CHAPTER -VII

CONCLUSION AND SUGGESTIONS

7.1. CONCLUSION

The Prison administration in India varies from State to State. State plays a very vital role in the regulation of prisons and the administration in India. The State of Karnataka has enacted The Karnataka Prison Act 1963 with respect to prisons and its administration in Karnataka. Further, Karnataka Prison Rules has been notified by the Government of Karnataka in the year 1974. The Karnataka Prison Act and Rules, provides the legal framework for the administration and management of Prisons in Karnataka. The Government of India also holds power to appoint committees/commissions for the review of Prison administration and also to bring reform in the prison system throughout India. With the above backdrop, the concept of prisons in India is not new.

The historical account of jails in our country can be traced back to the Epic age. In Ramayana, when Bharata saw Rama at Chitrakuta, the latter, while making detailed inquiry about the state of polity and welfare of people of Ayodhya, did not forget to elicit the situation in jail there. References of jail are also there in the Mahabharata. In those mythological periods there were eighteen important state officials and one of them was the head of the institution of Jail (karagriha). Kautilya has further described in his Arthashastra about the duties of the jailer who always keeps eyes on the moment of the prisoners and the proper
functioning of the prison authorities. Even during the times of Ashoka, after the influence of the Buddha lots of Jail Reforms were introduced. The Jails/Prisons were also taken care by the Mughal and Marathas in India during the medieval period. The British, during their stay in India, have also contributed towards reforms in prison administration. Reforms in prisons administration came to occupy public attention more than 180 years ago when the British Parliament passed an enactment in 1824 with regard to the essentials of Prison administration. In India, the first “famous committee” on prison reforms was set up in 1836. This committee had Lord Macaulay as its member. The committee submitted its report in 1838 and criticized the corruption of subordinate establishment and the laxity of discipline. The year 1897 made a land mark in the history of prison reforms in India. In that year, Reformative Schools Act was passed and according to this Act, the courts were directed to send youthful offenders below 15 years to reformative schools instead of prisons. Then the Prisoners Act of 1900 was passed. Further, Alexander Cordew Commission was appointed by the Government of India in 1919-1920 to overhaul the jail administration and introduce up to date changes in it. It was found that the administration was lagging behind in reformatory approach. It was devoid of humanitarian elements and the prisoner was denied due attention for his individual and social rehabilitation. It was a sorry state of affairs. The commission recommended the establishment of separate institutions like Borstal school for juvenile delinquency. The under trails were to be kept separate from the convicted
and the adult convicts were to be classified as habitual and casuals. It also took a serious view of the transportation of convicts to Andaman Islands and recommended for the discontinuation of the practice. Solitary confinement was to be abolished and convicts were to share Barracks in groups as habitual and casuals. All convicts below 29 years of age were to be cared under adult education programme and libraries were to be established in all jails. The commission advocated the establishment of the system of probation and parole for juvenile and adult offenders. It also recommended that the quality of food was to be improved and the prisoners were to be provided with two sets of clothing. Non official visitors to jails were to be introduced. Prison officials and guards were to be oriented to understand the reformatory approaches. The prisoners were permitted to have interviews with their family members and also write letters to them. The commission underlined the idea of reform of inmates as the ultimate objective of imprisonment and rehabilitation of prisoners as social necessity. In 1921 jail administration came under provincial administration which was initiated by Montague Chelmsford scheme.

