Chapter I

Introduction
1.1 INTRODUCTION

Society is defined as a set of people interacting and cooperating. The people are bound by common rules and regulations that define their relations. Society develops a number of norms and conditions and the members of society are obliged to follow these rules. In the formation of the society, individuals surrender their personal rights to operate the laws and put in place a system of punishments. Thus the authority of law administration and execution falls upon the society. A deviant individual behavior is met with sanctions and these sanctions may be in the form of punishments. Punishing the offenders thus becomes one of the major functions of civil society. Generally, punishment is employed for the smooth and safe functioning of the society.

In the case of state, the element of law and regulation has acquired more significance. State is defined as a ‘society organized for law’\(^1\). The power of the state is well established through its capacity to render obedience and to inflict punishment. As such, punishment and prisons have occupied an important position in the modern state system.

The concept of punishment is historically described as a penalty for deviant behavior and the criminal is supposed to be kept away from the society so that he/she may do no more harm to the members. It is also argued that the punishment may have a moral deterrence lesson to the society. Punishment is also justified on utilitarian grounds as it may end up with the eradication of greater evil (Bentham, 1781)\(^2\). However, modern prisons are described as correction institutions and the criminal is supposed to undergo a change of heart through his prison days. In this context, criminals are considered as human beings with individual dignity and they are to enjoy the human rights. Prisons are to be reform centers and thus needs continuous
reform and upgradation. Thus prison reforms have become an urgent agenda for the modern state.

Prisons are known to have existed throughout the history. Earlier, it was believed that rigorous isolation and custodial measures would reform the offenders. Experience, however, belied this expectation and on many occasions imprisonment had the opposite effect. With the development of behavioral sciences, realization came that reformation of offenders was not possible by detention alone. It is to be coupled with rehabilitation and such positive measures.

Table 1.1, Global Prison Statistics

<table>
<thead>
<tr>
<th>Sl No</th>
<th>Item</th>
<th>Numbers/Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total prisoners</td>
<td>10.2 million</td>
</tr>
<tr>
<td>2</td>
<td>Women Prisoners</td>
<td>660,000</td>
</tr>
<tr>
<td>3</td>
<td>Sentenced with death</td>
<td>24,000</td>
</tr>
<tr>
<td>4</td>
<td>Sentenced for more than 20 years</td>
<td>7,800,000</td>
</tr>
</tbody>
</table>

(Source, Compiled from UNODC and Global Prisons Trends 2015 report. 2012 and 2013 data)

The issue of prisons and prison reform needs immediate attention of the policy makers since an estimated 10.2 million people, including sentenced and pre-trial prisoners, were held in penal institutions worldwide. This means out of 100,000 people 144 are in prison. Among these prisoners more than 660,000 are women. About 6.5 per cent of the world’s prisoners are women and in most prison systems women constitute between 2 and 9 per cent of the total prison population. As per the United Nations Office on Drugs and Crime (UNODC), 0.2% of the total prisoners are under death sentence (Data available in 2012 from 35 countries). More than two thirds of
prisoners had received prison sentences of up to five years and 6.5 per cent had received sentences of more than 20 years including life sentences.\(^5\) In many cases, the prisoners are met with inhuman treatment. They are suffering from overcrowding, inadequate health facilities, absence of sanitation and the like. According to the World Health Organization reports, a high proportion of prisoners suffer from mental health problems (such as depression and anxiety), addiction problems and personality disorders. WHO studies in many countries show that 10–15% of the prison population suffer from severe and enduring mental illnesses, such as schizophrenia, bipolar disorder and autism disorders? The use of drugs and drug related addictions are at high levels in the prisons\(^6\). The women and child prisoners are the most disadvantageous category with regard to prison issues. Their basic human rights are also denied. Here arises the need for prison reforms.

### 1.2 CRIME AND PUNISHMENT

Crime is defined as an act or omissions forbidden by law that can be punished by imprisonment and/or fine. Paul Tappan defines crime as “...an intentional act in violation of the criminal law (statutory and case law), committed without defense or excuse, and penalized by the state as a felony or misdemeanor” (Tappan, 2001: 31)\(^7\). Thus, a crime is an act in violation of a criminal law for which a punishment is prescribed; the person committing it must have intended to do so and must have done so without legally acceptable defense or justification.

