly as the Acts of 1919 and 1935 transferred the subject of “Prisons” to provinces. Similarly, the Constitution of India retained the position of the Act of 1935 and kept prisons as a state subject by including it in list-II - State List of Seventh schedule.

After the independence, various prison reforms commissions, committees, working groups have been appointed and seminars, conferences touching every aspect of prison administration have been organised with the sole objective of improving prison conditions. The National Institute of Social Defence, National Human Rights Commission have been doing tremendous job to humanise prison administration. They have been unanimous in their recommendation for evolving a national policy on prison administration, amendment of the Constitution to transfer the subject of "Prison" to the Concurrent List of the Seventh Schedule to the Constitution and the enactment of new prison legislation in place of archaic prisons Act, 1894 which is not applicable to all the states uniformly.

To sum up, the above analysis of penal reaction to crime at different times in different countries clearly establishes that it is a movement from retributive justice to rehabilitationist and Reformatory justice.
NOTES AND REFERENCES


2. For detailed discussion of the emergence of the rehabilitative theory of punishment see supra chapter II.

3. Gibbons, supra note 1 at 444.

4. Id.


6. Id.

7. Id.

8. Id. at .5.

9. Id.


12. Id.

13. Id. at .7.

14. The places of confinement were managed by private citizens and were the most wretched places in which persons of senses and all ages were indiscriminately thrown together. See Gibbons supra note 1 at 445, see also, Bartollas, Id at.7.

15. Bartollas, Id.


17. These Houses of correction constitute the forerunners of imprisonment as a form of punishment. see Gibbons Id., at 446.
18. *Id*; However in reality the present condition of English prisons and the treatment of prisoners is considered as the most disgraceful aspect of the entire English legal system. See Jane Cox, *U.K. Justice stops at Jail Door* LEX ET. JURIS, June, 1988 at 34.


22. The Purpose of the penitentiary was stated by the law to be:

"By sobriety, cleanliness, and medical assistance, by a regular series of labour, by solitary confinement during the intervals of work, and by due religious instruction to preserve and amend the health of the unhappy offenders, to inure them to habits of industry, to guard them from pernicious company, to accustom them to serious reflection and to teach them both the principles and practice of every Christian and moral duty". See Sutherland and Cressey, *supra* note 20 at 485.

23. Bartollas *supra* note 5 at 16.


25. Gibbons *supra* note 1 art 448; Also see Sutherland and Cressey, *id*.

26. Interestingly, European visitors, however, generally secured and carried away an impression that the Pennsylvania system was superior. Most of the European Countries adopted the Pennsylvania system in a modified form. See Sutherland *id.*, at 488

27. *Id.* at 489.


30. *Id.*, at 50.
31. Bartollas supra note 5 at 23.

32. Id. at 24.

33. Id.

34. Louis P. Carney supra note 21 at 82.

35. R.M. Das, Manu, on Crime and punishment, Patna: Janaki Prakashan, 1987 at 42; also see Dr. Birendranath, Judicial Administration India Patna: Janaki Prakashan, 1979 at 90.

36. Manu IX 288 see Das Id., at 29.

37. Id. Manu IX 229.

38. Id. Manu VIII 375.


40. Id. at 343.


42. Id. Sukraniti, iv.I lines 290-10. The first notable edition was that published by the Panini office, Allahabad, by Dr. Gustav Oppert in 1882 under the auspices of the Madras government. Another edition was brought out in 1890 by Jivananda Vidya Sagar of Calcutta. An English Translation of this work by Prof. Benoy Kumar Sarkar forms vol. XIII of the Sacred Books of the Hindus, published by the Panini Office, Allahabad.

43. Id.

44. M.Rama Jois supra note 39, at 343.

45. Id. Also see R.N. Dair, Prison as a social system Bombay: Popular Prakashan, 1978 at 42-43: Dr. Birendranath, supra note 35, at 90.

46. Id.
47. Dr. Birendranath supra note 35, at 90.

48. Dr. Satya Prakash Sangar, Administration of Justice in Mughal India, in Bhatia Vol. 5 supra note 41 at 26.

49. R.N. Datir, supra note 45, at 46.


51. R.N. Datir, supra note 45 at 46-47.

52. Id.

53. Id.

54. Jaipur Akhbarat, 49th year, see S.P. Sangar supra note 48 at 72.

55. Akbar Nama, Bev. II, pp 504-05; Farishsta, II, P 350: Badawni, Test II at 120-24, see Sangar supra at 72.

56. Id.

57. Id. at 73.

58. Id.

59. Id.

60. Id.


64. Mecaulay T.B. Minute Dated 14th December 1835 in Howell A.P. Under Secretary to Government of India 1867-68- Note on Jails and Jail

65. National Archives supra note 63 at 133.

66. Id. at 134.

67. Id.


70. Id.

71. Id. Para 9.

72. Vidya Bhusan, Supra note 62 at 18-20.

73. Id.

74. See, Government of India, All India Committee on Prison Reforms, 1980-83 (Mulla Committee) at 7.

75. Report of Indian Jails Committee, 1864 at 10.

76. Id.

77. R.N.Datir supra note 45 at 58.

78. Mulla Committee, supra note 74 at 8.

79. The prisons Act, 1870., Section 7.

80. Id. Section 8.

81. Id. Section 13.

82. Id. Section 37.
83. Id. Section 39.

84. Id. Section 48.

85. Mulla Committee supra note 74 at 8.

86. The Imperial Gazetteer of India, p.399 cited in R.N.Datir supra note 45, at 58.

87. Mulla Committee supra note 74 at 9.

88. Id.

89. For a detailed analysis of the Act, 1894 see infra chapter 5.


92. The Act defined youth full offenders as any boy who has been convicted of any offence punishable with transportation or imprisonment and who at the time of such conviction was under the age of 15 years. Sec.2.


94. Id.

95. Id. at paras 16-20.

96. Id. at paras 367-370, 373-377 and 395.

97. Id.

98. See Mulla Committee Report supra note 74 at 10.


100. Some of the committees appointed were-(I) The Mysore Committee on Prison Reforms, 1940-41, (ii) U.P.- Jail Reforms Committee, 1946; and (iii) The Bombay Jail Reforms Committee 1946-48, see Mulla Committee Report supra note 74 at 10.
101. *Id.*


104. The United Nations Standard Minimum Rules for the Treatment of Prisoners are the first to be propounded by the international community touching upon the core of the penal policy all over the world. These Rules lay down a comprehensive framework for a fair, just and humane treatment of offenders subjected to incarceration.


106. *Id.*


108. *Id.* at 20-24.

109. *Id.*


111. *Id.*

112. *Id.*

113. *Id.* at 16.

114. *Id.* at 17.

115. *Id.*

116. *Id.*