The decade 1951-60 that followed immediately after independence was a decade of enthusiasm for prison reforms. While local committees were being appointed by some State Governments to suggest Prison reforms, the Government of India invited technical assistance in this field from the United Nations. Dr. Walter C. Reckless, a leading American criminologist, visited India as an U.N. expert during the years 1951-52 to suggest ways and means of prison reforms in
the country. His report ‘Jail Administration in India’ is another landmark contribution in our history of prison reforms. He made a plea for transforming jails into reformation centres and advocated the establishment of new jails to perform specialized functions. He recommended, *inter alia*, a number of other important measures viz, the getting out of juvenile delinquents from adult jails, courts and police lock ups, specialized training programmes for correctional personnel of different ranks, the introduction of legal substitutes for short sentences, the development of whole time probation and aftercare services, the setting up of revising boards for the selection of prisoners for premature release, the establishment of an Advisory Bureau of Correctional Administration at the centre to help the State Governments in development of correctional programmes, holding of periodical conferences of the superior staff members of correctional departments and revision of outdated State Jail Manuals. In 1957, the Government of India appointed the All India Jail Manual committee for preparing an All India Skeleton Jail Manual, Examining the Prisons Act and other relevant Central Laws and suggesting necessary central Legislation and Making proposals for prison reforms to be adopted uniformly throughout the country. In 1972, the Government of India’s Ministry of Home Affairs appointed a Working Group on prisons for (i) examining the physical and administrative conditions of the jails in the country and suggesting ways and means of their improvement: (ii) laying down standards 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 prisons and prisoners. A year later, the
group submitted its report in which it emphasized the need for a National Policy
on Prison and Correctional Administration. The Government of India appointed a
committee on jail reforms headed by Mr. Justice A.N. Mullah in April 1980. The
committee submitted its report on Central Jail Tihar, Delhi in December 1980 and
its final report in March 1983. This report contained 659 valuable
recommendations and various aspects of Prison development for the consideration
of Central and State Governments.