Murder, robbery, burglary, rape, drunken driving, child neglect, and failure to pay taxes all are common examples of crime. Crime is met with punishment that is provided in the statutes. Every society identifies crime as a social disturbance and legal documents handle criminal activities with great
Introduction

concern. Even though there are differences of opinion about the different patterns of punishment, all societies agree on the social disturbance created by crimes. It is argued that crime is a legal concept defined by the political state and its agencies. The fact that crime is a legal rather than a scientific concept has implications for the scientific study of crime. Hypothetically, a society could eradicate crime simply by rescinding all of its criminal statutes. This would not eliminate the behavior specified by the laws; in fact, the behavior would doubtless increase since the behavior could no longer be officially punished.

In this context, it is necessary to differentiate between crime and criminal behavior. The key to understanding crime is to focus on fundamental attributes of all criminal behaviors rather than on specific criminal acts. The behavioral definition of crime focuses on criminality as a certain personality profile that causes the most alarming sorts of crimes. Criminality is a style of strategic behavior characterized by self-centeredness, indifference to the suffering and needs of others, and low self-control. More impulsive individuals are more likely to find criminality an attractive style of behavior because it can provide immediate gratification through relatively easy or simple strategies. These strategies frequently are risky and thrilling, usually requiring little skill or planning.

This conception of crime explains the wide variety of criminal activity and the fact that individuals tend not to specialize in one type of crime. It is also agreement with the well-established tendency of people to be consistent over long periods of time in the frequency and severity of crimes they commit.

1.3 HUMAN ECOLOGICAL APPROACH

Human resources can have material, symbolic, or hedonistic value. In crimes such as thefts, individuals take material resources such as property
from another person without his or her knowing cooperation. Those who commit crimes such as dealing in narcotics trafficking and gambling attempt to obtain money that can be exchanged for material resources. In crimes such as assaults not associated with theft, sexual assaults, and illicit drug use, people obtain hedonistic resources that increase pleasurable feelings or decrease unpleasant feelings. Political crimes such as terrorism or election fraud attempt to obtain symbolic resources such as power or prestige.

A criminal is someone who has committed a crime and has been judged guilty of having done so. Whatever factors criminologists might decide lead to criminal behavior, a person is not “officially” a criminal until he or she has been defined as such by the law. Before the law can properly call a person a criminal, it must go through a series of actions that are collectively called criminal procedure. These procedural rules vary greatly from culture to culture, but almost all modern cultures have a set of logical and predictable rules guiding the business of officially labeling a person a criminal.

Punishment can be defined as the infliction of some kind of pain or loss upon a person for a misdeed. Punishment may take forms ranging from imprisonment and fines to capital punishment. In some societies, punishment is largely vindictive or retributive, and its prosecution is left to the individuals wronged. Such punishment bore no special relation to the character or gravity of the offense. Gradually there arose the idea of proportionate punishment, and eventually punishment by individuals came under the control of the community. In the final stage, codes of law were developed and the state took over the punitive function for the maintenance of public order. Under such a system, the state is viewed as the entity wronged by the crime, and the exaction of punishment by individuals acting
on their own behalf has become illegal. This inaugurated the era of regular prisons and established court systems.

1.4 PUNISHMENT, PRISONS AND REFORMS

Punishment is usually employed for reducing the occurrence of crime in a given society. However, this argument failed to impress many thinkers and they argue that there is no systematic relationship between crime rates and imprisonment rates. The best example is provided with the implementation of the “three strikes” legislation passed in many U.S. states in the 1990s. These laws imposed mandatory prison sentences after three convictions, was found to have no effect on crime rates. Even the death penalty, appears to do little to reduce murder rates, since most jurisdictions that use it have substantially higher murder rates than jurisdictions that do not. Among Western industrialized countries, the United States has the highest murder rate and is virtually alone in using the death penalty. In general, criminologists believe that severe punishments are not particularly effective in reducing high crime rates.

Emilie Durkheim (1961) identifies the function of punishment as promoting social solidarity through the affirmation of values, and argues that punishment’s importance lies in its expression of outrage upon the commission of an offense. He believed punishment to be a “passionate reaction” to crime, and this expressive view of punishment can be seen in modern-day notions of censure in retributivism. The focus was not, therefore, on whether punishment was effective in controlling crime, but in its function as a means of maintaining social solidarity through expressions of outrage and through the affirmation of societal values.

