

REPORT
of the
ALL INDIA COMMITTEE
ON
JAIL REFORMS
1980—83
VOLUME—I

MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA

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1980—83

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* Resigned from the membership of the Committee on July 30, 1981 following his appointment as Governor of Assam and Meghalaya.

† Expired on January 4, 1983.

PREFACE

It was perhaps around 1930 that I wrote the following two verses :

*Unchi Diwaron Kay Pecchihey
Lohey Ki Salakhon Kay Ander,
Rehley Hein Muqaffal Kuchh Insan
Insan Jo Nahin Ek Ginti Hein.*

*Woh Dur Akhir Kab Aayega
Jab Badleyga Ye Mosame Gham,
Kuchh Bekas Roohen Aas Lagaye
Umr Ki Ghariyan Ginti Hein.*

An English rendering of these lines would be :

Locked behind high walls and iron bars,
An unfortunate human world slumbers ;
Here they have lost even their names,
And now they are just a roll of numbers.

When will their season of sorrow change,
When will the locks be broken ;
With every breath each one of them hopes and prays,
All these lost souls in agony unspoken ;
Counting each moment of their unending prison days.

At that time I could not even dream that the Goddess of destiny will have such a long memory and will exhibit such a puckish sense of humour that fifty years later I will be put to test and will be appointed the Chairman of a Committee on Jail Reforms.

2. Before dealing with the problems—and they are innumerable—when you take up this question of reforms I feel that the basic necessity is for the Government to be quite clear in its mind as to what is its attitude towards the unfortunate group of persons in prisons. Do they continue to be the citizens of the country or not, with all the rights guaranteed under the Constitution of India or have they become moral lepers and outcasts who have forfeited these rights?

Are they only wild beasts to be hunted or quite a large number amongst them are just ordinary cattle who have strayed away and who, with proper direction, can be brought back to the fold? Are they the diseased limbs which must be cut off from the community's body because they cannot be cured? So long as the Constitution of India exists, can these rights, apart from the Right of Liberty which has been suspended for a term as a punishment, be taken away from them? The Committee has come to the unanimous view that so long as the term of imprisonment lasts, a convict is only under an eclipse and the moment this period expires, he has the right to come out of the clouds of ignominy and take his due place in that sphere of life which he chooses, like any other member of the community. A duty is, therefore, cast on the Government to see to it that a prisoner, when he is released, is not materially handicapped in any way and he should be able to walk back straight to his place in the social structure of life after paying due price for his lapse.

3. The Committee feels that it is the old traditional approach based on outdated concepts and values in which the administrative services are steeped, that again and again places a vicious and terrifying picture of a rise in crimes that creates doubts in the mind of the Government and makes it hesitate to accept this view.

4. I am quite clear in my mind that unless the Government takes the initiative in this matter, no group of citizens left to themselves, and no Committee, can produce any results. I am fortified in this opinion by the observations of Mahatma Gandhi in the Weekly Journal "Young India" of 18th February, 1926 when he wrote:

"As an old and experienced prisoner, however, I believe that Governments have to begin the reform..... Humanitarians can but supplement government efforts. As it is, the humanitarian, if he attempted anything, will first have to undo the mischief done in prisons where the environment hardens the criminal tendency, and in the case of innocent prisoners they learn how to commit crimes without being detected. I hold that humanitarian effort cannot cope with the evil wrought in the jails."

5. It is no doubt true that the recommendations made by the Committee cover an extremely wide range and are almost revolutionary in character and their implementation will involve a huge amount of expenditure. But that should not deter the Government if it finds that they are well considered and necessary. It should be remembered that what should have been done in the past years was unfortunately not done and the accounts went on swelling and accumulating. If a beginning is not made today, I have a feeling, it would never be made. The Government can give priority to certain recommendations and make out a phased programme for implementing the others, with which it does not disagree. Here again I will

quote another extract from Mahatma Gandhi's opinion published in "Young India" of 8.5.24 in an article entitled "My Jail Experiences":

"I know that revision of classifications, according to my suggestion, means a revolution in the whole system. It undoubtedly means more expense and a different type of men to work the new system. But additional expense will mean economy in the long run. The greatest advantage of the proposed revolution would no doubt be a reduction in the crimes and reformation of the prisoners. The jails would then be reformatories representing to society sinners as its reformed and respectable members. This may be a far-off event. If we were not under the spell of a long-lived custom, we should not find it a difficult task to turn our prisons into reformatories."

The views of Pandit Jawaharlal Nehru on this point are even more clear and illuminating. In an article entitled "Prison Land" (Appendix I) published in 1934 and included in a book "India and the World", after suggesting a large number of changes in jail administration, he observed at page 126:

"It must not be thought that these changes will involve much extra expenditure. If properly run on modern industrial lines, the prisons cannot only be self-supporting but can actually make a profit after providing for all the additional amenities suggested. There is absolutely no difficulty in introducing the changes except one—the absolute necessity of having a competent, human staff fully understanding and appreciating the new angle of vision and eager to work it."

"I wish some of our people would study and, where possible personally inspect, prison conditions in foreign countries. They will find how our prisons lag far behind them. The new human element is imposing itself everywhere, as also a recognition of the fact that a criminal is largely created by social conditions and, instead of being punished, has to be treated as for a disease."

6. I venture to make a suggestion that a separate cell should be formed in the Ministry of Home Affairs to supervise the implementation of those recommendations which are acceptable to the Government at a fair speed, if not at a fast speed. I do so because I feel that if this is not done, this report will also share the fate of some earlier reports and then in some future year another jail commission will be appointed only to be ignored in the same way.

7. There is another hurdle which stands in the way of fruitful implementation of these suggested reforms and a serious attempt should be made to remove it also. The hurdle is that the problem of jail reforms cannot be satisfactorily tackled in isolation. Perhaps

this was one of the reasons why the earlier reports even when their recommendations were acceptable to the Government, could not produce any appreciable results. The Committee feels that it is a task in which all the branches of criminal justice administration are involved and unless appropriate changes occur in the thinking of those other branches also, the purpose cannot be achieved. You may tinker here and there, but the overall picture of jails and criminogenic atmosphere that prevails there shall remain the same.

8. I feel that if our desire to give a new face to the jails is genuine, then the whole criminal justice administration should act together in achieving that end. In my opinion, the prisons are the fourth and the last link in the chain of criminal justice administration and unless the earlier three links are made to act in harmony with the last link, the complexion of jails will not change. I will now enlarge the point that is in my mind.

9. The four links that form the chain of criminal justice administration are :

1. the Legislature ;
2. the Police ;
3. the Judiciary ; and finally
4. the Jails.

10. I will start by taking up the first link. In a democratic state, laws are enacted to protect and advance the interests of the community as a whole and, by and large, they represent the urge of the people. In the fast changing world of today, new challenges are constantly arising, new objectives are coming on the horizon and laws should try to keep pace with them. New values and new definitions must be given to old words. The rights of the citizens as guaranteed under our Constitution and the Directive Principles embodied in it can provide the guidelines for this change. It is really the protection of the civil rights of the people and their social values of the moment that define a crime and also its gravity. If the traditional values or social concepts no longer meet the requirements of the day or act as a hindrance to move towards the horizon in sight, the legislature should take a second look at the existing laws. The Indian Penal Code of 1860 has certainly outlived its utility. In my opinion the Indian Penal Code and the Code of Criminal Procedure need substantial changes if they are to reflect the present needs and harmonise with the rights of the citizens as guaranteed under the Constitution. Questions such as what is crime ; what is the gravity of that crime ; what should be its proper punishment ; what is the purpose of punishment ; should the amount of punishment be left to the sole discretion of judiciary, or should the legislature fetter its discretion by fixing minimum punishments ; how should a convict be treated ; what are the rights of a convict in spite of being convicted ; and so on, continue to arise and they constitute a long unending chain.

Merely polishing one link in this chain will only be an exercise in futility.

11. The Committee has drawn attention particularly to section 302 of the Indian Penal Code and the newly enacted section 433A of the Code of Criminal Procedure which need reconsideration and modification at a very early date if the reformatory purpose of jails, as stated above, is not to be ignored entirely. It has also drawn the attention of the authorities concerned to be more liberal in granting bails, remissions, parole and other facilities to prisoners whose behaviour shows improvement. It has also suggested that in many cases, especially in case of young offenders, alternatives to punishment should be found.

12. I cannot help feeling that the Parliament for some reasons was stampeded into enacting section 433A and it did not realise the consequences of this enactment. By fixing a minimum period of incarceration of 14 years the legislature was completely locking and sealing the doors of rehabilitation for every unfortunate person who has been sentenced to imprisonment for life. It did not realise that 14 years is a very big part of one's life and if the undertrial period is also included, it would be such a long term that it would be really an extraordinary person who, after remaining so long in the existing polluted atmosphere of a jail, can still resume the normal life of a citizen. It should be kept in mind that 'Goodness' has a very few followers even outside jails and 'Evil' immediately attracts a big mob around it. I here quote Pandit Jawaharlal Nehru again from 'Prison Land'* (Appendix I):

"High walls and iron gates cut off the little world of prison from the wide world outside. Here in this prison world everything is different; there are no colours, no changes, no movement, no hope, no joy for the long-term prisoner, the 'lifer'. Life runs its dull round with a terrible monotony; it is all flat desert land with no high points and no oases to quench one's thirst or shelter one from the burning heat. Days run into weeks, and weeks into months and years till the sands of life run out.

"All the might of the State is against him and none of the ordinary checks are available. Even the voice of pain is hushed, the cry of agony cannot be heard beyond the high walls."

By this enactment the legislature condemned him not only to a long term of imprisonment but made it impossible for him to be anything but a criminal all his life.

13. The consequences of a long term in jail are portrayed by Pandit Nehru in his article "The Mind of a Judge" (Appendix II)

written in 1935 when he was in prison and which also is included in the book "India and the World". At page 142 of the book he writes :

"Sentences of death and whipping impress us and pain us, but, after all, they affect only a very small number of the scores of thousands who are sentenced by our courts. The vast majority of these go to prison, mostly for long periods over which their punishment is spread out. It is a continuing torture, a never-ceasing pain, till mind itself grows dull and the body is blunted to sensation. The criminal type develops, the ugly fruit of our gaols and our criminal law, and there is no fitting him in then with the social machine outside. He is the square peg everywhere, with no roots, no home, suspicious of everybody, being suspected everywhere, till at last he comes back to his only true resting-place, the prison, and takes up again the tin or iron bowl which is his faithful companion there. Do our judges ever trouble to think of cause and effect, of the inevitable consequences of an act or decision? Do they realize that their courts and the prisons are the principal factories for the production and stamping of the criminal type?"

14. Sir Alexander Paterson while giving evidence before the Select Committee in 1930 (page 220 of the Royal Commission's Report) stated :

"Whatever means of education, stimulation and recreation may be employed, however you may seek to ring the changes on handicrafts and literature, skittles or chess or ping-pong, despite the invaluable labours of most devoted voluntary workers, it requires a superman to survive 20 years of imprisonment with character and soul intact I gravely doubt whether an average man can serve more than ten continuous years in prison without deterioration."

15. Most of the persons who are sentenced to a term of imprisonment for life are those who are classed as murderers and who have been convicted under section 302 of the Indian Penal Code. Our survey of jails shows that if the 'lifers' and the undertrials are not counted, the jail population will come down to between 25 and 30 per cent of its present strength. The Committee was, therefore, primarily concerned with these groups and, therefore, it has been suggested that the punishment clause of section 302 of the Indian Penal Code should be reviewed by the Government and suitably amended.

16. Who are these murderers? Instead of giving my reply to this question, I will first quote the answer given by the Royal

Commission on Capital Punishment (1949—53) in its report at page 216, paragraph 617:

"There is a popular belief that prisoners serving a life sentence after conviction of murder form a specially troublesome and dangerous class. That is not so. Most find themselves in prison because they have yielded to temptation under the pressure of a combination of circumstances unlikely to recur. "Taking murderers as a class" said one witness, "there are a considerable number who are first offenders and who are not people of criminal tendencies. The murder is in many cases their first offence against the law. Previous to that they were law abiding citizens and their general tenor of life is still to be law abiding" Many other witnesses with experience of prison conditions said the same thing. It is true that they were speaking of the state of affairs today, when the crimes of murderers serving sentences of imprisonment have all been of a sort that justified the commutation of the death sentence. But the Home Office, giving evidence to the Select Committee of 1930, expressed the opinion that, even if capital punishment were abolished, the greater number of prisoners serving sentences for murder would still be unlikely to 'give any exceptional trouble', though there would no doubt be some increase in that difficult class of prisoners 'who have not only committed murder but have been of criminal habits or tendencies, or are of a generally violent and insubordinate or sullen and morose temperament.' This accords with the experience of countries where capital punishment has been abolished; the evidence given to us in the countries we visited, and the information we received from others, were uniformly to the effect that murderers are no more likely than any other prisoners to commit acts of violence against officers or fellow prisoners or to attempt escape; on the contrary it would appear that in all countries murderers are, on the whole, better behaved than most prisoners. It must be remembered too that prisoners serving life sentences have a special incentive to good behaviour, since the time they have in fact to serve depends so largely on it."

17. By enacting section 433A of the Code of Criminal Procedure, the legislature completely destroyed the incentive contained in the last sentence of the paragraph quoted above. The Royal Commission after visiting many countries and gathering its data made this observation on page 229 of its report:

"The evidence that we ourselves received in these countries was also to the effect that released murderers who commit further crimes of violence are rare, and those who become useful citizens are common".

I will quote Pandit Nehru again from 'Prison Land' (Appendix I) to show how the picture of murderers came before him :

"Among men there is a large proportion of thoroughly non-criminal types, decent village folk who had a brawl over a land dispute and managed to get along sentences as a result."

I think I need not give my own assessment about the moral character of murderers as a class when compared to other criminals in spite of my intimate knowledge which now extends to more than 55 years. I would only say that the retributive and deterrent objective of punishment is still so dominant that everything else goes in the background and for every offence which falls under section 302 of the Indian Penal Code the least punishment that can be awarded is a sentence of imprisonment for life.

18. The outstanding defect in the present law is that a lesser sentence cannot be imposed, although there may be any number of extenuating circumstances to provoke the crime. Murder by itself does not indicate the extent of moral culpability involved and punishment cannot be divorced from the concept and degree of moral culpability, for the motive behind the murder has such an infinite variety that it ranges from the most atrocious to the most excusable. I will quote the opinion of the Royal Commission again (page 6 para 21 of their Report) :

"Yet there is perhaps no single class of offences that varies so widely both in character and in culpability as the class comprising those which may fall within the comprehensive common law definition of murder".

19. Sir John Beaumont who functioned as the Chief Justice of Bombay High Court, when giving evidence before the Royal Commission deposed (page 103 of the Royal Commission Report) :

"there was 'no class of offence in which the degree of moral culpability differs more than in the case of murders' and that it was 'wholly illogical to require a judge to pass the same sentence in every case.' "

20. Today in a large number of countries persons sentenced to imprisonment for life can be released even after a short term. The Royal Commission on Capital Punishment found that in the U.K. it was by no means uncommon for life sentence prisoners to be released after a very short period of detention (page 227). In the United States the average period for a lifer was 10 years 7 months, and in Sweden it was 10 years (page 227). In Belgium the procedure adopted was that the judge first asked the jury whether the crime was committed with premeditation and intent to kill or not. "If the reply to both questions is in the affirmative the prosecutor must then ask the judges and jury to pass sentence. He may ask for the death sentence or, in a bad case falling short of the most heinous,

for life imprisonment. In less heinous cases he will often say that in his opinion there are extenuating circumstances, and will either ask only for a sentence of 15, 10 or even 3 years or indicate that he is content to leave the sentence to the decision of the court." (Page 477) The Commission further observed at page 479: "The effect of the system was that convictions were more frequent, although sentences were lighter, and there was no doubt that this had strengthened, not weakened, the law." Even in South Africa the theory of extenuating circumstances is introduced and if the judge finds these extenuating circumstances, he can reduce the term of imprisonment to a shorter period and his hands are not fettered.

21. It is, therefore, desirable that the newly added section 433A of the Criminal Procedure Code should be reviewed and deleted and a discretion should be given to the judiciary to pass a sentence lesser than imprisonment for life in a conviction under section 302 of the Indian Penal Code. The legislature may also consider whether a new offence under the title "manslaughter" or some other name be introduced in the Penal Code in which the sentence should be less at the discretion of the court. The present section 304 of the Indian Penal Code does not fulfil this requirement and is no answer to the question discussed above. Unless the overcrowding is lessened in jails, there is little chance of creating that atmosphere in jails which would be conducive to bringing about a mental regeneration of the long term prisoners.

22. I have confined myself to express my views in relation to the effect of the penal clause of the present section 302 of the Indian Penal Code and section 433A of the Code of Criminal Procedure only, for they together, if retained in their present form in our criminal law, are likely to defeat any attempt to bring about an atmosphere in our jails which we want to bring. There are other sections also in our penal laws which are crying for amendment, but it is not possible to deal with every one of them in this preface.

23. I will now take up the second link which I have classed under the head "Police". The basic truth should be accepted that if an erring citizen feels that he is likely to get a fair deal, he would be more inclined to mend his ways. But if he feels that this would be highly improbable, then it would be very difficult, if not impossible, for him to see the error of his past behaviour. A convict needs a fair deal not only inside the prison but also when he comes outside and the second part is not less important than the first. I will come to the first part later on. At the moment I am dealing with the second part. One of the biggest reasons for the increase of crime is unfortunately the strong link that exists between the criminal and the so called law officers. Unless the administration goes all out to break this link, there is hardly any prospect of a decrease in crime. The judiciary, which is the third link in this chain, could have been the best means of weakening, if not breaking, this link, but unfortunately by its observations and assessment of evidence in quite a few criminal cases, it has heartened the

police force instead of discouraging them in their criminal activities. I will dilate on this point when I come to the third link. At the moment I am expressing the view of the people of this country when I say that the police force does what it pleases in violation of every law and the option before a poor citizen, especially for one who is coming out of prison, is whether the police should be against him or not. I think everybody understands how one can be in the good books of the police. It is such a vicious circle that even when an ex-criminal wants to reform, he is not permitted to do so and the result is that he cannot respect that law which cannot protect him. One would be evading to speak the truth if he does not say that today the confidence of citizens in the administration of criminal justice is getting eroded and a feeling is growing that goodness and honesty do not pay but are really a handicap. In this atmosphere, the task of reformation of convicts assumes Herculean proportions.

24. Perhaps there was no time when some innocent persons were not prosecuted and a few unfortunate ones were also not convicted. But today the number of innocent convicts in jails has appreciably increased. Does the Government not realise that it is our police force which is a major factor in brutalizing and corrupting our citizens? Today we have reached those conditions of life in which citizens do not need the protection of the law officers so much as protection from the law officers. In the 'Times of India' of 10.2.1983 under the heading "Concern over abuse of authority in India", the Associated Press of India sent this message from Washington, dated 9.3.83 about the view expressed by the U.S. State Department:

" 'Basic human rights are well established in India', said the Department's Annual Country Report on Human Rights Practices sent to the U.S. Congress. 'The main concern now in India is abuse of police authority', the Report said. 'Despite legal protections police brutality is widespread.' "

This report could have been wrong if it did not find confirmation of its truth in the echoing hearts of the people of our country. Only the rich—because they have direct access to those who hold power—escape it. But even they do not do so always. The middle class has to buy immunity. As the poor cannot afford it, they become a prey to this corruption and brutality and they are helpless and the resentment very often provokes them to retaliation against the state of affairs and take to a life of crime. Where law is not observed, lawlessness is bound to grow. Increase in crime is primarily the product of fast-increasing struggle of life due to population explosion and after that come other causes to which the conduct of our law officers makes a sizeable contribution. Not that this cannot be improved. If the Government and the judiciary apply themselves to this task, appreciable results can be achieved. Placed as we are today, the birth rate of crime is increasing at a tremendous speed while its death rate is not even noticeable. The appointment of a

high power commission to survey the whole of criminal justice administration and make fruitful suggestions is the prime need of the hour.

25. I will now take up the third link, namely the 'Judiciary'. Democracy is often defined as 'the rule of law' as opposed to rule of individuals or groups. The roof of a democratic state is supported by three pillars—the legislature, the executive and the judiciary. The legislature and the executive pillars change their flags and buntings seasonally, but the judicial pillar stands like a rock without any change in decorations. The other two pillars may become weak but they cannot destroy the basic structure; but if the judicial pillar shows any signs of crumbling, it would endanger the continuation of democracy itself. The laws of the land alone should be the yardstick with which to measure out justice to the people though I would not go to the length of saying what one Chief Justice of United Kingdom observed that if in doing so the heavens fall, let them fall. It is the judiciary, if it functions with independence and integrity, which is the real protector and defender of the rights of the people and the true symbol of a democratic state.

26. There is, however, one aspect which the judiciary should not ignore. The interpretation of law is not merely a wooden performance but a human act and when they are awarding punishments, they should first assess the degree of its gravity properly and then determine the amount of punishment. In assessing the gravity all the surrounding circumstances of life and society should be fully considered. In an article which I wrote about 20 years ago at the instance of late Dr. K. N. Katju, and which was published in some Delhi newspapers at that time, I had written that it is not the legislature alone that legislates. The judiciary also legislates when it gives a humane interpretation to the words of the statute. The judges cannot only do so but should do so in the fast changing social values of our times. The legislature by enacting section 235(2) of the Code of Criminal Procedure has clearly indicated that it wants the judiciary to do so. In spite of some very heartening observations made by some of the Supreme Court Judges, the judiciary, by and large, is still following the old norms of punishment because it has not been able to leave the ruts of tradition. It still believes in vengeance, retribution and deterrence as the main purpose of punishment.

27. As to what should be the real purpose of punishment is a question with which I will deal a little later. Here I am only trying to describe the approach of the judiciary and this approach only leads to brutalising a citizen and completely fails to serve the purpose for which a heavy sentence is inflicted.

28. It should be remembered that where the citizens feel that their rights and interests are safe in the hands of the judiciary, this feeling is likely to appreciably reduce the number of crimes. But where this confidence is weakened, it is bound to add to its numbers. The question arises, what is the image of the judiciary in the minds of the people today? The truthful answer would be

that it is certainly not as bright as it should be. There might be some other reasons also for this unhappy situation, but for the purpose of understanding the problems with which we are confronted while making our recommendations for jail reforms, they, broadly speaking, fall under two heads: one of them I have referred to above. This fact should be recognised that a criminal is largely created by the prevailing social and economic conditions of life and is really a person who could not adjust himself—not merely because of his own moral infirmities but also because of the failure of the community to give him a fair deal. He has become a mentally diseased person. He needs not only punishment but also treatment, and if this treatment is to be effective, it must also include the treatment of the society outside from where he got his infection. The courts are not keeping this fact in mind that quite an appreciable number of the so called criminals do not need any correctional treatment at all, for they are no different from those citizens who are outside—"perhaps in a few cases better than them"—and what is tragic is that quite a few amongst them are those who have been sentenced to imprisonment for life. In the words of Pandit Nehru in "Prison Land"* (Appendix I) :

"Why are punishments given—as society's or Government's revenge or with the object of reforming?"

"Do judges or prison officers ever think that the unhappy wretch before them should be made into a person capable of filling his place in society when he comes out of prison? It almost seems an impertinence to raise these questions, for how many people really care?"

29. I have no doubt in my mind that if the judiciary makes a more humane approach in dealing with criminals that come before them for trial, they would not only create a greater respect for the rule of law, but will also create a better atmosphere for the regeneration of those who have suffered from a lapse.