But the suggestions given by the All India Jail Reforms Committee were
not all initiated by the respective Central and State Governments and it still needs
to be initiated fully. The Government of India further constituted a Committee on
Women Prisoners in May 1986. The committee was headed by Justice V.R.
Krishna Iyer. The committee submitted its report in the year 1987. The
recommendations made by the committee weren’t fully implemented but the State
Governments have taken measures to open separate women prison for women
prisoners. The Government of Karnataka has taken the initiative to open a
separate women prison for women prisoners after almost 25 years. The plight of
women, children and young offenders in prison is really an issue of grave
concern. Inadequate medical services and absence of psychiatric services in
prisons, add to the difficulties of prison administration. In some jails there are
mentally ill persons who have not committed any crime. In the other hand, the
existing prison buildings are not functionally suitable. Prison industries and work
programs are archaic and devoid of any rehabilitative value for inmates. The
insertion of section 433-A in the Indian Penal Code (IPC), making mandatory for
the life convicts to serve at least 14 years of actual imprisonment before being
considered for premature release has jumped their spirits for improving their
behavior and work skills. There are allegations about prevalent corruption, mal-
practices and mal-treatment of prisoners. Trafficking in drugs, use of intoxicants,
favoritism and unwarranted use of office, groupism, political influence and
deprivations are common things in our prisons. There is no effective system or
machinery for looking into even the genuine grievances of prisoners. There is no
proper free legal aid mechanism to help or guide prison inmates on legal matters.
The condition of sub jails and police lock ups is extremely deplorable. They are
the most neglected institutions of our criminal justice. The organizational
structure of the department of prisons is inadequate and in effective. The
administration of prisons in the country is still governed by the anti-quoted
Prisons Act 1894. The provisions of the Act do not meet the needs of the
contemporary correctional thinking. There is a lack of coordination among police,
prosecution, judiciary, prison and probation. Any attempt by voluntary agencies to
extend their services for the welfare of prisoners is looked upon with suspicion by
prison personnel. Scientific approach towards treatment of offenders has not been
accepted and adopted by prison administration anywhere in India. To be an
efficient unit and centre for protection and correctional treatment, a prison must
essentially be a scientifically manageable unit. Training of prison personnel has
been neglected in India. This is essential not only for ensuring efficiency, financial discipline and control but also for minimizing corruption in department. Protective and correctional objective of prisons can be achieved only when an atmosphere of wholesome opportunity surcharges with a positive value is created in these institutions and prisons are exposed to such an atmosphere In order to bring the reforms the problems and plights of prisoners needs to be addressed in a most comprehensive way. The most common problem in the prison system is the excess number of prison inmates in the jail. The excess number of prisoners led to the overcrowding of prisoners and if once the number of prisoners exceeded the authorised limit the problems relating to management of prisons arises. The major problems of prisoners are like, lack of hygiene or inhuman condition in the jails, inadequate medicinal facilities, security in prisons, deaths in jails, lack of professionalism, character of prison staff, atrocities on prison inmates, and politics in pre mature release. The above mentioned plights repeatedly approached the judiciary for the remedy by using the writ jurisdiction provided under Indian Constitution. Now, the Prisoner’s rights have become an important item in the agenda for prison reforms. This is due essentially to the recognition of two important principles. Firstly, the prisoner is no longer regarded as an object, a ward, or a ‘slave of the state’, whom the law would leave at the prison entrance and who would be condemned to ‘civil death’. It is increasingly been recognised that a citizen does not cease to be a citizen just because he has become a prisoner. The Supreme Court of India has made it very clear in its many judgments that
except for the fact that the compulsion to live in a prison entails by its own force
the deprivation of certain rights, like the right to move freely or to practice a
profession of one’s choice, a prisoner is otherwise entitled to the basic freedoms
guaranteed by the Constitution of India. Secondly, the convicted persons go to
prisons as punishment and not for punishment. Prison sentence has to be carried
out as per court’s orders and no additional punishment can be inflicted by the
prison authorities without sanction. Prison authorities have to be, therefore,
accountable for the manner in which they exercise their custody over persons in
their care, especially as regards their wide discretionary powers. In the
Constitution of India, there is no specific guarantee of Prisoner’s Rights. But there
are certain rights given under Part-III of the Constitution, which are available to
the prisoners too, because a prisoner remains a ‘person’ in the prison. A
“Prisoner” is a person who is deprived of his personal life and liberty, due to the
conviction of a crime, and imprisonment is the most common method of
punishment provided by all legal systems. The judiciary protects the rights of
prisoners and recognizes their rights. They are protected from torture and solitary
confinement. There are certain statutes which provide certain rights to the
prisoners such as, Prison Act, 1894 Prisoners Act, 1900; Prisoners (Attendance in
Courts) Act, 1955; etc. There are also Prison and Police Manuals, which have
certain rules and safeguards for the prisoners, and it is an obligation on the prison
authorities to follow these rules. According to the Universal Declaration of
Human Rights, “All human beings are born free and equal in dignity and rights.
They are endowed with reason and conscience, and should act towards one other in a spirit of brotherhood” A prisoner does not shed basic constitutional rights at the prison gate and the interest of inmates in freedom from imposition of serious discipline is a liberty entitled to due process protection. Every prisoner’s liberty is of course, circumscribed by the very fact of his confinement. Article 21 of the Constitution of India guarantees the right of personal liberty and thereby prohibits any inhuman, cruel or degrading treatments to any person whether he is a national or foreigner. Any violation of this right attracts the provisions of Article 14 of the Constitution of India which enshrines right to equality and equal protection of law. In addition to this, the question of cruelty to prisoners is also dealt with specifically by the Prison Act, 1894. If any excesses are committed on a prisoner, the prison administration is responsible for that. The Indian judiciary, particularly the Supreme Court in the recent past has been very vigilant against encroachments upon the human rights of the prisoners. The courts in India have also laid down specific rules and guidelines in regard to matters like the right to physical protection, protection against physical assault, restrictions on handcuffing and bar fetters, on solitary confinement, the right to speedy trial, freedom of expression and press interviews, classification of prisoners under prison rules, the wrongful detention of a prisoner, public hanging, right to consult and to be defended by legal practitioner of his choice.

The Supreme Court issued directions regarding the procedure to be followed when a person is arrested. In Joginder Kumar v. State of Uttar
Pradesh\textsuperscript{198} and others, the Court referred to the National Police Commission’s finding that 60% of all arrests were either unnecessary or unjustified and laid down four requirements to be strictly followed.

