CHAPTER - I

HISTORICAL BACKGROUND INCLUDING A REFERENCE TO COMMITTEES ON JAIL ADMINISTRATION

Prison, by one name or other, has been a place for detention of an offender. As such it has always been in the whole and sole charge of the Government or authority in power. The early institutions functioned only to detain prisoners to trial and were not used to punish a person after conviction. "The idea of sending men to prison as a post conviction punishment did not arise until the early decades of the nineteenth century." In this study we have used the term 'prison' as defined in the prisons Act, 1894, as follows:

3.(1) "Prison" means any jail or place used permanently or temporarily under the general or special orders of a (State Government) for the detention (and reformation) of prisoners, and include all lands and buildings appurtenant thereto, but does not include (a) any place for the confinement of prisoners who are exclusively in the custody of the police.

(b) any place specially appointed by the (State Government) under section 541 of the (Code of Criminal Procedure, 1882 (now 1973)); or

(c) any place which has been declared by the (State Government) by general or special order, to be a subsidiary jail;

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To understand prison, structurally and functionally, it becomes imperative to deal briefly with the evolution of prison system since the Company Raj in the Indian context.

The directors of East India Company were reluctant to spend money on jails and to improve the state of affairs therein. For the first time, Lord Macaulay drew attention of the Government of India to the terrible condition in the Indian Jails. On his suggestion, with Macaulay as a member, 'The Jail Enquiry Committee was appointed on 2nd January, 1836 to look into the conditions and report thereon. Hence, it was only in 1836 that a major step was taken in this direction by the company.

The Jail Enquiry Committee, 1836, the first committee on jails in India submitted its report in 1838 criticising severely "the corruption of the subordinate establishment, the laxity of discipline and the system of employing the prisoners in extra mural labour on public roads." The committee in its recommendations suggested; "building of central prisons where the convicts might be engaged not on manufactures which it condemned but in some dull, monotonous, wearisome and uninteresting work in which there shall be wanting even the enjoyment of knowing that a quicker release can be got by working harder for a time." The Committee was influenced, as we may note, by the contemporary ideas in England where deterrent side of punishment appealed to the parliamentarians of the day.

2- Indian Jails Committee, 1919-20 : Report ; p. 29
3- Ibid : p. 30
In pursuance of the recommendations of the committee (1836) a central prison was constructed at Agra in 1846. This was the first central Prison in India. In 1844 the first Inspector General of Prisons was appointed in the North-Western Province (Present U.P.). In 1850 the Government of India made it a permanent post.

The Government of India appointed a second committee in 1864 to consider the question of Jail Management in view of the high death rate in prisons and some other considerations.

"The committee of 1864 fixed a minimum space for each prisoner in jail and recommended for improvements in diet, clothing and bedding and insisted upon regular medical inspection of prisoners. They also recommended that juveniles be kept separate from other prisoners and that they should be given education.""

Above developments and recommendations made the Government of India to pass the Prisons Act 1870 to amend the law relating to prisons in the country.

The Act came into force on the first day of December, 1870, and together with the Prisons Act of 1894, forms the legal basis of the existing prison system in India. The Act tried to give effect to the recommendations of the committee of 1864 and put the question of prison administration in the forefront. In North-Western Province, the Inspector General of Prisons was already functioning and it gathered a movement to improve the matters.
The third All India Jail Committee was appointed in 1877. The committee was composed entirely of officials actually engaged in prison work. It reviewed the jail management generally and mostly concerned itself more with the matters of detail in prison work than with the general aims and principles of administration. The plan adopted, as remarked by the Indian Jails Committee 1919-20, was "of embodying in the Report along account of discussions, the arguments, pros and cons and the opinion even of the individual member, with the result that the actual conclusions arrived at were buried under the mass of previous deliberations." 5

In 1889, the fourth All India Jail Committee was appointed. On this occasion the purview of the enquiry was expressly, directed towards the routine working of the jails. The report was, therefore, a "business-like report" 6 covering nearly the whole field of internal management of jails and laying down elaborate rules for prison management. The committee recommended the separation of undertrial prisoners and the classification of prisoners into casuals and habituals." 7 Most of the recommendations of the committee were incorporated in the Jail Manuals of various provinces.

