Chapter 6

Independent India and its Convict Labour Policy

This chapter is a critical review of independent India’s approach to convict labour. The focus is on documenting the continuities and discontinuities in convict labour policy from the colonial times to the independent Indian regime. I am more interested in looking at if the Indian state, particularly after its experience of the national movement where several of the national leaders were imprisoned, influenced the independent Indian convict labour policy in any significant way. I will be focusing on the three decades following independence, not only because few files related to convict labour have been transferred to the archives after this period, but also as stated the focus is on documenting the continuities and discontinuities in colonial and independent India’s convict labour policy.

To begin with, it is important to note that India in the post independence period accepted to continue with imprisonment as the most civilized form of punishment. Our legal system provided for two kinds of imprisonment, rigorous (that is with hard labour) and simple. As was in the colonial period, every prisoner sentenced to rigorous imprisonment was required to work subject to his mental and physical fitness as determined by a Medical officer. The meaning of hard labour was not precisely defined either in the Indian Penal Code or in any of the Jail Manuals (this was the case even in colonial India). In practice however, it meant that the prisoner must be made to work hard at whatever task he is given. The task (hard, medium, light) was allotted after due consideration was given to the character, length of the sentence, health, and to the prior knowledge of any trade of the prisoner. The prisoners sentenced to simple imprisonment (who constituted the bulk of prisoners) were not required to work as a part of their sentence itself. The term of imprisonment varied from under three months to life, which amounted to 20 years. Besides prisoners were lodged in three types of institutions i.e. Central prisons, District prisons and Sub-jails and the facilities there in varied widely. The constitution of India has included the institution of prisons, at entry 4 in the State List in the Seventh Schedule.

There were a few enthusiastic prison reforms introduced in India within a few years after independence. In the Bombay province for example, fetters, which acted as terror to prisoners, were discarded and convicts were only allowed to be continued in a solitary cell if they were
found violent inside the prison, but even then, this punishment was not awarded without the permission of the highest authority. During illness, proper medical assistance and special diet was given to the convicts. Also a well conducted canteen, run purely on a cooperative basis by prisoners themselves was put in place. It stocked useful articles such as tea, sugar, biscuits, bidis and fruits.¹

Free labour in the prisons was abolished in the prisons of Bombay, and every prisoner was paid for work at the rate of Rs. 50 a month, of which four fifth was retained by the Government for his clothing and food, and one fifth was paid to him in cash. New industries such as paper making were introduced and such paper was used in Government offices. Visapur jail (Maharashtra) which was once notorious for very bad treatment of prisoners was being expanded as the training ground for agriculture, dairy and poultry farming under the supervision of the authorities.²

The Government of India had also invited technical assistance from the United Nations Organization, and Dr. W C Reckless spent some time in India in 1951-52 to suggest ways and means of prison reforms. He recommended separation of juveniles from adult jails, separation of courts from police lock-ups, the development of whole time probation and after care services, the establishment of new jails to perform specialized functions, the revision of jail manuals, training for staff etc. The eighth Conference of the Inspector General of Prisons was convened in 1952. The first open prisons were set up about this time in Uttar Pradesh and some other States, and Prison Welfare Officers were appointed in a number of States in later years. Whipping was abolished in 1955 and the Probation of Offenders Act was passed in 1958.³

The United Nations had held the first United Nations Congress on the Prevention of Crime and Treatment of Offenders at Geneva in 1955, as a follow up of the work of the earlier International Penal and Penitentiary Commission. The Indian government approved the Minimum Standard Rules for prison administration recommended by this Congress. These rules offered broad


² Ibid, p.10.

guidelines on which member nations could modify their national practices in the treatment of prisoners. Also for the first time the problem of prison labour was discussed at an international level by the International Penal and Penitentiary Commission. The United Nations’ Social Defence Section laid down certain guiding principles for prison administration in 1955. One of the recommendations was that the period of imprisonment should be used as far as possible so that upon his return to society the offender was not only willing but able to lead law-abiding and self-supporting life. The purpose of jail labour as defined by the Standard Minimum Rules for the treatment of prisoners prepared by the International penal and Penitentiary Commission was a) as far as possible to maintain or increase the prisoners ability to earn an honest living upon release and, b) to provide vocational training in useful trades especially for young prisoners.\(^4\)

Several jail reforms committees were appointed in the following three-four decades which include the Bihar and Bombay Jail Reforms Committees (1948), East Punjab Jail Reforms Committee (1948-49), the Madras Jail Reforms Committee (1950-51), the Jail Reforms Committee, Orissa (1952-55), the Jail Reforms Committee Travancore-Cochin State (1953-55), the Uttar Pradesh Jail Industries Inquiry Committee (1955-56), the Rajasthan Jail Reforms Committee (1964), the All India Jail Manual Committee (1959), the Bihar Jail Reforms Committee (1972), the Jail Code Revision Committee, West Bengal (1972) and All India Committee on Jail Reforms (1980-83).\(^5\) In the following sections, this chapter will critically study the question of convict labour as discussed by several of these committees.

This section studies the general principles of convict labour policy as expressed by the several committees appointed in the post independent period. Firstly, it speaks about the various State/provincial committees which were appointed within a few years after independence. Then it studies the All India Jail Manual Committee of 1957-59 (Henceforth AIJMC, 1959)\(^6\) which

\(^4\) M/O Home Affairs- Police I Branch, 1949, No. 231-234, Enquiry by Rajasthan regarding reforms in other provinces.


\(^6\) The All India Jail Manual Committee of 1957-58 was the first concentrated effort in coordinating and guiding all progressive correctional administration on a standard basis in independent India. Therefore this Committee is an important landmark in the history of prison reforms in India. The Committee made a detailed scrutiny of prison
will be followed by a study of the All India Committee on Jail Reform, 1980-83 (Henceforth AIC, 1983) which is the second major effort to make an assessment of the prison conditions at an all India level.

After examining the general principles of convict labour through the Committees especially those which were appointed in the first decade after independence, it can be said that their overall emphasis was on productive labour. Penal labour was no more an officially stated objective by any of these Committees. Therefore one can say that independent India’s outlook right from the beginning has been on reformatory objective of prison labour. The influence of the Indian Jail Committee of 1919-20 as well as inspiration drawn from the similar experiences of other countries cannot be denied in shaping such an objective. The prison reform committees also emphasized more on providing training in some trades so that it would help the prisoners in post release rehabilitation. Agriculture was largely acknowledged to be the primary occupation of most of the prisoners and therefore emphasis was laid on engaging prisoners in improved techniques of agriculture and allied occupations. The meaning of productive labour that finds important place in the reformative scheme of independent India will be further elaborated in the following pages.

The AIJMC, 1959 stated the important objectives of the work programmes as follows:

a) Optimum and meaningful employment of inmates.

b) Full utilization of the available man-power in prisons for supply of services and goods required by the prison community, government and semi-government departments.

c) Qualitative and quantitative improvements in prison production.

d) Supply of capital, working costs, margin of profits and such other aspects as are inherent in the planning and development of an industrial or agricultural organization on sound and business principle.

problems and drafted, along with their report, a Model Prison Manual for the guidance of the state Governments in 1959. Among other things, the Committee reiterated the need for a central Bureau of Correctional Services under the Ministry of Home Affairs to follow up the recommendations with the State Governments. The Ministry of Home Affairs circulated the report of the Committee to the State Governments, seeking their comments. Some of their recommendations were accepted and broad guidelines on prison administration were given to the State Governments.
e) Development of work programmes and vocational training in terms of imparting skills to inmates and also for changing their outlook towards work as the focal point in their scheme of life.

f) Availability of resources that is men, money and material. The efficiency of work programme in prisons was proposed to be assessed in terms of human efforts, human costs, human benefits and human satisfaction.\(^7\)

The AIC, 1983\(^8\) agreed upon most of the ideas as expressed by the AIJMC, 57-58. Thus it is clear that all the important Committees appointed after independence, at the state level or at the national level emphasized on reformatory and rehabilitative labour for the prisoners.