Punishment generally provides for unpleasant compulsory isolation from society. This isolation is provided with the establishment of prisons. A
prison characterizes rigid discipline, provision of bare necessities, strict security arrangements and monotonous routine life. Life inside the prison necessarily pre-supposes certain restrictions on the liberty of inmates against their free will. The prisoners are deprived of freedom and personal contacts with family and friends. The modern view of the prison is that of an institution for rehabilitation of offenders preparing them for normal life. The real purpose of sending criminals to prison is to transform them into honest and law abiding citizens by inculcating in them distaste for crime and criminality. But in actual practice, the prison authorities try to bring out reform of inmates by use of force and compulsive methods. Consequently, the change in the inmates is temporary and lasts only till they are in the prison, and as soon as they are released, they again get attracted towards criminality. It is for this reason that the modern trend is to lay down greater emphasis on the prisoners so that they can be rehabilitated to normal life in the community.

An imprisonment deprives a person from his right to liberty. Imprisonment affects the prisoner and also his family. When an income generating member of the family is imprisoned, the whole family has to suffer. Imprisonment disrupts relationships and weakens social cohesion, since the maintenance of such cohesion is based on long-term relationships. When a member of a family is imprisoned, the disruption of the family structure affects relationships between spouses, as well as between parents and children, reshaping the family and community across generations. Mass imprisonment produces a deep social transformation in families and communities. The advocates of prison reforms look into the individual and social cost of the imprisonment and argue that a punishment not only affects the individual, but also the large fabric of social relations around him.
Thus it becomes necessary to reinstate the individual to society and prisons are to take that challenging job.

Almost every major ancient civilization used concept of prisons as a mean to detain and remove personal freedoms of incarcerated people. The history of prisons can be traced back to the 3rd millennia BC. In those early periods of history, prisons were often used as a temporary stopgap before sentencing to death or life of slavery\textsuperscript{14}. The earliest available records of prisons come from the 1st millennia BC, of ancient civilizations of Mesopotamia and Egypt. During those times, prisons were almost always stationed in the underground dungeons where guilty or suspected criminals spent their life either awaiting death sentence, or a command to become slaves\textsuperscript{15}. Modern prison system started with the Europeans. The early European jails were more or less inhumane confinement centers. Henry II commissioned the construction of the first prison in 1166, together with the first draft of English legal system that used concept of jury. One of the most historic prison legislation was introduced in 1215, when King John signed Magna Carta which stated that no man could be imprisoned without trial. The age of modern prisons started with the several prison reforms in 19th century England. During that time prisoners started receiving more care, the concept of rehabilitation was introduced and governments around the world started reconsidering their views on solitary confinement.

Most countries operate national prison systems. These national prisons are supplemented by state or provincial institutions\textsuperscript{16}. For example in the United States, criminals sentenced for federal offenses are held in institutions of varying levels of security operated by the Federal Bureau of Prisons. The majority of prisoners are held in state institutions. Prisoners
who have been charged with minor offenses, or who are serving short sentences, are most commonly held in municipal jails.

In the 19th and early 20th centuries, prisons were viewed as total institutions that exert control over every aspect of a prisoner’s life. Most aspects of prisoner’s life were subject to strict supervision. In the later 20th century, however, penologists recognized that not all prisoners required such close supervision and that excessive surveillance risked institutionalizing the prisoner to such a degree that it could undermine his preparation for release. In this context many countries have encouraged prisoners to take responsibility for their actions. They were encouraged to learn skills that will help them to lead a law-abiding life after their sentence has been served. In many cases prisoners were permitted to maintain contact with their families. This was in tune with article 12 of universal declaration of human rights (UDHR 1948) which protects the privacy of the individual.

1.5 PRISON SYSTEM IN INDIA

In India, prison reforms emerged as an outcome of the worst conditions of treatment faced by the political sufferers in prisons during the period of their imprisonment under the British rulers. They repeatedly launched protests with the prison authorities and made all possible efforts to see that the rigorous of prison life are mitigated and prisoners are humanly treated.

A well-organized system of prisons is known to have existed in India from the earliest time. It dates back to the period of the great Vedas. Brahaspati laid great stress on imprisonment of convicts in closed prisons. However, Manu was against this system. It was a common practice to keep the prisoners in solitary confinement so as to afford them an opportunity of self-introspection. The object of punishment during Hindu and Mughal period in
India was to deter offenders from repeating crime. The recognised modes of punishment were death sentence, hanging, whipping, flogging, branding or starving to death. The prisoners were ill-treated, tortured and subjected to most inhuman treatment. They were kept under strict control and supervision. Thus prisons were places of terror and torture and prison authorities were expected to be tough and rigorous in implementing sentences.