All India Committee of 1892 was a supplement of the Committee of 1889. The Committee of 1892 resurveyed the whole prison administration in India and drew up proposals on the subject of prison offences and punishment.

5- Ibid : p. 20
6- Ibid : p. 21
7- U.P. Jail Reforms Committee - 1946 : Report; p. 4
The Report of the Committee was accepted by the Government of India which passed the Prisons Act, 1894. This Act was largely based on deterrent principles and reflected the contemporary - English public opinion on the subject. The legislators took little pain to look into the other side of the problem. They were concerned more with prison working than with prison treatment and gave more consideration to prison offences and punishments than to its effects.

The Indian Jails Committee 1919-20, made an extensive tour of England, Scotland, U.S.A., Japan, Philippines and Hongkong, studied the prison system there and submitted a comprehensive report suggesting far-reaching changes in the various aspects of prison administration. The committee of 1919-20 observes - "The Indian prison administration has lagged behind on the reformatory side of prison work. It has failed so far to regard the prisoner as an individual and has conceived of him rather as a unit in the jail administrative machinery. It has a little lost sight of the effect which humanising and civilising influences might have on the mind of the individual prisoner. The whole point of view needs to be altered, and the primary duty of keeping people out of prison needs to be more clearly recognised by all authorities and not least by courts."8 "The aim of prison administration is the prevention of further crime and the restoration of criminal to society as a reformed character,"9 was stated by the committee. The report contained a number of recommendation

8- Indian Jails Committee, 1919-20: Report; p. 32
9- Ibid : p. 25
dealing with such subject as prison-staff, separation and classification of prisoners, prison labour and manufacturers, discipline and punishment, reformatory influences, prison hygiene, medical aid to prisoners, etc.

Regarding the prison staff the committee recommended that every central prison and all district jails with an average population of 300 and upwards should be in charge of a whole-time superintendent, and the existing system of recruiting superintendents of central prisons from the Indian Medical Service and of giving them combined executive and medical charge should be continued. The prison establishment should be divided into two branches, be separately recruited: executive, consisting of jailors and deputy jailors and clerical consisting of clerks, accountants and store-keepers. The committee recommended a reasonable period of training and probation for all officers newly employed in the department. A separate jail medical service was not considered desirable by the committee but the appointment of at least one whole-time medical subordinate was suggested at every central and district jail. The committee further held that convict officers had been employed in excessive numbers and that in the future there should be only two grades of convict officers, viz. the convict night watchmen and convict overseers.10

Regarding the classification of prisoners the committee formulated a revised definition of the term 'habitual'. For all non-habituals, it recommended a further sub-classification into two classes: (a) star, and (b) ordinary. Three members were in favour of the principle of separation at night and one member favoured separation at night for habituals and short term non-habituals and association for others.\(^\text{11}\)

The award of corporal punishment for prison offences, the committee recommended, should be restricted to mutiny or incitement to mutiny and to serious assaults on public servants or visitors, facilities to write two or more letters and visits from relatives or friends, should be used to secure better discipline.\(^\text{12}\)

In the selection of prison labour, the committee suggested, the main object should be to reform the criminal and to produce goods similar in quality to those obtainable in the open market. The use of power driven machinery in jails was considered by the committee essential.\(^\text{13}\)

Arrangements for education up to the elementary stage for prisoners not over the age of 25, were recommended in all central and district jails. Every prison should contain a library of books suitable for issue to prisoners and

\(^{11}\) Ibid: Paras 98, 101, 102, 121, 140, 153, 162, 187 and 188.

\(^{12}\) Ibid: Paras 227, 248

\(^{13}\) Ibid: Paras 191, 202, 204 and 210.
endeavour should be made to provide religious and moral instruction for all prisoners avoiding interference with genuine or caste prejudices of prisoners.  

The committee also made certain suggestions regarding variation in diet, better cooking, better clothing, electric light installations, up- to-date equipment in hospitals, a special institution for mental defectives and better prison hygiene and medical care.