### 6.1 The emphasis on agriculture

After the advent of freedom, agriculture and allied activities gained some importance, and in the following decade or so, development of agriculture was treated as an important aspect of prison administration. Though as we have seen some stress on agriculture was being expressed right from the late 1930s when popular ministries were elected, after independence especially with a few open-prisons being opened, the emphasis laid was much more. This, one can say is one of the interesting developments which perhaps is more Indian and less colonial in character.

The colonial regime’s policy on convict labour right from the days of its initial imposition was not serious about thinking of agriculture as the possible form of engaging convicts. In the first half of 19\(^{th}\) century, when there was a lack of modern prison infrastructure, the colonial regime imposed extramural convict labour towards the construction of public infrastructure, even when it was aware that a significant proportion of the native prisoners belonged to agricultural background. The first prison reforms committee in India, the Prison Discipline Committee of 1838 by emphasizing on intramural labour, itself had rejected the idea of agriculture as the

\(^7\) AIC 83, pp. 145-146.

\(^8\) In the history of prison reforms in independent India, the AIC 83, was another important effort to make an assessment of the prison conditions at an all India level. The general observations that they made on prison labour were that in most of the States and Union Territories there existed no proper planning for work and vocational training. Existing opportunities for work were underutilized and new work opportunities were not created. Also, they observed that most of the workshops were lying idle and one third of the agricultural land was left uncultivated. For more on this see AIC, 83, p. 143-146.
possible form of labour for the prisoners. In fact, when it was deciding on the ideal form of employing the convicts keeping in mind the caste question it said:

There is a peculiarity in India which makes the universal introduction of trades unfit for the goals of this country. *The work of agriculture, and labour resembling the work of agriculture, is absolutely prohibited to no caste*, and thus labour on the roads is obnoxious to no feeling of caste, however degrading it may be in other respects. But the case is very different with trades. To force a man of a higher caste to work at any trade would disgrace him forever, and be in fact inflicting a dreadful punishment not only on himself but on every member of his family. It would be looked upon as barbarous cruelty, and excite nothing but indignation against the laws, in the strength of which the most dreadful crime would be forgotten (Italics are my own).  

Therefore it is clearly evident that the Committee on Prison Discipline, 1838 (Henceforth CPD, 1838), in its emphasis on intramural labour, was in a way denying the possibility of agriculture even when it was thought that it would not affect the caste sensibilities of the people. More important is also the fact that while the colonial regime identified the native population as predominantly belonging to agricultural background, it extracted labour on public works on the grounds that such work resembled agriculture. Thus the native prisoners had to perform an activity of a different nature from their own labour on the pretext that such activity was not very different from agricultural activity. Also, as pointed out by the earlier chapters (especially Chapter III) the colonial regime from the second half on 19th century especially from the 1860s stressed on industrial labour and the scope of agriculture or work related to agriculture was generally only limited to small prison gardens.

In 1892, the Bombay Government consulted several heads of Departments on the subject of the introduction of various forms of large manufacturing industries in the Central Jail at Yeravada and the new Central Jails which were under construction at Ahmedabad and Hyderabad. The Police Department was asked whether its supply of clothing, carpets, and boots could be manufactured in the Jails. The Military Department was asked whether the carpets and hospital rugs it required could be procured from the jails. The Superintendent of the Government Central Press was asked whether printing of forms and other related works could advantageously be taken up in the jails. The departments consulted doubted the economy of this source of supply, and the Inspector General of Prisons reported that steam machinery would be necessary if the

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9 CPD, 1838, p. 106.
Jails were to be successful in seeking the patronage of government departments. The Government of Bombay thus came to the conclusion that in view of the large expenditure which would be necessary to admit of any wide extension of jail manufactures, the introduction of these industries had to be in any case postponed. They were of the opinion that an extension of agriculture and the production of articles of food was a more suitable object to which jail labour could be devoted. The objection raised to such employment of prisoners by the Inspector General of Prisons was on the grounds of the relaxation of discipline which would be taken care of by the supervising warders.\textsuperscript{10}

In response to this letter C J Lyall, the Secretary to the Government of India wrote to the Secretary to the Government of Bombay, Judicial Department as follows:

The Government of India throws considerable doubt upon the propriety of selecting agriculture as a suitable form of employment for long-term prisoners which I would like to point out.

a) Such an experiment has never been tried in India on a large scale and in UK and America where some experience has been gained, the conclusion arrived at has been uniformly unfavourable to this form of labour. In Ireland agriculture was adopted as an employment suited to the last stage of a convict’s confinement, and with the object of reformation as an introduction to free life. This was the characteristic of what is called the Irish system, which in this respect has long since been abandoned. It was found to be destructive of discipline and opposed to the first object of prison administration, viz., that confinement should as a deterrent from crime and as in India the where the necessary supervising agency is in many respects much inferior to that procurable in England and US, the break down will be even more conspicuous. Though the Jail Committee of 1888-89, recommended farming operations on a small scale in case of district jails, it was for short-term prisoners for whom no other labour was available and whose sentences are not long enough to train them in industrial work.

b) Agriculture in India is the form of occupation which is most intermittent in its demands on the labour of those who follow it. Agriculture occupations are owing to the seasons often suspended for weeks together. It seems scarcely doubtful that under these conditions agriculture would not be likely to afford continuous employment for a large body of convicts; and if this assumption is correct, the difficulty of finding labour for them at the slack season would remain for solution.

c) It requires a very large area over which operations have to be conducted and therefore the task of guarding prisoners while they are at work will be very difficult.

\textsuperscript{10} Home Jails, Oct. 1892, No.45-46, Proposed employment of prisoners on agricultural operations in the Bombay Presidency, NAI.
It would be difficult to prevent escapes but also to check frequent communication of prisoners with their friends and the introduction of forbidden articles.

d) His Excellency in Council believes that by determining and introducing separately the most suitable industry for each jail, that labour can be organized among long-term convicts, and confinement made to serve its proper purpose—that of acting as deterrent from crime.\(^{11}\)

It must be recollected that the Indian Jail Committee of the 1919-20 (Henceforth IJC, 1920) along with its policy of reformation, especially in the context of the World War had stressed on maximum production which undoubtedly was industrial in character. The important colonial committees including the Indian Jail Committee of 1919-20, clearly stated that it was not in favour of agriculture as it was held impracticable on the following grounds:

a) The average daily population of Indian Jails was estimated at 1,00,000 which was so big that to provide agriculture related work to all of them was out of question.

b) The density of population in India was so high that it was difficult to find suitable land available for utilization for an agricultural jail.

c) There were special difficulties in the way of supervision and guiding the distribution of labour in a farm which necessarily consisted of a wide area.\(^{12}\)

Moreover as we have seen especially in the third, fourth and fifth chapters, the overall emphasis was on using the prison for producing updated articles for the state consuming departments. More importantly, the stress on agriculture would not have fitted the kind of rationality that the colonial regime was trying to/had introduced in India.