The Apex Court of India recognized the plights faced in the prisons by the prisoners and in almost all the cases. But unfortunately only few rights have been recognised and they have been respected by the prison officials. The lack of commitment towards the prison administration by the prison officials has made the life of a prisoner miserable and also various reformatory steps have not been followed by the prison authorities. The actions taken at the need of the hour towards the prisoners and prison reforms are very rare and less. Bringing the awareness among the prisoners about their rights which are enshrined in the Prisons Act, rules etc…. has not been practised by the prison authorities. As a result of this most of the prison inmates do feel the system as a dark house with no hope of lights. Since crime is eternal as society, even criminals are eternal as long as they violate the laws of the land. Therefore there is a need to create one such environment where the criminals must be treated in such a way where the person who committed a crime must return to the society with due respect to the Law of the land. In regards to the comparative analysis of the prison system and prison reforms in India with other countries which include USA, England, Russia and Australia. It was found that the problem of overcrowding in those countries is very high when we compare it with India but in those countries correctional

\textsuperscript{198}AIR 1994 SC 1349.
services have tackled the problem of overcrowding and the associated problem through good administration of Prisons. The other countries have established private correctional institutions in order to give a better insight to the prison management. The prisons in the other countries have adopted all the advanced technologies and scientific advancements in order to reform a prisoner and also to bring prison reforms in their respective countries. In almost all the other countries prison administration are loaded with the well trained and well qualified prison staff with a positive professionalism towards the prison administration and management. The objectives of prison administrators have set themselves a motto to reduce crime and change the lives of the criminals once they enter into their correctional centres. They are all on a clear verge of pure implementation of reformatory theory of punishment in their correctional strategy.

The literature on prison justice and prison reform shows that there are nine major problems which afflict the system and which need immediate attention. These are: (1) Overcrowding; (2) Delay in trial; (3) Torture and Ill-treatment; (4) Neglect of health and hygiene; (5) Insubstantial food and Inadequate clothing; (6) Prison vices; (7) Deficiency in Communication; (8) Streamlining of Jail Visits; and (9) Inadequate number of Staff. In view of the above problems in the prison system and the draw backs in its operation, it may be concluded that at present the prison system is not effective and efficient in its functioning. Therefore, unless the structural defects and the operational drawbacks, pointed out above, are
eliminated and the system is thoroughly reformed, on the lines suggested below, it is likely that the system would be ineffective.

The functioning of Central Prison at Bangalore, Central Prison at Mysore and District Prison, Ramanagara and Tumkur and its performance has been studied. The performance and the reforms of the Central Prison at Bangalore, Central Prison at Mysore and District Prison, Ramanagara and Tumkur is sought to be assessed with the help of the data collected from the Prison authorities, Prison Inmates and also from the Prison Department, Karnataka. The major findings of the studies are as follows: Overcrowding in prisons, Shortage of well trained staff for the better management of prisons, Shortage of Medical and other Correctional Staff, Highest percentage of Under trials, Highest number of Suicides in Jails, Less Budgetary allocation, Lack of commitment from the prison authorities, Lack of Legal awareness among prison inmates and Lack of after release programmes. This analysis of data collected from Prison Department and opinion survey clearly indicates that the Prison system, at present, is not effective and efficient and its deficiencies and drawbacks are to be done away with to ensure effective prison administration in Karnataka.

The analyses of the data have clearly substantiated the following hypotheses formulated for the study:

- The conditions inside the prison and prisoners in India are bad.
The recommendations of many Commissions and Committees of Prison Reforms are not properly implemented.

There is an urgent need for implementation of laws and recommendations of all Commissions and Committees on Prison Reforms for humanization of prisons in India.

The reforms in prison system brought by different nations needs to be adopted for Prison Reforms in India.

The purpose of imprisonment is not deterrent, retributive or custodial but curative, correctional, reformative and rehabilitative.

The treatment of jail staff to the prisoners leaves much to be desired.

The conditions of prisoners are not good.