30. Unfortunately today the real dangerous criminals who pose a threat to our social and moral fabric are all outside the jails and not inside. The 'not-out centuries' of these dangerous criminals will never end, thanks to our police force, and unfortunately also to a few who hold power. These arch gangsters are too readily accepted as honourable members of our society. As I look at the picture of crime, I see that a vast ocean of crime with huge roaring waves surrounds us and only a few insignificant drops have been collected in jail bottles and they are being paraded as the criminals in our country. Even if all these drops are thrown back in the ocean, they will not appreciably affect the crime tempo of the huge crime rollers outside. My appeal to the judiciary is that it should deal with the police (the great gangsters are not likely to come before them) in a way that it should realise that its role is that of law officers and not that of law breakers, and if they adopt that role, they are not immune from punishment. Is the judiciary so innocent that it does not know that the police force is indulging

*Indle and The World; page 122.

in massive fabrication of evidence in criminal cases and it is becoming more and more difficult for a judicial mind to find the truth in the mass of falsehood that is placed before it ? The falsehood is unfortunately accepted too readily in a majority of cases and even where it is not accepted only some slight criticism is made and the accused is given the benefit of doubt. Quite a few decisions, including some decisions of the High Courts, have come to my notice in which the courts have found that fabrication on vital matters have been made by the investigating agency and yet quite ununderstandably they have held that their investigation on the whole was fair and above board. The courts perhaps have come to the conclusion that the provisions in the Indian Penal Code under which action can be taken against the police officers for fabricating false cases do not exist and they are dead letters. Do not the courts realise that they have greatly lost the confidence of the people because of this approach ? The situation with which we are confronted today is that the more the people are losing confidence in the fairness and honesty of the police force, the more the courts are readily accepting their words, and all sorts of explanations are given by the guilty members of the force for their unnatural and extraordinary conduct. The police witnesses are held to be as creditable as any other witness and even where the legislature wants that their uncorroborated statements should be doubted, the judiciary does not frequently adopt this rule of judicial caution. Take for example the evidence of recoveries after disclosure statements, in many cases, on exclusive police evidence, which are almost always false. If the police evidence was to be equated with other evidence, why should the statements made before the police be made inadmissible in evidence and why should confessions made to police be not accepted ? Very often the police witnesses succeed in deceiving the courts with their fabrications which greatly encourages them to continue this normal and habitual pursuit. How can the people accept the judiciary as the dispensers of justice or the upholders of law under these circumstances ? How can they avoid coming to the conclusion that they can escape punishment not by abstaining from crime but by making the police their partner in crimes ?

31. I think that putting a fear in the minds of the police force that where they fabricate evidence they are also likely to be sent to jails will go a long way in restoring the image of judiciary in the minds of the people. I also believe that a humane treatment, instead of filling jails, will appreciably help in emptying them. Let me quote Pandit Nehru again from "Prison Land"* (Appendix I) :

"So the question of prison reform leads us inevitably to a reform of our criminal procedure, and even more so, a reform in the mentalities of our judges who still think in terms of a hundred years ago and are blissfully ignorant of modern ideas of punishment and reform. That of course leads, as everything else does, to a change of the whole system of Government."

I fondly hope that the words of Pandit Nehru quoted above will be given due consideration by the Government and as earlier suggested in this preface a Committee to review the entire chain of criminal justice administration would soon be formed.

32. I now come to the fourth link which is 'Jails' and the reforms recommended by the Committee and the reasons behind these recommendations. Basically they can be placed under two heads :

1. What should be the purpose of punishment ?
2. What changes should be made to achieve this purpose ?

33. I will start with the first head. Perhaps everyone will agree that the basic objective of punishment is to provide security to the community as a whole by trying to give it the maximum protection so that every citizen may enjoy his rights without interference and feel that the rule of law prevails. The moment anybody tries to infringe upon any of his rights, he should feel confident that the State will not permit him to do so. Obviously it means a mental as well as an emotional integration and adjustment of the community with the prevailing laws and also with those who administer the laws. The greater this adjustment is reached, the lesser becomes the breach of law, for in such a case the community itself to a certain extent becomes the protector and defender of the law. The function of punishment, therefore, is to create an atmosphere in which the citizen will develop a sense of security and this produces a law abiding mood.

34. But after reaching this point of agreement two diametrically opposite lines of thought emerge. In some of the extracts from the writings of Mahatma Gandhi and Pandit Nehru which I have quoted above, the line which they want to be pursued is the approach of sympathy and understanding which may be called a humane approach. But the other line which is the brutal approach of pain and terror has been holding the field from time immemorial and the Committee has come to the conclusion that unless this second approach is given up and we follow the path suggested by Gandhiji and Nehru, it is idle to talk of jail reforms. This view is also voiced by people all over the world, at least in the democratic States today, for it alone is consistent with human dignity and human regeneration.

35. I will now dilate upon this brutal line of terror and pain which the Committee wants to be rejected. Among the different prisons, which the Committee visited in various States, there was also the Cellular Jail of Port Blair at Andamans. This jail which has a historical importance has seven wings and though the whole of it is no longer a prison, in a room there are pictures and ins-

criptions on the walls which tell their own tale. The very name 'Cellular Jail' is significant, for this jail had no dormitories for prisoners and contained only cells for them. As observed by Mahatma Gandhi in an article in *Young India* of 9-2-1922 (page 81) :

"When you are locked up in a cell, you are in a box with a few holes for just enough ventilation to keep you alive."

One of the inscription on the walls reads as follows :

"Transportation. Interpretation—Transportation entails hard labour under strict discipline with only such food as necessary for health, any mitigation of the above is an indulgence which may at any time be withdrawn in whole or in part."

An extract from the *Tribune* dated 3-5-1912 is also illuminating :

"The regulation about punishment is that if the prisoners are unable to go through the full quantity of work, they will be handcuffed for a week. This is the punishment for the first offence; for the second offence, a week's handcuffing with four days starvation diet; for the next offence, the punishment is fetters for a month or two, then cross bars for 10 days, a punishment which compels the victims to keep his legs apart, and for further repetitions of the offence fetters for six months and solitary confinement."

An extract from appendix 3, page 155 of the book "*Prisons*" written by Justice B. C. Bhattacharji also highlights this inhuman and brutal approach :

"The draftsmen of the Indian Penal Code explained the appropriateness of transportation as follows : 'The consideration which has chiefly determined us to retain that mode of punishment is our persuasion that it is regarded with peculiar fear. The pain which is caused by punishment is an unmixed evil. It is by the terror which it inspires that it produces good and perhaps no punishment inspires so much terror in proportion to the actual pain which it causes as the punishment of transportation in this country'."

36. I will not multiply any more extracts, for they are more than enough to illustrate my point that the whole purpose of punishment as conceived by one school of thought is to completely break and cow down the convict and thus cut him off completely from the community with no possibility of return to its fold. Thank God, we are not living in that age when this was the dominant ideology, but even today this line of thought is not dead and quite a few persons believe that this process which they call deter-

rent is the best way for lessening crime, protecting society and maintaining the rule of law.

37. Before I come to the other approach I would like to demolish the belief that deterrence can have any effect on the crime situation and that it is a totally exploded theory which has no legs to support it. The severest punishment that can be inflicted on a person is death and if death cannot be said to have any deterring effect, it is idle to say that a long term of imprisonment will have that effect. The very fact that in a very large part of the world capital punishment has been abolished is a clear indication that its brutality is clearly seen but its deterrent effect is not accepted. The British Royal Commission on Capital Punishment, after visiting many countries and collecting figures, wrote in its report at page 23 :

"We agree with Professor Sellin that the only conclusion which can be drawn from the figures is that there is no clear evidence of any influence of the death penalty on the homicide rates of these States, and that, 'whether executions are frequent or not, both death-penalty States and abolition States show rates which suggest that these rates are conditioned by other factors than the death penalty.' "

Again on the same page, they write :

"The general conclusion which we have reached is that there is no clear evidence in any of the figures we have examined that the abolition of capital punishment has led to an increase in the homicide rate, or that its reintroduction has led to a fall."

38. The United Nations also tried to collect data on this point and in its book "Capital Punishment" published in 1962 it was observed in paragraph 197 at page 54 :

"All the information available appears to confirm that such a removal has, in fact, never been followed by a notable rise in the incidence of the crime no longer punishable with death. This observation, moreover, confirms the nineteenth century experience with respect to such offences as theft and even robbery, forgery and counter-feiting currency, which have progressively ceased to be punishable with death : indeed, these crimes, so far from increasing, actually decreased after partial abolition. The same has been true of infanticide, which was formerly punishable as murder but which has progressively received more lenient treatment. It is even reported from Greece that banditry in fact decreased after it ceased to be punishable with death, though the

report adds that more efficient preventive action by the police also accounts for the decline in this offence. In Canada, rape ceased to be punishable with death in 1954 : it is reported that there were 37 convictions for rape in 1950, 44 in 1953 and only 27 in 1954, the year of abolition ; from 1957 to 1959 a steady decrease in convictions was noted (from 56 to 44), while in the same period the population of Canada increased by 27 per cent. In England, there has been since 1957 no increase in the crimes which ceased to be capital murders under the Homicide Act of that year. And Yugoslavia reports that the reduction in the number of capital crimes by the successive reforms of 1950 and 1960 did not result in any increase in the crimes previously punishable with death, despite an appreciable increase in the population."

In the same booklet it was given out at page 61 :

"Nor does the death penalty have the deterrent effect attributed to it : indeed, it is said, the statistics of crime show that its abolition does not lead to any increase in crime, and consequently capital punishment loses its basic traditional justification.

"Moreover, the penalty of death is a form of cruelty and inhumanity unworthy of a civilization which claims to be humane ; doctors report that even the most efficient methods do not result in instantaneous and painless death. Above all, the chief defect of the death penalty is that it is irrevocable, and in spite of all the official statements, sometimes repeated with complacency, judicial error is always possible, and a few have certainly occurred recently. In such cases, the penalty of death appears as a unpardonable crime committed by society."

39. I now come to Pandit Nehru's views in the article 'The Mind of a Judge'* (Appendix II) in which he writes :

"Sentence follows, and these sentences are remarkable. As the realization comes that crime is not decreasing, and may even be increasing, the sentences become more savage in the hope that this may frighten the evildoer. The judge and the power behind the judge have not grasped the fact that crime may be due to special reasons, which might be investigated, and that some of these may be capable of control ; and, further, that in any event a harsh penal code does not improve the social morals of a group, or a harsh sentence those of an individual who has lapsed from grace. The only remedy they know, both for political and non-political

offences, is punishment and an attempt to terrorize the offender by what are called deterrent sentences."

40. Those who believe in deterrent sentences also forget that deterrent punishment can only have some effect (if it has any effect at all) on premeditated crime and not on an impulsive act due to sudden loss of self control in some sort of quarrel (most murderers come in this category).

41. There is also a strong element of brutality in a deterrent sentence and brutality when practised brutalises not only the victim but also the person who inflicts that brutal sentence. There is a clear and noticeable change in almost the entire world against the concept of deterrence. At page 218 of British Royal Commission's Report on Capital Punishment, it is mentioned :

"But the term 'deterrence' has been 'revalued'. It is now based on two assumptions; first, that the general deterrent effect of the penal system on potential offenders lies less in the punitive treatment of the detected offender than in the total action of the system—fear of detection, public trial and conviction, and the possibility of punishment whether by imprisonment or otherwise; second, that the deterrent effect of imprisonment on the individual offender lies primarily in the shame of being sent to prison and the fact of being in prison, with all that that fact in itself implies — complete loss of personal liberty; separation from home, family and friends; subjection to disciplinary control and forced labour; and deprivation of most of the ordinary amenities and intercourse of everyday life. **An offender is sent to prison as a punishment and not for punishment.**"

42. The concepts of vengeance, retribution or atonement, therefore, should have no place in awarding punishment, as observed by Lord Templewood in a speech published in 8 House of Commons Official Report, 14th April, 1948, Columns 998-999 :

"The reforming element has come to predominate and that the other two are carried incidentally to the reforming element."

The Committee is, therefore, clearly of the view that the brutal method of pain and terror has made the situation worse and makes the task of reformation almost impossible.

43. I now come to the humane method of sympathy and understanding which alone can bring about the desired results. I have already mentioned above that this is the method suggested by Mahatma Gandhi and Pandit Nehru, and today almost the entire

world opinion is behind them. Quoting Lord Lytton on the subject of prisons Mahatma Gándhi wrote in the 'Young India' of 18-2-26 at page 67* :

✓ "Lord Lytton in recently speaking about jails to the Rotarians of Calcutta said that just as we send our sick in body to hospitals and not to jails, so must we 'provide moral doctors and moral hospitals' for the sick in mind, i.e. criminals. His Excellency thus introduced his subject :

" 'The ideal I wish to set before me, stated in the briefest and simplest form, is just this,—the substitution of reformation for retribution as the basis of our Penal Code. Punishment can instil fear and enforce habits—it cannot inspire goodness. As a means of moral regeneration, therefore, it is worse than useless and should be abandoned. A morality which is only enforced by pains and penalties is a false morality, and those who would secure the acceptance of moral standards should employ other methods.'

"Of the uses and limitation of punishment, Lord Lytton said :

" Punishment, if resorted to at all, must always be aimed at teaching habits necessary for the well-being of the individual or discipline necessary to the well-being of a community. I do not say that punishment will always succeed ; the form of punishment selected in any particular case may be well or badly suited for the attainment of its object. Again, I do not say that punishment is the only way of achieving this object. What I say is that those are the only objects which can be obtained by punishment. This one thing which can never be acquired by coercion is goodness or moral conduct. All punishment therefore which aims at correcting wickedness or teaching goodness is definitely mischievous. Goodness is a condition of mind as health is a condition of the body. Moral defects of character are no more to be cured by punishment than defects of the body. It may be necessary in the interest of health of a community forcibly to segregate a person with an infectious disease ; it may be necessary on the same ground to segregate persons whose moral defects are a danger to society."

4.1. Commenting on this speech of Lord Lytton, Mahatma Gandhi wrote :

"If as Lord Lytton correctly put it, punishment must be inflicted purely for protection of society, mere deten-

["STONEWALLS DO NOT A PRISON MAKE by M. K. GANDHI compiled and edited by V. B. Kher; pages 14—17]

tion should be enough and that too only till the dete-
nues can be fairly presumed to have been cured of their
evil habits, or securities are found for their good behavi-
our. There can be no difficulty about a scientific classi-
fication of prisoners, apportionment of work from a
humanitarian standpoint, selection of better-class war-
ders, abolition of the system of appointing prisoners as
warders, and a host of other changes that one might
easily suggest."

45. Similarly, Pandit Nehru observed in "Prison Lands"*
(Appendix I) :

✓ "Any reform must be based on the idea that a prisoner is
not punished but reformed and made into a good citi-
zen. If this objective is once accepted, it would result
in a complete overhauling of the prison system. At
present few prison officials have even heard of such a
notion."

46. It would thus be seen that the reformation of a convict is
the main purpose of punishment and any other consideration pales
into insignificance before it.

47. How can this purpose be achieved? It was this question
that was before the Committee and the recommendations made by
it should be considered in that light.

48. I would like to make one thing quite clear at this stage. The
Committee does not want that the offenders should not be punished,
and that the prisons should be turned into 'holiday homes' for
those who by committing a crime have injured the social fabric of
the life of the community. Mahatma Gandhi on this aspect wrote
in 'Young India' of 29-12-21 (page 13 of the book 'Stone Walls Do
Not a Prison Make') :

"Let it be remembered that we are not seeking to destroy
jails as such. I fear that we shall have to maintain jails
even under Swaraj. It will go hard with us, if we let
the real criminals understand that they will be set free
or be very much better treated when Swaraj is establish-
ed. Even in reformatories by which I would like to
replace every jail under Swaraj, discipline will be
exacted."

In the same vein, Pandit Nehru observed in "Prison Land"
(Appendix I) :

✓ "Another error which people indulge in is the fear that 'if
gaol conditions are improved people will flock in'! This
shows a singular ignorance of human nature. No one

*India and the World; page 122.

wants to go to prison however good the prison might be. To be deprived of liberty and family life and friends and home surroundings is a terrible thing. It is well known that the Indian peasant will prefer to stick to his ancestral soil and starve rather than go elsewhere to better his condition. To improve prison conditions does not mean that prison life should be made soft; it means that it should be made human and sensible. There should be hard work, but not the barbarous and wasteful labour of the oil pumps or water pumps or mills. The prison should produce goods either in large scale modern factories where prisoners work, or in cottage industries. All work should be useful from the point of view of the prison as well as the future of the prisoner, and the work should be paid for at market rates, minus the cost of maintenance of the prisoner. After a hard eight-hour day's work the prisoners should be encouraged to co-operate together in various activities—games, sports, reading, recitals, lectures. They should above all be encouraged to laugh and develop human contacts with the prison staff and other prisoners. Every prisoner's education must be attended to, not only in just the three R's, but something more, wherever possible. The mind of the prisoner should be cultivated and the prison library, to which there must be free access, should have plenty of good books. Reading and writing should be encouraged in every way and that means that every prisoner should be allowed to have writing materials and books. Nothing is more harmful to the prisoner than to spend twelve to fourteen hours at a stretch every evening locked up in the cell or barrack with absolutely nothing to do. A Sunday or holiday means for him a much longer period of locking up.

"Selected newspapers are essential to keep the prisoner in touch with the world, and interviews and letters should be made as frequent and informal as possible. Personally, I think that weekly interviews and letters should be permitted. The prisoner should be made to feel as far as possible that he or she is a human being and brutal and degrading punishments must be avoided."

49. The Committee wants that the existing crimogenic atmosphere that prevails in jails should be changed so that the reformatory process should not be hampered and it should be easy for a person who has taken a wrong turn to come back to the straight path again. Prisons may not be health resorts, but at the same time they should cease to be infection centres for the epidemic of crime, and they should not turn an erring individual into a determined law breaker. In my opinion the first step towards regeneration is the removal of tension from the mind of a convict. If he is made to open out, there would be no difficulty in bringing him back to a law abiding course. This can only be brought about by sympathy and

understanding, because in this way alone the moral sense which has become blunt can be revived. I will seek forgiveness for quoting a verse of mine again, written more than 30 years ago, which runs as follows :

*Dil Aitrafey Jurm Sey Phir Jagmaga Utha,
Sub Dagh Dhul Key Ashkey Pasheman Men Aa Gaye.*

Translated into English, it means :

Admission of guilt makes the heart regain its lustre again ;
The tears of remorse wash away every unclean stain.

To bring this result a new type of prison service should be recruited. The present service is so steeped in the old brutal methods that it cannot readjust itself to the demands which it has to meet in the present situation. At the moment the situation is that prisoners and the prison staff are divided into two groups which, if not actually at war, are definitely in hostile camps. Prisoners cannot open out to any member of this service. The prison service of the day has grown up in the tradition of maintaining discipline by terrorising the prisoners and causing pain. If tension is to be relaxed, a different kind of service which should also be trained in the new approach is needed. In several States the Committee found that it was the police force from which some of the Inspectors General of Prisons were drawn. Are the officers of the police force known for their human approach? The Committee could not approve of this just as it could not approve of the appointment of convicts as warders. It is with regret that I say that the attempt to reform the offender is really not being made at all and discipline is sought to be maintained only by terrorising him.

50. In an extract of Royal Commission's Report it was clearly mentioned that prisoners are sent to jail as a punishment and not for punishment, but our prison services are punishing the prisoners over and above the loss of liberty which they had to suffer for their crimes. How can this be remedied? It is true that a Mother Teresa touch cannot be given to prisoners, but surely a healing touch can be introduced in place of the brutal touch that exists. It is in the background of giving this healing touch that the recommendations made by the Committee should be considered.

51. Obviously, if after undergoing his term of punishment, a prisoner is going to take his place in society, it would be far easier to do so if his links with the outside world are not snapped. It is, therefore, imperative that his contacts with his relations and friends are not cut off and a reasonable opportunity should be given to him to maintain these ties during his term of imprisonment. In an extract of Pandit Nehru quoted above, the broad outlines of this treatment have already been given. The Committee has only enlarged this sphere according to present needs. Greater latitude for his being released on parole, liberal permission for interviews (and these

interviews not like mass interviews that exist today but separate interviews) and writing letters have to be given if continuous tension from their mind is to be removed. The living conditions inside the jails should also appreciably improve and the hours when prisoners are kept locked up, therefore, must be reduced. The prisoners should also be permitted to pursue their reasonable hobbies, play games and indulge in social functions and thus an atmosphere should be created where there is greater relaxation and the prisoners are not keeping their hearts and minds locked. They should also be employed in some useful work which would benefit both the State and the prisoners themselves and which can secure employment for them when they go out of jails. Greater care should be taken about their physical and also mental health so that they may not continue to brood but begin to feel that the string of life has not snapped for ever and they can pick it up again. Fairly wholesome food and healthy, clean dormitories should also be provided to them. I need not dilate on these points any more, for the Committee has after careful consideration made its recommendations which cover all these aspects of jail life.

52. There are, however, two recommendations about which a few observations made by me would not be out of place, even though they are dealt with in the report. These recommendations relate to classification of prisoners and construction of open air jails. In an earlier part of this preface I have quoted an extract from Mahatma Gandhi's writings where he has observed that a revision of classification, though it will mean additional expenditure, would mean economy in the long run. I think that unless a well-planned classification is made and habitual and hardened criminals who have adopted crime as a way of life are separated from the rest, it would be difficult to save the first offenders from the crime infection. Special care must be taken of the young offenders and children. I think prison is no place for children, and even young offenders, so long as the recommendations of the Committee are not implemented, should be completely segregated and every attempt should be made that they do not come into contact with other groups of prisoners. Women prisoners should also be well protected and there should be separate prisons for women manned (I think a new word 'womanned' should be added in the dictionary) by a female staff alone.

53. Obviously, this will mean a large expenditure for this cannot be done in the existing jails and new jails will have to be constructed. This question came up before the Royal Commission also and they in their report observed at page 210, thus :

"It is not easy to adapt the prisons of this country to the new ideas. Most were built under the old regime, and their structure is dictated by it; they are fortress like buildings within high walls; they contain large numbers of single cells with small barred windows and afford little opportunity for communal life in groups. They do not fit, either structurally or psychologically, with concepts of the purpose of imprisonment so different as those that

prevail today. 'Mitigation of the deformative effects of imprisonment, and training of men and women in self-respect and a sense of personal responsibility' are handicapped by 'the repressive conditions of a walled prison'. 'There is only one thing to be done with the prisons of Britain', said a former chairman of the Prison Commission in a speech made a few years ago, 'and that is to dynamite them'. Nevertheless they are likely for many years to have to house most of the prisoners in the country. But since the war the Commissioners have introduced a system of 'open' prisons for 'selected prisoners or classes of prisoners' such as is found in certain other countries, notably Sweden, some of the States of America and some Commonwealth countries. The largest and best known of these is at Leyhill in Gloucestershire. There are also 'satellite' open camps attached to some closed prisons, including Wakefield. For women there is an open prison at Askham Grange, and another has recently been opened at Hill Hall, in Essex. We understand that the Prison Commissioners will continue to develop the open prison system."

I think serious thought should be given to the construction of new jails and they should be designed to meet the requirements stated above.

54. The Committee was happy to find that in some States open air jails also exist though their number is not adequate. The Sangar Jail in Rajasthan is the outstanding jail in this class. There is no fencing and boundary wall in this jail; the prisoners who were housed there appeared to the Committee to be completely relaxed. They were living with their wives and children and also pursuing their work outside the prison during day time and they came back only in the evening. I was told that during the whole period since this jail came into existence, and this comes to about 20 years, only two prisoners escaped from the jail. They certainly gave the impression that they were completely reformed and will easily take their due place in the community again. I think this was the dream of Mahatma Gandhi when he wanted prisons to become reformatories.

55. According to the Muslim belief there are Seven Hells and Seven Heavens. Good persons according to the extent of their goodness are classified and accommodated in these seven heavens. Similarly the sinners are classified according to the gravity and magnitude of their sins and then lodged in these seven hells. In between the Hells and Heavens, there is a place called Airaf. God, even when He punishes, does not cease to be merciful and after a sinner has expiated for his sins, he is brought to Airaf and after keeping him there for some time, he is sent to one of the seven heavens. It is my fondest hope that these open air jails will be the Airaf on earth and their numbers will increase more and more. They will be the bridge between the prisons and the outside world. It is true that what is

easy for God is very difficult for human beings. Still an attempt should be made to follow the godly path as far as possible.

56. Only a pleasant duty now remains to be fulfilled. First of all I will thank the Ministry of Home Affairs which was responsible for the Committee on Jail Reform's coming into existence. The Home Ministry helped us at every turn and without its continuous help it would not have been possible for us to present this report. I would also thank the Ministry of External Affairs, Indian Missions abroad, and some Governments of other countries, who willingly furnished to the Committee material on correctional administration which helped it to come to its conclusions. All the State Governments and Union Territory Administrations also come under this head. To whichever State we went to gain knowledge regarding the questions that were before us, the Chief Ministers and other Ministers of that State were not only considerate but also helpful and hospitable. They also made the services give us all the information that we sought. This included the full cooperation of the officers of the Prison Departments, officers of other departments also, and in some cases even members of the judicial service. Without this kind and generous cooperation we could not have collected the large amount of material that we did.