The beginning of penal reforms in India started with British colonial rule in India. They introduced radical changes in the then existing prison system keeping in view the sentiments of the indigenous people. The prison administrators classified the prisoners into two groups namely, violent and non-violent prisoners. The Prison Enquiry Committee appointed by the Government of India in 1836 made many recommendations to eradicate corruption in prisons. An official called Inspector General of Prisoners was appointed for the first time in 1855, who was the Chief Administrator of prison in India. His main function was to maintain discipline among the prisoners and the prison authorities. During this period the condition in prison was pathetic. The meaning of punishment itself was to crush the prisoner. A rethinking was made by the second Jail Enquiry Committee in 1862. The committee emphasized the need for proper food and clothing for the prison inmates and medical treatment of ailing prisoners. However, the prison reforms in British India failed to address many immediate concerns of the prison inmates. Rehabilitation and reform were never aimed at. Political prisoners including freedom fighters were treated badly by the jail authorities. This provoked the new leadership of free India to take a positive approach to prisons and prison reforms.

In 1951-52, Dr. W. C. Reckless, a U.N. Expert on Correctional Work, visited
India. He prepared a report on prison administration in the country. His report ‘Jail Administration in India’ is a landmark document in the history of prison reforms. He made a plea for transforming prisons into reform centers and advocated establishment of new prisons.

In India States have the primary role to change the current prison laws, rules and regulations? The constitution has placed prisons as a State subject under List-II of the Seventh Schedule to the Constitution\textsuperscript{23}. The management and administration of Prisons are governed by the Prisons Act, 1894 and the Prison Manuals of the respective State Governments\textsuperscript{24,25}.

The Government of India appointed many commissions to look into the matter of jail reforms. This includes All India Prison Reforms Committee (1980) under the Chairmanship of Justice A.N. Mulla (Retd.), R.K. Kapoor Committee (1986) and Justice Krishna Iyer Committee (1987). These committees made a number of recommendations to improve the conditions of prisons. The Supreme Court of India has also laid down broad principles regarding imprisonment and custody. Firstly, a person in prison does not become a non-person; secondly, a person in prison is entitled to all human rights within the limitations of imprisonment; and, lastly there is no justification for aggravating the suffering already inherent in the process of incarceration. These principles are the cornerstone of Indian prison reforms.

The National Human Rights Commission of India has rightly observed the conditions of Indian prisons in its annual 1994-95 report. The commission observes;

\textit{The situation in the prisons visited was varied and complex. Many, such as Tihar Jail in Delhi were over-crowded; yet others, like that of open jail in Hyderabad were underutilized. Often, within a single State, conditions varied from one jail to another in this respect, pointing to the need for a}
more rational State-wide use of facilities. ... no such care was being taken and the atmosphere appeared to nurture violence and criminality. In a few, major efforts were being made to reform conditions, to generate employment in a worthwhile and remunerative way, to encourage education and restore dignity. In others, callousness prevailed, prisoners were seen in shackles, mentally disturbed inmates - regardless of whether they were criminal or otherwise- were incarcerated with others, with no real effort being made to rise above the very minimum required for the meanest survival. Where prisoners worked, their remuneration was often a pittance, offering scant hope of savings being generated for future rehabilitation in society. By and large, the positive experiences were the exceptions rather than the rule, dependant more upon the energy and commitment of individual officials rather than upon the capacity of the system to function appropriately on its own."

The Supreme Court of India in *Ramamurthy vs. State of Karnataka* (1996) examined the Indian jail system in detail. The court was of the opinion that ‘a sound prison system is a crying need of our time in the backdrop of great increase in the numbers of prisoners and that too of various types and from different strata of society’27. Accordingly the court directed to bring uniformity in prison laws. The court also asked the government to prepare a draft model prison manual. This was followed by the appointment of a reform committee and preparation of a jail manual. But nothing concrete followed. The All India Committee on Jail Reforms (1980-1983), the Supreme Court of India and the Committee of Empowerment of Women (2001-2002) have all highlighted the need for a comprehensive revision of the prison laws, but the pace of any change has been disappointing.
As per the government of India data, there are 1387 prisons with a total capacity of 356,561 inmates. However, as of 31-12-2014, there are 418536 prison inmates in India. This means an occupancy level of 117.4%. The prison inmates in India includes total of 390 women convicts with their 457 children and 1,172 women under trials with their 1,320 children. Among these inmates 5,394 (1.3%) are reported to have mental illness. As per government of India accounts total of 1,702 deaths in jails were reported during the year 2014. Among these, 195 deaths were reported as unnatural. In the background of this scenario, the government of India and the civil society is much concerned about the reforms in the prison system.
1.6. STATEMENT OF THE PROBLEM

Every society wants to reduce crime rate. The prison system is expected to reduce crime rate by reforming criminals and also by deterring the general public from behavior which is punishable by imprisonment. Thus it is generally accepted that prison system is estimated to make life unpleasant for people who, by their crimes, have made others’ lives unpleasant.