The committee was of the opinion that if homes, workshops or labour yards were started to assist the ex-prisoner, the relief or employment thus provided should be strictly temporary.

Also, the committee recommended that probation officers should be appointed to aid the courts in obtaining information about children and to supervise them after release. Adolescent offenders should not be sent to ordinary jails but to special institutions which should be reformatory in character.

The Report of the committee is a huge piece of work and a monumental one on prison reforms in India. It considered expert superintendence, a properly selected and paid staff, proper classification and separation of prisoners, useful labour, reformatory influences, and aid to

14- Ibid : Paras 274, 279 and 288
15- Ibid : Paras 290, 293, 310, 312, 326 and 340
16- Ibid : Paras 352, 353 and 358
prisoners on release, the essentials of prison administration and stressed the true economy of outlay on reform.

The publication of the Report gave an immediate and great impetus to prison reforms throughout India. The Government of India took its recommendations seriously and issued instructions to all local governments to study the report and implement the suggestions mentioned therein. Not only were the prison departments but penal reform also received a great fillip. The enactment of the Borstal Act, the Childrens and the Probation Act, and the Punjab Good Conduct Prisoners, Provisional Release Act were undoubtedly the direct or indirect result of the general interest, aroused by the Report. The Report, it may be remarked, laid the foundation stone of modern prison system in India.¹⁸

Unfortunately the prison reform movement received a sudden setback due to the constitutional changes brought about by the Government of India Act, 1919. The enforcement of this Act affected the transfer of the Jail department from the control of the Government of India to that of the Provincial Government. Prisons were placed in the reserved list under the dyarchical setup of the province and the prison reform movement was thereupon thrown back for a decade.

1921 and 1922 were the years of non-cooperation movement in India in which the veteran leaders and freedom fighters courted arrest imprisoned. They bitterly criticised the rotten prison conditions and forced the provincial government to enquire into them. Consequently a Jails Enquiry Committee, 1929 was set up by the U.P. Government to make enquiries into the Jail Administration and the organisation of jail services with particular reference to the management of central prisons and larger district jails. The Report of the committee is of special significance in as much as problems in respect of prison administration, classification of prisoners, prison labour, prison offences and punishments were for the first time discussed in relation to conditions prevailing in this province.

In addition to reiterating some of the recommendation made by Indian Jails Committee, 1919-20, the Jails Enquiry Committee made certain new proposals. The Committee recommended the appointment of a Deputy Inspector General not only to assist Inspector General in his inspections, but for the performance of certain duties also. Two training schools, one for the training of assistant jailors, and the other for the training of warders, were recommended to be setup. The formation of a special jail medical service was considered desirable.\textsuperscript{19}

\textsuperscript{19} U.P. Jails Enquiry Committee -1929 : Report; paras - 84, 85, 118 and 128
As regards separation of prisoners, the committee was unanimous in recommending cellular accommodation by night combined with association by day. Association of prisoners by night was considered highly undesirable. 20

Regarding prison labour the committee was of the opinion that power driven machinery should be introduced only to a "modified degree" and that there should be opened small farms in certain selected prisons. Vocational training should remain an important portion of the training of convicts. 21

Unfortunately, many of the recommendations of the committee remained in cold storage due to the political situation of the country. The congress was carrying on a bitter struggle for the independence of the country from the grip of the British and British Administration was wholly preoccupied in resisting this struggle. They had little time and money to spend on prison reforms.

In 1935 came the Government of India Act, abolishing dyarchy and transferring the reserved subjects into the discretionary hands of ministers. The congress contested and won the elections in seven provinces out of eleven. The penal reform movement again received an impetus and attention was focussed on the hitherto neglected prison reforms. During the brief stay of two and a quarter years in the office the congress ministry appointed three committees in succession to look into the prison conditions and put three Acts on the Statute Book. The first was expert committee and the third and the most important of all was the Departmental Jail Committee of 1939.

20- Ibid : Paras 179-191
21- Ibid : Paras 212-226
The Departmental Jail Committee was required to examine the recommendations of the previously appointed Jail Committee with a view to give effect to them. The Committee endorsed recommendations regarding prison establishment, medical subordinates, officers' training, Borstal institutions, prison hygiene and aid to discharged. Besides endorsing these, the committee also made some new recommendations of its own.