57. I would also like to express my sincere gratitude to the large number of prisoners whom the Committee met and interviewed during its visit to various jails. They gave information about that side of the picture which was very much needed. I was touched by the confidence that they exhibited in the Committee, for without this confidence they would not have opened out but would have remained silent. As Pandit Nehru observed in Prison Land (Appendix I) :

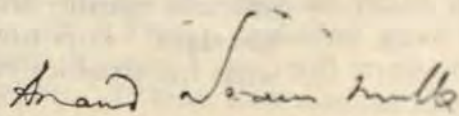
"In theory there are some checks, and visitors and officials from outside go to inspect. But it is rare for a prisoner to dare to complain to them, and those who dare have to suffer for their daring. The visitor goes, the petty gaol officials remain, and it is with them that he has to pass his days. It is not surprising that he prefers to put up with his troubles rather than risk an addition to them."

58. Then there were quite a few eminent persons, judges, lawyers, social workers, legislators and others who drew upon their experience and placed their well considered views before the Committee which, to a certain extent, has played a part in influencing it in formulating its views. I must thank them for this valuable assistance. Those who replied to the Opinionnaire issued by the Committee but could not be called as witnesses also merit our thanks. As the questions to be answered were not few but many so it was considered advisable to form separate Study Groups in which the Committee also invited some non-Members who were considered to be specially qualified to help that particular Study Group by their expert knowledge of that particular problem. Those who responded to our invitation and agreed to work in these Study Groups cannot be ignored and I express my gratitude to them also.

59. In the end I come to the Members of the Committee and the secretariat officers and staff. I have served in several parliamentary and other kinds of committees during the last 16 years, but the zeal to do a public duty to the best of their ability which I noticed amongst the members of this Committee was not present in other committees. Every member was more than eager to do his part and this produced an atmosphere of harmony in the meetings of the Committee which was really conducive to bring an accord in our discussions and which enabled us to produce this Report. I shall always remember the support and cooperation which I received from all the members and the Report itself is the best evidence of what they did and achieved. The officers and staff of the secretariat were completely in tune with the members and their efficiency in initiating relevant discussions and preparing agenda at the various stages of the Committee's deliberations as well as their own contribution in preparing the report was a very happy chapter in our association. The Committee and the staff worked as members of one family and the result speaks for itself.

60. During the time the Committee worked it was deprived of the services of two of its Members. Shri Prakash Mehrotra parted from us as the Government was pleased to appoint him the Governor of Assam and Meghalaya. We were sorry to lose him because if he had remained in the Committee, he would have made valuable contribution to the Report; but this parting was on a happy note. The other parting came on an extremely tragic note. Shri H. C. Saksena expired suddenly when we had almost finished our work. The Report bears the imprint of his mature views.

61. The Committee's task is over. Those unfortunate citizens who are at the moment prisoners in jails and whose lips are sealed are now looking with questioning eyes towards the Government.



(ANAND NARAIN MULLA)

NEW DELHI

March 31, 1983.

CHAPTER I

INTRODUCTION

1.1 Prison administration in India has been, off and on, a subject of criticism in the press, the Parliament and the judiciary. Overcrowding in prisons, prolonged detention of undertrial prisoners, unsatisfactory living conditions, lack of treatment programmes and allegations of indifferent and even inhuman approach of prison staff have repeatedly attracted the attention of the critics over the years.

1.2 The Judiciary, as the agency responsible for the lawful deprivation of an offender's liberty, has occasionally denounced the degeneration of a term of sentence into servitude. Through some of its recent judgements, it has extended its jurisdiction over the execution of the term of sentence to ensure that a prisoner is not subjected to dehumanized treatment in jail, nor is he incapacitated for future social re-integration. It has observed that a sentenced offender cannot be treated as a person denuded of all his fundamental human rights and that his restoration to the law-abiding community is, and ought to be, the ultimate policy behind judicial sentencing.

1.3 Prisons are expected to re-educate one who has been declared a criminal in order to help him eventually to be rehabilitated in an atmosphere of healthy social interactions and to promote the prospects of his reclamation in the social milieu. The existing prison conditions in general are, however, not conducive to the fulfilment of the desired objective. The unsatisfactory situation existing in jails had attracted the attention of the Government of India and the State Governments from time to time. Valuable recommendations were made by various bodies at the national and state levels for effecting improvement in prison administration but progress in the follow-up action and implementation of the recommendations has been slow in most of the States and Union Territories. In the recent past there were widespread agitations both by prison staff and the prison inmates demanding improved service conditions and better living conditions in the prisons. There were even reports of occasional violence from some of the States and Union Territories. The States and Union Territories which witnessed large-scale and protracted incidents of prison violence and indiscipline include Bihar, Madhya Pradesh, Manipur, Orissa, Rajasthan, Tamil Nadu, Chandigarh and Delhi.

1.4 The Government of India, taking stock of the situation, and motivated by the desire for improvement in the prison administration decided to set up a Committee to study all aspects of prison administration in the country and to devise measures for its effective improvement, with particular emphasis on the care of women, adolescents, children and mentally sick persons in jails. The Ministry of Home Affairs accordingly set up the present Committee on Jail Reforms under its resolution No. VI. 14016/3/80-GPA. IV of July 25, 1980 under the Chairmanship of Shri Justice A. N. Mulla, Retired Judge of the Allahabad High Court and a former Member of Parliament, consisting of the following:

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| 1. Justice A. N. Mulla (Retd.) | Chairman |
| 2. Shri Yogendra Sharma, M.P. | Member |
| 3. Miss Saroj Khaparde, M.P. | Member |

Member

4. Dr. (Mrs.) M. Sarada Menon,
former Director,
Mental Hospital, Madras.

Member

5. Shri C. S. Mallaiah,
I. G. (Prisons)
Karnataka.

Member-Secretary

6. Joint Secretary in the Ministry of Home Affairs

1.5 A copy of the above-mentioned resolution of the Government of India is at Appendix. III.

1.6 Bibi Amtus Salam, Chairman, Kasturba Mandir Trust, New Delhi, was a permanent invitee to the deliberations of the Committee.

1.7 Shri K. S. Rastogi, IAS, Joint Secretary, Ministry of Home Affairs, Government of India was appointed as Member-Secretary with effect from October 15, 1980.

1.8 The above-mentioned resolution of the Government of India vested the Committee with powers to co-opt members as and when necessary. Accordingly the Committee, in its meeting held on December 12, 1980 co-opted the following six members:

1. Shri Prakash Mehrotra,
Member of Parliament.
2. Prof. Rasheeduddin Khan,
Member of Parliament.
3. Shri D. J. Jadhav,
Retired Member,
Maharashtra Public Service Commission and
former I. G. Prisons and
Director Social Welfare,
Maharashtra.
4. Shri H. C. Saksena,
Retired I. G. Prisons,
Uttar Pradesh.
5. Dr. Hira Singh,
Director,
National Institute of Social Defence &
ex-officio Prison Adviser,
Ministry of Home Affairs.
6. Shri K. L. N. Reddy,
Director,
Regional Institute of Correctional
Administration,
Vellore.

1.9 Shri Prakash Mehrotra, on his appointment as the Governor of Assam and Meghalaya, tendered resignation from the membership of the Committee on July, 30, 1981 and his resignation was accepted at the seventh meeting of the Committee held on August 14, 1981.

1.10 In its meeting held on January 24, 1982 the Committee co-opted Dr. (Mrs.) Jyotsna H. Shah, Retired Director, Social Defence, Government of Gujarat, as a member.

1.11 Shri H.C. Saksena, Retired Inspector General of Prisons, Uttar Pradesh, who made valuable contribution to the work of the Committee, expired on January 4, 1983. This deprived the Committee, in the final stage of its work, of the benefit of his vast knowledge and experience in the field of prison administration.

1.12 The terms of the Committee as laid down in the Government of India resolution of July 25, 1980 are: -

- (i) to review the laws, rules and regulations governing the management of prisons and the treatment of prisoners and to make recommendations keeping in view the overall objective of protecting the society and rehabilitating the offenders;
- (ii) to examine the living conditions of prisoners with specific reference to their basic needs and provision of facilities compatible with the dignity of human life and to suggest improvements as considered necessary;
- (iii) to reappraise the policies governing the recruitment, training and development of prison personnel in relation to the objective of custody and correction and to find ways of ensuring that persons with requisite talent, aptitude and ability man the prison service ;
- (iv) to look into the procedure regarding the internal management of prisons with a view to raising the present level of prison security and institutional discipline and to suggest appropriate change ;
- (v) to review the programmes of institutional treatment, education, vocational training, industry, agriculture and such other occupational activities and to suggest measures with a view to develop prisons as correctional centres ;
- (vi) to suggest measures for the specialised treatment of women, adolescents, children and mentally sick persons ;
- (vii) to review the working of open-air prisons and to suggest measures for improvement ;
- (viii) to scrutinise the system of remission of prison sentence, parole and probation and to lay down guidelines for bringing about uniformity and standardisation in approach;
- (ix) any other matter relating to prison administration that the Committee may like to consider.

1.13 The Committee was specifically asked to look into the affairs of Tihar Jail, and to make recommendations with regard to improvement in its administration within one month.

1.14 The Central Jail, Tihar, Delhi had been a subject of unprecedented scrutiny by the Supreme Court of India especially on the grounds of mismanagement, indiscipline and corruption. The Committee recognised that the Central Jail, Tihar had been widely criticised on account of maltreatment of, and indiscipline amongst, prisoners

on the one hand and improper attitudes, incompetence, corruption and abuse of power by the staff on the other. These aspects received a close attention of the Committee in its enquiry in regard to this Jail. The Committee, while submitting its report on Tihar Jail, came to a definite conclusion that the problems of the Central Jail, Tihar were peculiar in nature and needed immediate attention. It recommended that the maladies of corruption, indiscipline and intrigues that had plagued the management of the Jail should be immediately dealt with. The Committee in its report submitted on December 19, 1980 had formulated a plan of action for improving the present situation in that particular jail.

1.15 Since the enquiry referred to in the foregoing paragraph was limited in character, restricted only to the Central Jail, Tihar, that report did not include the whole spectrum of jail improvement in the country.

1.16 The Committee was initially constituted for a period of six months. However, its term was extended from time to time, finally ending on March 31, 1983.

1.17 The Committee made all possible efforts and explored diverse avenues to study existing conditions in prisons. The modus operandi adopted for this study included :

1. Visits to prisons and other institutions in various States and Union Territories;
2. Meetings with Chief Ministers, Ministers in charge of Jails, Chief Justices of High Courts and other members of higher judiciary and non-officials;
3. Meetings with Chief Secretaries, Home Secretaries and Heads of various Departments;
4. Meetings with officers and staff of prison departments;
5. Meeting prisoners and discussing with them problems of prison administration;
6. Collection, classification and analysis of views on matters relating to prisons through opinionnaire (Appendix IV);
7. (a) Collection and analysis of basic information on prisons; and
(b) Collection of views of State Governments, Union Territory Administrations and Inspectors General of Prisons on important aspects of prison administration; through statistical returns (Appendix V);
8. Discussions with eminent persons;
9. Formation of study groups for intensive deliberations on specific subjects;
10. Collection of secondary data from reports and material on prison administration furnished by State Governments;
11. Study of literature on correctional administration in other countries;
12. Screening of films on correctional administration in some foreign countries; and
13. Study of proceedings of Second Asian and Pacific Conference of Correctional Administrators held at Bangkok.

1.18 The Committee visited prisons and other institutions in the States of Andhra Pradesh, Bihar, Jammu & Kashmir, Karnataka, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal and the Union Territories of Andaman and Nicobar, Chandigarh, Delhi, Goa and Pondicherry. A list of these institutions is at Appendix VI.

1.19 During its visits to States and Union Territories the Committee held discussions, wherever possible, with the Chief Ministers of States, Ministers incharge of Jails, Chief Justices of High Courts and other members of higher judiciary, non-officials and officers connected with prison administration. A list of important persons whom the Committee met to ascertain their views on various aspects of prison administration is at Appendix VII.

1.20 In order to elicit views from a cross-section of the society on some important aspects of prison administration and prison reforms, the Committee had devised an Opinionnaire, about 3000 copies of which were mailed to judges, public representatives, general administrators, prison personnel, prisoners, social workers, educationists, police personnel, journalists, lawyers and others. The response (602) was quite encouraging and exhibited public interest in the problems of prison administration and prison reforms. The opinions received were compiled and classified and were taken into consideration while making our recommendations.

1.21 Statistical returns received from States and Union Territories contained basic information about physical conditions, staffing patterns, employment of prison labour, financial implications of prison management, and so on. This information helped the Committee in assessing the gaps in the system and making suitable recommendations.

1.22 A list of eminent persons who were interviewed by the Committee for eliciting their valued opinion on important aspects regarding prison administration is at Appendix VIII.

1.23 An important step taken by the Committee during the early stages was the formation of small study groups for intensive thinking on some vital aspects of prison management. These study groups comprised members of the Committee and other experts in the field. The Committee had also in its meeting held on December 12, 1980 decided that a few officers of the National Institute of Social Defence might be associated with the work of the study groups as and when their services were required. Accordingly some officers of the Institute were associated as resource persons with the study groups. The composition of the study groups and the subjects allotted to them are at Appendix IX. These study groups submitted their reports for the consideration of the Committee.

1.24 The State Governments of Assam, Haryana, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and West Bengal had furnished us with a copy each of the reports submitted by Prison Reforms Committees/Commissions appointed by them. The State Government of Bihar made available to us the interim report submitted by the Committee appointed by it. These reports contain useful suggestions and we have kept them in view while making our recommendations.

1.25 The Committee had also taken into consideration the literature on correctional administration received from Australia, Canada, Hongkong, Japan, Netherlands, Norway, Singapore, Sweden and the United Kingdom.

1.26 The Committee received some audio-visual material from Canada and Sweden. Two Canadian video films giving a background of correctional services and innovative projects in that country and two Swedish films namely "According to Law" and "People Outside" depicting important aspects of prison and correctional administration in that country were seen by the Committee.

1.27 Shri K. S. Rastogi, Member-Secretary of the Committee, was deputed by the Government of India to represent the country at the Second Asian and Pacific Conference

of Correctional Administrators hosted by the Government of Thailand in Bangkok from July 6 to 10, 1981. The agenda items discussed in the Conference included Prison Industry; Remands; Status of Prison Officers and Human Rights; Prisoners' Exchange Arrangements in Asia and the Pacific; the Problems of Drug Offenders; and Accreditation and International Status. A brief account of the discussions was circulated to the members of the Committee for their consideration.

1.28 Attempt has been made to make the Report of the Committee fairly comprehensive including specific recommendations on various aspects of jail administration and major problems of jail life. We have borne in mind the fact that in a country like ours striving for the fulfilment of basic objectives of wide-ranging socio-economic transformation, we cannot lose sight of the proper scale of priorities for national development. However, we are convinced that the administration of prisons within any rational scale of reform assumes critical importance particularly in view of the fact that our people are citizens of the world's largest democracy. Whenever their liberty is taken away due to certain requirements of law, they must be given a humane, positive and a corrective treatment, if we desire to receive them back in the community of free and equal citizens as improved and better human beings after the traumatic experience of jail life. In spite of financial constraints, funds will have to be provided for rescuing these unfortunate fellow citizens from perpetual degeneration. With this in mind, we have made certain recommendations for immediate implementation and others for implementation over a period of time in order to achieve the required transformation in prison administration. We presume that the Central and State Governments and the Union Territory Administrations will share with us the concern over the deterioration of the prison system at the present time, and shall commit themselves to provide adequate financial outlays to improve it, in consequence of our democratic ethos and the vision of the founding fathers.

1.29 All along its deliberations, the Committee has been conscious of the continental dimension of our sovereign republic, inhabited as it is by one-fifth of mankind, whose social milieu is marked by diversities of culture, language, ethnicity, regional specificities, inter-caste and inter-community equations, living standards, patterns of social set-up and group-life, and variations in administrative structure and the physical needs of the people living in different parts of the country. We have also not been unmindful of the fact that the basic needs of men and organisations, despite other range of diversities, have nevertheless much in common. While making recommendations, therefore, we have tried to lay down general principles and have left details to be worked out by the respective State Governments and Union Territory Administrations according to their situation and requirements.

1.30. We would like to mention here that this Report should not be taken as a panacea for all ills, present and future, of the prison system. It is our considered view that the process of prison reforms is a continuous one. Prisons like other institutions that have to deal with human beings are continuously faced with a dynamic situation requiring constant and appropriate change in form, content and needs. There is an apparent need for constant vigil, continual thinking and concerted effort to respond to the new problems, situations and challenges that come up in the very process of social change. We do hope and believe that with due care and caution, coupled with proper education and training, appropriate physical conditions and social contacts, constant watch and welfare activities, most of the maladies that pester the present prison system can be cured, rendering the system more firm, more humane, more receptive, more adaptable to the changing needs of the society and more efficacious in the restoration of the offender to the mainstream of normal, healthy, responsible, law-abiding community. It is with this hope and belief that we have made our recommendations in this Report.

CHAPTER II

REVIEW OF PRISON REFORMS

2.1 Our contemporary prison administration is a legacy of the British rule. Lord Macaulay, who later became the author of the Indian Penal Code which provides for imprisonment as the most commonly used instrument of penal treatment, while presenting a note to the Legislative Council in India on December 21, 1835, pointed out for the first time the terrible conditions then prevailing in Indian prisons. He vehemently subscribed to the idea that "the best criminal code can be of very little use to a community unless there be a good machinery for the infliction of punishment". He stressed that "it is, therefore, of the greatest importance to establish such regulations as shall make imprisonment a terror to wrong-doers and shall at the same time prevent it from being attended by any circumstances shocking to humanity." The horrid conditions in Indian prisons obtaining in the middle of the 19th century can be well judged by the fact that Lord Macaulay, while giving an account of the conditions prevailing at Alipore Jail at Calcutta condemned them as "shocking to humanity" and "a great dishonour on our Government". "Hundreds of the worst and most desperate criminals" he wrote, "are collected in one great body and no visitor could enter the gates without danger".¹

2.2 Lord Macaulay recommended that a Committee be appointed to suggest measures to improve discipline in prisons. Consequently, on January 2, 1836, a Committee was appointed by Lord William Bantick to study the conditions of discipline in Indian prisons. Lord Macaulay and some other most distinguished statesmen and jurists of the day constituted the Committee.² This Committee known as Prison Discipline Committee reported in 1838 to Lord Auckland, the then Governor General, and noted with great disapprobation the rampant corruption in the subordinate establishment, the laxity of discipline, and the system of employing prisoners on extra-mural labour on public roads. Presumably, under the influence of a reaction from these abuses, the Committee recommended increased rigours of treatment and rejected all notions of reforming criminals through moral and religious teaching, education or any system of rewards for good conduct. It advocated construction of central prisons "where the convicts might be engaged not in manufactures which it condemned on somewhat theoretical and unsound grounds but in some dull, monotonous, wearisome and uninteresting task in which there shall be wanting even the enjoyment of knowing that quicker release can be got by working the harder for a time."³ Sentences were sought to be executed in such a way as to deter both the actual perpetrator of crime and the potential offender from committing crimes. The result was that the prisons bore a look of regimentation occasioned with physical torture.

2.3 In 1864, Sir John Lawrence's examination of the conditions of jails in India led Lord Dalhousie to appoint the second Commission of Enquiry into Jail Management and Discipline.⁴ It is interesting to note that the British regime was interested in the prisons only from the point of view of administration and discipline. The sociological ideas of reformation or welfare of inmates had not crystallised till then. The report of the Commission of 1864, therefore, proceeding on the lines of the report of the previously constituted Committee (1836) laid down a system of prison regimentation which with some modifications may be said to be still in operation in the name of prison discipline. The Commission

also made some specific recommendations regarding accommodation for prisoners, improvement in diet, clothing, bedding and medical-care only to the extent that these were incidental to 'discipline' and 'management'. The Commission recommended separation of prisoners — males from females and children from adults. Prison discipline was codified in specific terms and violations were made prison of offences, attracting punishment of solitary confinement, reduction in diet, whipping and hard labour.

2.4 A Conference of experts met in 1877 to enquire into prison administration. By that time there were five enactments available in the country governing the management of prisons in various States: An Act for the better control of the Jails within the Presidency of Bombay (1856); an Act for the regulation of Jails in the City and Presidency of Bombay and enforcement of discipline therein (1864); an Act for the regulation of Jails and enforcement of discipline therein, (Bengal-1864); Madras Jails Act (1869); and Prisons Act (1870). Prisons Act 1870 was made by the Governor General in Council and the rest by the Governors in Council for their respective jurisdictions. These Acts differed *inter se* on various important points governing the principles and practices of prison management. The remedy proposed by the Conference of 1877 was the enactment of a prison law which could secure uniformity of system at least on such basic issues as the reckoning of terms of sentence. On the basis of the recommendations of the Conference, a draft Bill was actually prepared but as "circumstances were unfavourable to legislation, the matter was postponed."⁵

2.5 In 1888, the Fourth Jail Commission was appointed by Lord Dufferin to enquire into facts on prisons. The object and scope of this Commission as given out in the Resolution appointing the Commission make an interesting reading particularly in view of the fact that after a lapse of almost a century we are still groping for a solution to the same problems:

"The administration of jails with respect to economy, sanitation and discipline has for many years received the careful attention of the Governor-General in Council. Three Commissions (in 1836, 1864 and 1877) have under the orders of the Government of India, considered and reported on the general principles which ought to be observed in the management of Indian jails. There is on the part of Governor-General in Council no wish to reconsider the principles so laid down, but an examination of the statistics of jails in different provinces and even of prisons in the same province shows that great diversity of practice exists in carrying the principles into effect. The Governor-General in Council is not to be understood as advocating absolute uniformity of administration in all provinces in connection with jail administration. He admits that local circumstances must always give rise to diversities of practice. But an examination of the provincial reports for some years satisfied him that the divergencies in regard to the cost of maintaining prisoners in regard to their sanitary conditions and in regard to discipline points to the existence of defects which it is desirable to remove. There being no longer doubt regarding principles and the question being one of practice, it appears to His Excellency in Council that improvement can best be effected by means of a careful and thorough examination of experts on the spot into the causes which operate in certain provinces and certain jails to produce a variation."⁶

2.5.1 The Jail Commission of 1888 visited various provinces and made an exhaustive enquiry into all matters connected with jail administration. It was of the opinion that uniformity could not be achieved without enactment of a single Prisons Act.

2.5.2 On the basis of the recommendations of the Jail Commission of 1888, a consolidated Prisons Bill was prepared. Commission's recommendations in regard to jail offences and punishments were specially examined by a Conference of Experts on Jail

Management from all provinces, which was convened for the purpose in 1892 at Calcutta. They provided in the Bill for such prison punishment as gunny clothings, imposition of irons on hand and feet, penal diet, solitary confinement and whipping.

2.5.3 The draft Bill was circulated to the local governments with a letter addressed by Mr. C. J. Lyall, the then Secretary to the Government of India, Home Department on March 25, 1893 requesting the local governments to forward their observations on it and after incorporating such observations as were necessary, the Bill was presented to the Governor-General's Council.⁷

2.6 Thus came into being the Prisons Act, 1894 which is the current law governing management and administration of prisons in India. The Britishers had found it efficacious for the achievement of their political ends to run prisons according to the provisions of this Act. Even after 35 years of Independence it has hardly undergone any substantial change in the hands of our own government, although a lot of new thinking has emerged on the objectives, management and administration of prisons.

2.6.1 There is no doubt that the prisons Act of 1894 had some good points too. It sought to streamline prison administration and put it on a general uniform footing throughout the country. As a measure of administrative reforms, it provided that in prisons where prisoners under the age of 21 were confined those "who have arrived at the age of puberty" should be separated from "those who have not". It also provided for the separation of civil prisoners from criminal prisoners and of unconvicted criminal prisoners from those convicted. The Medical Officer was required to visit daily each prisoner confined in a cell for more than 24 hours. The employment of criminal prisoners sentenced to rigorous imprisonment was restricted to nine hours on any day. The Act placed upon the Medical Officer the responsibility to see that the prisoner's health was not injured by the work on which he was employed. The power of the lower executives staff in the matter of inflicting punishment for prison offences was done away with. No officer subordinate to the superintendent was given the power to award any punishment. Female and civil prisoners were specially excluded from the punishment of handcuffs or fetters or from whipping. The erring prison staff was also made liable for punishment on certain counts with a view to forging discipline. However, the Act was largely based on deterrent principles concerned more with prison management than with treatment of prisoners and gave more consideration to prison offences and punishment than to their effect.