But the committees in post-independent India thought differently about agriculture. The East Punjab Reform Committee of 1949, reported that the labour utilized in the prisons were of two primary classes- maintenance labour (domestic service of the institution- cooking, guarding, sanitation, repairing jail buildings, growing of vegetables etc.) formed one class and agricultural labour and industrial labour formed another class. Maintenance labour alone absorbed 22% of

\(^{11}\) Home Jails, Oct. 1892, No.45-46, Proposed employment of prisoners on agricultural operations in the Bombay Presidency, NAI.

\(^{12}\) IJC, 1920, p. 132. Note: the views of this Committee resonate the voices of the prior important Committees and their views on agriculture.
convict population available for labour and the Committee expressed that it was a good saving for the State. Thus the Committee thought that this should continue especially when prison labour was sufficiently available for this purpose, whose employment in jail workshop on industries of productive nature was not likely to be as productive as would meet the cost incurred by paid labour from outside. The Committee also pointed out that another substantial decrease from the convict population for purpose of employment resulted from the following—newly admitted prisoners in the quarantine, prisoners awaiting release or awaiting transfer or court attendance, sick and convalescent, in solitary confinement, condemned, aged, infirm, blind and crippled. These on an average formed about 6% of the total population. The undertrial prisoners who formed 26% and the prisoners sentenced for short term formed a little than more than 20% also were the prisoners coming under the non labouring class. Therefore only 46% of the convict population was left for employment on trades and industries of a skilled and productive nature.  

On the question of agriculture, the East Punjab Jail Reforms Committee said that out of the total 46% of employable prisoners, since about 60% of the prison population was engaged in cultivation, and after release they generally would revert to their ancestral occupation, the Committee emphasised that the staple jail industry should be agriculture and should be introduced on an extensive scale and training in modern agricultural methods should be given. The Committee pointed out that then only 2.5% of convicts were employed in jail gardens. The other state/provincial committees broadly shared similar views on agriculture.  

The East Punjab Jail Reforms Committee also held that if convicts were allowed to keep some percentage of the produce for themselves then the convicts would have a very strong incentive to learn and improve their ancestral vocation and reformation would be achieved. Closely allied with agricultural occupation in jails they thought was the establishment of dairy farming. It would not only serve the purpose of pure supply of milk for the requirements of its prison population and of its staff, but would also provide useful instructions in animal keeping to the

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convicts of the peasant class. For both these purposes, the Committee recommended that the Central Jails should procure 100 acres of land and District Jail 50 acres.\textsuperscript{15}

Similarly, in Madras, agriculture and agro-based industries were encouraged as it was recognized that more number of prisoners were engaged in agriculture than in any other profession. Moreover they said that in several countries all over the world, including United States and Russia, prisoners were sent to work on farms. In England, before the first World War, five percent of the prisoners were engaged in agriculture. The jail Department encouraged industries like dairies, kitchen garden, poultry farms, bee-keeping and fish rearing. The Madras Government held that agriculture was ideal but because of its nature it was possible to introduce it on large scale only in open prisons. Setting up of milk dairies was encouraged because jails could be made self sufficient in their daily requirement of dairy product. In 1945, in Trichinipoly Central Jail, an extent of 46 acres of land was brought under cultivation and similar efforts were made in Central jails of Cannanore, Coimbatore, Vellore and Bellary. Fortunately for the Prison Department most of the central prisons had considerable areas land which facilitated its campaign for ‘grow more food’. Bee-keeping and fish rearing were encouraged from the 1950s with the object of encouraging ‘cottage industries’.\textsuperscript{16}

The Bombay Jail Reforms Committee recommended that for prisoners coming from the rural areas a model farm should be set up in the Visapur Jail as necessary land along with adequate water was available. The Committee laid down as a principle that prisoners must be taught improved methods in agriculture. Those sentenced on long term should be sent on such agricultural farms and those sentenced for short term could be employed on jail gardens.\textsuperscript{17}

However, within a few decades after independence it could be seen that agriculture and allied occupations were not successfully practiced in the Indian prisons. The Working Group, 73 also noted that almost 80% of the offenders came from rural areas. Therefore they regarded progressive agriculture as important for their rehabilitation. Also, they expressed that agriculture would help in the self sustenance of the prisons themselves and the per capita cost incurred could


\textsuperscript{17} Report of the Bombay Jails Reform Committee, 1948, p. 21.
be reduced. Such an agricultural scheme they suggested should be integrated with the Five year plans. Also, they recommended that dairies should be developed on prison farms wherever it was profitable.\(^\text{18}\)

The AIC, 83 held that though after independence, especially after launching the open-prison movement agriculture and allied activities gained some importance, and for a decade or so, development of agriculture was treated as an important aspect of prison administration, but this emphasis had declined during the 1970s. It restated that since a large proportion of prisoners came from agricultural background agriculture and agro based industries ought to get a priority in the work programmes. At present the problems with agriculture were that land and other sources were not fully utilized. Prison farms attached to central and district farms suffered from under-supply of labour, lack of technical staff and irrigation facilities, obsolete methods and lack of planning. Prisoners sentenced to medium and long terms of imprisonment and prisoner sentenced for life and who had spent some time in closed prisons and who were considered suitable for being transferred to open institutions were to be sent for work on farms attached to closed prisons. Prisoners who were eligible for transfer to open-prisons should first work in such semi-open facilities so that they should be tried under proper supervision.\(^\text{19}\)

Thus, one of the important shifts in convict labour policy from the colonial to independent India is identifying agriculture as one of the important modes of engagement for the prisoners. As stated earlier, the colonial regime though recognized the fact that most of the native convicts belonged to agricultural background, depending on their political and economic imperatives, they initially engaged them in public works and later in factory production. The excitement for agriculture as it was suitable to the occupational backgrounds of the Indian prisoners, though appreciable, but perhaps, whether one likes to believe it or not is extremely unfeasible to involve most of the prison population on such occupations. The modern prison based on Benthamite principles had its origin in a certain history which required indoor labour. Agriculture then becomes almost a primordial entity which is being tried to be fitted with the modern and


\(^{19}\) AIC, 83, pp.164-67.
therefore the sustenance of agriculture as a primary method of engaging prisoners becomes all the more doubtful.

6.2 Industrial labour

With regard to industrial labour, if the colonial regime at least from the Committee of 1864 constantly stressed on labour based on modern machinery, the Committees of independent India appointed in the first few years after independence were not definitely upfront on the same. If on the one hand, as seen in the previous section, they stressed on agriculture, their stance on employing prisoners in industrial labour also marks another shift in convict labour policy in the post-independence period.

Several Committees expressed the opinion that employing prisoners in modern factories was not suitable. For example, the East Punjab Committee expressed that in principle the industrial employment must not to be very highly technical or requiring very specialized knowledges not possessed, and which could not be acquired by the prisoners during reasonable time of their stay in a particular jail. The industry must be such as would be useful to the prisoner after his release by providing him with means of earning for himself preferably such as the prisoner could start himself with a small capital. The industry must also be fairly remunerative so that the prisoner could feel that he is partaking in an industry which is productive and useful. Power driven industries must be preferred to manual industries except weaving and no industry which is unproductive and sterile and in which the connection between immediate and sufficient gain, and labour is not apparent should be established in jails. It was felt that industries like button making, calico printing, hosiery, rope making, lace and ribbon making, toy-making, paper-making, band sawing, wool spinning and blanket making were suitable industries for introduction in jails. The Committee was also of the opinion that it was economical to centralize all cotton and woolen textile industries as well as leather industry, carpentry and smithy on large scale, printing, tent-making, carpet-making, and metal works industry in larger jails. The District Jails should have smithy, carpentry on a small scale, tin smithy, tailoring, hosiery, calico printing, dyeing, basket-making, button making, book-binding and other cottage and small scale industries. Knitting,
embroidery, tailoring, weaving, spinning and hosiery making would be preferable for women prisoners.\textsuperscript{20}