Regarding classification of prisoners the committee recommended the setting-up of Receiving centres to which every prisoner should be sent for study and from where he should be directed to the suitable prison for treatment. 22

The committee was of the opinion that a few industries run by power could be started to meet the requirements of the jail and other government departments. Knowledge should be imparted of improved agricultural methods to the prisoners during the period of their confinement and the system of paying wages should be introduced. 23

Compulsory adult education for all prisoners below the age of fifty was recommended by the committee. 24

To strengthen reformatory influences inside the prison the committee suggested the introduction of 'Panchayat system, abolition of solitary confinement, extention of remission system and installation of radio sets.' 25

22- Departmental Committee - 1939: Report; p. 24
23- Ibid : pp. 36-42
24- Ibid : p. 50
The implementation of the committee's recommendations gave birth to Jail Training School, Lucknow to impart training to prison personnel. The Reformatory School was transferred to Lucknow and handed over to the Jail Department. First Offenders Act, VI, 1938 and U.P. Borstal Act, VII, 1938 also fueled the reformatory run of jail department.

In 1942, Quit India Movement threw millions of freedom fighters, common men and veteran politicians into the jails. Thus due to overcrowding, proper treatment could not be given to 'Satyagrahees' and the lot of ordinary persons suffered the worst. This odd and extraordinary situation continued till August 15, 1947.

During the transitional period of 1946-47 the Government appointed three committees i.e. U.P. Jail Reforms Committee 1946; the Women's Jail Committee 1946; and U.P. Criminal Tribes Enquiry Committee 1947 to enquire into the administration of jails. The U.P. Jail Reforms Committee 1946 presented a brief but valuable report with suggestions for improving the prison administration. The committee observed:

"The basis of Jail administration during all these years has been mass treatment of prisoners. Ideologically it was deterrence that guided the units of administration and reformation. All the committees hitherto appointed made various recommendations for reform but did not suggest any radical change in the system of administration and did not devote sufficient time to the reformation of individual prisoners". 26

26- U.P. Jail Reforms Committee 1946 : Report; p. 5
The Committee in making its recommendations started with hypothesis that a prisoner is "a diseased limb of the society to be resorted to it."\textsuperscript{27}

Regarding classification of prisoners the Committee suggested classification into two classes, casuals and habituals, casuals to be further sub-classified into star class and ordinary class, and habituals into ordinary and incorrigible class. Star class prisoners on the analogy of England should include the best behaved casual prisoners and be accommodated in a separate jail to be known as Model Prison.\textsuperscript{28}

As regards prison labour, the committee was of the opinion that a prisoner should be trained for that craft only for which he is best suited and that all forms of uninteresting labour should be abolished. Agricultural forms should be started in jails and prisoners be given training in improved methods of agriculture.\textsuperscript{29}

The Women's Jail Committee recommend the setting up of a separate jail for long term women convicts under the charge of a lady superintendent. It also recommended the payment of wages to the prisoners in the Women's Jail.

\begin{itemize}
\item \textsuperscript{27} Ibid : p. 5
\item \textsuperscript{28} Ibid : Paras 132-149
\item \textsuperscript{29} Ibid : Paras 161, 162 and 183
\end{itemize}
The U.P. Criminal Tribes Enquiry Committee 1947; unanimously recommended the repeal of the Criminal Tribes Act in the province and in its place the enactment of Habitual offenders and Vagrants Act. Indeterminate sentence with a minimum and maximum term for habituals was proposed. A separate jail, the committee recommends, should be established with three separate sections for the complete segregation of the three categories of habitual offenders, namely (a) those who become habitual offenders despite good family environment (b) those who take to criminality on account of environment and family traditions, and (c) vagrants without any settled occupations.30

Here it shall not be out of place to note that Jail Reforms Committee, 1946 "included the conversion of Central Prison, Lucknow into a Model Prison in 1949 for the concentration of well behaved casual long term prisoners as against habitual convicts."31

POST INDEPENDENCE PERIOD

India won freedom at midnight on August 15, 1947 and passed the maiden legislation (Prison) on April 12, 1950.32