2.7 The process of review of the prison problems of the country continued even after this. The first ever comprehensive study of these problems in the present century was made by the Indian Jails Committee 1919-20. This Committee produced a report which is indeed a land-mark in the history of prison reforms in India. It can in all fairness be called the corner-stone of modern prison reforms in the country. For the first time in the history of prisons 'reformation' and 'rehabilitation' of offenders were identified as the objectives of prison administration. The Committee recommended that the care of criminals should be entrusted to adequately trained staff, selected and recruited after careful scrutiny. It recommended that the salary of prison personnel should be sufficient to secure and retain faithful service. The Committee rejected the idea of excessive employment of convict officers and recommended the reduction of such excessive employment. Executive and clerical duties were recommended to be separated. The Committee also recommended the induction of technical staff in jail service.

2.7.1 As for improvement of physical conditions the Committee recommended diversification of institutions stating that separate jails should be marked for various categories of prisoners. It recommended a minimum area of 75 sq. yards per inmate within the enclosing wall of the jail.⁸ It deprecated over-crowding and recommended remedial measures to prevent it. The Committee strongly repudiated the presence of children in jails meant for adult prisoners. It recommended the creation of Children's Courts for hear-

ing all cases of Juvenile delinquents and their housing in Remand Homes. The Committee made a forceful plea for introduction of warning, probation, fine for work in lieu of short-term imprisonment. With a view to continuing the process of evaluation of prison problems and bringing in jail reforms the Committee recommended that a Conference of Inspectors General of Prisons be held every alternate year.

2.7.2 The recommendations of the Indian Jails Committee, though radical in the light of the sociological thought of the day, could not be implemented due, particularly, to two reasons. In the first place the diarchical system introduced by the Government of India Act of 1919 left the subject of prisons to the consideration and judgement of the provincial governments without any effective supervision and control of the Central Government. As an obvious result most of the provincial governments relegated the administration of prisons to a lower priority, neglecting the valuable recommendations for prison reforms made by that Committee. Only the presidencies of Bombay, Calcutta and Madras could achieve some innovation in the field of criminal justice by enacting Children Act in the early twenties. In 1923, section 562 of the Code of Criminal Procedure, 1898 was also amended to facilitate the suspension of sentences in selected cases.

2.7.3 The other reason why the recommendations of the Indian Jails Committee 1919-20 could not have a substantial impact on prison administration in the country was the political atmosphere that prevailed throughout the nation during the decades following the submission of the report. Widespread political agitations and government's pre-occupation in quelling them over-shadowed the question of prison reforms. People were generally pre-occupied with the wider and more important problem of achieving political independence and their attention was drawn to the prevailing bad conditions of prisons only when they were imprisoned during their political struggle.

2.8 The constitutional changes brought about by the Government of India Act of 1935, which resulted in the transfer of the subject of jails to the control of provincial governments, further reduced the possibilities of uniform implementation of the recommendations of the Indian Jails Committee 1919-20 in the country. However, the period from 1937 to 1947 was important in the history of Indian prisons because it aroused public consciousness and general awareness for prison reforms at least in some progressive States. Efforts of some of the eminent freedom fighters who had known the conditions in prisons succeeded in persuading the governments of these progressive States to appoint committees to further enquire into prison conditions and to suggest improvements in consonance with their local conditions. Some of the Committees appointed during this period were (i) The Mysore Committee on Prison Reforms, 1940-41; (ii) U.P. Jail Reforms Committee, 1946; and (iii) The Bombay Jail Reforms Committee, 1946-48. It was around this period that such progressive legislations as (i) The Bombay Probation of Offenders Act, 1936; (ii) The C.P. and Berar Conditional Release of Prisoners Act, 1936; and (iii) The U.P. First Offenders Probation Act, 1938, were passed. In the late thirties, the U.P. Government appointed a Jail Enquiry Committee and in pursuance of its recommendations, the first Jail Training School in India was established at Luknow in 1940 for the training of jail officers and warders.

2.9 When India gained independence in 1947, the memories of bad conditions in prisons were still fresh in the minds of political leaders and they, on assumption of power, embarked upon effecting prison reforms. However, the Constitution of India which came into force in 1950 retained the position of the Government of India Act, 1935 in the matter of prisons and kept 'Prisons' as a State subject by including it in List II--State List of the Seventh Schedule.

2.10 The first decade after independence was marked by strenuous efforts for improvements in living conditions in jails. A number of Jail Reforms Committees were appointed by the State Governments, apparently to achieve a certain measure of humanisation of pri-

son conditions and to put the treatment of offenders on a scientific footing. Some of the Committees which made notable recommendations on these lines were :

- (i) The East Punjab Jail Reforms Committee, 1948-49;
- (ii) Madras Jail Reforms Committee, 1950-51;
- (iii) Jail Reforms Committee of Orissa, 1952-55;
- (iv) Jail Reforms Committee of Travancore and Cochin, 1953-55;
- (v) U.P. Jail Industries Inquiry Committee, 1955-56: and
- (vi) Maharashtra Jail Industries Reorganisation Committee, 1958-59.

2.11 Unfortunately, the spirit and enthusiasm with which the subject of prison reforms was taken up by various governments did not last long. The reports and recommendations of these Committees, desirable and important though they were, were not implemented in an effective manner. However, a few new ideas of prison reforms were introduced in the country. The prisoners could now avail of furlough and parole. They were granted wages, even though nominal, for the work done by them. The introduction of Panchayat system led to improvement in the living conditions of prisoners. One of the major prison reforms introduced and which, we feel, is still an important modality of treatment of prisoners, was the development of open prisons serving as a half-way house for long-term prisoners for their transition from prison to open society. A Jail Officers Training School was set in at Pune in 1955. A few conscientious prison administrators also rose to the occasion and undertook some innovative experiments through their own individual efforts; but such efforts and innovations were only sporadic and short lived. The total impact of these measures on prison administration was not discernible upto any appreciable extent.

2.12 The changing circumstances on the socio-economic scene of the country after independence did not allow much to be done on a subject like prisons. The policy of the British raj of running prisons in as cheap a manner as possible continued as a hang-over even after the advent of freedom. The prisons always received the lowest priority in the State budgets. On each spell of financial stringency, the prisons were the first casualty. In their efforts to bring about an economic transformation in the country it somehow crept into the minds of the planners and administrators that prisons were a non-productive department. People entrusted with the task of planning for socio-economic change could never visualise that prevention of crime and treatment of offenders was an integral part of the bigger problem of social development and that, therefore, it deserved proper governmental attention, both administrative and financial. It sometimes began to appear that the appointment of Prison Reforms Committees was being used as a palliative for agitated public opinion for a temporary period and when reports and recommendations were received, they were shelved in the name of financial stringency.

2.13 While local Committees were being appointed by State Governments to suggest prison reforms, the Government of India invited technical assistance in this field from the United Nations. Dr. W. C. Reckless, a U. N. Expert on Correctional Work, visited India during the years 1951-52 to study prison administration in the country and to suggest ways and means of improving it. His report 'Jail Administration in India' is another landmark in the history of prison reforms. He made a plea for transforming jails into reformation centres and advocated establishment of new jails. He opposed the handing of juvenile delinquents by courts, jails and police meant for adult offenders. He advocated that a cadre of properly trained workers was essential to man prison services. His recommendations gave a fillip to specialised training of correctional personnel. The revision of outdated jail manuals and introduction of legal substitutes for short sentences were recommended by him. He advocated the development of full-time probation and revising boards for the after-care services and also the establishment of

selection of prisoners for premature release. He recommended the establishment in each State of an integrated Department of Correctional Administration comprising prisons, Borstals, children institutions, probation services and after-care services. He also recommended the establishment of an Advisory Board for Correctional Administration at the Central Government to help the State Governments in development of correctional programmes. Another important recommendation made by Dr. Reckless was about the creation of a national forum for exchange of professional expertise and experience. He suggested that a conference of senior staff of correctional department be held periodically at regular intervals. The year 1932 witnessed a break-through in national coordination on correctional work as in that year the Eighth Conference of the Inspectors General of Prisons was held after a lapse of 17 years.

2.14 In pursuance of the recommendations made by the Eighth Conference of the Inspectors General of Prisons and also by Dr. W. C. Reckless, the Government of India appointed the All India Jail Manual Committee in 1957 to prepare a model prison manual. The All India Jail Manual Committee was also asked to examine the problems of prison administration and to make suggestions for improvements to be adopted uniformly throughout the country.

2.14.1 The Report of the All India Jail Manual Committee 1957-59 and the Model Prison Manual prepared and presented by that Committee to the Government of India in the year 1960 are commendable documents on prisons. They not only enunciate principles for an efficient management of prisons but also lay down scientific guidelines for corrective treatment of various classes of offenders. The committee examined the laws affecting the custody and treatment of offenders and suggested amendments to provide a legal base for correctional work. While laying down the guiding principles for prison management the committee wrote:

The institution should be a centre of correctional treatment, where major emphasis shall be given on the reduction and reformation of the offender. The impacts of institutional environment and treatment, shall aim at producing constructive changes in the offender, as would be having profound and lasting effects on his habits, attitudes, approaches and on his total value schemes of life.

2.14.2 The committee made a forceful plea for providing a net-work of diversified institutions for different categories of prisoners in order to fulfil appropriate requirements of security and treatment for them. It also recommended introduction of a scientific system of classification based on a careful study of a number of factors including offenders' personal background and their response to institutional treatment. The committee recommended various measures relating to accommodation, buildings, equipment, education, work and employment, discipline and prison management. The establishment of a Central Bureau of Correctional Services was strongly advocated. The committee further suggested that correctional administration should be given due place in the Five-Year Plans of the country.

2.15 In pursuance of the recommendations made by Dr. W. C. Reckless and also by the All India Jail Manual Committee, the Central Bureau of Correctional Services was set up under the Ministry of Home Affairs in 1961. The functions assigned to it were:—

- (i) to formulate a uniform policy and to advise the State Governments on the latest methods relating to jail administration, probation, after-care, juvenile and remand homes, certified and reformatory schools, Borstals and protective homes, suppression of immoral traffic, etc. ;
- (ii) to standardise statistical forms and collect, collate and interpret statistical data relating to prevention of crime and treatment of offenders on an All India basis;
- (iii) to exchange information between India and foreign Governments and with the United Nations;

- (iv) to promote research and staff training including establishment and control of Central Institutions (when possible), afford aid and guidance to such other institutions as undertaking studies, survey and any required research and experimentation in the field; and
- (v) to disseminate information and stimulate interest by publication of bulletins, promotion of conferences, etc., for the above purpose with a view to secure the necessary appreciation of progressive correctional methods and public cooperation for rehabilitation of offenders and prevention of crime.

2.15.1 The Central Bureau of Correctional Services followed up vigorously with the State Governments matters relating to prison reforms with particular emphasis on the implementation of the recommendations made by the All India Jail Manual Committee and the revision of the State Jail Manuals on the lines of the Model Prison Manual. In order to review the progress of implementation of these reforms it also organised an All India Seminar on Correctional Services in 1969. To ensure effective deliberations at the seminar, seven study groups were constituted each under the Chairmanship of a senior Inspector General of Prisons or other expert in the field of correctional services on the following subjects:

- (i) Review of the progress in revising the State prison manuals on the basis of the recommendations of the All India Jail Manual Committee.
- (ii) Prison programmes, classification of institutions and prisoners, education, training and treatment.
- (iii) Changes in legislation.
- (iv) Open Prisons.
- (v) Service conditions of correctional personnel.
- (vi) Probation, after-care and welfare services in prisons.
- (vii) Training and research.

2.15.2 The Central Bureau of Correctional Services also organised Inter-State Study Teams on open prisons and other correctional services.

2.15.3 The Bureau made an important contribution in the development of training facilities for prison and correctional personnel at regional level when it was able to persuade the States of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu to agree to set up a regional institute for the southern zone, which ultimately came into being in 1979 and is currently known as the Regional Institute of Correctional Administration, Vellore.

2.15.4 The Bureau organised the year 1971 as "Probation Year" all over the country. The purpose was to create a general awareness amongst the principal branches of the criminal justice system, viz., the judiciary, the police, the prosecution and the correctional administration about the use of probation as an effective non-institutional mode of treatment.

2.15.5 In 1972, the Ministry of Home Affairs, Government of India, appointed a Working Group on Prisons which presented its report in 1973. The Central Bureau of Correctional Services functioned as the base, offering all data and background and all administrative and technical services to the Working Group in drafting and finalising its report.

2.15.6 The Working Group on Prisons brought out in its report the need for a National Policy on Prisons. It suggested that government should make effective use of alternatives to imprisonment as a measure of sentencing policy.

It re-emphasised the desirability of proper training of prison personnel and improvement in their service conditions. It also made important recommendations with regard to classification and treatment of offenders and laid down principles of follow-up and after-care procedure. The Working Group emphasised that development of prisons and correctional administration should no longer remain divorced from the national development process and the prison administration should be treated as an integral part of the social defence components of national planning process. The Working Group suggested an order of priority for the development of prison administration. It recommended the inclusion of certain aspects of prison administration in the Five Year Plan, the amendment of the Constitution to include the subject of prisons and allied institutions in the Concurrent List, the enactment of suitable legislation by the Centre and the States, and the revision of State prison manuals.

2.16 In 1964 the Central Bureau of Correctional Services was transferred from the Ministry of Home Affairs to the newly created Department of Social Security, now known as the Ministry of Social Welfare. However, the Bureau continued to be attached to the Ministry of Home Affairs for various matters concerning jail administration and reform, its Director being later designated as Ex-officio Prison Adviser. In 1975, the Bureau was re-organised into the National Institute of Social Defence with the following objectives :—

- (i) to review policies and programmes in the field of social defence;
- (ii) to anticipate and diagnose social defence problems;
- (iii) to develop preventive, rehabilitative and curative policies in the field of social defence ;
- (iv) to identify and develop the instruments for realising the objectives of social defence policies;
- (v) to review and evaluate the implementation of social defence policies and programmes; and
- (vi) to develop and promote voluntary effort in social defence.

2.16.1 In keeping with the above-mentioned objectives, the functions assigned to the Institute were:

- (i) to undertake research on social defence;
- (ii) to compile, process and analyse statistics on social defence;
- (iii) to develop, promote, sponsor and undertake training/orientation in the field of social defence;
- (iv) to draft model legislation and rules in the field of social defence;
- (v) to advise the Central and State Governments/Union Territory Administrations on social defence problems and provide technical services, facilities for preparation of schemes, formulation of projects, drafting of legislation, etc.;
- (vi) to provide a forum for the exchange of information on social defence among States/Union Territories and voluntary organisations and thus to serve as a clearing house for information in the field of social defence ;
- (vii) to create public awareness on social defence problems specially in regard to preventive and rehabilitative role of the community ;
- (viii) to assist the Government of India for the exchange of information on social defence with other countries and with the United Nations or other specialised agencies ;

- (ix) to establish liaison with universities, research institutes and voluntary organisations for appropriate attention to social defence ;
- (x) to organise conferences/seminars/workshops on social defence ; and
- (xi) to bring out publications in the field of social defence, both popular and scientific.

2.16.2 The functions of the Institute are based on the premise that crime and deviance can be understood and tackled effectively only within the frame-work of the socio-cultural and economic life. The strategies in this field have to be evolved through a constant study and analysis of the field realities and factors associated with criminal behaviour, which continue to vary in space and time. Accordingly, the Institute has been concerned with a wide range of preventive, curative and rehabilitative services in various areas of social defence, including welfare of prisoners, prison reforms and administration, juvenile vagrancy, delinquency and crime, probation, beggary, social and moral hygiene, alcoholism, gambling, suicide, and drug addiction. As the subjects relating to economic and social planning as well as criminal law and criminal procedure come within the concurrent responsibility of both the Central and State Governments the Institute as an organ of the Central Government has been playing a significant role in this regard. While through the Ministry of Home Affairs, it deals with the administration and management of prisons, as a technical agency of the Ministry of Social Welfare it assists the Government in the prevention and control of juvenile delinquency, welfare services in prisons and probation and allied measures.

2.16.3 Since its beginning, the Institute has been making vigorous attempts to bring uniformity in the rules and regulations governing jail administration and to standardise services in keeping with their overall objective of the reformation and rehabilitation of offenders. The main thrust has been to incorporate the guidelines contained in the Model Prison Manual, prepared by the All India Jail Manual Committee 1957-59, in the State prison manuals and to follow up the conclusions of the Working Group on Prisons 1972-73 in the country.

2.16.4 In spite of the fact that the administration and management of prisons falls under the jurisdiction of State Governments and Union Territory Administrations, the Government of India, has, of late, been seriously concerned about the depressing prison conditions obtaining in many parts of the country. The scheme for the modernisation of prisons and improvement in the living conditions of prisoners initiated by the Ministry of Home Affairs during 1977-79 was indicative of a growing awareness for providing a thrust towards the development of prisons in keeping with certain minimum norms. This trend took a definite shape when the Seventh Finance Commission went into the question of upgrading the standards of jail administration on the basis of a comprehensive assessment of the requirements in this regard.

2.16.5 The Seventh Finance Commission in its Report of 1978, on an analysis of the material received from the Ministry of Home Affairs and the Department of Social Welfare in the Government of India and that obtained by it from the State Governments, recondensed that jails had been neglected for too long and that there had been practically no improvement in their environments or in the method of handling inmates. Although the Commission did not regard itself competent to lay down the requirements of modernisation of jails and of correctional services, it identified certain basic areas needing urgent attention. It took a view that priority should be given: firstly to ensure that adequate direct expenditure was incurred on the prisoners; secondly, to bring improvements in amenities in respect of water supply, sanitary facilities, electrification, etc. and, thirdly, to provide for the construction of additional jail capacities in States where these were found short of the minimum requirements. It

considered necessary that a norm of Rs. 3 per head for diet and Re. 1 per day per prisoner for other items like medicine, clothing, etc. should be a minimum, and that inclusive of prison overheads (not including the headquarters cost of direction and administration) a minimum of Rs. 6 per day per prisoner should be provided for in all the States. Accordingly, the Commission recommended an allocation of Rs. 48.31 crores for the States which were found backward in these respects.

2.16.6 The National Institute of Social Defence, through the Ministry of Home Affairs, has been associated with the planning and monitoring of the scheme of financial assistance to State Governments provided by the Ministry as also the schemes recommended by the Finance Commission.

2.17 Although the governments, both at the Centre and in the States, were in possession of a large number of reports and recommendations coming from Prison Reforms Commissions/Committees, Working Groups, Seminars, Conferences, etc., touching on almost every aspect relating to prisons and prisoners, not much was done because in most of the States such recommendations as involved financial implications were either dropped or deferred. Further, as a result of administrative lethargy and weakening of supervision and control, the problems and sufferings within the closed world of prisons kept on mounting and failures of the system began to surface.

2.18 Amnesty International, Civil Liberties Movement, free-lance journalists, lawyers and jurists came down heavily on the prison system and tore it thread-bare on the test of law and international standards of human dignity. The question of preservation of fundamental human rights of prison inmates was repeatedly raised in the courts of law. Prison administration came to be a subject of severe criticism in a number of judgements of the Supreme Court. The Court declared that "the writ of the Rule of Law runs within the Jail system and it (the court) shall not permit inhumanity" in the prisons. It further declared that "the judicial process will call to order the prison authorities to make them respect the fundamental rights of the appellants (Prisoners)".

2.19 The Government of India convened a conference of Chief Secretaries of all the States and Union Territories on April 9, 1979, in order to assess the gaps in the system and to lay down guidelines for standardisation of prison conditions throughout the country. This Conference made a through examination of the issues pertaining to prison administration and on the basis of the consensus arrived at the Conference, the Government of India requested the State Governments and Union Territory Administrations:

- (i) to revise their prison manuals on the lines of the Model Prison Manual by the end of the year;
- (ii) to appoint Review Committees for undertrial prisoners at the district and state levels;
- (iii) to provide legal aid to indigent prisoners and to appoint whole-time or part-time law officers in jails;
- (iv) to enforce existing provisions with respect to grant of bail and to liberalize bail system after considering all aspects of it;
- (v) to strictly adhere to the provisions of the Code of Criminal Procedure, 1973 with regard to the limitations on time for investigation and inquiry;
- (vi) to ensure that no child in conflict with law be sent to the prison for want of specialized services under the Children Act;
- (vii) to have at least one Borstal school set up under the Borstal Schools Act for Youthful offenders;

- (viii) to create separate facilities for the care, treatment and rehabilitation of women offenders ;
- (ix) to arrange the treatment of lunatics in specialised institutions ;
- (x) to provide special camp accommodation under conditions of minimum security to political agitators coming to jails ;
- (xi) to prepare a time-bound programme for the improvement in living conditions of prisoners with priority attention to sanitary facilities, water supply, electrification and to send it to the Ministry of Home Affairs for approval.
- (xii) to develop systematically the programmes of education, training and work in jails ;
- (xiii) to strengthen the machinery for inspection, supervision and monitoring of prison development programme and to ensure that the financial provisions made for upgradation of prison administration by the Seventh Finance Commission are properly utilised ;
- (xiv) to organise a systematic programme of personnel training on State and Regional level ;
- (xv) to abolish the system of convict officers in a phased manner ;
- (xvi) to mobilise additional resources for modernization of jails and development of correctional services in jail ;
- (xvii) to set up a State Board of Visitors to visit jails at regular periodicity and to report on conditions prevailing in the jails for consideration of the State Government ;
- (xviii) to examine and furnish views to Government of India on proposal for setting up of the National Board of Visitors.

2.20 While the above matter was being pursued with the State Governments and Union Territory Administrations, the Government of India considered it necessary that a comprehensive review of prison administration in the country should be made and suitable measures for its improvement suggested and hence, they, in July, 1980, constituted this Committee.

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CHAPTER III

REALITIES IN INDIAN PRISONS

3.1 Prisons are, in a way, an epitome of society ; various trends in anti-social behaviour are reflected in a concentrated form in the prisons. India has, for the past few decades, been undergoing a series of social and economic transformations. Some of our social institutions like family have undergone fundamental changes. The pattern of life in rural areas has almost been metamorphosed. The growth of urbanisation and industrialisation has considerably changed the tempo of our urban life and has given rise to a number of new problems. Industrial conflicts have taken new dimensions while socio-economic and political agitations have grown both in number and magnitude. Caste, minority and various other tensions have also assumed distressing proportions.

3.2 In this fast changing social order there is a continuous interaction between the traditional value schemes and the new value premises of modernisation and technology. As a consequence of these interactions, new aspirations and value schemes have been emerging in the society. During an era of fast socio-economic changes such as our society is witnessing, there are bound to be consequential psychological changes in the patterns of human behaviour. The conflict in value systems and changes in the pattern of human behaviour are discernible in the pattern of crime and the types of offenders confined in prisons.

3.3 The characteristics of prison population, which to a large extent determine the functioning of prison system of a country, flow directly from the pattern of crime in the country. In order, therefore, to make any rational assessment of the realities of our prisons we must have before us a general view of the main features of the incidence of crime in the country.

3.4 Crime in India is showing an increasing trend. Annexure A to this chapter shows estimated mid-year population, total cognizable crime under the Indian Penal Code and the rate of crime per lakh of population during the period 1969 to 1979. This annexure reveals that there was an increase of 53.9 per cent in cognizable crime during the decade 1969—79 while the increase in population was 24.6 per cent in the same period.

3.5 The incidence of IPC crime under important heads of crime in 1969, 1974—78 and 1979 along with percentage variations over 1969, over the quinquennial average of 1974—78 and over 1978 is at Annexure B to this chapter. All heads of crime except 'criminal breach of trust' and 'counterfeiting' registered an increase in the total number of crime in 1979 over 1969, highest being under 'robbery' (117.7%) followed by 'dacoity' (110.1%), 'other IPC crimes' (99%), riots (48.5%), 'kidnapping and abduction' (39.9%), 'cheating' (37.5%), 'thefts' (37.2%), 'murder' (35.3%), and 'burglary' (9.0%).