Though it was held that the nation was on the verge of great industrial development, it is worth noting that the prison itself was not identified as one of the possible industries. Instead the Committee held that jails should become a training school for technicians and encourage modern production. Wherever there was industrial production adequate care had to be taken that to see that such production does not compete with private production. The Committee therefore suggested the introduction of small scale industries such as cotton spinning, woolen spinning, wood-work, manufacture of agricultural implements and dairy farming and provisions suitable for small scale industries. Also hand spinning was thought to be made compulsory for one hour daily for every prisoner after they were in the lock-up in sleeping barracks. Handloom weaving especially \textit{khadi}-weaving was to receive special attention. Manufacture of articles of leather was to be organized on large basis. Production of soaps, disinfectants, boot polish, paints and varnishes should be organized in Central jails.\textsuperscript{21}

The Committee’s thinking on the question of adopting industrial convict labour policy in independent India is worth probing a little more. Though it reiterated the opinion that prison labour should be productive and should be of a nature that should fetch the prisoners a job post-release, in principle, it retained constraints of non-interference with the market that could also be seen in the colonial Indian policy. Therefore, by and large the nature of trades that were to be encouraged was of a small scale or cottage industrial character.\textsuperscript{22} The retaining of \textit{khadi} spinning is suggestive of some inspiration from the national movement and particularly Gandhian ideas, but such steps were hardly pursued keeping the intended ideologies in mind.

In Rajasthan, jails industries were classified into four types-textile and subsidiaries, tannery and foot-wear, tin smithy and carpentry. Most of the training was limited to handloom and its minor branches — dyeing, durries, carpets, \textit{Ambar}-yarn, fine-tape, \textit{newar}, \textit{do-suite rexa} cloth and bed-sheets. In spite of the meager man-power available it was stated that jail industries were not


\textsuperscript{22} Ibid, p. 235.
neglected in Rajasthan. Jodhpur, Jaipur, Udaipur, Bikaner, and Alwar jails had a tradition of quality manufacturers in durries, carpets, shoes etc. and their products enjoyed a good market and wide reputation. All India Khadi and Gramudyog Commission had pleaded with the Jail Department to adopt *Ambar Charkha Khadi* weaving in jails. It was claimed that village industries needed little man-power but they possessed all rehabilitative values. They were introduced in Jaipur (employed 100-125 convicts), Ajmer and Udaipur jails with some success.\(^{23}\)

The AIJMC, 59 expressed the aim of jail industries for industrial education as not something that of a commercial venture but stated that employment, work, and training possibilities should be sufficiently varied and diversified to enable prisoners to be trained, equipped and adopted to the requirements of the labour market in the free community. It said:

> The possibilities of employing inmates in various kind of work should be utilized not only for production in terms of State Policy and National Economic Development but also for their value to inmates as means of use, training for occupational adjustments and rehabilitative processes. In view, however, of the limitations in organizing diversified work in jails, there should be set up varied vocational training projects in industrial, agricultural and allied fields, so that the inmates are properly trained and equipped for entering-reentering an occupation or trade in the community after release. For carefully selected inmates, the possibilities of working and training in semi-open and open institutions, nation building activities etc. should be fully employed for purpose of diversification of work and training. Cottage and village industries, small industries, mechanized industries sections, handicrafts, agricultural farms, dairy, cattle breeding, poultry, nursery, horticulture, floriculture, sericulture, manure production, nation building activities such as digging canals and water channels, construction of bunds, dams, roads, Government building etc., projects of reclamation, land development, soil conservation and afforestation; training projects in industries, agriculture and allied field; apprenticeship training on the job training vocational training projects should be encouraged.\(^{24}\)

Therefore, it appears that the AIJMC, 59 was clear on the question that the prison should not be used as a commercial venture. Like the other State committees, emphasis was not actually laid on modern industrial training, but on cottage and small scale industries. Since varied industries could not be set up, one had to focus on vocational training. Thus, though the context of the overall Indian political economy was that of the Second Five Year Plan where the Planning Commission emphasized the importance of promoting heavy industries which signaled the shift


\(^{24}\) AIJMC, 59, pp. 235-36.
in Indian economy’s orientation from that of agriculture to industry, the prison continued to be a place where agriculture oriented occupations and cottage industries continued to be encouraged.

However despite the several reform committees appointed immediately after independence and the efforts of the Indian Jail Manual Committee, in October 1971, during the National Correctional Conference on Probation and Allied Measures, the Inspector General of Prisons met again and spelt out the difficulties encountered in the implementation of the prison reform programmes and the revision of the State Prison Manuals. The result was that a report was published by the Ministry of Home Affairs on the same and this was called as the Report of the Working Group on Prisons in the Country, 1972-73. They deplored the lack of priority and inadequacy of the funds for prison administration.\footnote{Report of the Working Group on Prisons in the Country, 1972-73, p.9.}

The Working Group Report also observed that the present prison industries were still organized on 19\textsuperscript{th} century conventions and therefore were out-dated, and therefore modernization of these industries was required. Also, it was though that such industries should be integrated with national development. The Working Group also recommended the following priorities for prison industries:

\begin{itemize}
  \item[a)] Articles required for the maintenance of prisoners
  \item[b)] Articles required for prison department other state governments, central governments ministries etc., municipal bodies, cooperative societies etc.
  \item[c)] Handicraft articles which have a local/outside market
  \item[d)] Articles for public sale which should not involve unfair competition with any outside cottage or small scale industries. Also training of personnel in industrial management was felt necessary.\footnote{Ibid, pp.121-23}
\end{itemize}

The priorities for convict labour the Working Group identify are almost similar to the objectives the colonial regime identified. The only difference is the inclusion of handicrafts and also that when they say articles of prison maintenance that includes the agricultural output produced by the prisoners.\footnote{Report of the Working Group on Prisons in the Country, 1972-73, p.124.}
On the question whether jail industries should be run in collaboration with a private enterprise the AIJMC, 59 pointed to the forum of United Nations Educational Social and Cultural Organization (UNESCO) which held that “as long as a prisoner worked in a state enterprise, in the capacity of free worker and draws full wages, the dignity and discipline of States’ award is not injured, but as soon as a private enterprise begins to share with the jails its manpower on equal basis, the rehabilitative value of jail life disappears. The State has not only to get a man employed in a work, it has to resuscitate the man’s life. Even in the open camps the prisoner must feel that he is under supervision and the opportunity to work as an opportunity to mend. If the prisoner is good enough and trustworthy to be sent without escort to private contractors for training but to allow private enterprise function in jail premises shall be exploiting jail labour and the real significance of mending the asocial being will be lost.”

It is heartening to note that the Committee was clear when it came to the question of any collaboration of the prison industry with the private. It is perhaps this outlook and the overall independent India’s prison labour policy that the prison industry appears to completely insulated from the vagaries of the market even now.

Further, the AIC, 83 considered the possibility of introducing products according to market trends so that prison products could reasonably satisfy customers’ expectations. It held that prison work programmes should be organized on sound business-cum-commercial basis. Though it was saying that work programmes should be organized on sound business principles, even this Committee deterred the idea of privatizing prison industry as it compromised with the reformatory objectives of punishment. Also, in view of the fact that the Prison Department, in principle, would not be able to enter competitive open market, the Committee held that it should mainly concentrate on the production of articles and supply of services to government departments, semi-government departments, cooperatives and public undertakings should purchase from the Department of Prisons and Correctional services. For promoting sale, show-rooms should be made open to the public and should be established outside prisons gates and the department should participate in exhibitions to display its products.