In India the prison system has improved significantly since independence. The state investment of time, energy and money for reformative or rehabilitative prison model has been demonstratively successful in preventing and controlling recidivism among prisoners. For the reform of prisons and prisoners in India, many steps are being taken. In spite of the relatively low number of persons in prison as compared to many other countries in the world, there are some very common problems across the jails in India, and the situation is likely to be the same or sub-standard in many developing countries. Overcrowding, sustained detention of under-trial prisoners, unsatisfactory living conditions, lack of treatment programmes and the assertions for the indifferent and even inhuman approaches of prison staff have repeatedly attracted the attention of the critics over the years. The rehabilitation facilities are yet to gear up to expected levels. There are many hindrances in the reform of the prison system in India. In order to convert the prisons into reform houses the state and its agencies should move many steps.

1.7 RATIONALE OF THE STUDY

Prisons are supposed to undergo reform periodically. But this ideal is seldom realized in majority of the cases in modern society. Here prison is seen as a response to an offense. Prison is banishment. Individuals who are banished and feel pain via imprisonment are not likely to feel close to the
community that banished them; thus, the “circle” of society has been broken. Prison not only injures the individual, but also injures the community because of the loss of the individual from his or her community. Thus, prison is basically inconsistent with the emphasis often given to reparations to specific victims and to safeguarding the dignity and humanity of the offenders, broadly understood as restorative justice.

In India, research into crime and punishment is still in its embryonic stage. This is mainly because of the inaccessibility to prison and prisoners. The prison authorities have strict rules with regard to entry into prisons and interaction with prisoners. As per the Ministry of Home affairs directive, a researcher is supposed to submit a security deposit of Rupees one lakh to the authorities to gain admission to the jail. Interviews can be conducted only in the presence of jail authorities. There is also strict monitoring on the collection and release of data obtained through the prison interviews. Secondly most of the prisoners are reluctant to express their opinion freely on matters of conditions in jail and their past. This becomes a grave issue in the absence of proper rapport from the part of the researcher. The social taboos with regards to prison are also a major reason for the absence of shortage in prison studies. In the absence of proper scientific studies, the prison reforms are guided by impressionistic goals. The immediate need of prison research is to evaluate the existing methods of treatment and to suggest new approaches to the prevention of crime and to enable re-socialization. With regard to the present prison reforms the value of probation, open prisons, parole and home leave, education, vocational training as reformatory measures need to be evaluated. But in many states these support systems do not work well as there are many channel blocks and gate keepers on the path to reforms. It is in this context that the present study focuses on the prison system in Kerala.
1.8 INTEREST OF THE RESEARCHER

The researcher being a social worker who is working in the field of prison reforms, encountered many occasions where the prison life made the individual more criminal in nature. In most of the cases, it was seen that the norm ‘once a criminal always a criminal persists. At times, jail makes habitual criminals. The police and civil society look upon an ex-convict with a biased mind. This makes normal life impossible for the prisoner. It was observed that a considerable number of prisoners are first time criminals and some of them are ‘accidental criminals’. Jails are supposed to convert them into normal life. Researcher’s interaction with jail system in Kerala has proved that there are many reforms going in the system. Prisoners are given chances to acquire vocational training and higher educational qualifications. But these reforms are found to be inadequate to rehabilitate the jail inmates. Most of the reform benefits are obstructed by channel blocks in the system and by the intervention of gate keepers. This has grave consequence in the social system and needs immediate attention. Hence the researcher decided to study about the jail reforms scenario in the state.

1.9 TITLE OF THE STUDY

IDENTIFICATION OF CHANNEL BLOCKS AND GATEKEEPERS IN PRISON REFORM: A STUDY BASED ON KERALA PRISONS

1.10 OBJECTIVES OF THE STUDY

The present study is undertaken with the following objectives in view:

• To study the evolution of prison administration system in Kerala and identify its characteristics;
Chapter I

- To identify the role of gatekeepers and channel blocks in prison reforms
- To analyze the impact of prison reforms on the inmates in prisons of Kerala; and
- To analyze the reform programmes in the Kerala prison system

1.11 HYPOTHESES

- Prison reforms have made significant change in the infrastructure development of prisons in Kerala;
- Prison reforms have contributed significantly in shaping mental inclination towards social commitment of prison inmates in Kerala
- The benefits of prison reforms fail to reach the beneficiaries because of the channel blocks and gatekeepers in the prison system

1.12 RESEARCH METHODOLOGY

1.12.1 Operational Definitions

1.12.1.1 Channel blocks: A procedural or technical obstruction in the way of reforms. This may be usually in the form of administrative/implementation lapses or obstructions

1.12.1.2 Gatekeepers: The subjective obstruction to reforms. This is the delivery point of service and may assume the role of individual operators of policy.