3.6 A comparison of this increasing trend of crime in the country with the inmate population of prisons during the past some years (Annexure C attached to this chapter) reveals an intriguing and interesting situation. We find that while there is an increasing trend in the reported crime, there is an overall downward trend in prison population. This is a matter which needs study and research specially with regard to extent of crime reported, procedures for investigation, and policies of arrests and award of sentences.

3.7 According to the statistics supplied by various States and Union Territories there were 76 central prisons, 250 district prisons, 822 sub-jails, 20 special jails and 27 open jails in the country as on December 31, 1980. The sanctioned inmate capacity of these institutions was 79,544, 63,654, 26,057, 6,640 and 4,626 respectively. There were only 6 institutions for women offenders with a sanctioned inmate capacity of 975. There were 8 juvenile jails and 11 Borstal schools in the country with a sanctioned inmate capacity of 1827 and 2102 respectively.

3.8 The number of persons lodged in Indian prisons on December 31, 1980 was 1,59,692. Their category-wise distribution was as follows :

Sl. No.	Category	Male	Female	Total
1.	Convicts	63235	855	64090
2.	Undertrials	89639	2637	92276
3.	Detenus	420	15	435
4.	Criminal lunatics	297	21	318
5.	Non-criminal lunatics	1543	534	2077
6.	Civil prisoners	249	2	251
7.	Others	236	9	245
		155619	4073	159692

3.9 Of the convicts, 984 were below the age of 16 years ; 4,845 were in the age group of 16 to 21 ; 21,583 in the age group of 21 to 30 ; 21,361 in the age group of 31 to 40 ; 9,973 in the age group of 41 to 50 ; 3,997 in the age group of 51 to 60 ; and 1,347 were 61 years or above.

3.10 The offence-wise distribution of these convicts was as follows :

Sl. No.	Category of offence	Total
	Under IPC	
1.	Murder	25698
2.	Culpable homicide	3419
3.	Rape	811
4.	Kidnapping and abduction	505
5.	Dacoity	3793
6.	Robbery	1707
7.	Burglary	7567
8.	Theft	6126
9.	Riot	489
10.	Criminal breach of trust	335
11.	Cheating	602
12.	Counterfeiting	198
13.	Others	3600
	Total (i)	54850

Sl. No.	Category of offence	Total
Under local and special laws		
14.	Arms Act	962
15.	Opium Act	764
16.	Gambling Act	625
17.	Excise Act	1413
18.	Prohibition Act	1689
19.	Explosive and Explosive Substances Act	220
20.	Suppression of Immoral Traffic Act	66
21.	Motor Vehicles Act	296
22.	Customs Act	145
23.	Prevention of Corruption Act	217
24.	Indian Railways Act	2843
Total (ii)		9240
Grand total (i) + (ii)		64090

3.11 The number of prisoners sentenced to rigorous imprisonment of varying lengths was 59,586, of which 58,958 were men and 628 women. The number of prisoners sentenced to simple imprisonment of varying lengths was 4,504 of which 4,277 were men and 277 women.

3.12 The distribution of 59,586 convicts sentenced to rigorous imprisonment by length of sentence was as follows :

Length of sentence	Male	Female	Total
Upto 6 months	7941	123	8064
More than 6 months upto one year	10700	76	10776
More than 1 year upto 3 years	5264	43	5307
More than 3 years upto 5 years	4303	36	4339
More than 5 years upto 7 years	3235	28	3263
More than 7 years upto 10 years	1808	15	1823
More than 10 years upto life imprisonment.	25707	307	26014
Total	58958	628	59586

3.13 The distribution of 92,276 undertrial prisoners on the basis of the period spent in prisons as on December 31, 1980 was as follows :

Upto one month	33910
1 to 3 months	21758
3 to 6 months	21030
6 to 12 months	8608
1 to 2 years	4499
2 years and above	2471
Total	<hr/> 92276 <hr/>

3.14 During our visits to various prisons in the country we noticed that a majority of the persons lodged in prisons consisted of people belonging to the under-privileged sections of the society. It is felt that persons who have means and influence generally manage to remain beyond the reach of law even if they are involved in violation of the law. We also noticed that majority of the prison population was from rural areas with agricultural background.

3.15 Another feature of the prison population is that a large number of persons coming to prisons consists of first offenders involved in technical or minor violations of law. Such offenders, by and large, need no incarceration from reformatory point of view. However, inspite of various provisions in law, such as probation, for diversion of such offenders from institutisnal treatment to treatment in the open community they continue to be sent to prisons in large numbers.

3.16 More than half of the total prison population in the country consists of inmates awaiting or standing trial. They languish in jails unnecessarily because of delay in trials and their failure to furnish necessary security for getting a bail. They constitute more than 60% of the total inmate population. The presence of such a large number of undertrial prisoners is the main reason for overcrowding in prisons resulting into multiple problems for prison administration—smuggling of contrabands, indiscipline, violence and diversion of prison staff to routine jobs of searches, distribution of food, interviews, locking and unlocking.

3.17 Overcrowded prisons tend to be unmanageable on correctional lines. In some of the States prison barracks are so overcrowded that inmates have to sleep in shifts. Under such conditions, custody of inmates becomes the primary, and probably the only, concern of the staff and even the care and welfare of inmates is neglected. The frequent influx of large number of agitators further worsens the situation and aggravates the problem of prison management.

3.18 Conditions of living in most of the prisons are sub-human. Overcrowding of inmates and dilapidated condition of prison buildings render sanitary conditions and the state of personal hygiene extremely bad. Shortage of water supply, open drainage system, conservancy latrines and dearth of scavengers make prison environs unbearable in a large number of institutions. Since the system of quarantine is not effectively followed, a number of contagious diseases brought by new-comers easily spread in overcrowded barracks.

3.19 We found that at present a mass approach towards various problems of prisoners is in vogue. To facilitate the development of different types of correctional approaches

the inmate population has to be classified on scientific basis into homogeneous groups. We observed that there is no clarity regarding the contents of correctional treatment programmes amongst prison personnel at various levels. In the absence of such clarity, certain activities in prisons are equated to treatment programmes. It is our opinion that this confusion is a major hurdle in the development of proper programmes of correctional treatment in the prisons in the country.

3.20 The Committee was shocked to find that all categories of inmates were huddled together in most of the prisons. Even women, children, young offenders and adults were not effectively segregated. There is absence of proper classification of prisoners and diversification of institutions to facilitate treatment of prisoners according to their needs.

3.21 The Committee has felt special concern about the plight of women, children and young offenders in prisons. In the entire country there are only six institutions for the confinement and treatment of women offenders. Most of the States have only a section of one of the central or district prisons for keeping women prisoners under the overall control of male staff. There is utter lack of proper treatment programmes for them. Their stay in enclosures right inside the prison meant for male prisoners often exposes them to all sorts of undesirable risks.

3.22 The presence of destitute, vagrant and delinquent children in prisons of some States was shocking. We found that in some prisons destitute children of even five years of age were kept. It is surprising that in a welfare State with a national policy on children and legislation for special care and treatment of delinquent, neglected and wayward children, thousands of them are confined in prisons.

3.23 It has for long been recognised that young offenders in the age group of 16 to 23 years can be redeemed from a life of crime with proper care. They require a different kind of approach in institutions specially meant for their training and treatment. Borstal Schools Acts were passed in the past for this purpose. But the implementation of the provisions of these Acts has not been satisfactory. Necessary infrastructure under these Acts has not been created to deal adequately with the problems of young offenders. There are only 11 Borstal schools and 8 juvenile jails with inmate capacity of 3929 for the treatment of young offenders in the entire country which has about 16800 young offenders in this age group. Eight States and all the nine Union Territories have no Borstal schools or juvenile jails. As a result, most of the young offenders are confined in prisons with adults and are, thus, exposed to the degenerating impact of prison atmosphere.

3.24 Inadequate medical services and the absence of psychiatric services in prisons add to the difficulties of prison administration. There is a lack of proper facilities for segregation and treatment of inmates suffering from infectious diseases and mental disorders. While the lot of average prisoner leaves much to be desired, that of the criminal lunatic is much worse. These individuals are huddled together under the most unhygienic conditions, totally uncared for and quite frequently ill-treated. Psychiatric treatment is afforded in a very few jails and, therefore, in most jails these inmates, bereft of reasoning and with poor capacity of communication, are neglected more than the normal prisoners. Some of the criminal lunatics have stayed in the prisons for more than 20 years without their trial having even begun.

3.25 In some jails there are mentally ill persons who have not committed any crime. The State does not provide adequate psychiatric services and so these "wandering and dangerous lunatics" (section 13, Indian Lunacy Act) are sent to jails and kept there indefinitely. These unfortunate non-criminal lunatics receive hardly any treatment and are under the care of persons untrained in psychiatric methodology. They are exposed to the unhealthy environment of prisons, and are deprived of the care and treatment which any mental hospital in the country could provide.

3.26 The existing prison buildings are not functionally suitable. Most of them were constructed with the point of view of custody but even such buildings are by and large in a dilapidated condition. It is particularly difficult in these buildings to adhere to the basic standards of security and discipline ; they do not even meet the basic requirements of life compatible with human dignity.

3.27 Prison industries and work programmes are archaic and devoid of any rehabilitative value for inmates. Industrial equipment and manufacturing processes are generally crude, and modernisation of prison industries has not received any attention. The jobs are monotonous and the incentives to work are either absent or very meagre. In a number of district prisons there are no industries at all and the inmates just idle away their time doing nothing. Our impression about prison industries and work programmes is that they are ill planned, antiquated, wasteful and unproductive and are little suited to equip inmates with any useful skill which would help them in finding gainful employment after their release.

3.28 Some useful corrective programmes initiated by imaginative prison personnel in the past are now fading into disuse. Even such purposeful institutions as open prisons have deteriorated, offering hardly any incentive even to long term prisoners. Mismanagement of these institutions has resulted in the loss of their basic character as a progressive measure for reformation and rehabilitation of prisoners.

3.29 The facilities of leave and remission which were designed as incentives to offenders for improving their conduct during their stay in the prison have also degenerated into meaningless routines.

3.30 The predicament of life convicts is much worse. The insertion of section 433A in the Code of Criminal Procedure, making it mandatory for most of the lifers to serve at least 14 years of actual imprisonment before being considered for premature release, has had an adverse effect on them. It has damped their spirits for improving their behaviour and work skills. A recent ruling of the Supreme Court of India that the period spent by lifers in custody during investigation, enquiry or trial shall not be set off against their sentence has further aggravated their plight.

3.31 During our visit to various prisons in different States and Union Territories, and during our interviews and discussions with inmates and staff, complaints were made to us regarding corruption and malpractices in prisons and maltreatment of prisoners. It was alleged that trafficking in drugs, use of intoxicants, favouritism, unwarranted use of force, and deprivations are common things in our prisons. The prison staff has generally become callous and insensitive. It even uses bad characters, hardened criminals and 'dadas' in perpetrating atrocities on other prisoners and indulging in corrupt practices. The institution of convict officers only helps in perpetuating these nefarious and objectionable activities. The common prisoner generally makes no complaints for fear of reprisal from the staff. There is no effective system or machinery for looking into even the genuine grievances of prisoners.

3.32 On a number of occasions, prisoners have gone on strike and have resorted to riots in several States during the past some years to press their demands for better prison conditions and for redressal of their grievances. They have struck work in the factories and have assaulted prison personnel to demonstrate their anger against corruption, malpractices and mal-treatment.

3.33 The condition of sub-jails and police lock-ups is extremely deplorable. A large number of these institutions have no arrangements even for the basic needs of life. They are the most neglected institutions of the criminal justice system.

3.34 The Committee found that there is no one to help or guide prison inmates on legal matters affecting their criminal cases in law courts. A number of inmates just cannot afford a lawyer because of their poverty. Even at places where there are voluntary Free Legal Aid Societies, the communication gap between them and the needy inmates renders such societies ineffective.

3.35 The organisational structure of the department of prisons in various States and Union Territories is not only divergent but is also inadequate and ineffective. The scope of functions of the department differs from State to State. Adequate attention has not been paid to develop prison service as a career service. It was observed that training programmes in most of the States have deteriorated very much and do not serve the purpose in view. Consequently, there is an acute shortage of professionally qualified and trained prison personnel who could properly understand their job requirements and help in achieving the objectives of the department. Even where sufficiently senior departmental officers are available, the prison department is generally headed by officers from other services including the police. Consequently inspections of prisons have become nominal, infrequent and ineffective, and provide little professional guidance or leadership to staff. Conditions of service in the department are so unattractive that persons of requisite qualifications and talents do not come forward to join the prison service. Discipline and morale of prison personnel are very low. There is lot of dissatisfaction amongst them. The accumulated discontent of prison staff has on several occasions erupted in the form of strikes and agitations during the past some years.

3.36 The organisation and administration of prisons in the country is still governed by the antiquated Prisons Act of 1894. It has not undergone any substantial change during of the past almost one century. The provisions of this Act do not meet the needs of contemporary correctional thinking. Most of the States and Union Territories have not revised even their jail manuals in accordance with the provisions of the Model Prison Manual.

3.37 The Committee observed lack of coordination among the police, prosecution, judiciary, prisons and probation. There is no common forum at district, state or national level where field staff or policy planners of these inseparably related branches of the criminal justice system could meet and discuss common problems periodically.

3.38 The institution of prison visitors was created long back and it was expected that official and non-official visitors will regularly visit prisons and apprise the Inspectors General of Prisons and the Government about the conditions prevailing there. We are, however, distressed to record that the system of prison visitors has become almost defunct in most of the States and Union Territories. At many places boards of visitors have not been constituted and at places where such boards exist they seldom visit prisons.

3.39 Voluntary public participation by welfare organisation in the treatment and correction of offenders cannot legitimately be expected when the Government institutions set up for the purpose do not themselves feel interested in the achievement of departmental objectives. Any attempt by voluntary agencies to extend their services for the welfare of prisoners is looked upon with suspicion by prison personnel. They construe such attempt as intrusion in the administration of prisons and are afraid that involvement of voluntary organisations in prison programmes might expose their mismanagement and weaknesses.

3.40 After an overall view of the existing conditions in prisons, we are constrained to record that prison organisation in India does not conform to the required standards of a correctional department. As has come to the knowledge of the Committee through its visits to prisons in various States and Union Territories and through other methods of study, the existing prison organisation in the country is in disarray and is not properly equipped to achieve its objectives.

3.41 It is not that thought was never given in the past to the maladies of the prison system of our country. In the preceding chapter we have given a brief history of prison reforms. During our deliberations we have examined and made use of a number of invaluable suggestions and recommendations made by various committees/commissions constituted in the past at state and national levels to reform the system. At relevant places in this Report, we have quoted or reiterated these suggestions to emphasise the need and necessity of their implementation. It is unfortunate that during the intervening long period these recommendations have generally not been implemented due to lack of will on the part of State Governments and Union Territory Administrations. This demonstrates lack of seriousness about prisons reforms which constitute a pressing need of an awakened society. We must here mention that inspite of various attempts made in the past by the Ministry of Home Affairs, Government of India, the work of development of prisons and correctional programmes on scientific lines has not been included in the Five Year Plans.

3.42 We have discussed in detail, in subsequent chapters, the problems faced by prison administration in the country and have made specific recommendations to remedy its maladies. We have also proposed, in a separate chapter, a plan of action for effecting improvements in prison administration.

3.43 The Indian prison system is in a state of crisis. We would like to emphasise that the dimensions of the problems faced by our contemporary prison system are such as require prompt and effective action. However, before embarking upon the task of making detailed recommendations in subsequent chapters, we would like to broadly identify the pre-requisites for an efficient and efficacious prison system in which it would be possible to achieve the modern objectives of punishment through a correctional approach.

3.44 Protection of society as an objective of punishment has been universally accepted and this can be achieved through reformation and rehabilitation of offenders. A large number of offenders who are sent to prisons do not stand in need of therapeutic correctional treatment; they are as normal as the citizens outside the prison world. Therefore, they need only to be protected from the harmful effects of exposure to prison life. There is another category of offenders, however small, who do not respond to any kind of correctional treatment; such hardened, habitual, dangerous, recidivist prisoners have to be kept out of circulation for a longer time. The rest of them, however, need and deserve a treatment which would bring them out of the life of crime and resettle them in the community as normal citizens. A progressive prison system has, therefore, to operate keeping in view the aforesaid two aspects, viz., the protective aspect and the corrective and rehabilitative aspect.

3.45 The foundations of a progressive prison system have to be laid through certain essential pre-requisites. Having visited various prisons in the country and having discussed the problems of prison administration with prison personnel and other persons, we have come to the conclusion that unless certain conditions essential for a good prison system are created, prison administration as it exists in our country at present cannot function efficiently; it cannot protect prisoners from the harmful effects of life in prisons and it cannot claim that it is operating as an effective correctional system. It is our considered view that before thinking in terms of making our present prison system conducive to the achievement of desired objectives, certain basic pre-requisites have to be ensured to constitute the foundations on which the Indian prison system can be re-structured. Some important pre-requisites are identified as follows:—

3.45.1 The objectives of punishment, namely, protection of society and reformation and rehabilitation of the offender as have been emerging during modern times are not empty slogans. Since times immemorial crime has been a social problem, and social problems cannot be tackled merely through legislation or pronouncement of laudable objectives. Unless a large section of the society believes in the reformatory and rehabilitative approaches, a progressive and modern system of prisons cannot become a reality. Public opinion

has to be built up in such a way that people accept that rehabilitation of wrong-doers in society as useful social units will, in the long run, be in the interest of the society itself. This can be achieved through the education of people regarding the all pervading implications of crime as a social and economic problem. People must be informed about the progressive and modern methods of dealing with the wrong-doers. Only when people are oriented and educated on these lines that a positive and wholesome culture favourable for the rehabilitation of offenders will permeate the society. Without such a favourable culture the prison system, howsoever modern and progressive, will not be able to achieve the desired results. We therefore, recommend that a regular plan aiming at creating a favourable rehabilitation culture in the society should be drawn up and implemented by the prison administration.

3.45.2 Crime is a social problem and the rehabilitation of offenders necessarily involves social work and social welfare approach. Social work succeeds only when people have intrinsic faith in it. People at the helm of affairs, the intelligentsia, the law-makers, those responsible for laying down prison policies, prison administrators, prison visitors, other components of the criminal justice system namely, the police, the prosecution and the judiciary, voluntary organisations working in the field of after-care of released prisoners, members of the Bar, and other persons and organisations connected with the prison system must necessarily have faith in the improbability of human beings. We recognize that such a faith cannot be built overnight. It takes decades of conscious effort to build up such a positive faith. During the course of our visits to the states and Union Territories, we did meet some people who believed that our prisons should adopt modern and progressive approach and techniques for dealing with offenders. These persons were some Members of Parliament, members from the Bar, some retired police officers and some eminent social workers. We are, however, constrained to record that at the higher echelons of governmental hierarchy there was a near total absence of anxiety about treating prison work as an area of social work needing a specialised approach. We strongly recommend that the Government of India should provide effective and forceful leadership in this field to state Governments and Union Territory Administrations. We believe that strong faith in the improbability of human beings, effective will and determined administrative action are essential for improving our prison system.

3.45.3 In the most of the prisons, corruption has become a way of life and inmates believe that without taking recourse to corrupt practices they cannot cope with the culture that prevails in and outside prisons. Needless to say that where such conditions prevail, corrective processes will not be effective at all. In fact corruption in prisons not only corrodes the whole prison system but also creates an atmosphere of total degeneration, affecting the thought processes of prisoners adversely. A prison system can effectively save inmates from dehumanizing experiences and can help in their ultimate rehabilitation in the society only when it is clean and purposeful. Each State and Union Territory should, therefore, immediately identify the areas of prison administration where corruption is rampant and take suitable measures to root this evil out.

3.45.4 Scientific approach towards treatment of offenders has not yet been accepted and adopted by prison administration anywhere in India. The techniques of psychotherapy, social work and social implantation should be adopted in prisons, depending on the requirements of individual cases of offenders. These techniques should be applied in a concrete and purposeful manner. Personnel with expertise and specialisation in these areas should be inducted in prison services.

3.45.5 Despite the multiplicity of functions and responsibilities of prison personnel and the complexities of prison work, the principles of modern management have not yet been introduced in any prison in India. Prisons are run on archaic methods of management. We, therefore, recommend that a special study of every institution and of the prison system as a whole in every State and Union Territory should be undertaken by management experts and a plan should be drawn up for introduction of modern principles of management

in the entire correctional system right from the office of the Inspector General of prisons to the remotest sub-jail in the State/Union Territory.]

3.45.6 Overcrowding, whether periodic or chronic, adversely affects prison management. Decongestion of prisons should, therefore, receive high priority in all States and Union Territories.

3.45.7 To become an efficient unit and a centre of protection and correctional treatment a prison must essentially be a manageable unit. Without this, homogeneous grouping of prisoners for individualization of treatment will not become a practical proposition. We, therefore, recommend that the norms suggested by the All India Jail manual Committee regarding maximum population of a central prison (750) and that of a district prison (400) should be adopted by every State and Union Territory.

3.45.8 Living conditions of inmates have an important bearing on the protective and rehabilitative roles of prisons. Where conditions of living are sub-human, it would be practically impossible to organise any programme for the reformation and rehabilitation of offenders. We are, therefore, of the strong view that the living conditions in prisons must be improved and should be compatible with human dignity.

3.45.9 Training of prison personnel has remained woefully neglected in India. A cadre of devoted prison personnel, with positive attitude and faith in the improvability of offenders, can be created only if properly planned basic initial training and refresher courses are organised for them. A positive and constructive staff attitude is essential not only for bringing about all-round efficiency but also for developing prisons as centers of protection and correctional treatment. ✓

3.45.10 Deep dissatisfaction prevails among prison personnel regarding long hours of duty, low pay scales and other poor conditions of service. A dissatisfied group of prison personnel having their own problems can hardly function effectively in areas such as re-education, guidance, counselling, behaviour modification and implantation of new and wholesome values among offenders. Improvement of service conditions and creation of a sense of satisfaction and security among prison personnel of all categories are factors essential for putting the prison system on a sound and efficient footing.

3.45.11 We had the occasion to discuss prison problems with senior prison administrators in the secretariate of States and Union Territories and except in a few cases we found that generally persons at the helm of affairs did not have a full grasp and appreciation of the problems faced by the prison administration. But for making certain general and platitudinous statements these persons could not make any significant contribution in terms of suggesting solutions to the chronic problems of prison administration. This is indicative of a very casual and superficial approach to problems of prisons at the level of policy formulation in most of the States and Union Territories. In order that the ministers, legislators and senior administrators dealing with prisons might have full grasp and correct perspective of the present situation in prisons, the problems faced by the system and their possible solutions, the government should regularly organise seminars, conferences, study tours, etc., for them.

3.45.12 State Advisory Boards for prisons assist the State Governments/Union Territory Administrations in formulation of prison policies. Such boards have not been set up in many States and Union Territories. Even where such boards have been set up, they are not functioning properly. There is no uniformity either in the constitution of these Advisory Boards or about their objectives and functions. Board meetings are few and far between, and there is almost no follow-up of the decisions taken. Constitution and strengthening of such boards will go a long way in the formulation of appropriate prison policies by the State Governments and Union Territory Administrations.

3.45.13 Internal and external audit are important tools for improving efficiency of institutions like prisons. We strongly recommend that the system of concurrent/internal audit and comprehensive audit by the organisation of the Accountant General should be established for every prison. This is essential not only for ensuring proper financial discipline and control but also for minimising corruption in the department.

3.45.14 Regular and thorough inspection of prisons is necessary to improve the tone of their management. Inspection is not merely a fault finding procedure. Inspecting officers should locate where the system has failed and suggest necessary remedial measures. Our general observation about the existing system of inspections is that it has become diluted and weak, the so-called inspections of prisons having become a mere ritual. In some States even this ritual is not observed. Sometimes a mere visit to a prison is now equated to an inspection. The difference between any such casual visit and a thorough inspection needs no detailed elaboration. If prisons have to be improved the system of thorough inspections has to be introduced. We recommend that daily inspection of the prison by the prison superintendent and periodical inspections by the Deputy Inspector General of Prisons and the Inspector General of Prisons should be made statutory responsibilities. Detailed guidelines for inspection of prisons, the frequency of inspections, the points and the areas to be inspected, the areas for development of a prison as centre of protection and correctional treatment, follow-up action on inspection reports, etc., should be incorporated in statutory rules. Senior officers who fail in the performance of their duties of inspection should be severely dealt with as we believe that weakening of the system of inspections is one of the main reasons for the present malaise in our prisons.