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The AIC 83, in its review of the general conditions of prison factories said that the prison factories were in deplorable conditions and it was shameful that only in some states such as Andhra Pradesh, Karnataka, Maharashtra, and Uttar Pradesh some industries had been semi-mechanized and mechanized despite India making so much progress in industrialization after independence. The Committee believed in the opinion that the prisoners were generally unwilling workers and therefore it was impossible to plan optimum utilization of prison labour, unless some norms of requirements of man power per unit of work in each section of prison industry and agriculture were worked out. They pointed out that there was a strange juxtaposition of unemployment, under supply and over supply of labour in various prisons because the concentration of prison industries was in central prisons and some large district prisons, and therefore there was no work in district prisons. In some industries there was excess labour supply and in some mainly in agriculture, there was a lack of labour supply. Prison industries and agriculture were run on obsolete patterns and outdated machinery, tools and equipments were used. System of wages and incentives were unattractive. Prison industries were largely run and managed by executive staff such as jailors and deputy superintendents assisted by a handful of technical staff. There were no proper rehabilitation programmes. There was a serious dearth of funds. The main reason that was identified was that prisons had not been included in the mainstream of our national development plan; it had continued to be in the non-plan sector.\(^\text{30}\) This summarizes well the overall condition of convict labour throughout the country. It not only highlights the peculiar problems of convict labour but also reveals what ailed prison industry in India.

The AIC 83, therefore recommended for the total pattern of diversification of work programme. This the Committee held would emanate through the diversification of industrial production units, agricultural activities, agro-based industries, institutional maintenance shops, work camps and work centres in the community. This would not only help in offering opportunities to the inmates but also help them acquire skills in different trades and crafts and would lead to self confidence and development. Also, since India had a long tradition of handicrafts, it was held that production units in prison industry could be linked with suitable local handicrafts.\(^\text{31}\)

\(^{30}\) AIC 83, pp. 143-45.

One may also note here certain views on the question of labour for women prisoners. Though all the committees appointed after independence recognized the importance of work for women prisoners not only during the period of incarceration but also in their rehabilitation after release but such concerns did not find any systematic expression in policy framework and their implementation. The committees acknowledged the fact that employment for women offenders was neglected. Many of them were simply found to be idle.\(^{32}\) Also, the overall approach to prison work tended to place the female inmate at a greater disadvantage than her male counterpart. This was also because among women prisoners, the number of undertrials predominated. Long term as well as well as rigorous imprisonment holders accounted for a miniscule of the total female prisoner population. Thus, it implied that in respect of an overwhelming majority of female prisoner population, the prison authorities had no obligation whatsoever to provide them with any kind of work. Most of the times they were given the tasks of cleaning food-grains, cutting vegetables, spinning *charkha*, grinding spices etc. despite several reform committee’s recommendations for providing them with training in crafts such as tailoring, hosiery, bidi-making, manufacture of stationery articles etc.\(^{33}\) Therefore, to a large extent the response to the question of labour for women prisoners in independent India, like in the colonial period was not only characterized by general neglected but was also gendered.

To summarize, one can clearly mark another important shift in the nature of convict labour policy from that of colonial to the post colonial. If the colonial regime had adopted engaging prisoners in modern factory production at least from the 1860s which suited its overall rationality, the independent Indian state adopted engaging the prisoners in small scale or cottage industry. This also speaks about the extractive nature of the colonial policy. The independent Indian state’s stress on cottage and small scale production (and also agriculture) reflects on the well intended rehabilitative convict labour policy. However there were several problems in successfully providing employment for prisoners in cottage and small industries. There was inadequate planning, lack of training facility, and underutilization of the existing facilities. The case of workshops remaining idle reveals to us the problems in successfully organizing small scale and cottage industries in the prison institution as that is one of the features that


characterized independent India's convict labour policy. Organizing cottage industries involves consistent effort in procuring locally available raw-material, the availability of prisoners with the desired skills, or trainers to train the prisoners in the same, and most importantly marketing the produce. Though the independent Indian state needs to be appreciated for encouraging such trades, unlike the colonial state (of course with due consideration to its intentions), the want of commitment and determination to successfully organize the same is found wanting.

6.3 On expenditures, earnings and wages

Most of the committees appointed after independence stressed on the fact that there was a huge disparity between the cost of maintenance and the earning of the prisoners. For example, in 1944 in United Punjab, the average cost per head was 261.12.3 rupees and the average cash earning per head was 13.9.9 and in 1945 it was 291.7.10 and 5.1.7 respectively (Note: in 1946 the report was not published due to partition and in East Punjab), for 1947 (calculated only from 15/8/47-31/12/47) it was 135.15.0 and 4.3.4 and in 1948 it was 485.13.8 and 2 respectively. The table below shows the average cost of maintenance of prisoners in different provinces.

**Average annual cost of maintenance of prisoners in different provinces**

<table>
<thead>
<tr>
<th>State</th>
<th>Year</th>
<th>Expenditure</th>
<th>Income</th>
<th>Average per person in rupees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Madras</td>
<td>1961</td>
<td>1,22,87,770</td>
<td>38,82,119</td>
<td>436.04</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>1959</td>
<td>38,85,109</td>
<td>41,002</td>
<td>487.40</td>
</tr>
<tr>
<td>U P</td>
<td>1960</td>
<td>1,24,66,662</td>
<td>9,50,248</td>
<td>351.00</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>1963</td>
<td>36,99,771</td>
<td>7,42,000</td>
<td>297.92</td>
</tr>
</tbody>
</table>


35 Ibid.
As the government spent almost about Rs 31 lakhs every year towards the custody and upkeep of about 9,000 prisoners, the East Punjab Committee felt the general public had a right to know why a larger proportion of this outlay could not be recouped through employment of prisoners on productive forms of labour.\footnote{Report of the East Punjab Jail Reforms Committee, 1949, pp. 96-97.} The Benthamite rationale, to which the colonial state subscribed, that the prison to the extent possible should be a self sustaining institution is reflected in the concerns of independent Indian state as well.

The major impediment in making prison labour productive and remunerative, the East Punjab Committee stated, was that a large number of convicts were unskilled, unfit, and there was a limited market for goods produced in jails etc. Therefore for maximum output it thought that the institution of an ‘Earning Scheme’ should be introduced where by an attempt should be made so that a prisoner is paid a wage comparable to that paid to free labour after deducting a fair charge for his maintenance. However in actual practice there were several difficulties. The Conference of Inspectors General of Prisons of 1929 was of the opinion that the grant of monetary rewards based on the amount of labour performed encountered several difficulties and therefore it was considered to be unpractical.\footnote{Note, how the Conference of 1929 in fact was reverting back even the payment of gratuity which was already recommended by the IJC, 1920. For more on this see Chapter III.}

Thus the East Punjab Committee felt that it was practicable to lay down a scale of wages that would be applicable to all working prisoners on a level comparable to that of free labour on the same type of work. Therefore, a workable basis was prepared by dividing the work into skilled, semi-skilled and unskilled and remuneration was to be paid respectively. These wages would be calculated after deducting the cost of maintenance of the worker and overhead charges on the trade. However, it stated that it was impolitic to place any burden for the payment of wages from the public revenue, and therefore the Committee stated that the money should come from profit itself. But a concern was expressed that such profit motive should not lead to the exploitation of prisoners for a commercial concern. The prisoners’ training towards the end of a good citizen
and good health could not be compromised. Thus they should be made to work only for eight hours.  