1.12.1.3 Prison: A place or condition of confinement or restriction and place for the confinement and punishment of persons convicted of crimes. In the current study it means the legally established confinement/restriction places operated by the state.
1.12.1.4 **Reform**: To improve by alteration, correction of error, or removal of defects; put into a better form or condition: Action to improve or correct what is wrong or defective in something.

1.12.1.5 **Convicts**: A person serving a sentence in prison. This sentence may be awarded by a competent court after a trial.

1.12.1.6 **Parole**: A period of leave allowed to the prisoner to visit his family. This is permissible only in the case of convicts exhibiting good behavior in prison.

1.12.1.7 **Jail Official**: A person employed by the state purely for the purpose of prison administration and management.

1.13 **RESEARCH DESIGN**

1.13.1 **Sampling**

The samples were collected from three central prisons, three open Prisons and one women prison in Kerala. Samples were taken through multi stage stratified random sampling technique. The data were collected from primary and secondary sources. Primary data were collected through the methods of Semi-structured Interview, Focus Group Discussion, and Personal interviews. The data were collected through interview from the convicts in Kerala Prisons. The Schedule consisted of three parts, which included questions to check the Demographic Profile and Awareness level of Prison reform. The researcher has conducted three Focus Group discussions with three groups of lifelong imprisonment convicts. Personal interviews were conducted with jail officials and experts in the subject.
Table 1.3 Prison wise distribution of samples

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Prison</th>
<th>Samples</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Central Prison Trivandrum</td>
<td>59</td>
</tr>
<tr>
<td>2</td>
<td>Open prison Nettukalssery, Trivandrum</td>
<td>59</td>
</tr>
<tr>
<td>3</td>
<td>Open prison Cheemany Kasaragod</td>
<td>58</td>
</tr>
<tr>
<td>4</td>
<td>Open prison women</td>
<td>15</td>
</tr>
<tr>
<td>5</td>
<td>Central Prison Viyoor, Trissur</td>
<td>58</td>
</tr>
<tr>
<td>6</td>
<td>Central Prison, Kannur</td>
<td>58</td>
</tr>
<tr>
<td>7</td>
<td>Women Prison Trivandrum</td>
<td>44</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>351</td>
</tr>
</tbody>
</table>

1.14 INCLUSION–EXCLUSION CRITERIA OF THE SAMPLE

1.14.1 Inclusion

- All the Convicts who have undergone life imprisonment in Kerala Prison
- The Convicts must have completed minimum 6 months of imprisonment
- Samples are to be between the age of 18 and 75 years.

1.14.2 Exclusion Criteria

- The Convicts less than six 6 months of imprisonment
- Members who are below the age of 18 and above 75 years.
- Members who have any serious mental challenges and are unable to understand condition inside the prison
1.15 SECONDARY DATA

The secondary data have been compiled from published and documented sources. These include National Crime Records Bureau; National Institute of Criminology, Institute of Forensic Sciences Delhi, UNICEF, UNODC, APCA Vellor, Tamilnadu, TATA Institute of Social Science(TIS) Mumbai, Kerala Correctional Administration Seminar Proceedings, World Prison Reform Reports, Ministry of Home Affairs etc. Previous studies surveys and published literature have been reviewed for insight stimulation on the topic of research. The data have been presented in tabulated form and interpreted accordingly.

1.16 METHODS AND TOOLS OF DATA COLLECTION

Semi-structured Interview, Focus group discussions, and Personal interviews were the tools used to collect data for the study. To collect the quantitative data the researcher administered a Semi structured interview with the respondents. The tool was developed after several rounds of verification with the relevant materials, such as United Nations Office on Drugs and Crime (UNODC) reports, World Prison Reform Reports, important books and journals, and interaction with professionals. To collect qualitative data, the researcher conducted Focus Group Discussions among lifelong convicts and personal interviews with the professionals and prison authorities.