3.45.15 Protective and correctional objectives of prisons can be achieved only when an atmosphere of wholesome opportunities surcharged with positive values is created in these institutions and prisoners are exposed to such an atmosphere. In Chapter X on 'Treatment Programme's we have discussed as to how such an atmosphere can be created in an institution like the prison.

3.46 It is our firm belief that the development of Indian prison system on the desired lines would be possible only if the Government of India, the State governments and Union Territory Administrations accept these pre-requisites as tenets of inspection faith and base prison policies on them.

INCIDENCE OF COGNIZABLE CRIME UNDER THE INDIAN PENAL CODE AND POPULATION IN INDIA 1969 to 1979

Sl. No.	Year											Estimated mid-year population in millions	Total cognizable crime under the Indian Penal Code	Rate of crime per one lakh of population
1	2											3	4	5
1.	1969	.	.	.	.	.	.	.	.	.	.	522.5	845167	161.8
2.	1970	.	.	.	.	.	.	.	.	.	.	534.3	955422	178.8
3.	1971	.	.	.	.	.	.	.	.	.	.	551.2	952581	172.8
4.	1972	.	.	.	.	.	.	.	.	.	.	563.5	984773	174.8
5.	1973	.	.	.	.	.	.	.	.	.	.	575.9	1077181	187.0
6.	1974	.	.	.	.	.	.	.	.	.	.	588.3	1192277	202.7
7.	1975	.	.	.	.	.	.	.	.	.	.	600.8	1160520	193.2
8.	1976	.	.	.	.	.	.	.	.	.	.	613.3	1093897	178.4
9.	1977	.	.	.	.	.	.	.	.	.	.	625.8	1267004	202.5
10.	1978@	.	.	.	.	.	.	.	.	.	.	638.4	1310704*	205.3*
11.	1979@	.	.	.	.	.	.	.	.	.	.	651.0	1300859	199.8
												Percentage change in 1979 over 1969. +24.6	+53.9	+23.5

@ Figures for 1978 and 1979 are based on Quarterly Crime Reviews.

* Includes figures for Assam on the basis of Crime in India 1978 as quarterly figures are not available.

SOURCE : CRIME REVIEW—1979 : Bureau of Police Research and Development, Ministry of Home Affairs, Government of India.

INCIDENCE OF CRIME, VOLUME OF CRIME PER ONE LAKH OF POPULATION AND PER-
TO 1978 AND

Sl. No.	Heads of Crime	1969	1974	1975	1976	1977
1.	2.	3.	4.	5.	6.	7.
	Total Cognizable Crime	855167 (161.8)	1192277 (202.7)	1160520 (193.2)	1093897 (178.4)	1267004 (202.5)
1.	Murder	14732 (2.8)	18649 (3.2)	17563 (2.9)	16673 (2.7)	18376 (2.9)
2.	Culpable Homicide not amounting to murder	N.A.	2514 (0.4)	2502 (0.4)	2584 (0.4)	2616 (0.4)
3.	Kidnapping & Abduction	8464 (1.6)	10543 (1.8)	11139 (1.9)	11250 (1.8)	12240 (2.0)
4.	Dacoity	6049 (1.2)	13697 (2.3)	12500 (2.1)	10910 (1.8)	12599 (2.0)
5.	Robbery	9922 (1.9)	22286 (3.8)	21656 (3.6)	17974 (2.9)	22725 (3.6)
6.	Burglary	145429 (27.8)	199878 (34.0)	192854 (32.1)	168655 (27.5)	193622 (30.9)
7.	Thefts	300140 (57.4)	436918 (74.3)	421891 (70.2)	365138 (59.5)	432049 (69.0)
8.	Riots	55796 (10.7)	80547 (13.7)	67241 (11.2)	63675 (10.4)	80449 (12.9)
9.	Criminal Breach of Trust	21118 (4.0)	22274 (3.8)	23267 (3.9)	23656 (3.9)	22868 (4.7)
10.	Cheating	12001 (2.3)	15388 (2.6)	17772 (3.29)	19588 (3.2)	19623 (3.1)
11.	Counterfeiting	739 (0.1)	718 (0.1)	951 (0.2)	887 (0.1)	7841 (0.1)
12.	Other I.P.C. Offences	270777 (51.8)	368873 (62.7)	371158 (61.8)	392907 (61.4)	449057 (71.8)

III-B

CENTAGE VARIATION DURING 1979 OVER 1969, OVER QUINQUENNIAL AVERAGE OF 1974 OVER 1978

1978*	Quinquennial average 1974-1978 (Q.A.)	1979*	Percentage varia- tion in 1979 + (increase) - (decrease)		
			Over 1969	Over Q.A.	Over 1978
8.	9.	10.	11.	12.	13.
1310704 (205.3)	1204939	1300859 (199.8)	53.	+8.0	-0.7
19133 (2.0)	18079	19939 (3.1)	+35.3	+10.3	+4.2
7000 (1.1)	3443	7340 (1.1)	N.A.	+114.3	+5.4
12685 (2.0)	11571	11839 (1.8)	+39.9	+2.3	-6.7
11749 (1.8)	12292	12706 (2.0)	+110.1	+3.4	+8.1
22088 (3.3)	21345	21597 (3.3)	+117.7	+2.2	-2.2
173204 (27.1)	185659	158484 (24.3)	+9.0	-14.6	-8.5
438499 (68.7)	418898	411834 (63.3)	+37.2	-1.7	-6.1
82362 (12.9)	74855	82878 (12.7)	+48.5	-10.7	+0.6
20475 (3.2)	22512	18359 (2.8)	+13.1	-18.4	-10.3
19095 (3.0)	18292	16506 (2.5)	+37.5	-9.8	-13.6
821 (0.1)	832	465 (0.1)	-37.1	-44.1	-43.4
503513 (78.9)	417992	538872 (82.8)	+99.0	+28.9	+7.0

*Figures are provisional.

SOURCE : CRIME REVIEW 1979 : Bureau of Police Research and Development, Ministry of Home Affairs, Government of India

STATEMENT OF INMATE POPULATION IN PRISONS IN INDIA ON VARIOUS DATES

Date	Total number of inmates	Source of information
1-1-1975	2,20,146	Ministry of Home Affairs
1-4-1977	1,84,169	Do.
1-1-1978	2,11,963	Do.
31-12-1978	1,85,655	Do.
31-12-1979	1,57,824	Do.
31-12-1980	1,59,692	Statistical data collected by this Committee.
30-6-1981	1,41,761	Ministry of Home Affairs

CHAPTER IV

LEGISLATION

4.1 We are living in an age when human values and human considerations are becoming more and more pronounced in determining the approach of the state towards its subjects in all relationships including administrative contacts. In modern times human rights have assumed a new significance and perspective. The United Nations Charter of Human Rights has been adopted and endorsed by many countries. India had taken a leading role both in the United Nations System and other world forums in articulating and promoting the ideals and values of human rights, in its wider range. The Indian national movement had always been in the forefront in the cause of human rights and freedom, as a basic condition for the growth of a democratic and healthy society. Our founding fathers had enshrined fundamental rights in the Constitution of India. Through the judgements of the Supreme Court, over the years, a new perspective of prison jurisprudence is gradually taking shape.

4.2 It is recognised that crime is an important and urgent social problem. After the advent of freedom, though various social legislations have been passed with a view to tackling the different social problems of India, a progressive legislation regarding the management and administration of prisons and the treatment of prisoners has not yet been passed. We strongly feel that the absence of a progressive legislation pertaining to prison administration is one of the principal causes as to why prison administration has not yet been modernised and put on a scientific basis in our country.

4.3 The Prisons Act of 1870 was amended in 1894 and consolidated under the Prisons Act, 1894. Prison administration is governed by this Act at present. Legislation pertaining to the management and administration of prisons is scattered in different Acts as follows:—

- (i) Prisons Act, 1894.
- (ii) Prisoners Act, 1900.
- (iii) Transfer of Prisoners Act, 1950.
- (iv) Prisoners (Attendance in Courts) Act, 1955.
- (v) Indian Lunacy Act, 1912.
- (vi) Borstal Schools Acts.
- (vii) Habitual Offenders Acts.
- (viii) Civil Jails Act, 1874.

4.4 The Prisons Act was enacted during the period of British raj in the nineteenth century. For obvious reasons the policies of the then British raj were reflected in the legislation. Since the beginning of the twentieth century a lot of new thinking has emerged regarding the objectives of punishment, management and administration of prisons and treatment of offenders. The objectives and policies as reflected in the legislation formulated during the British regime have now not only become outdated and

regressive but they have also been obstructing proper development of prison administration.

4.5 The Indian Jails Committee 1919-20 identified reformation and rehabilitation of offenders as the main objectives of punishment. During the succeeding decades, especially after the advent of freedom, jail reforms committees and commissions were appointed by various States with a view to improving conditions in prisons. The thinking behind the recommendations of all these committees and commissions was mainly directed towards humanising conditions of living in prisons. Converting Prisons into centres of correctional treatment on a scientific basis was not the main thrust of the recommendations of these committees and commissions. Following the reports of these committees and commissions some sporadic measures for humanising prisons were introduced. However, the Prisons Act of 1894 remained substantially unchanged. Minor amendments made by some States to the Act have touched only the fringe of the problem. To sum up, prison legislation is not only inadequate to meet the current problems of administration and management of Prisons and treatment of offenders but is also far behind the requirements of our contemporary times.

4.6 The All India Jail Manual Committee 1957-59 had made various recommendations pertaining to prison legislation. They had recommended that the Prisons Act, the Prisoners Act and other Acts relating to prisons and prisoners should be revised and incorporated in a single unified Act to achieve basic uniformity in prison administration and that the Government of India might prepare a comprehensive Bill combining all relevant provisions connected with Prison administration. The Committee had suggested that the Bill should be circulated to all the States for adoption. Pending enactment of such a comprehensive legislation the Committee had recommended some modifications in the existing Prisons Act, 1894, Prisoners Act, 1900, and Transfer of Prisoners Act, 1950.

4.7 In accordance with the recommendations of the All India Jail Manual Committee, the Central Bureau of Correctional Services, later reconstituted as the National Institute of Social Defence, prepared draft of a new prison legislation. On the basis of this preliminary draft, a Model Prisons Bill was prepared and circulated by the Ministry of Home Affairs, Government of India, to all States and Union Territories. We have studied this Model Prisons Bill and we are of the view that this Bill will have to be expanded so that the new proposed legislation incorporates the current trends of criminological thinking about a progressive and modern prison system and lays down scientific procedures regarding training, treatment and re-education of Prisoners aiming at their re-assimilation and rehabilitation in society as useful and law-abiding citizens.

4.8 The new progressive legislation should deal with all aspects of prison management and administration and treatment of prisoners. Unless such a legal frame work is provided ad-hoc efforts towards prison reforms would not solve the grave problems and deep rooted maladies of prison administration.

4.9 The rules and regulations governing management and administration of prisons and treatment of prisoners have been embodied in the a jail manuals and executive instructions issued by the Inspectors General of Prisons from time to time for the guidance of prison personnel. The All India Jail Manual Committee 1957-59 had prepared a Model Prison Manual which was circulated in 1960 by the Government of India to all the States and Union Territories for the purpose of revision of their jail manuals. The necessity of revising jail manuals had been emphasised time and again but with little result. Twenty years later in the Conference held in 1979 the Inspectors General of Prisons expressed their concern about the failure of the State Governments and Union Territory Administrations to revise their jail manuals. The position has not changed much since then.

4.10 The position regarding revision of jail manuals in the States, as made available to us, is enclosed at Annexure A to this chapter. Some States have informed that the jail manuals have been revised while some others have stated that the work of revising the jail manuals is in progress. The fact, however, remains that the jail manuals of most of the States have not been revised and updated. Even some Union Territories are following the jail manuals of neighbouring States. In States and Union Territories where jail manuals have been revised, their provisions are not being fully implemented. Even the provisions of the unrevised old jail manuals are not being fully implemented in proper spirit in States and Union Territories where they have not been revised.

4.11 There are wide variations in prison rules and regulations in various States and the Union Territories. Concerted measures are urgently needed to establish minimum standards, uniform practices and procedures regarding the management and administration of prison and treatment of offenders through revision of jail manuals. The efforts so far made by the Government of India have not been wholly successful and there is need for greater thought in this direction.

4.12 A thorough reform of the prison law and administration at the national level will still leave unsolved certain basic problems of correctional administration and criminal justice system. Prison reform, if not accompanied by some fundamental thinking and action on the reform of the administration of criminal justice system, will not by itself achieve substantial results. The basic strategies of criminal law reform can be summed up under four rubrics: delegalization (or deregulation), decriminalisation, depenalization and deinstitutionalisation.

4.13 There exists in India a tendency towards over legislation. It is generally felt that for every social problem laws and regulations have to be enacted. The statutes provide the executive with vast rule-making powers; some of these rules even create offences and have vital bearing on correctional and criminal justice systems. Proliferation of law brings in its wake additional work for police, prosecutors, judges and prison personnel at a time when adequate manpower planning and resource outlays based on such planning do not seem possible. Over-recourse to legislation adversely affects the legal system in two principal ways. First, to the extent that a substantial number of laws remain unimplemented or unenforced, people's respect for law is likely to be diminished. Second, to the extent that the evergrowing laws are enforced, the enforcement involves, necessarily, disregard to some of the values of the rule of law including human rights. No jail administration, for example, can act in accordance with jail manual if more and more behaviours are designated criminal and entail prison sentences. In this sense also, in the long run, the image and authority of law suffer in the public mind.

4.14 Decriminalization is an aspect of deregulation. It suggests that not all activities or conduct sought to be regulated by the legal order need to be so regulated by recourse to criminal law. In other words, it invokes legislative process liberating certain conduct previously described as prohibited by criminal law. In India large areas of human behaviour are regulated by criminal law, and for every problem perceived to be a major problem new categories of offences are created. Decriminalization policies invite attention to a constant review of why certain conducts should be, and remain, criminal offences.

4.15 Depenalization invites legislative activity "by which certain criminal offences are converted into matters to be dealt with administratively or by civil agencies, thus reducing the stigmatizing effect inherent in the criminal law and easing the burden of the criminal courts". Not all behaviour needs to be controlled, or can really be controlled, by criminal law sanctions. Civil sanctions involving loss of status or of privileges or of benefit (e.g. for unfair means at examination, instead of making it a criminal offence, it may be made a civil wrong where the student resorting to it has to pay a fine or his admissions and

degrees may be cancelled); or effective censure for breach of certain norms; or cancellation of licences, permits and quotas for certain offences might prove more effective.

4.16 Even if certain conducts are to be regulated by criminal sanction, it is not necessary that the sentence of imprisonment should be the standard sentence. All over the world there is now considerable rethinking on the future of the prisons. Available empirical data suggest that the tasks of rehabilitation and resocialization may be effectively performed only if there are small and manageable prison populations, with adequate personnel and other resources, with fuller provision for after-care arrangements, and with a general spread of the culture of rehabilitation in the society as a whole. On the other hand, in the absence of these conditions prisons everywhere are regarded as criminogenic and even brutalizing systems, imposing heavy resource and moral costs on society, and serving no other useful function than a temporary incapacitation of the offender.

4.17 Desinstitutionalization means simple alternatives to prison and related institutions. Deinstitutionalization necessarily involves new approaches to penal reform. Measures of deinstitutionalization may include, as identified in the Sixth United Nations Congress on Prevention of Crime and Treatment of Offenders held at Caracas in 1980, the following:—

- (i) Pre-trial alternatives, that is, “procedures and facilities for suspending criminal Proceedings on the understanding that the offender accepts guidance or treatment from agencies outside the system of criminal justice”;
- (ii) liberalized systems of bail and sureties ;
- (iii) Sentencing alternatives (fines, suspended sentences, probation, “shock Probation” combining Probation with short periods of incarceration, mandatory reporting to prisons, community service orders and corrective labour, and periodic detention); and
- (iv) Post-judicial alternatives (e.g., conditional release, parole, half-way houses, after-cares programmes).

4.18 Even a bare enumeration of these measures of deinstitutionalization suggests viable programmes for penal reform in India. There is tremendous scope for exercise of legal imagination in this area. Deinstitutionalization will greatly help prison administration in achieving its objectives effectively.

4.19 The Committee notes with alarm the tendency towards prescription of short term imprisonment in most statutes. It has been established all over the world that short term imprisonment is neither deterrent nor corrective. Indeed, it might further criminalize short term prisoners who constitute a large percentage of prison population. The Committee draws attention to the proposed amendment to section 53 of the Indian Penal Code suggested by the Report of the Joint Committee on the Indian Penal Code (Amendment) Bill, 1972. The amendment suggests in addition to imprisonment, alternatives such as

- (i) community service;
- (ii) disqualification from holding office;
- (iii) order of payment of compensation;
- (iv) forfeiture of property;
- (v) fine; and
- (vi) public censure.

4.20 This very laudable attempt, which needs to be carefully examined and expanded in the light of penological literature, at providing an alternative structure of non institutional sentences has yet to be approved by the Indian Parliament. All these measures are intended to ensure a policy of deinstitutionalisation, which is now accepted as a major goal of civilised criminal justice system everywhere, as evidenced by the deliberations and resolutions of the Sixth United Nations Congress on Prevention of Crime and Treatment of offenders. Measures of this kind help to minimise the staggering overloaded on correctional institutions and equip them better to handle the short and long term rehabilitative objectives.

4.21 In addition, measures such as release on probation, payment of fine through instalments or through the employer or through work in work centres, etc., offer possibilities as alternatives to short term imprisonment. Work in attendance centres or in work camps can also be a viable alternative to short term imprisonment. We are of the view that all such alternatives to short terms of imprisonment should be explored and incorporated in the criminal law. Details in regard to new concepts such as community service, work centres, etc., may have to be worked out so that they become practical propositions. Adequate and effective infrastructure for the implementation of these new approaches will also have to be established in all these fields.

4.22 Section 303 of the Indian Penal Code lays down that whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death. We have given thought to the provisions of this section and are in agreement with the opinion of the Joint Committee on the Indian Penal Code (Amendment) Bill, 1972 that "there should not be a provision to the effect that a sentence of death should invariably be passed on a person who committed a murder while under sentence of life imprisonment and the question whether in such a case a sentence of death or imprisonment for life should be awarded would depend upon the circumstances of the case and left to the discretion of the court". Accordingly as suggested by the Joint Committee, section 303 of the Indian Penal Code should be deleted and its provisions brought suitably under section 302.

4.23 (a) Section 302 of the Indian Penal Code says that whoever commits murder shall be punished with death or imprisonment of life and shall also be liable to fine. Since this section prescribes death as one of the punishments, a person, sentenced to imprisonment for life under this section, has necessarily to stay in prison for 14 years in view of the provisions of section 433 A of the Code of Criminal Procedure. We have discussed in detail the question of treatment of prisoners sentenced to life imprisonment in Chapter XVI of our Report and have observed that incarceration for 14 years is not necessary from the point of view of the protection of the society and will totally destroy the chances of reformation and rehabilitation of offenders in almost all cases. In view of this position we are of the view that section 302 of the Indian Penal Code should be suitably amended so that it is only in cases with extremely aggravating circumstances that death is prescribed as one of the punishments. In this regard we agree with the amendment of section 302 of the Indian Penal Code suggested by the Joint Committee. However, we feel that even after the amendment of section 302 of the Indian Penal Code there would be need for suitable amendment of section 433A of the Code of Criminal Procedure. It is not unrealistic to say that some prisoners, who might be sentenced to imprisonment for life under sub-section 2 of the proposed section 302 of the Indian Penal Code, would respond to the treatment in prisons and their release before 14 years of actual imprisonment would not constitute any danger to the society; on the other hand it may be helpful in their re-assimilation and rehabilitation in the society. Therefore, even after the amendment of section 302 of the Indian Penal Code, amendment of the section 433A of the Code of Criminal Procedure as recommended by us elsewhere would be necessary.

(b) When section 302 of the Indian Penal Code is amended as suggested in sub-para (a) above, it will prescribe punishments for two degrees of murder: (i) murder in which

imprisonment for life would be retained as a maximum punishment; and (ii) murder with highly aggravating circumstances in which death would be one of the punishments. In this regard we feel that under the first category, imprisonment for life should not be a mandatory punishment. There might be some cases under this category in which a punishment less than imprisonment for life could meet the ends of justice. Therefore, courts should be given discretion to impose imprisonment for a lesser term in suitable cases under this category. While amending section 302 of the Indian Code this should also be kept in view.

(c) As the law is interpreted by the courts today the sentences of imprisonment for life means incarceration till death unless the appropriate Government exercises its discretion under section 432 of the Code of Criminal Procedure for premature release. Thus there is an element of indefiniteness about the maximum period which a person sentenced to imprisonment for life has to spend actually in the prison. In any case under the present law it cannot be less than 16 to 19 years including the period spent under custody during investigation, inquiry or trial. We feel that the imprisonment for life should be imprisonment for a fixed term extending over a reasonable period of time which may be determined by the legislature and incorporated in the Indian Penal Code. This will also help persons sentenced to imprisonment for life in getting benefit of section 428 of the Code of Criminal Procedure.

4.24 The Code of Criminal Procedure has been substantially amended. But despite the far reaching amendments to this Code a large number of undertrial prisoners are detained in prisons in many States for years together. It, therefore, needs to be examined whether the amended Code of Criminal Procedure has been fully implemented and that too in the proper spirit in various States.

4.25 The addition of section 433 A to the Code of Criminal Procedure has cast a dark shadow on the lives of prisoners sentenced to life imprisonment. A person convicted after December 18, 1978 and sentenced to life imprisonment cannot now normally hope to be released earlier than 14 years of actual imprisonment. This means that the remission system which is expected to function as an incentive for good behaviour, self-discipline and reformation, has no meaning to this group of prisoners. This has created many typical problems for prison administration. Lifers now interpret that life imprisonment is virtual entombment for 14 long years in prison. This feeling has killed all the hopes and initiative of lifers. They have no interest in prison programmes such as work, vocational training, education, etc. Bereft of all hopes for their future life they are simmering with discontent. They harbour antifeelings towards everything around them. In a decade or so a large block of lifers sans all hopes for early and premature release on the basis of their good behaviour and self discipline will get concentrated in prisons all over India. It will be naive to expect that lifers hereafter will be interested in their self-improvement and social re-education. A chronic discontent amongst lifers, apart from having adverse effects on prison discipline and morale, is bound to explode into violent prison riots.

4.26 The Committee recognises that there existed two reasons for enacting section 433 A, Code of Criminal Procedure.

(i) It enabled judges in case of capital offences to give a substantial life sentence in lieu of death sentence; in that sense section 433 A was pro-abolitionist measure.

(ii) It tried to take care of many an aberration created in the exercise of remission powers by the Executive which sometimes resulted in persons sentenced for life in lieu of death sentence being released even before they had served 8 to 10 years, and sometimes much less, for their crimes.

4.27 The Committee, however, feels that in achieving the objective of correcting aberrations either in sentencing or in remission policies, or in both, section 433A of the Code

of Criminal Procedure has ultimately had the effect of sacrificing the values of reformation and rehabilitation of lifers altogether. It is the experience of correctional administrators that the peak point of improvement in the thought processes and patterns of behaviour of a lifer can be achieved in about 5-7 years in a prison set-up. After the peak points have been reached supportive therapy has to be extended to the inmate. Once a lifer has necessarily to stay in a prison for 14 years all the theories of correctional work, operational theories of behaviour, theories of social implantation and re-education completely collapse. Keeping all lifers, irrespective of their social background, circumstances of their crime and their response to corrective treatment in prison for 14 long years is indicative of nothing but a starkly negative and retributive approach.