What is evident from the East Punjab Government’s report is that if on the one hand it recognizes the facts that most of the prisoners are unskilled and unfit, and on the other hand realizes that is difficult to market the prison made products. It is striking that to resolve this problem the Committee suggests to introduce an earning scheme, but nowhere does it express its commitment to impart training to the prisoners in useful skills. And, moreover, it made it clear that prisoners cannot be paid at the cost of public exchequer. This rational is any ways is not different from the way the colonial regime thought about paying prisoners for their work. 

Moreover, such problems as expressed by the East Punjab Committee is a classic example which reveal the problems with the independent Indian state’s emphasis on agriculture and agriculture related occupations and other cottage industries as studied in the previous sections. Agriculture, as stated before, because it involves spread of prisoners on large tracts of land cannot be the primary form of engagement for most of the prisoners. And with cottage industries there are not only problems with its marketing, but to identify the most suitable cottage industry, to ensure that raw materials will be supplied on a regular basis, to identify the level of skills in the prisoners and providing them with the required training, all require stronger commitments and investments on the part of the prison institution. In fact, along with several other important reasons, one of the reasons for the colonial regime voting out the possibilities of introducing such multifarious engagements for prisoners was their lack of feasibility.

The Bombay Jail Reforms Committee of 1948, discussed the question of wages and some aspects of this discussion especially as stated by two distinguished members of the Committee, Miss Gorden and Dr. Irawati Karve are stated below.

Q: Will you allow prisoners remuneration for work done by them?

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39 For more on this see Chapter III, pp 29-32.

40 The important reasons for the colonial regime not opting for multifarious employments were that they wouldn’t be sufficiently penal and would be difficult to manage and also that it was interested in using the prison products for its own consuming departments and therefore the stress on 2-3 industries was constantly laid.
A: Dr. Mrs Karve: Here again I am reactionary. I feel the system of remuneration is bad. Prisoners have to be fed and clothed at State expense and if in addition they are going to be remunerated for their work it would mean that you are giving a class of people who have proved themselves unworthy socially better treatment than people outside.

Q: But in the absence of remuneration would it not be slave labour?

A: Dr. (Mrs.) Karve: The labour and the work you take from prisoners should not be in competition with outside agencies such as mills and factories. Government should see to it that goods prepared by prisoners are not sold in open competition in the market. The point is that some work is necessary for the prisoners and they have no right to remain idle.

Q: But would you not agree that remuneration for the work has some inducement value?

A: Dr. (Mrs.) Karve: In my opinion, parole would be a better inducement to work than remuneration. If at all you insist on money remuneration, it might be given to the family members of the prisoner but not to the prisoner himself.

Q: Should the amount of remuneration be the same as wages normally paid outside?

A: Dr. (Mrs.) Karve: I have heard complaints that whenever articles made in Jail are offered for sale they do not sell as articles made outside do. In fact, there is some antipathy to buy prison-made articles. They say the articles are not the product of sweated labour and therefore they cannot be compared with articles made outside. If the wage system is introduced, the tendency will further accentuate.

A: Miss Gorden: I personally feel that all work should be paid. Payment for work is a sort of stimulant to do more and better work. Of course the prisoner should not get full value of the work he does. You can lay down a certain proportion and this would naturally be something less than what we would receive for similar work outside. He should be allowed to use this earned income of money for small amenities such as soap, oil etc., and the amount standing to his credit at the time of his release may be handed over to him. It will be great help to him.41

The views of Miss Gorden were accepted by the Committee, and the practice of payment of wages to prisoners was started in the Bombay Presidency since 1949. Wages equivalent to one-fifth of the wages of free labourers in the factories of Bombay were paid to the prisoners working on similar trades in jails. The Committee recommended that before the earning scheme materializes the scheme of paying wages or earnings to the prisoners engaged in industries for extra work should be implemented at once. Out of the earnings, $\frac{1}{4}$th could be expendable on purchase of fruits, sweetmeats or cigarettes another $\frac{1}{4}$th for remitting home to his dependents and $\frac{1}{2}$ should form his personal property which will be paid to him on his release towards his

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41 This extract is taken from the Bombay Jail Reforms Committee, 1948, as quoted by R N Datir (1978: pp.314-15).
rehabilitation.\textsuperscript{42} This reveals to us how not only the system and the thinking on making payments to prisoners for their work varied in different provinces\textsuperscript{43} but more striking is the fact that there was lack of implementation of the policy recommendations of the IJC, 1920. Also important is to see how the colonial rationale that the prisoner should be paid only for the task he performed beyond the prescribed limit is again reflected in the way the independent Indian state’s thinking on the issue.

In Rajasthan, for the first time a ‘Factory Manufacturing Guide’ was issued in 1955. A new system of costing was introduced in 1953, which was revised according to the changing costs of raw materials. This costing system categorised convicts as skilled and unskilled. The former consisted of prisoners employed in industries in which machines were used and even handloom was considered to be machinery. Prisoners engaged in auxiliary works of machineries were also put in the same category and the rest were considered unskilled labourers. A skilled labourer was charged at the rate of one rupee per unit and as there was no depreciation on non-machine work, unskilled labour was charged at 75 paise per unit. Twenty five paise was charged for depreciation and 50 paise for maintenance. Such wage scheme was applied to only three closed prisons. In Jaipur and Jodhpur Central jails after completing the scheduled task, six paisa was paid to each worker, who did 25\% over and above the scheduled task and double the amount was paid if the extra task was 50\% more than the scheduled task, 19 paisa for 75\% and 25 paisa for 100\% extra work over the scheduled task, was paid as wages to the working prisoners.\textsuperscript{44}

However, the Rajasthan enquiry pointed out that most of the prisoners did not prefer to do extra work. This was mainly because the scheduled task fixed for them was beyond their capacity or due to sheer laziness on the part of the prisoners. It could also be because payment for extra work was almost nominal. The factory manager however was inclined to believe that if the wages for extra work was increased production of the factories in the jails would also increase. Malingering and to find excuses to shirk work would cease. They would find positive allurement to labour and the Commission was willing to listen to him. In October 1962 the Inspector General of


\textsuperscript{43} In Madras this system was introduced in 1915 itself i.e. even before the recommendation of the IJC, 1920. For more on this see Chapter III.

\textsuperscript{44} Report of the Rajasthan Jail Reforms Committee, 1964, pp. 218-22.
Prisons recommended to the Government that those workers who did one hundred per cent extra work over the scheduled task, that is double of the required task, were to be paid at one rupee per day as wages instead of 25 paisa paid for the same at present. The Inspector General of Prisons made this proposal because he was convinced that the workers who did not work for more than 6 hours would get the real incentive to work and produce to their full capacity. If wages were to be paid at the market rate, the task load also had to be the same and in case of lesser work, proportionate amount be paid to them. The Director of Jail industries felt the same.45

The progress of jail industries also depended on the training personnel. The Rajasthan Committee also pointed out that though the Director of Jail industries is required to guide and organize the industrial education of the jails, yet he held the rank of Deputy Superintendent only. Therefore he did not have effective control in jails and though they were qualified officers, they did not find the emoluments alluring and many had left jail services for better posts. Therefore the Committee suggested that the grades of these posts may be revised with better emoluments. Regarding industrial staff the committee recommended that a full time officer responsible for the supervision and control of industries should be employed under the control Inspector General of Prisons.46