The data analysis revealed the fact that there was a wide gap between the Prison reform awareness and reform activities/Programme practiced among people. Keeping this wide disproportion in mind, the researcher decided to do an auxiliary analysis through FGDs and Personal interviews.
1.17 PRE TEST AND DATA COLLECTION

The researcher conducted a pilot study regarding the feasibility of research, during the early phase of the study. It helped the researcher to gain an insight into various aspects of research. During this time the researcher had interviewed 35 Convicts, from Central Prison Thiruvananthapuram. The pilot study has helped the researcher to create and arrange the questions systematically in the interview schedule. Based on the primary interaction and the literature review, it was understood that a research would be possible on this topic. Pre-test was conducted during the month of June, 2011. Based on the results of the pre-test, a few modifications were made in the schedule. Some questions were simplified and some inappropriate questions were avoided in relation to the objectives and hypothesis of the study.

Data collection took place during the period of December 2012 to December 2014. Almost one and a half hours were taken for each convict for rapport building and interview. 120 working days were taken for interviews, and 100 days for official interviews, FGDs etc.

1.18 CONSENT

The researcher has approached the Home Department, Prison Department and Welfare department of the state of Kerala to get formal sanction to carry out the data collection. During the personal meetings the researcher had briefed the authorities about the current study details and its relevance. The Home Department accorded sanction and Prison Department ensured its whole-hearted support for the data collection from the respective Prisons.

1.19 ETHICAL CONSIDERATION

The purpose of the interview was briefed to the interviewee and consent was obtained from the interviewee. The following points were made
clear in the explanation/ rapport building session which was the pre-phase of the interview. a) The data would be used only for the present study purpose, b) participating in this research would not negatively affect them in any way and the personal information will be kept confidential.

Reasonable time was ensured to the respondents to reply to each item in the schedule. Enough freedom was given to the participants to participate or not participate in the study. At every stage of the study, careful considerations were made to follow all possible ethical guidelines.

1.20 LIMITATION OF THE STUDY

• The present study has a few limitations. First of all, data relating to prison is confidential and there is a large level of official secrecy in handling and revealing data related to prisons and prisoners. However, necessary caution was taken to crosscheck the data and informal methods were also adopted to extract real information.

• The prison inmates are under many institutional and individual restraints in registering their opinions freely. In this case, an attempt was made by the researcher to build up strong rapport with the samples so that they could interact freely.

• The respondents of the study were primarily collected from seven prisons, and are almost exclusively made up of life prisoners. These samples are probably not representative of all jail inmates. However adequate statistical techniques were employed to identify patterns and regularities, if any.
1.21 CHAPTERISATION

The study report is arranged in six chapters

1. INTRODUCTION
2. REVIEW OF LITERATURE
3. THEORETICAL OVERVIEW OF CRIME AND PUNISHMENT
4. CHANNEL BLOCKS AND GATE KEEPERS IN PRISON REFORMS
5. DATA ANALYSIS AND INTERPRETATION
6. FINDINGS RECOMMENDATIONS AND CONCLUSIONS
Endnote

1 Woodrow Wilson defined state as "a people organised for law within a definite territory."

2 Bentham observes,… “But all punishment is mischief: all punishment in itself is evil. Upon the principle of utility, if it ought at all to be admitted, it ought only to be admitted in as far as it promises to exclude some greater evil”. See Bentham, J. (1781). An Introduction to the Principles of Morals and Legislation (2000 ed.). Kitchner: Batoche Books. P.134.

3 As per data available in 2013. These are approximations since many states are extra-legal methods of detainment and arrest.


8 Criminality in this sense bears a problematic relationship with legal crimes. Some drug dealers, tax cheats, prostitutes and other legal criminals may simply be business-people whose business activity happens to be illegal. Psychologically, they might not differ from ordinary citizens. Almost all ordinary citizens commit at least small legal crimes during their lives.
In the United States, many state governments enacted habitual offender laws which are referred to as three-strike laws. These laws mandate courts to impose harsher sentences on those convicted of an offense if they have been previously convicted of two prior serious criminal offenses. They are designed to incapacitate those more likely to commit crime. Twenty-four states have some form of "three-strike" law.


Capital punishment is punishment by death. The sentence is referred to as a death sentence. Crimes that can result in a death penalty are known as capital crimes or capital offences. The state of Texas accounts for a very high proportion of all executions within the United States, yet it has continued to experience relatively high rates of murder and violent crime.


In addition of holding convicted or suspected criminals, prisons were often used for holding political prisoners, enemies of the state and prisoners of war.