4.28 The causes of crime are multiple and diverse. Crime is a product of an individual's personality factors and environment. There are short sequences for certain crimes and some crimes have long sequences. Some crimes are committed on the spur of the moment i.e. in the heat of passion of the moment. Even murders are committed in the heat of passion and in a fit of anger and emotion. Correctional administrators testify to the fact that most of the lifers behave normally in the prison. So, to presume that every lifer is a dangerous criminal is symptomatic of a non-scientific outlook. One of the main principles of the scientific approach is the study of the offender's social, family, economic and other backgrounds. Clues regarding the sequence of his criminal behaviour have to be found out and through these clues the process of his involvement in crime has to be understood. On the basis of such an understanding, diagnosis and prognosis about the criminal behaviour of the offender have to be made. Such a scientific individualised approach towards lifers has now become impossible. In fact, under the provisions of section 433A all lifers will be treated en bloc as dangerous criminals who should not be released earlier than 14 years of actual imprisonment. Most regrettably, we state that this section has put the wheels of prison reforms in reverse gear in India at least by a century in so far as lifers are concerned.

4.29 During our visits to various States, hundreds of lifers represented to us that they were not at all interested in going to open prisons. Prisoners who were already in open prisons stated that they did not want to remain in open prisons as the remission awarded to them in the open prisons would have no effect on the date of their release. This is indicative of the extent to which the hope of the lifers has been extinguished due to the retributive content of section 433A of the Code of Criminal Procedure. In the light of the representations made to us by lifers we apprehend that open prisons may have to be closed in the near future. This would mean that in the system of diversified institutions the approach of open prisons which constitutes a very desirable and progressive step in the treatment and reformation of prisoners may have to be discarded and the Indian prison system may have hereafter to reply only on closed prisons.

4.30 Section 428 of the Code of Criminal Procedure lays down that where an accused person has, on conviction, been sentenced to imprisonment for a term, the period of detention, if any, undergone by him during investigation, inquiry or trial of the same case shall be set off against the term of imprisonment imposed on him. In a recent judgement (Criminal Writ Petition No. 3226 of 1981; Kartar Singh and others Vs. the State of Haryana) the Supreme Court have observed that the period spent under detention during investigation, inquiry or trial by a person sentenced to life imprisonment will not be set off and such period will not count as sentence served in case of life imprisonment. Cases of murder are generally decided in two to five years. As the law stands today, a prisoner sentenced to life imprisonment has necessarily to put in 14 years in jail as provided in section 433A of the Code of Criminal Procedure. The ruling of the Supreme Court would mean that generally a lifer would have to undergo 16 to 19 years of actual incarceration. If we really mean to reform prisoners to enable them to be reabsorbed in society after release, putting them in prisons for such a long period would be against all canons of correctional approach. We, therefore, feel that section 428 of the Code of Criminal Procedure should be suitably amended so that the period spent by an under-trial in detention during inquiry, investigation or trial could be computed as sentence served in case he is sentenced to life imprisonment.

4.31 The Committee has noted that considerable delay takes place in the consideration and disposal of mercy petitions of prisoners sentenced to death. It is common knowledge that a person sentenced to death by the Sessions Court waits for about 4-5 years before the Supreme Court can finally pronounce upon the sentence. The mercy petitions against the final sentence of death add to the time. This situation has many times been referred to in terms of violation of human rights and indignities, extended miseries of the prisoners and inefficient administration.

4.32 Criminal and non-criminal lunatics are at present kept in prisons. Under the existing set up of prisons there are no facilities for observation and treatment of persons suffering from mental disorders or diseases. The plight of criminal and non-criminal lunatics kept in prisons is extremely pitiable. We have discussed this problem in Chapter VII on 'Medical and Psychiatric Service' of our Report. We reiterate that non-criminal lunatics should not be kept in prisons and necessary amendments should be made in the law for the purpose.

4.33 In Chapter XIV of our Report we have discussed at length the problems of children in prisons. Legislation for dealing with children has not yet been enacted/implemented fully in many States and Union Territories and as a result children below 16 years of age are kept in prisons. We are of the view that Children Acts should be enacted/implemented effectively by all States and Union Territories.

4.34 Our recommendations regarding laws, rules and regulations are as follows :

4.34.1 Directive Principle on National Policy on Prisons should be formulated and embodied in Part IV of the Constitution.*

4.34.2 The subject of prisons and allied institutions should be included in the Concurrent List of the Seventh Schedule of the Constitution of India.*

4.34.3 The most efficacious way of providing a uniform framework for correctional administration is to have a national legislation on prisons. All the Acts pertaining to prison administration should be consolidated and a new uniform and comprehensive legislation enacted by the Parliament for the entire country on the lines of the scheme of chapters given in Annexure B to this chapter.

4.34.4 In case the subject of prisons and allied institutions is not brought under the Concurrent List, the Government of India should prepare a model Bill on the lines recommended by us for being adopted by all the States and Union Territories.

4.34.5 Immediate steps should be taken by the State Government/Union Territory Administrations to frame rules under the prison statute. These rules should be priced publications.

4.34.6 Revision of jail manuals of the States and Union Territories should be given top priority. Recommendations made by us in this Report and the provisions of the Model Prison Manual may form the basis for such revision.

4.34.7 The manual should contain detailed instructions for prison personnel regarding the implementation of the provisions of the Prisons Act and the statutory rules made thereunder. It should also contain detailed instructions about the various procedures to be followed for the efficient management and administration of prisons.

*See note of dissent by Shri Yogendra Sharma, Member.

4.34.8 The State Governments and Union Territory Administrations and the Inspectors General of Prisons may, from time to time, issue standing executive instructions for meeting certain situations or for the efficient running of prisons administration. These instructions should be separately bound in annual volumes as reference material for the prison personnel.

4.34.9 Operations manuals on subjects like scientific classification of prisoners, interviewing of prisoners and case recording, prison industries, prison agriculture, treatment programmes, etc., should be prepared. Such operations manuals should be got printed and distributed amongst staff for their guidance.

4.34.10 In Chapter XV of this Report we have outlined a new approach for the care and treatment of young offenders in the age group of 16—23 years for boys and 18—23 years for girls. A separate legislation for young offenders based on the above approach should be passed to place the present Borstal Schools Acts. A scheme of chapters for the said legislation is at Annexure 3 to this chapter.

4.34.11 Civil prisoners should not be detained in jails meant for convicted and criminal prisoners. A separate legislation and a set of rules and regulations for detention of civil prisoners should be provided.

4.34.12 The Union and State Governments should conduct a qualitative and quantitative analysis of legislations, statutory orders, bye-laws and other forms of executive legislation to examine possibilities of delegating certain areas of human and social behaviour, if necessary, by repeal of such legislation as are either obsolete or are demonstrably unenforceable. In addition, it would be necessary for the Law Reform Commissions at the Union and State levels to consider policies of delegatisation as an aspect of law reform in India.

4.34.13 Serious thought should be given to policies of decriminalisation, depenalisation and deinstitutionalisation at the legislative level, so that attempts at rehabilitative measures in correctional institutions and devising rational policies for sentencing may become a reality.

4.34.14 In the preamble of the Indian Penal Code specific mention about protection of society through the reformation and rehabilitation of offenders as objective of punishment should be made.

4.34.15 The Indian Penal Code should be suitably amended in the light of the contemporary ideology of reformation and rehabilitation of offenders. In addition to providing alternatives to prison sentences there is need to eliminate for example, the distinction between simple and rigorous imprisonment which is neither valid in the light of current penological research, nor justified in the light of the objectives of rehabilitative and correctional treatment and of the need of efficient prison administration.

4.34.16 (a) Section 302 of the Indian Penal Code should be suitably amended so that (i) it is only in cases of murder with highly aggravating circumstances that death is prescribed as one of the punishments, and (ii) in other cases of murder, courts are given discretion to imprisonment for life or imprisonment for a lesser term.

(b) Imprisonment for life should be imprisonment for a fixed term extending over a reasonable period of time which may be determined by the legislature and incorporated in the Indian Penal Code.

4.34.17 Section 303 of the Indian Penal Code should be deleted and its provision brought suitably under the proposed section 302 of the Indian Penal Code.

4.34.18 Undertrial prisoners continue to be detained in prisons for long periods. A review on an all India basis should be undertaken to find out whether the provisions of the Code of Criminal Procedure in this regard have been fully implemented.

4.34.19 The Code of Criminal Procedure should be so amended as to provide that as soon as an undertrial prisoner completes the period of detention equal to half of the maximum sentence awardable to him on conviction, he is released immediately and unconditionally; and such undertrial should, for all purposes in law, be treated as having been discharged by the court of law.

4.34.20 Section 433 A of the Code of Criminal Procedure should be suitably amended so that such lifers as offer good prognosis for reformation and rehabilitation can generally be released after 8 to 10 years of actual imprisonment. Guidelines for the premature release of lifers should be prepared by the Central Government and circulated to all the States and Union Territories.

4.34.21 Preventive sections of the Code of Criminal Procedure, specially section 109, should be reviewed and amended suitably to restrict their use only in very genuine cases.

4.34.22 Section 428 of the Code of Criminal Procedure should be suitably amended so that the period spent by an undertrial in detention during investigation, inquiry or trial could be computed as sentence served in case he is sentenced to life imprisonment.

4.34.23 The Code of Criminal Procedure should be amended so as to provide for pre-sentence investigation involving comprehensive social and psychological study of offenders liable to be sentenced to life imprisonment so that the concerned court may make use of this study while passing the sentence and for making recommendation, if any, to the State Government about the early release of such offenders as might be sentenced to life imprisonment.

4.34.24 The Probation of Offenders Act, 1958 which is a progressive legislation is not being effectively implemented in many States and Union Territories. This Act should be fully implemented in every district of each State and Union Territory and adequate infrastructure for the purpose created.

4.34.25 The Mental Health Bill, which is awaiting to be brought on the statute book, should be passed expeditiously. Pending the passing of the Mental Health Bill, the Indian Lunacy Act, 1912 should be suitably amended to debar detention of non-criminal lunatics in prisons.

4.34.26 The Government of India should undertake special measures to ensure that a progressive social legislation like the Children Act is enacted and implemented effectively in every district of each State and Union Territory without any further delay.

4.34.27 Disposal of mercy petitions should be expeditiously done and in no case should it take more than six months.

4.34.28 In Chapter XLIII of the Model Prison Manual the question of habitual offenders has been dealt with in detail. Habitual Offenders Acts should be amended in the light of these provisions.

POSITION REGARDING REVISION OF JAIL MANUAL

Position as made available to the Committee regarding revision of jail manuals is as under :—

Andhra Pradesh : The provisions contained in the Model Prison Manual have been taken into account while preparing the Andhra Pradesh Prison Rules, 1977.

Assam : Jail Reforms Commission constituted by the State Government has submitted its report and the work of amending the existing Assam Jail Manual in the light of the guidelines in the Model Prison Manual is under consideration.

Bihar : The State Government has set up a Committee to suggest amendments in the existing jail manual.

Gujarat : The State Government has set up a Jail Reforms Committee which is also considering the revision of the jail manual.

Haryana : The Jail Reforms Commission set up by the State Government has made some suggestions in its report for amendments in the existing jail manual and these are under consideration.

Himachal Pradesh : The Punjab Jail Manual is followed in the State. The State has undertaken drafting of its own jail manual.

Jammu and Kashmir : Amendment of the jail manual in the light of the guidelines contained in the Model Prison Manual is under process.

Karnataka : The jail manual has been revised in the light of the provisions contained in the Model Prison Manual. The new manual has come into force in the State with effect from July 15, 1978.

Kerala : The Kerala Prison Rules, 1958 provide for amenities and facilities in line with the recommendations contained in the Model Prison Manual.

Madhya Pradesh : A new jail manual was introduced in 1968. The work of amending this manual further in the light of the recommendations made by the Madhya Pradesh Jail Reforms Commission and the guidelines contained in the Model Prison Manual is under process.

Maharashtra : The jail manual has been revised in the light of the guidelines contained in the Model Prison Manual.

Manipur : The State is following rules and procedures as laid down in the Assam Jail Manual.

Meghalaya : The State follows the Assam Jail Manual. An advisory board has been constituted by the State Government to advise on the framing of a jail manual on the lines of the Model Prison Manual and the recommendations of the Working Group on Prisons.

Nagaland: The State has adopted the Assam Jail Manual. A draft of the Nagaland Jail Manual is being prepared.

Orissa: The revision of the jail manual in the light of the Model Prison Manual is under process.

Punjab: The work relating to revision of the existing jail manual is in the final stage.

Rajasthan: Skeleton Rules have been prepared for the final drafting of prison manual and further work is in progress.

Sikkim: The Bengal Jail Manual has been adopted in the State. The question of framing a new jail manual on the lines of the Model Prison Manual is under examination.

Tripura: The State follows the jail manual of West Bengal. The manual is being amended in the light of the guidelines contained in the Model Prison Manual.

Tamil Nadu: The work of drafting of the Tamil Nadu Prison and Reformatory Manual on the basis of the Model Prison Manual has been completed. The revised draft rules are being further processed.

Uttar Pradesh: Steps are being taken to revise the Uttar Pradesh Jail Manual.

West Bengal: Certain Provisions of the Model Prison Manual were incorporated in the Jail manual while revising the same in 1967. West Bengal Jail Code Revision Committee set up by the State Government on August 10, 1978 has submitted its report and the same is under consideration.

Andaman and Nicobar Islands: The Union Territory follows the Bombay Jail Manual; preparation of a separate manual is under process.

Arunachal Pradesh: The Union Territory has no jail.

Chandigarh: The Union Territory has adopted the Punjab Jail Manual. This manual is being revised by the State Government of Punjab. The revised Punjab Jail Manual will be adopted by the Union Territory.

Dadra and Nagar Haveli: The Union Territory follows the sub-jail manual of Maharashtra.

Delhi: The Union Territory has adopted the Punjab Jail Manual. A Jail Manual Committee had been constituted by the Administration to suggest changes in that jail manual on the lines of the Model Prison Manual. The Committee has submitted its report and the matter is under consideration of the Administration.

Goa, Daman and Diu: The Union Territory has no jail manual of its own. The proposal to formulate a jail manual in the light of the guidelines contained in the Model Prison Manual is under consideration.

Lakshadweep: Draft prison rules have been prepared on the basis of the Model Prison Manual.

Mizoram: A jail manual is being drafted.

Pondicherry: Pondicherry Prison Rules have been framed on the basis of the recommendations contained in the Model Prison Manual.

SCHEME OF CHAPTERS FOR NATIONAL PRISON LEGISLATION

Preamble

The Prisons Act, 1894 has a preamble which makes no attempt to stress the objectives of the Act. The new Act should have a preamble stating the basic principles and objectives in terms of (a) purpose of punishment through imprisonment, and (b) the basic principles for the care and treatment of offenders from the point of view of their ultimate rehabilitation in society.

STATEMENT OF OBJECTS AND REASONS :

The statement of Objects and Reasons should contain a short narration of the reasons for which a new law has become necessary together with the objectives which it seeks to achieve.

The principles which should form the basis of the Preamble and the Statement of Objects and Reasons are given in Appendix X.

Chapter I : Preliminary

This chapter should deal with the title, extent and commencement of the Act. It should also include a section on Definitions keeping in view our observations in succeeding paragraphs.

The Prisons Act, 1894, contemplates the definition of prison as any jail or place used permanently or even temporarily under the general or special orders of the State Government for the detention of prisoners. The Act does not provide sufficient guidelines for exercising discretionary powers to create "temporary" prison e.g. duration of temporary prisons, circumstances in which such temporary prisons should be created, the grounds of satisfaction of creating such temporary prisons, etc. Under the emerging interpretation of Article 21 of the Constitution, the lack of suitable guidelines regarding creation of temporary accommodation might entail legal complications. Accordingly, we suggest formulation of appropriate guidelines regulating the use of discretion in regard to creation of temporary prisons.

The definition of 'Prison' in the Prisons Act, 1894, essentially is that it is a place for the detention of prisoners. Section 3(1) (c) excludes 'Subsidiary Jail' from the definition of prison under the Prisons Act, 1894 whereas according to Section 2(b) of the Prisoners Act, 1900, "Prison" includes any place which has been declared by the State Government, by general or special order, to be a subsidiary jail. Prisoners Attendance in Courts Act, 1955 also provides a similar definition. In order to avoid confusion and conflict in policy and administration a uniform definition pertaining to 'prison' should be brought under the proposed Act.

The list of definitions under section 3 of the existing Prisons Act is not comprehensive and would need to be enlarged in the light of the objectives of punishment and treatment of offenders. Obviously, new terms and principles will get embodied in the proposed Act. A comprehensive list of all these new concepts and terms should be drawn and included in the section dealing with definitions.

Chapter II : Rights and duties of prisoners

Specific provision should be made in the Act to safeguard against exploitation of prisoners. While providing for certain rights of prisoners, some duties of prisoners also need to be laid down. This chapter should include rights and duties of prisoners. Sections dealing with the following topics should be included in this chapter :—

Rights of prisoners :

(A) Right to Human Dignity

- (i) Right to be treated as a human being and as a person; this right has been stressed and recommended by the Supreme Court of India which has categorically declared that prisoners shall not be treated as non-persons;
- (ii) Right to integrity of the body; immunity from use of repression and personal abuse, whether by custodial staff or by prisoners;
- (iii) Right to integrity of the mind; immunity from aggression whether by staff or by prisoners;
- (iv) Right to non-deprivation of fundamental rights guaranteed by the Constitution of India, except in accordance with law prescribing conditions of confinement.

(B) Right to Basic Minimum Needs

Right to fulfilment of basic minimum needs such as adequate diet, health, medical care and treatment, access to clean and adequate drinking water, access to clean and hygienic conditions of living accommodation, sanitation and personal hygiene, adequate clothing, bedding and other equipment.

(C) Right to Communication

- (i) Right to communication with the outside world ;
- (ii) Right to periodic interviews ; and
- (iii) Right to receive information about the outside world through communication media.

(D) Right to Access to Law

- (i) Right of effective access to information and all legal provisions regulating conditions of detention;
- (ii) Right to consult or to be defended by a legal practitioner of prisoner's choice;
- (iii) Right to access to agencies, such as State Legal Aid Boards or similar organisations providing legal services;
- (iv) Right to be informed on admission about legal rights to appeal, revision, review either in respect of conviction or sentence;
- (v) Right to receive all court documents necessary for preferring an appeal or revision or review of sentence or conviction;

- (vi) Right to effective presentation of individual complaints and grievances during confinement in prison to the appropriate authorities;
- (vii) Right to communicate with the prison administration, appropriate Government and judicial authorities, as the case may be, for redressal of violation of any or all of prisoners' rights and for redressal of grievances.

(E) Right Against Arbitrary Prison Punishment

Right to entitlement in case of disciplinary violation (i) to have precise information as to the nature of violation of Prisons Act and Rules, (ii) to be heard in defence, (iii) to communication of the decision of disciplinary proceedings, and (iv) to appeal as provided in rules made under the Act.

(F) Right to Meaningful and Gainful Employment :

- (i) Right to meaningful and gainful employment.

Note 1 : No prisoner shall be required to perform 'begar' and other similar forms of forced labour which are prohibited as a fundamental right against exploitation under Article 23 of the Constitution.

Note 2 : Undertrial prisoners volunteering to do work may be given suitable work wherever practicable. Such prisoners should be paid wages as per rules.

Note 3 : No prisoner shall be put to domestic work with any official in the prison administration. Such work shall not be considered as meaningful or gainful, even if some monetary compensation is offered.

Note 4 : Prisoners shall, in no case, be put to any work which is under the management, control, supervision or direction of any private entrepreneur working for profit of his organisation. This will not apply to open prisons and camps.

- (ii) Right to get wages for the work done in prison.

(G) Right to be released on the due date.

While drafting sections regarding 'Rights of Prisoners', reference should be made to the Standard Minimum Rules for the Treatment of Prisoners, International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights adopted by the U.N. (Appendices XI, XII & XIII respectively), Model Prison Manual and recommendations contained in this Report.

All the above Rights of Prisoners will be subject to the rules made under the Act.

Duties of Prisoners :

It shall be the duty of each prisoner—

- (a) to obey all lawful orders and instructions issued by the competent prison authorities ;
- (b) to abide by all prison rules and regulations and perform obligations imposed by these rules and regulations ;

- (c) to maintain the prescribed standards of cleanliness and hygiene ;
- (d) to respect the dignity and the right to live of every inmate, prison staff and functionary ;
- (e) to abstain from hurting religious feelings, beliefs and faiths of other persons ;
- (f) to use Government property with care and not to damage or destroy the same negligently or wilfully ;
- (g) to help prison officials in the performance of their duties at all times and maintain discipline and order ;
- (h) to preserve and promote congenial correctional environment in the prison.

Chapter III : Categories of prisons

Diversification of institutions should be the main content of this chapter which should include a section specifying the different types of institutions as follows :—

- (a) Prisons/annexes/separate yards for undertrial prisoners ;
- (b) Special security prisons for difficult discipline cases, escape risks and dangerous and violent prisoners ;
- (c) Maximum security prisons for habitual criminals ; careerist criminals, professional criminals, organised criminals and other sophisticated criminals ;
- (d) Medium security prisons/yards for non-habitual adult offenders ;
- (e) Prisons/annexes for women offenders ;
- (f) Semi-open prisons, open prisons, and open camps (Sanganer type) ;
- (g) Prison/annexes/separate yards for inmates suffering from infectious diseases like tuberculosis, leprosy, S.T.D., etc. ;
- (h) Prisons/annexes/separate yards for offenders suffering from mental illness ;
- (i) Sub-jails ;
- (j) Prisons for those courting arrest during non-violent socio-political economic agitations for declared public cause ;
- (k) Institutions for young offenders (Kishore/Yuva Sadan) ; and
- (l) Open camps, mobile and permanent, for prisoners sentenced to less than one year.

Another section should deal with separation of prisoners of various categories.

Chapter IV : Administration of prisons and prison administrators

In this chapter sections regarding the following should be included :—

(1) Headquarters Organisation :

- (a) Inspector General of Prisons and Director of Correctional Services ;
- (b) Additional Inspector General of Prisons ;
- (c) Additional/Joint Director, Correctional Services (Young Offenders) ;
- (d) Deputy Inspector General of Prisons—Administration, Training and Staff Welfare ;

- (c) to maintain the prescribed standards of cleanliness and hygiene ;
- (d) to respect the dignity and the right to live of every inmate, prison staff and functionary ;
- (e) to abstain from hurting religious feelings, beliefs and faiths of other persons ;
- (f) to use Government property with care and not to damage or destroy the same negligently or wilfully ;
- (g) to help prison officials in the performance of their duties at all times and maintain discipline and order ;
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Chapter III : Categories of prisons

Diversification of institutions should be the main content of this chapter which should include a section specifying the different types of institutions as follows :—

- (a) Prisons/annexes/separate yards for undertrial prisoners ;
- (b) Special security prisons for difficult discipline cases, escape risks and dangerous and violent prisoners ;
- (c) Maximum security prisons for habitual criminals ; careerist criminals, professional criminals, organised criminals and other sophisticated criminals ;
- (d) Medium security prisons/yards for non-habitual adult offenders ;
- (e) Prisons/annexes for women offenders ;
- (f) Semi-open prisons, open prisons, and open camps (Sanganer type) ;
- (g) Prison/annexes/separate yards for inmates suffering from infectious diseases like tuberculosis, leprosy, S.T.D., etc. ;
- (h) Prisons/annexes/separate yards for offenders suffering from mental illness ;
- (i) Sub-jails ;
- (j) Prisons for those courting arrest during non-violent socio-political economic agitations for declared public cause ;
- (k) Institutions for young offenders (Kishore/Yuva Sadan) ; and
- (l) Open camps, mobile and permanent, for prisoners sentenced to less than one year.

Another section should deal with separation of prisoners of various categories.

Chapter IV : Administration of prisons and prison administrators

In this chapter sections regarding the following should be included :—

(1) Headquarters Organisation :

- (a) Inspector General of Prisons and Director of Correctional Services ;
- (b) Additional Inspector General of Prisons ;
- (c) Additional/Joint Director, Correctional Services (Young Offenders) ;
- (d) Deputy Inspector General of Prisons—Administration, Training and Staff Welfare ;

- (e) Deputy Inspector General of Prisons—Correctional Programmes and Prisoners' Welfare;
- (f) Joint/Deputy Director of Medical and Psychiatric Services;
- (g) Joint/Deputy Director of Probation and Aftercare Services;
- (h) Joint/Deputy Director, Vocational Training and Prison Industries;
- (i) Joint/Deputy Director, Agriculture;
- (j) Superintending Engineer, Prison Buildings;
- (k) Deputy Director, Educational Programmes;
- (l) Deputy Director, Planning, Statistics, Research and Development;
- (m) Deputy Director, Legal Affairs;
- (n) Chief Psychologist;
- (o) Public Relations Officer;
- (p) Chief Audit and Accounts Officer;
- (q) Assistant Inspector General of Prisons;
- (r) Vigilance Cell; and
- (s) Ministerial, Accounts and other staff as per requirement.