The AJMRC, 59 also emphasised that the system of tasks, wages and costs and accounts methods should be rationalized, and a wage system should be formulated. It laid greater emphasis on training, rehabilitation rather than on commercialization of jail industries. It referred to the International Penal and Penitentiary Foundation Report which said, “The prisoner need not always have vocation for farming or other work in the country, he in fact be taught a method or work involving new way of life even if he has to apply this method to another kind of work after discharge.” The Committee therefore held education and discipline as the primary consideration for prison work, and not commerce. However, it makes a distinction between the work of the prisoner and that of a free labourer. It says that prison work should not be considered on par with free work, as wages in free labour was paid for its actual productivity, while the prisoner was paid for productivity and diligence both. But is also stated that some remuneration for jail labour


46 Ibid, pp. 222-23.
was paid in all advanced States but the system of remuneration differed from state to state.\textsuperscript{47} Thus the idea that prison labour is not entitled for a wage on par with free labour continued to be held. In fact in India even in the 1970s, wage/remuneration was paid for output for over and above the assigned task and there was no uniformity in this in all the states.\textsuperscript{48}

The Working Group, \textsuperscript{73} pointed out that the prisoners were paid wages for output for over and above the assigned task, and the scheme was not uniform across the states. Thus the Group suggested for a more liberal system of wages based on market rates minus the computed cost of maintenance. They expressed that such a system would provide a greater incentive for higher and better production.\textsuperscript{49}

The AIC, \textsuperscript{83} said that the system of tasks and wages was not rationalized and also was not introduced in a number of States and Union Territories. The rate of wages varied from Rs 0.10 to Rs 2.00 per day. The system, wherever in existence was operated mostly by convict clerks. In some places wages were linked with prison canteen. Responsibilities regarding measurement of tasks, computation of wages, distribution of coupons through the canteen from the wage account were not clearly defined. The general impact of such hap-hazard application of wage system was that it was gradually losing its utility as an incentive for greater inmate participation in work programmes. The Committee therefore thought that while fixing the wages the minimum wages for the same work outside must be taken into account and the average per capita cost of food and clothing on an inmate must be deducted from the minimum wage and remainder should be paid to the prisoner.\textsuperscript{50}

The AIC, \textsuperscript{83} also considered the fact that most of the prisoners hailed from extremely poor families and therefore it held that if the earning member of such a family was sent to the prison the entire family suffered great financial hardship. Therefore, it was stated that the rate of the wages should be so fixed that would enable the wage earning prisoner to spend a portion of his wages on his own needs, send some portion for the maintenance of his family, some on post

\textsuperscript{47} AIJMC, 1959, pp. 236-37.


\textsuperscript{50} AIC 83, p.148.
release rehabilitation and pay compensation to the victims of his offence if so ordered by the court.\textsuperscript{51}

Thus, there are parallels that can be drawn between the colonial and the independent state’s thinking on the question of earnings and wages such as how the public exchequer should not be burdened for the maintenance of the prisons, how the prisoners should be encouraged to work but by paying them only for performing working above the prescribed limit, and after deducting the cost of their own maintenance.\textsuperscript{52} However, it is important to underline that the independent Indian state did not, not only emphasized on using prison institutions for their own sustenance but also not so much on making profits through them.

\textbf{6.4 Challenges and issues in prison industry}

In this section, the study will try to figure out other important challenges and issues, apart from those already cited which lead towards a lack of prison reforms in post independent India. The focus is on to particularly identify reasons that could be ailing prison industry.

When Nehru was imprisoned during the national movement in the early 1930s, he expressed his ideas on prison life in \textit{India and the World} thus:

\begin{quote}
...the positive changes to be brought in the jail administration should not be thought of as involving much extra expenditure. If properly run on modern industrial lines, the prisons could not only be self-supporting but could actually make a profit after providing for all the additional amenities suggested. There was absolutely no difficulty in introducing the changes except one-the absolute necessity of having a competent, human staff fully understanding and appreciating the new angle of vision and eager to work it. I wished some of our people studied and wherever possible personally inspect prison conditions in foreign countries. They would then be able to find out how our prisons lag behind them. The new human element is imposing itself everywhere, as also a recognition of the fact that a criminal is largely created by social conditions and instead of being punished, has to be treated as for a disease.\textsuperscript{53}
\end{quote}

\textsuperscript{51} AIC, 83, p.149.

\textsuperscript{52} Murali Karnam (2004) points out that as late as 1990, the rate of wages paid to prisoners for their work in Andhra Pradesh was Rs 3 per skilled worker and Rs 2 per semi-skilled worker. For more on this see Murali Karnam (2004, p.115).

\textsuperscript{53} Jawaharlal Nehru, as quoted by AIC, 1980-83, p. 3. Note the italics are my own.
It is indeed striking that such a reflection by such a crucial figure in Indian politics did not actually lead to encouraging modern industries in the Indian prisons after independence. Commenting on the nature of convict labour the common prisoners were put to, C Rajagopalachari when he was imprisoned during the 1920s Non-cooperation movement says,

Slave labour has not been abolished. The whole system of jail administration is but a scheme of slave labour at its worst. Work is extracted from thousands of able-bodied men without being paid for, by the sanctions of pure brute force and cruelties, free from public observation or criticism. Even where cattle may and must be used, as for pressing oil or drawing the kavalai, a gang of men are made to do the work, because the slaves are available in such large numbers. I would not judge the system thus, if there were any idea of reformation along with these brutalities. But not only is reformation absent, but it is almost an article of the creed of all jail authorities that the convict is beyond moral redemption. No attempt whatever is made to reach his higher feelings or his soul. Indeed, nobody seems to believe that any convict has higher feeling all or soul. Therefore I say, it is a mere factory for slave labour, giving the absolute minimum of food, and intending to get maximum work. The slaves are not owned, but hired for a limited period. So there is no abiding interest in their health or morals, but the largest use is made of them and good conduct is ensured only for the master’s purpose, during a limited time, by strict overseeing and barbarous penalties, rather than by instruction or example, which are slow and tedious. The officials are typical slave drivers, the convicts are typical slaves. How can there be any moral development or regeneration in these circumstances (Rajaji 1920:19-20).

During the British regime, at the Andamans where the hardest criminals were transported to, the notion about prison labour for political prisoners was excessively inhuman, hard and punitive labour so that the will power could be broken. V D Savarkar writes:

But when the leader and fiery writer was himself sentenced to imprisonment in Andaman Jail and saw its stone walls, and had to faint one day under the grinding labour of running oil-mill, which even two powerful bullocks could not go round easily, then the body avenged itself upon the soul trampling it under foot. His courage failed him and he could no longer bear the hardships of that labour. None was spared, among political prisoners, from the inhuman toil. Most of them were unaccustomed to any kind of physical labour, the best part of them were college youths, some had not turned sixteen or seventeen; they were tender in age and body. But they were forced, for months on end, to this grinding work kolu. Their tortures new no bounds. Among them many had fallen ill, and preferred death to this work…..And to such racking toil was a political prisoner yoked as soon as he crossed into the prison. And worse still, if he really fell ill as the effect of his work, he was sent mercilessly back to it with the reason that he was only feigning it. Ordinary prisoners who could hardly spell the three ‘R’s were employed in the cellular prison for light desk-work and they at once became ‘Babu’. But political prisoners were shut out from that work and given hard labour the kind of which their hands had never done (Savarkar, as quoted in R N Datir 1978: pp.320-21, the italics are my own).
Apart from what Savarkar had to say on the kind of labour that he and the others like him were put to, as highlighted above, it is important to underline the differentiation that Savarkar constructs between him, a political prisoner from the other ordinary prisoners. This differentiation throws light on another important feature which could help in understanding why prison reforms as such and thereby convict labour did not form part of an agenda for our national leaders post independence. The political prisoners in Andamans, eventually rebelled by going on strike against inhuman hard labour that was inflicted on them. As a result finally in 1915, the authorities assured them that the strike should be called off as they pledged that kolu would be administered only in rare instances and political prisoners would be allotted lighter work outside the prison walls (Datir 1978: 321).