The overall conclusion of the investigation is that, if the above drawbacks are removed, the prison system will become more effective and reformatory. In the light of the above study and conclusion drawn from it, the following suggestions are made to reform the prison system and to ensure its effective and efficient functioning for better criminal justice system.

### 7.2. SUGGESTIONS

On the basis of the above conclusion, the following suggestions have been offered:

1. Of the many reforms required for effective functioning of the Indian Criminal Justice System, prison reforms form an important part. Unless measures are initiated to bring the Indian prison management in sync with
the times, the Criminal law and justice system will never be able to work optimally. The various issues requiring urgent attention include the physical structure of prisons, conditions and treatment of prisoners, training and re-orientation of prison personnel, modernization of prisons, and better correctional administration and management.

2. The Government of India constituted a committee in December 2005 under the Chairmanship of the Director General, Bureau of Police Research and Development (BPRD), to prepare a draft policy paper on prison reforms and correctional administration. This Committee has made many recommendations, which, if implemented, would make a lot of difference to our prison administration and management. Hence, immediate steps shall be taken for the implementation of the same.

3. Justice Mulla Committee has suggested setting up of a Department of Prisons and Correctional Services to deal with adult and young offenders. Young offenders aged between 18 and 21 should not be confined in prisons meant for adult offenders, as they become more prone to crimes while in the company of more experienced and hardened criminals. It similarly recommended that persons arrested for politico-economic agitations for public causes should not be confined in prisons with regular prisoners. Accordingly, it is suggested to classify prisoners based on age and prisoners between 18 and 21 years should be put separately.
4. The problem relating to over-crowding of prisons can be tackled by reducing the population of under-trial prisoners by speedier trials in special fast-track courts, LokAdalats, special courts and trial through video conferencing. However, it should be ensured that the prisoners are not forced to plead guilty in such fast-track courts in the hope of getting a lesser sentence. However, a healthy plea bargaining may be encouraged. Modern methods of information technology and e-governance should be pressed into service for improvements in this regard.

5. Going by the reformative theory of deviance, the confinement of offenders in prison is meant to reform and rehabilitate them as useful citizens rather than penalizing them even after marked positive changes are noticed in them. Hence, the release of lifers and hardened criminals before their stipulated terms should be given serious thought. As far as possible, easier bail provisions, using section 436-A of the Cr.P.C and use of the Probation of Offenders Act, 1958 should be pressed into service. It would not only reward good behaviour of these prisoners, but also take care of over-crowding in prisons.

6. Serious thought should also be given to ensure that prisoners are not denied their basic rights of consultation with their lawyers. It should also be ensured that video conferencing, as proposed, should in no way impede this basic right. The constitutional right to free legal aid, as envisaged in Article 39-A of the Indian Constitution, should be fully implemented.
7. There is a delay in disposal of the appeals pending before the higher courts. This is due to huge pendency of appeal cases and also due to lack of required strength of judges. Hence there is a need for expedited appeal hearings, which would become possible if the number of judges in the higher judiciary is suitably increased.

8. With respect to basic amenities in prisons, there is a lot which needs to be done to ameliorate the conditions of prisoners. Adequate sanitation, improved prison wages, all-round entertainment facilities and better health check-up facilities, are necessary if prison are truly to be a place for reforming and rehabilitating an individual rather than further hardened a criminal.

9. Manpower shortage has been another bane of the Indian prison system which needs to be beefed up for better prison management and security. Apart from reinforcing manpower, prison officials of all ranks also need to be given special training and orientation for further improving prison security and making Indian prisons better places, yoked to the cause of reforming and rehabilitating deviant members of the society. Women and juvenile offenders definitely need better and more sensitive treatment than they get currently.

