CHAPTER-I

INTRODUCTION

1.1. INTRODUCTION

Punishment in civilized societies must not degrade human dignity of flesh and spirit. The rule of law has recognized in a number of instances on poor under trial prisoner’s right that they must be treated like human beings and their treatment must conform to the basic standards of humanity and fairness. Recognition of the inherent dignity, of the equal, and in alienation right of all members of the society is the foundation of freedom, justice and peace in the world.¹ The utility of prisons as an institution for rehabilitation of offenders and preparing them for normal life has always been a controversial issue. Dr. Paripurnanand Verma observed that “a prison symbolizes evil and therefore evil doers find themselves in perfect harmony inside the house of evils.”² This assertion however, seems to be an over simplification of facts as this does not hold good for all categories of criminals, there are quite a large number of offenders who are otherwise well behaved and are persons of respectable classes of society but they fall a prey to criminality on account of momentary impulsiveness, provocation or due to situational circumstances. There is yet another class of prisoners who are otherwise innocent but have to bear the rigors of prison life due to miscarriage of justice. Obviously, such persons find difficult to adjust themselves to the prison surroundings and find

life inside the prison most painful and disgusting. The real purpose of sending criminals to prison is to transform them into honest and law abiding citizens by inculcating in them a dictate for crime and criminality.

However, in actual practice, the prison authorities try to bring out reformation of inmates by use of force and compulsive methods consequently, the change in inmates is momentary and lasts only till the period they are in prison and as soon as they are released, they quite often return to the criminal world. It is for this reason that modern trend is to lay greater emphasis on psychiatric conditions of the prisoners so that they can be rehabilitated to normal life in the community. This objective can be successfully achieved through the techniques of probation and parole. The sincerity, devotion and tactfulness of the prison officials also help considerably in the process of offender’s rehabilitation. If the problem of overcrowding in western prisons is due to permissiveness, loose marriage ties and adorable values of violence and sex taboos of that society, the Indian prisons are no better for the reason that economic conditions do not permit to evolve better modes of prison management, therefore, restructuring of prisons in India needs prime attention. The problem of prison has always been engaging the attention of penologist’s throughout the world. The main object of prisonisation is undoubtedly negative in so far as it aims at generating a feeling of dislike for prison life among the members of society, the object being dissuade people from doing acts which may lend them into prison. Expressing his views about prison,
Donald Taft commented that prisons are deliberately so planned as to provide unpleasant compulsory isolation from general society. A prison, according to Taft\textsuperscript{3}, characterizes rigid discipline, provision of bare necessities, strict security arrangements and monotonous routine life.

1.2. THE PROBLEM

The condition of majority of prisons in India is bad and many offenders are languishing in jails without trial for several years. Further, the prisoners are suffering in jails due to non availability of proper health facility, inhuman torture of prisoners, solitary confinement, handcuffing and fetters on under trials, overcrowding of prisons, criminality in prisons and non availability of adequate separate prisons for women etc… The past decade has witnessed an increasing consciousness about the desirability of prison reforms. It is now being recognized that a reformative philosophy and a rehabilitative strategy must be a part of prison justice. In spite of adoption of many legislative and judicial measures the condition of prisoners is not improving at the expected level. In this context, the entire subject of prison reform deserves a comprehensive and critical review. The present study is an attempt in this direction to understand the need and necessity of prison reforms, to identify the problem, the limitations, and its operational drawbacks, and to offer

\textsuperscript{3} William Howard Taft was the 27\textsuperscript{th} President of the United States and later the 10\textsuperscript{th} Chief Justice of the United States.
appropriate suggestions to make the prison system more effective and humanized one.

1.3. OBJECTIVES OF THE STUDY

In this context, the study intends:-

- To make a comprehensive and critical review of the entire subject of prison reforms.
- To understand the need and necessity of prison reforms.
- To identify the problems and the limitations and its operational drawbacks.
- To make empirical study of jails in Karnataka.
- To offer appropriate suggestions to make the prison system more effective and humanized one.

1.4. HYPOTHESIS

The above perspectives have provided contours and content to the theme of the present research work. This present work has been inspired by the need for a systematic analysis of government policy on jail reforms, problem of prisoners, a comparative analysis of prison system and prison reforms in other countries, conditions of prisoners in Karnataka and Constitutional and Judicially recognized rights of prisoners.