30 - U.P.Criminal Tribes Enquiry Committee 1947 : Report; p. 83
32 - The Transfer of Prisoners Act, 1950; Act No. XXIX of 1950
Besides passing scores of acts on jail the Government appointed committees too for reformation of prison conditions.33

In 1951, the Government of India requested the Technical Assistance Administration of the United Nations to send an expert for imparting a training course to the selected jail officers and to suggest progressive programmes for the scientific care and treatment of offenders. Dr. W.C. Reckless was sent as a U.N. expert who went round the country and submitted a 'Report on Prison Administration in India' and conducted a six month training programme for jail officials. Dr. Reckless made a number of recommendations - the chief among them were regarding the setting up of a Central Bureau of Correctional Services at Delhi and revising the Jail Manual.

An All India Conference of Inspectors General of Prisons was held in Bombay in 1952 which also recommended the setting up of a committee to draft a skeleton Model Jail Manual. In pursuance of the recommendations of Dr. W.C. Reckless and All India Conference of Inspectors General, the Government of India appointed an All India Jail Manual Committee in 1957 to prepare an All India Skelton Jail Manual, to examine the prisons Act and other laws and make proposals for reforms to be adopted uniformly throughout the country. The committee submitted its report in 1959.

Among the various recommendations of the committee, the following are the important ones:

1- The probation system should be used on a more extensive scale than at present in order to reduce the pressure of prisoners.

2- There should be a well arranged net work of diversified institutions. The committee remarked, "If the institution has to be a place of corrective treatment, or if it has to function at least as a place where the offenders will be saved from getting further demoralised or dis-integrated, there is no other solution than to lay the foundation of scientific correctional work through a properly planned system of classified institutions." 34

3- A Central Advisory Board should be set up by the Government of India.

4- An 'All India Correctional Services' should be set up.

5- There should be a separation of executive and clerical functions and of executive and accounts functions.

6- There should be a state after care-organisation in each state.

7- The Jail Manual should be revised periodically.

34- All India Jail Manual Committee 1959: Report; p.19
8- Solitary confinement as a form of punishment should be abolished.

9- Regarding classification of prisoners the committee remarked: "It should be a dynamic process, operating right from the admission of the inmate till his release."

In pursuance of the recommendations of the Jail Manual Committee, the Government of India set up Central Bureau of Correctional Services in 1961. The main functions of the bureau are to coordinate and develop a uniform policy, to standardise the collection of statistics on a national basis, to exchange information with foreign Governments and the U.N agencies. The Bureau convened an All India Seminar on Correctional Services at New Delhi on March 11, 12 and 13, 1969. The Seminar reported that excepting in very few states the recommendations of the All India Jail Manual Committee have not been implemented. In Uttar Pradesh also, the recommendations are yet to be implemented.

An important step taken in the field of prison labour in Uttar Pradesh was the appointment of Uttar Pradesh Jail Industries Enquiry Committee, 1955 to review the working of existing jail industries and make suggestion for their improvement and to suggest any new practical scheme which could be introduced in the Jails. The committee remarked:

Ibid: p. 42
"Reformatory objectives to turn out men better equipped and better motivated be kept upper most all the times. The convict should get the work habit by means of useful training in agriculture and industries." 36

It also observed that under no circumstances the Government should insist on profit first otherwise all proposals for reforming and rehabilitating the prisoners will be sacrificed by the jail administration for the sake of profit. Reformation and rehabilitation should prevail over all other considerations. The committee after surveying the existing industries recommended the opening of many new industries. It observed that besides the existing considerations the following two more considerations should also be kept in mind while selecting prisoners for work:

1. As far as possible the prisoners should be given training in only those crafts or vocations for which he may get opportunity in his village or district.

2. The prisoner should not be sent to a jail far away from his home district unless he himself desires to go. 37

In 1960 the Government of Uttar Pradesh appointed a 'Jail Reforms Evaluation Committee' but latter it was wound up without submitting its report.

Besides above, the Government of India appointed in 1980 the Mulla Committee the authentic report of which is still awaited.

37- Ibid : p. 12