In the prisons of India, under section 27 of the Prisoners Act, 1894, the prisoners were classified on the basis of sex, age, the law under which confined, stage of investigation and trial, the nature of sentence, criminal antecedents, disease and socio-economic status. Before 1930, apart from classification of prisoners on traditional terms of age, sex and crime, there existed race-based classification between European and Indian prisoners. The political prisoners of the nationalist movement differentiated themselves from ordinary prisoners and demanded special status but raised the issue in the name of racial discrimination. The colonial state, which was not willing to recognize the political status of national leaders, under the basis of superior social status, which was not completely incongruent with the proposals of some of the nationalist leaders created A, B and C classes. They were classified by the sentencing court, but finally subjected to confirmation and approval by the government. If the court did not specify anything related to the class of the prisoner, he/she would automatically be considered as belonging to class C. The important criteria for the treatment of prisoners as A and B classes among other things were that if those prisoners by their social status, education or habit of life, were accustomed to a superior mode of living and not been convicted of serious offence against property, women and children. Non-habituality of the offender was the only criterion that differentiated A class from B class. These two classes were considered as superior classes of prisoners and C class was an ordinary class. The two classes viz, A and B on the one hand and C on the other are broadly differentiated in every aspect of prison life (Karnam 2004: 161).
The prison tasks were assigned to A and B classes of prisoners after due consideration on medical ground and with careful regard to the capacity, character, previous mode of life and antecedents of the prisoner. They were employed on light-work such as book-binding, envelope making, sewing and cane work, spinning, cot tape and ordinary weaving, gardening and any suitable work according to their education and rehabilitation work. Prison sanitary and sweeping gangs constituted of C class prisoners who performed the menial works such as washing sweeping, and cleaning in the cells of A and B classes (Karnam 2004:165).

Ujjwal Kumar Singh (1998) says that the colonial regime considered such separation of the nationalists from other prisoners was expedient for prison discipline in the context of the Non-cooperation movement. On the other hand, nationalist prisoners viewed their segregation from the ordinary as an ideological victory, a battle won against the colonial government. This act of segregation was seen by the non-cooperators as their virtual recognition as a separate class of prisoners. Thus ordinary prisoners occupied only a marginal place in the nationalist narratives. In order to carve out their political identity, the nationalist distanced themselves from the ordinary inmates of the prison. The quest for separation often involved the middle class nationalist prisoners agitating for preferential treatment in jail. Gandhi on the other hand lamented about the same ‘…now when they have swaraj in jail, enjoy some freedom, these freebooters in the army of swaraj are fighting among themselves just as robbers fight for a share of the booty (Gandhi, as quoted in Singh 1998:85). Such classification of the prisoners on the basis of classes is another important reason that has resulted in the lack of prison reforms in India.

Another important reason for lack of reforms identified by the prison reform committees themselves was that the subject of prisons did not find a place in the development programme of the country drawn up in the first three Five Year Plans. However, in the Fourth Five Year Plan, the Planning Commission had set up a Working Group to prepare schemes in the field of Social Defence to be included in that plan but the Planning Commission could not agree to the recommendations of the Working Group. Even in the Fifth Five Year plan attempts were made to include prison administration in that plan but to no avail. Therefore the Working Group expressed that additional priority was necessary for funds for prisons by the state and that prisons should no longer be divorced from the national development process. Thus a sum of Rs 100 crore was suggested to be allotted as stated in the Interim report in the Fifth Five Year Plan for
improving prison infrastructure, staff accommodation, modernization of industry and agriculture in prisons, scientific and technical facilities for security and professional training for staff.\textsuperscript{54}

Thus, if one could identify the biggest cause that ails prison reforms in general and prison industry in particular it is perhaps as stated above the failure to include prisons in the overall development plan of the country. It is striking that immediately after independence it was not even thought that one could include prisons in the development plans. It is only in the third decade that there was a realization that though prisons as such came in the State list, it was important to give grants to this institution under the national development plan.

The AIC, \textsuperscript{83} once again identified the inadequacy of funds as the major problem that ailed the prison industries. The availability of manpower in prisons and the possibilities of their optimum utilization in work programmes, which is supposed to be the central activity of such institutions, and which were indeed great assets the Committee said were unfortunately not fully appreciated or utilized by the departments dealing with prisons in the secretariats or by the Finance Departments of the States or Union Territories (UTs). It reiterated that the Department of Prisons was not treated as a development department and no attention was paid to augment production in prison industries and agriculture. If this was properly appreciated, the Committee held, there would be no paucity of funds for the development of work programmes in prisons. This was the principle reason why in most of the States and UTs prisons have not been included in the Five Year Plans. If the economic aspect of work programmes is properly and scientifically planned, the Committee said there was no reason why the industrial and agricultural activities of prisons should not be reasonably organized.\textsuperscript{55}

Thus to summarize, several reasons can be identified for lack of development and implementation of convict labour policy in independent India. Firstly, the major shifts in the nature of convict labour policy in the form of encouraging agriculture, and cottage and small scale industries in India, did not work well due to the lack of well mapped out policy framework and also due to lack of determination to implement the envisaged reforms. Secondly, one can say that the class based division of prison population, which segregated the majority of the prison


\textsuperscript{55} AIC, 83, pp. 150-51.
population from the few belonging to superior class to which most of the national leaders belonged also contributed to this factor. Thirdly, the non inclusion of Prison Department in the overall development plan also contributed in the lack of implementation of the prison reform policies. Fourthly, as Murali Karnam (2004) identifies unlike the colonial state the postcolonial state with its agenda of mixed economy directly involved in production and neglected prison industries (Karnam 2004: 114-115). Thus, if the colonial state had to respond to the challenges posed to prison industry by the private industry, in postcolonial India (at least until the first four decades after independence), the state had to deal more with the problems of promoting state owned industries against the private industries rather than the prison industry.

6.5 Summary

The main objective of this chapter was to identify similarities and differences between the colonial and the postcolonial Indian state’s attitude towards convict labour. This study has figured out certain continuities in the thinking on convict labour policy between the colonial and the postcolonial regimes, such as: both the colonial state and the independent state claimed the complete right over the life of the prisoner and his labour; the postcolonial, like the colonial, broadly also considered the prisoners to be unwilling workers, thus reinforcing the criminal-idle ideology; whenever the question of setting up any industries in the prisons emerged, the postcolonial state like the colonial expressed its concerns that such industries should not compete with the private; the discussion by the various committees on paying wages to the prisoners has also shown how time and again it is expressed that the prison has to be self generative requiring minimum possible investments as this would unduly cost the tax payer, thus further validating the utilitarian principles of ‘less-eligibility’ and ‘relative standards of living’.

The study has also pointed out at certain discontinuities between the colonial and independent Indian state’s thinking on convict labour. It has shown there is a marked shift in the nature of convict labour from that of colonial emphasis on modern factory production to the postcolonial state’s emphasis on engaging prisoners in agriculture and small scale and cottage industries. Thus the postcolonial state of India recognized the sociological background of the Indian prisoners and fine-tuned its convict labour policy accordingly. However, the enthusiasm towards
prison reforms gradually dissipated over the decades. However noble the policy framework, there seems to be a lack of will power to implement policies as revealed in the official reports.