In this regard the following Hypothesis have been formulated:-
• Poverty, absence of availability of basic needs of life and unemployment are the primary causes of crime.

• Imprisonment leads to poverty of the person, of body, mind and the spirit resulting in brutalization and dehumanization.

• 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 and 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 conditions of prisoners are not good.

These hypotheses have been tested with the help of analysis of treaties, judicial decisions, reports of various commissions and committees. Further, the data collected from jails and discussions with presiding officers of jail, inmates and information collected through questionnaire administered to officers of jails and inmates have also been used.
1.5. SCOPE OF THE STUDY

The scope of the study is limited to the study of law and policy relating to prisons and to know evolution of law at the National and International level with regard to the reformation of prison system. This study further intends to know the significant role played by the judiciary in bringing prison reforms in India. The drawbacks and deficiencies in the criminal justice system, which lead to miscarriage of justice and also to know the status of prison reforms in Karnataka and to suggest some remedial measures to overcome the present problems and for humanization of prisons in India.

1.6. METHODOLOGY

The research is conducted by adopting both the principles of doctrinal and non-doctrinal study methods. The research is analytical and descriptive in nature. The data for the study have been gathered through different techniques such as: The documents analysed, include the reports on various committees in jail reforms, the documents officially published by the prison department, statutes on Prison and Prison Administration, Various Judicial Decisions, Jail Manuals, News papers, web-published Articles, e-Journals, Institutional Websites etc… The empirical data has been collected through discussions with Competent Authorities of the jail and through questionnaire administered to the Authorities and Inmates in the Jail.
1.7. SCHEME OF THE STUDY AND ITS PRESENTATION

This study is distributed under VII chapters.

Chapter-I of the research work entitled “Introduction” deals with the background of the study, objectives of the study, the research problem, hypothesis, scope of the study and methodology adopted for this doctoral work.

Chapter-II entitled “Policy of Government on Jail Reforms and the Law”, deals with Indian prison system and traces the origin, development of the prison reforms from time to time. It can be noted that the concept of punishment prevailed since the Vedic period. However, in such periods the punishment was just confined to fine or to compensate the loss or harm caused by the wrongdoer. Since then the society has changed gradually and the concept of imprisonment has significantly evolved. Initially, it was just confined to detain the under trials and later it started to act as a correctional house or place for correction of the offenders. In this chapter an effort has been made to know the historical evolution of prison system and also the policy of government on jail reforms and the existing laws which govern the prisoners as well as administration of the prisons.

Chapter-III entitled “The Problems of Prisoners: An Analysis”, discuss the problems of prisoners by analyzing the present conditions, policies of government and the various recommendations made by the expert committees on prison reforms across the world and particularly, in India and in the State of Karnataka.
Chapter-IV entitled “The Constitution of India, Judiciary and the Rights of Prisoners”, highlights the Constitutional rights of prisoners and also the contribution of judiciary towards such rights in order to get benefit of such rights which are guaranteed in the Constitution of India.

Chapter-V entitled “Prison System and Prison Reforms in other Countries – A Comparative Study” compares the Indian prison system and prison reforms with other countries like USA, England, Russia and Australia. In this part of research work an attempt has been made to get valuable information from other countries. This chapter gives some basic information about the prison system prevailing in the respective States and reforms done in the above mentioned countries.

Chapter-VI entitled “Condition of the Prisoners – An Empirical Study”, deals with the conditions of Prisoners in Karnataka. This chapter is a non doctrinal work which contains empirical analysis of the prisoner’s condition particularly in the State of Karnataka. An empirical analysis of the data collected from Central Jail, Bangalore (ParappanaAgrahara Central Prison), Central Prison, Mysore and Ramanagaraand District Prison Tumkur have been made in this chapter.

The last Chapter-VII entitled “Conclusion and Suggestions”, contains a fair summary of the whole study and the findings of the study. Indian prison
system, its administration and operational working has been analyzed from the standpoint of the prisoners and prison administrators. The researcher has offered valuable suggestions to make the prison system more effective and efficient and to maintain the standards to keep pace with the changing socio-economic, political and legal conditions.