However in ancient Greece prisoners were held in isolated buildings where they could often be visited by their friends and family. After the Greeks, Romans held a different view of prisons. Their prisons were built almost exclusively underground, with tight and claustrophobic passageways and cells. Prisoners themselves were held either in simple cells or chained to the walls, for life or for time. As slavery was accepted norm in those days, majority of prisoners that were not sentenced to death were sold as slaves or used by the Roman government as workforce. Source, http://www.prisonhistory.net/prisonhistory/history-of-prisons/ Accessed on 25/8/2015
In some states, the governments are sharing the ‘prison-burden’ with private entities. Privately run prisons were in operation in Australia, the United Kingdom, the United States Brazil, France, and South Africa.

In countries with a federal system of government, such as Brazil, Germany and India, prisons are administered by individual states.

Prisons in some eastern European and Central Asian countries provide special visiting units where families and prisoners can live together for up to three days. Similar arrangements exist in Canada and some U.S. states. Several Latin American countries permit family members to enter the prisoners’ living accommodations on weekends.

Article 12 of UDHR states that ‘No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks’. Source. http://www.un.org/en/documents/udhr/index.shtml#a12, accessed on 11-09-2015.

The contemporary prison administration in India is a legacy of the British Rule. Lord Macaulay, while presenting a note to the Legislative Council in India on December 21, 1835, for the first time, pointed out the terrible inhumane conditions prevalent in Indian prisons and he termed it as shocking to humanity.

Lord William Bantick constituted the 1836 committee on prison reforms and the committee exposed the rampant corruption in Indian prisons. The report suggested rigorous measures to ensure discipline in the prisons. They also rejected all reform measures initiated in the jails.

In 1844 the first inspector General of Prisons was appointed in the North Western Province on an experimental basis for two years and was extended further in 1850 the Government of India Made it a permanent post and suggested that each province should appoint an Inspector General of

23 See, List II of the seventh schedule of Indian constitution entry 4, Prisons, reformatories, Borstal in situations and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions. Earlier the Government of India Act 1935 transferred jails from the central subject list to provincial list. This was adopted in the constitution of independent India.


27 The court observed; “Let us, therefore, resolve to improve our prison system by introducing new techniques of management and by educating the prison staff with our constitutional obligations towards prisoners. Rest would follow, as day follows the night. Let the dawning ray (of hope) see the end of gloom cast on the faces of majority of prisoners and let a new awakening percolate every prison wall”. See Shri Rama Murthy vs State Of Karnataka, 23 December, 1996, Judgment para 51, Source; [http://indiankanoon.org/doc/748775/](http://indiankanoon.org/doc/748775/). Accessed on 16-09-2015
Among the reported prison deaths in the year 2014, 51 deaths were of female inmates. Of these 46 deaths were natural and 5 deaths were unnatural.

The major directives of the Ministry of Home affairs, Government of India with regard to prison interviews includes,

a) Those who wish to make documentaries or conduct interviews may be allowed only handy cam/Camera/Tape recorder or equipment directly connected with the purpose of the visit. Tripod/stand mounted cameras/equipment should not be allowed. No mobile phones/papers/book/pen etc. should be allowed.

b) While the visitors are touring the prison or interviewing the inmates the Jail Superintendent should himself be present there. In case he is absent, the next senior most officers must accompany the visitor. The Jail Superintendent should immediately intervene, on-the-spot if he feels that a certain video clip or an interview being conducted is not desirable

c) No videography/photography should be allowed which may create potential security risk or social/communal disturbance.

d) After the visit is complete, the visitors shall handover all their equipment like Handy cams, Dictaphone, Camera, tape recorder or any other equipment to the Jail Superintendent for a period of three days. All precautions should be taken to ensure that the visitor does not leave the jail premises with the recordings.

e) The Jail Superintendent then shall see/hear all the recordings carefully and if he finds anything objectionable, he shall delete that portion. The said equipment after careful scrutiny/editing may be returned after three days to the visitor.

f) In case of Newspaper/magazine/web based articles, the visitor shall follow the norms of journalistic conduct prescribed by the Press Council of India before preparing the material for publication.
g) The final version of the documentary/film/research paper/articles/books to be released/published is to be submitted to the concerned State Government/Head of the Prison Department for final “No objection certificate”, for publication/release.

h) The documentary/film/research paper/articles/books shall not be released/published without the “No objection certificate” of the State Government/UT Administration/Head of Prison Department.

i) In case of any violation of these guidelines, or the undertaking given by the visitors, the Jail Superintendent shall forfeit the security deposit and initiate suitable legal action.