10. It is necessary to review the strength of doctors sanctioned for prisons and ensure the availability of adequate medical facilities for prisoners and prison staff. Arrangements must be made to look after the special
requirements of women prisoners. At least one woman medical officer must be available at times to attend to women prisoners. The first medical examination of the prisoner, done at the time of his entry into the prison must be thorough. Detailed information about various ailments, including past medical history, must be collected and faithfully recorded. Adequate infrastructural health care facilities, like well-equipped ambulances, stretchers, dispensaries, hospital beds etc. should be made available to the prison administration. Suitable arrangements should be made to provide psychiatric counselling to those suffering from chronic depression, particularly to women prisoners.

11. There should be a clearly defined system of responsibilities of the prison staff in case of a medical emergency, which should be made known to prisoners through a chart or pamphlet. NGOs’ help should be enlisted in dealing with drug addicts and in establishing drug de-addiction centers.

12. There is a need for extensive amendments to the colonial-era Prison Act of 1884 as also for the various constituent states of the Indian Union to draft a uniform prison manual if the country is to achieve even some of the reforms envisaged. Also, before going about implementing the BPRD committee's recommendations, it is necessary to give thought to various reasons for the failure to implement the proposals of the earlier Justice Mulla Committee for improving the conditions of prisons in India.
13. It is necessary to take special care to rehabilitate women prisoners, as it is harder for them to find acceptance in civil society upon release than men. Thus women should be specially equipped with vocational skills to empower them on their return to society. Arrangements should be made for women to reside in special homes if they find it difficult to get accepted in society after release.

14. A mechanism should be evolved to monitor and ensure the implementation of various recommendations made by different expert committees, courts and workshops from time to time. The National Human Rights Commission (NHRC) and the State Human Rights Commissions (SHRC) could take up this work and ensure that follow-up action is taken to implement the recommendations.

15. To streamline the jail visits made by Judicial officers and higher authorities of National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRC) from time to time and to submit report with regard to early release of life convicted prisoners to the Government to initiate the process. With respect to the premature release, government should take action to release the prisoners who are already completed 10 years and 14 years imprisonment based on good behavior, character, conduct, the recommendation made by the advisory Board from time to time.

16. An effective complaint system should be established which would encourage the prisoners to lodge complaints without fear of retribution.
The complaints should be enquired into fully and impartially and strict action should be taken against the persons found guilty. No attempt should be made to suppress wrong doing by any member of the prison staff.

17. The National and State Human Rights Commissions should be given the mandate to appoint prison visitors who should then report back to the Commissions, heads of the Prison Department and make their report public through effective use of mass media.

18. To establish Prison Academy at the State level to provide adequate training, conducting of seminars and workshops to the jail authorities for their development in matters of legal knowledge especially the Prisons Act, Rules, Manual, etc. To establish an examination centre inside the Central Prison premises itself for facilitating candidates pursuing graduation and post-graduation programmes through open Universities.

19. To adopt a prison system based on other counters like USA, England, Russia and Australia, as these countries have adopted well advanced prison management system and new technology and technique to bring changes in the prison administration.

20. To supply free jail manual hand book in local language to all prisoners mandatorily at the time of their admission in order to enlighten them with respect to their rights and duties. To install suggestion box, complaint box, first aid box and to provide separate rooms for prisoners to meet lawyers, family members and media persons. Legal literacy drives should be
launched with the aim not only of sensitizing the prison administration but also of spreading awareness amongst prisoners about their rights and obligations.

21. The Jail Structure has to be modified and equipped with advanced technologies which would prevent criminals from escaping. With regard to building facility and security maintenance outsourcing can also be thought about to avail better services.

22. The Parole facility recommending authority need to follow the fair and transparent mechanism in order to avoid favoritism as well as the misuse of the facility. There is also a need for the effective implementation of the prison panchayath system. As, it will help and benefit the prisoners creating a sense of responsibility and self-reliance among the prisoners.

23. The state should implement the Repatriation of Prisoners Act, 2003. The Act is very helpful to the foreign convicted nationals, as the Act helps in transfer of convicts to another country.

The above suggestions should be implemented as early as possible for the effective and efficient Prison Reforms in Karnataka and monitoring, management and effective prison administration.