(ii) Regional Organisation

- (a) Deputy Inspector General of Prisons (Range) ;
- (b) Regional Probation and Aftercare Officer;
- (c) Assistant Engineer, Buildings;
- (d) Audit and Accounts Officer;
- (e) An Officer of the rank of Superintendent, District Prison ; and
- (f) Ministerial, accounts and other staff.

(iii) Institutional Organisation

- (a) Superintendent;
- (b) Additional Superintendent;
- (c) Deputy Superintendent;
- (d) Accounts Officer/Asstt. Accounts Officer/Accountant;
- (e) Officer-in-charge of industries with adequate number of trade instructors;
- (f) Medical Officer;
- (g) Psychiatrist;
- (h) Senior Psychologist;
- (i) Psychologist;
- (j) Psychiatric Social Worker;
- (k) Case worker;

- (l) Teachers for educational programmes;
 - (m) Agricultural Officer/Assistant;
 - (n) Law Officer;
 - (o) Assistant Superintendent Grade I;
 - (p) Assistant Superintendent Grade II;
 - (q) Chief Head Warders;
 - (r) Head Warders;
 - (s) Warders; and
 - (t) Ministerial, accounts and other staff.
- (iv) Probation and After Care Organisation

- (a) District Probation Officer;
- (b) Probation Officer Grade I;
- (c) Probation Officer Grade II; and
- (d) Ministerial and other staff.

Sections dealing with duties of various personnel should be incorporated in detail in this chapter. Specially duties of prison personnel in respect of all the rights to which prisoners are entitled should be included.

There should be a section authorising the Inspector General of Prisons, when the number of prisoners in prisons under his jurisdiction exceeds the authorised capacity, except when such excess is created owing to agitations and large number of persons court- ing arrest, to advise in writing to the State Government or the High Court/District Judge proposing appropriate measures for decongestion of prisons. The section should also empower the Inspector General of Prisons to take appropriate measures for transfer or distribution of prisoners whenever because of agitation of people courting arrest, persons are detained far beyond the authorised capacity of a particular prison or prisons.

There should be a section defining the offences that may be committed by prison personnel, procedure for dealing with them and appropriate penalties for the same.

A section may be added providing for adequate procedures for redressal of grievances of prison personnel and also for prohibition of strikes and agitations by prison personnel. Prison service should be treated as an essential security service. A code of conduct and discipline for prison personnel should be framed.

Chapter V : Maintenance of prisoners

In this chapter there should be sections dealing with the following topics :—

- (i) Basic and essential needs of prisoners compatible with human dignity ;
- (ii) Norms regarding accommodation, diet, bedding clothing, equipment, sanitation and hygiene, drinking water, medical care and treatment, etc.;
- (iii) Procedure of taking searches of prisoners and of persons who come to meet them;
- (iv) Ban on the confinement of non-criminal lunatics in prisons;

- (v) Ban on admission of any child below the age of 16 years in case of boys and 18 years in case of girls except children of prisoners who have not attained the age of 5 years;
- (vi) If any child below the age of 16/18 years is sent for admission in a prison, the Superintendent should make immediate reference to the concerned court and a copy of this letter should be sent to the District Judge for transferring the child to a Children's Home.
- (vii) The children of prisoners till they attain the age of 5 years may be kept in prisons if the parent so desires and separate facilities providing for adequate and proper nutritive diet, medical care, creches, nursery schools, etc., should be organised for them outside the prison so that the damaging impacts of prison life during their most impressionable age are eliminated. After the children attain the age of 5 years they should be kept in children's institutions or sent to their own home or relatives as per the desire of the mother/father. If the parent so desires even a child below 5 years of age may be sent to an institution such as SOS children village, Children Home, etc.

Note : While drafting this section, reference should be made to Chapter XIII on 'Women Prisoners' of this Report.

- (viii) Proper segregation of women prisoners and their protection from various likely hazards in prisons.
- (ix) Composition of board of prison visitors specifying its duties, functions and responsibilities.

Chapter VI : Undertrial prisoners

In this chapter there should be sections dealing with the following matters:

- (i) Rights and duties of undertrial prisoners.

Note: While drafting sections pertaining to the rights and duties of undertrial prisoners, reference should be made to Chapter II of this scheme of chapters, Code of Criminal Procedure and the judgements of the Supreme Court about the rights of prisoners.

- (ii) To bring to the notice of the District Judge all cases of undertrial prisoners which have been delayed for more than two months.

Note: A copy of the report of the prison superintendent should be sent to the High Court.

- (iii) Effective production of undertrial prisoners before the court on the due date.
- (iv) Release of the undertrial prisoner, as soon as he completes the period of detention equal to the half of the maximum sentence awardable on conviction.

Note : Decision of the Supreme Court in regard to this matter may be referred to while drafting this section.

- (v) Production of undertrial prisoners in other States and before courts in civil suit proceedings;
- (vi) Procedure regarding police interrogation while the undertrial prisoner is in judicial custody.
- (vii) Escorting of undertrial prisoners to and from the court.

- (viii) Provision for hand-cuffing undertrial prisoners for reasons of security while escorting them to and from courts.
- (ix) Procedures from admission till discharge/conviction of undertrial prisoners.

Note : While drafting these sections relevant provision from Chapter VII of this scheme of chapters may be referred to.

- (x) Facilities to undertrial prisoners.
- (xi) Duty of the District Judge/Magistrate authorised by the District Judge to visit the prison once a month and make a review of all cases of undertrial prisoners who have been detained in prisons for more than two months and take suitable measures to expedite all delayed cases.
- (xii) Duties of prison administration towards undertrial prisoners;
- (xiii) Constitution and procedure of Review Committees to review the cases of all undertrial prisoners detained for more than two months.
- (xiv) Duty of the District Magistrate, Public Prosecutor and Superintendent of Police to be present when such cases are reviewed.
- (xv) Constitution of and procedures regarding State level Review Committee which should be set up for reviewing the cases of undertrial prisoners and taking appropriate action regarding the release of undertrial prisoners or for expediting the trial of their cases.

Note: While drafting the sections pertaining to the constitution, procedures and powers of the Review Committees, reference should be made to Chapter XII on 'Undertrial and Other Unconvicted Prisoners' of this Report and also to the existing procedures regarding such Committees set up in some States.

Chapter VII : Admission, treatment and training of prisoners

In this chapter sections dealing with the following topics should be incorporated:

- (i) Admission
- (ii) Orientation
- (iii) Quarantine
- (iv) Reception Unit

Note: While drafting sections on the above topics reference should be made to Appendices XIV, XV, XVI and XVII respectively.

- (v) Overall and comprehensive study of prisoners sentenced to imprisonment for one year and above.
- (vi) Classification on scientific basis.

While drafting sections regarding classification on scientific basis reference should be made to Chapter IX on 'System of Classification' of this Report.

Socially conditioned Criminals such as careerist criminals, professional criminals, organised criminals, criminals involved in prostitution, gambling, bootlegging, smuggling, etc., pose a special problem both to the society and the prison administration. They have to be effectively segregated both from the point of view of security and treatment. Sections to deal specially with such prisoners may be included in this chapter and while drafting these sections reference to 'Typology of Crime' in Chapter IX on 'System of Classification' of this Report may be made.

(vii) Reclassification.

Note: While drafting this section reference should be made to Chapter IX on 'System of Classification' of this Report.

(viii) Treatment and Training.

The emphasis should be on the individualisation of treatment and training. The components of treatment and training programmes have been spelt out in Chapter X on 'Treatment Programmes' of this Report, which may be referred to while drafting relevant sections.

Chapter VIII : Discipline of prisoners

Sections dealing with the following matters should be incorporated under this chapter:

(i) Conducts constituting prison offences.

Note : It should not be left to the executive authorities to define prison offences and punishments. Offences should be described which are done with intention i.e. mensrea. As far as possible prison offences done without intention should be excluded and should not be punished.

(ii) Punishments for prison offences.

(iii) Procedure for holding enquiries by the prison superintendent regarding prison offences alleged to have been committed by prisoners.

(iv) Communication of the decision of the enquiry to the prisoners.

(v) Provision of appeal/revision against certain punishments awarded to the prisoners by the prison superintendent.

While drafting section dealing with the above item, reference may be made to Chapter VIII on 'Security and Discipline' of this Report.

(vi) Section 73 of the Indian Penal Code, providing for a sentence of solitary confinement, has been rarely used by the courts since Independence, and has, therefore, virtually fallen into disuse. The Joint Committee on the Indian Penal Code (Amendment) Bill, 1972, has recommended the abolition of the sentence of solitary confinement. In view of this, section 29 of the Prisons Act regarding solitary confinement should be deleted.

(vii) Section 30 of the Prisons Act, 1894 should be reformulated in the light of recommendations contained in Chapter XVII on 'Prisoners Sentenced to Death' of this Report.

(viii) Use of Irons.

Note : While drafting this section directives of the Supreme Court on this subject should be taken into consideration. A reference to pages 243—245 of the 'Indian Supreme Court and Politics' by Dr. Upendra Baxi may also be made.

Chapter IX : Transfer, removal and attendance in courts of prisoners

Transfer and removal of prisoners :

Under this heading sections dealing with the following topics should be included :

(i) Medical examination of a prisoner immediately after his admission to prison from police custody or on transfer.

- (ii) Transfer of prisoners for medical treatment to prison wards in Government hospitals/hospital prisons.
- (iii) Transfer of prisoners from one prison to another in the State.

Note 1: As far as possible and practicable convicted prisoners should be kept in prisons near their home towns either at the district level or at the regional level.

Note 2: The requirements of treatment and training, as contained in chapter VII of this scheme of chapters should be kept in view while effecting transfer of prisoners from one prison to another.

- (iv) Transfer of prisoners from one State to another.

Note : A prisoner convicted in another State should, as far as possible, be transferred to the State of his domicile.

- (v) Repatriation of prisoners to other countries under bilateral agreement that may be executed by the Government of India.

Attendance of prisoners in courts.

Under this heading following topics should be incorporated :

- (i) Powers of the court requiring appearance of prisoners to give evidence or stand trial.

Note : Provisions for appearance in courts are sometimes misused by some prisoners for extending their stay at a particular prison. It should be provided that in no case the period for giving evidence, etc., should be more than 15 days.

- (ii) Exemption from operation of this section in case of certain prisoners.

Note : The provisions of the Transfer of Prisoners Act, 1950 and those of Prisoners (Attendance in Courts) Act, 1955 should be included in this chapter.

Chapter X : Leave, special leave and remission

Sections dealing with the following topics should be included in this chapter :

- (a) Release on leave.
 - (i) Eligibility for release on leave.
 - (ii) Inspector General of Prisons to be vested with the authority of releasing prisoners on leave ; reference to District authorities at the time of first release on leave.
 - (iii) Period of leave to count towards sentence.
 - (iv) Conditions on which a Prisoner can be released on leave.
 - (v) Revocation of the order of release in the event of breach of conditions of the release on leave order.
 - (vi) Punishment to be awarded for such breach by the Inspector General of Prisons.

(b) Release on special leave.

- (i) Eligibility for release on special leave.
- (ii) Inspector General of Prisons and Prison Superintendent to be vested with the authority of releasing prisoners on special leave.
- (iii) Period of special leave not to count towards sentence.
- (iv) Condition on which the prisoner can be released on special leave.
- (v) Maximum period of special leave.
- (vi) Revocation of the order of release on special leave in the event of breach of conditions of the release order.
- (vii) Punishment to be awarded for such breach by the Inspector General of Prisons.

(c) Remission

- (i) Remission for good behaviour and discipline.
- (ii) Remission for work.
- (iii) Annual good conduct remission.
- (iv) Special remission that can be awarded by the prison superintendent and the Inspector General of Prisons.
- (v) State remission as per guidelines that may be laid down by the Government of India in this regard.
- (vi) Total remission granted to a prisoner not to exceed one half of his substantive sentence.
- (vii) Forfeiture of remission for prison offences.

Note: While drafting sections of this chapter, reference should be made to Chapter XX on 'System of Remission, Leave and Premature Release' of this Report and to the provisions of Chapters XXIX and XXX of the Model Prison Manual.

Chapter XI : Premature release of prisoners.

Sections dealing with the following topics should be included in this Chapter:

- (i) Composition of Boards for reviewing sentences of prisoners for premature release.
- (ii) Eligibility of prisoners for review of sentences for the purpose of premature release.
- (iii) Procedure for reviewing the cases of prisoners eligible for premature release.
- (iv) Conditions to be included in the premature release order.
- (v) Cancellation of the premature release order upon breach of conditions of release.

Note: While drafting this chapter reference should be made to Chapter XX on 'System of Remission, Leave and Premature Release' of this Report and also to Chapter XXXVI of the Model Prison Manual.

Chapter XII : Release and aftercare of prisoners

(a) Release of prisoners

The present provisions in the Prisons Act, 1894 regarding release of prisoners are totally inadequate. It is generally acknowledged that there is a scope for considerable arbitrary exercise of discretionary powers for release in the present prison procedures. To obviate this, the following provisions should find expression in the Act:

- (i) The concerned prison official must be under duty to release the prisoner on the very day on which his release becomes due under the law.
- (ii) Every prisoner must have a reasonable notice of the due date of his release to be determined by the rules made under the Act.
- (iii) Pre-release preparation by the concerned prison official before the date of the prisoner's release.
- (iv) There should be periodic audit of releases.

(b) After-care of prisoners.

Sections dealing with the following topics should be included:

- (i) Planning for after-care while the prisoner is under institutional care and treatment.
- (ii) Help and aid to be extended to the prisoner immediately on release from the institution.
- (iii) Help and aid during the post-release period and follow-up.
- (iv) Coordination between the correctional administration and the voluntary organisations in the field of after-care.

Note: While drafting these sections reference should be made to chapter XXII on 'After-care, Rehabilitation and Follow-up' of this Report and to Chapter XXXVIII on 'After-care and Rehabilitation' of the Model Prison Manual.

Chapter XIII : Miscellaneous

Under this chapter there should be a section under which the State Government can formulate statutory rules. Topics on which such rules can be framed should be specifically mentioned in this section.

Note: Statutory rules should be printed separately and should be priced publication. Prisoners should have access to these rules.

SCHEME OF CHAPTERS FOR NATIONAL LEGISLATION FOR YOUNG OFFENDERS

Preamble

Young offenders between the age of 16 to 23 years constitute an impressionable group. They have better prospects of being reclaimed as useful citizens. They can be re-educated to a socially accepted day of life. On the other hand if proper care is not taken and timely help not offered, a young offender of today can become a hardened recidivist of tomorrow. Investment in the re-education and rehabilitation of young offenders must, therefore, be treated as 'investment in man'.

Statement of objects and reasons

Borstal Schools Acts have limited coverage. These Acts have not been quite efficacious. Only 11 Borstal schools are operating throughout the country under these Acts. They cater to a very small number of young offenders; all other young offenders are kept in juvenile jails/reformatories or in sections earmarked for young offenders in prisons where adult offenders are kept. These young offenders must necessarily be segregated from adult, hardened and habitual offenders. In view of their impressionable age, young offenders require an approach different from that for adult offenders in their treatment, training and rehabilitation. This has to be a scientific and progressive approach keeping in view their growth continuum. This can be achieved only through a separate comprehensive legislation.

Note: While drafting the statement of objects and reasons Chapter XV on 'Young Offenders' of this Report should be referred to.

Chapter I : Preliminary.

This chapter should deal with the title, extent and commencement of the Act. It should also include a section on definitions.

In Chapter XV of this Report a new approach towards the treatment of young offenders has been discussed in detail. New concepts and terms have been used while outlining this new approach. All these concepts and terms may be defined under this section.

Chapter II : Rights and duties.

In Chapter II of the Scheme of Chapters for the National Prison Legislation **Annexure IV-B)** rights and duties of prisoners have been incorporated. While drafting sections under this chapter the above referred material should be incorporated with suitable modifications.

Chapter III : Courts for young offenders

Under this chapter there should be sections dealing with the following topics:—

- (i) Constitution of courts for young offenders and their jurisdiction.
(See Chapter XV para 15.8.5 of this Report)

- (ii) Courts empowered to pass order of detention.
(See sections 6 and 8 of the Bombay Borstal Schools Act, 1929).
- (iii) Procedure when a Magistrate is not empowered to pass orders under this Act.
(See section 9 of the Bombay Borstal Schools Act, 1929).
- (iv) Limitation on powers.
(See section 10 of the Bombay Borstal Schools Act, 1929).
- (v) Detention of young offenders during investigation and trial.
(See Chapter XV, paragraphs 15.8.7 to 15.8.12 of this Report).
- (vi) Duties of the Probation Officer attached to the court.
- (vii) Pre-sentence investigation report to be prepared by the Probation Officer.
(See Chapter XV para 15.8.6 of this Report).
- (viii) Disposition of cases:
 - (a) Non-institutional measures.
(See Chapter XV para 15.8.13 of this Report)
 - (b) Commitment of Reception Centre.
(See Chapter XV para 15.8.17 of this Report)

Chapter IV : Institutions for young offenders

Under this chapter sections dealing with different types of institutions should be included as follows:

- (i) Reception Centre.
- (ii) Approved Kishore/Yuva Sadan. (Hostel run by Government/voluntary organisation/educational institution/industrial training institute/agricultural school, etc.)
- (iii) Semi-open Kishore/Yuva Sadan.
- (iv) Open Kishore/Yuva Sadan.
- (v) Special Kishore/Yuva Sadan.
(medium security institution).

Note : While drafting these sections reference should be made to Chapter XV paras 15.8.14, 15.8.15, 15.8.16, 15.8.17, 15.8.18.

Chapter V : Admission, treatment and training

In Chapter VII of the Scheme of Chapter on National Prisons Legislation (**Annexure IV-B**) procedures regarding admission, treatment and training of prisoners have been included. These provisions with necessary changes may be included in this chapter.

This chapter may also have sections dealing with ingredients of treatment of young offenders as given below:—

Individual study, initial scientific classification; careful planning of a balanced training and treatment programme to suit the needs of the inmate; diversified education; work and vocational training; recreational and cultural activities; physical training and active games; firm yet positive and constructive

discipline ; case work ; group work activities; group guidance ; individual guidance and counselling; psychotherapy where necessary ; character training; personal positive influence of staff members; periodical review and reclassification, etc.

Chapter VI : Organisation

In this chapter sections dealing with the following topics should be included :

- (i) Custody, care and treatment of young offenders shall be the responsibility of the Department of Prisons and Correctional Services.
- (ii) The staff structure of institutions for young offenders shall be as given in paragraph 15.8.30 of Chapter XV on 'Young Offenders' of this Report.
- (iii) Duties, responsibilities and functions of the personnel.

Chapter VII : Facilities and amenities

Sections dealing with the following topics should be included under this chapter: -

- (i) Grade system : Grade III, Grade II, Grade I, marks system;
- (ii) Remission leave and special leave;
- (iii) Wages;
- (iv) Canteen facilities;
- (v) Letters, interviews and other facilities and amenities;
- (vi) Equipment.

While drafting these sections our recommendations regarding facilities and amenities for adult offenders should be taken into account.

Chapter VIII : Discipline of young offenders

Under this chapter sections dealing with the following topics should be included:

- (i) Standards of behaviour.
- (ii) Violations of standards of behaviour.
- (iii) Procedure for enquiring into violations; the young offender should be given an opportunity to defend himself.
- (iv) Punishments:—
 - (a) Warning;
 - (b) Cut in remission;
 - (c) Cut in marks;
 - (d) Reduction in grade for a specified period;
 - (e) Award of penal grade ; withdrawal of facilities like canteen and other privileges;
 - (f) Segregation for a period not exceeding 10 days at one time;
 - (g) Postponement of release on leave;

(v) Security measures:

- (a) Use of mechanical restraints only or security reasons and not as punishment; and
- (b) segregation for security reasons.

(vi) Powers of the Principal regarding (a) award of punishments; (b) use of mechanical restraints; and (c) segregation for security reasons.

Chapter IX : Transfer

Under this chapter sections dealing with following topics should be included:

- (i) Transfer from prison to Kishore/Yuva Sadan and Vice-versa.
(See section 11 of the Bombay Borstal Schools Act, 1929).
- (ii) Transfer of the incorrigible, etc., to prison.
(See section 12 of the Bombay Borstal Schools Act, 1929).
- (iii) Transfer from one institution to another within the State and transfer to other State on reciprocal basis; powers to be exercised by the Inspector General of Prisons and Director of Correctional Services.
- (iv) Removal to a civil hospital for medical treatment.
(See section 13-B of the Bombay Borstal Schools Act, 1929)

Chapter X : Release on licence, release and aftercare

Sections dealing with the following topics should be included under this chapter:

- (i) Review and reclassification.
- (ii) Review Board, its composition and powers.
(See chapter XV paras 15-8-25 and 15-8-26, of this Report).
- (iii) Eligibility or review.
- (iv) Power to release on licence.
(See section 14 of the Bombay Borstal Schools Act, 1929).
- (v) Suspension or revocation of licence.
(See section 15 of the Bombay Borstal Schools Act, 1929).
- (vi) Subsequent supervision.
(See section 15 of the Bombay Borstal Schools Act, 1929).
- (vii) Period of detention in a Kishore/Yuva Sadan.
(See section 17 of the Bombay Borstal Schools Act, 1929).
- (viii) Discharge from Kishore/Yuva Sadan.
(See section 17-A² of the Bombay Borstal Schools Act, 1929).
- (ix) Arrest of a young offender escaping from Kishore/Yuva Sadan or escaping from supervision.
(See section 18 of the Bombay Borstal Schools Act, 1929).
- (x) Preparation for release, and release.
(See Chapter XII of the Scheme of Chapters for National Prison Legislation—**Annexure IV—B**).

Chapter XI: Miscellaneous

Sections dealing with the following topics should be included under this chapter :

- (i) Enabling provisions for applicability of certain provisions of Prison Legislation mutatis mutandis to young offenders,
- (ii) Removal of disqualifications,
(See section 20 of the Bombay Borstal Schools Act, 1929)
- (iii) Appeal or revision,
(See section 21 of the Bombay Borstal Schools Act, 1929)
- (iv) Rules.
(See section 19 of the Bombay Borstal Schools Act, 1929)

Rules should be framed for the implementation of the provisions of the Act with specific reference to the following:

- (1) Definition;
- (2) Certain offenders not to be detained in Kishore/Yuva Sadan;
- (3) Appointment, transfer, etc. of personnel;
- (4) Detailed duties of personnel;
- (5) Detailed duties and powers of the Review Board;
- (6) Terms of office of non-official members of the Review Board;
- (7) Travelling allowance to non-official visitors;
- (8) Meetings of the Review Board;
- (9) Holidays;
- (10) House system;
- (11) Daily routine and programme for inmates;
- (12) Programme for Sundays and holidays;
- (13) Searches of inmates;
- (14) Medical examination of newly admitted inmates;
- (15) Nominal roll to be submitted to the Director of Correctional Services;
- (16) Grade system and marks system;
 - (a) Facilities in Grade-III;
 - (b) Record to be maintained in Grade-III;
 - (c) Facilities in Grade-III
Promotion to Grade-II
Record to be maintained in Grade-II;
 - (d) Facilities in Grade-I
Promotion to Grade-I
Record to be maintained in Grade-I;
 - (e) Penal Grade;
- (17) Wages;
- (18) Savings and expenditure;

- (19) Hours of work;
- (20) Clothing, bedding and equipment;
- (21) Diet;
- (22) Education and vocational training;
- (23) Recreational and cultural activities;
- (24) Canteen;
- (25) Annual sports;
- (26) Discipline;
- (27) Details regarding offences and punishments;
- (28) Medical care;
- (29) Release on licence;
- (30) Form of licence;
- (31) Temporary detention;
- (32) Maintenance of record;
- (33) Aftercare and follow-up.

Note: While drafting statutory rules under the Act, our recommendations contained in Chapter XV on 'Young Offenders' of this Report, Maharashtra Borstal Schools Rules, 1965, and rules made by other States should be referred to.

CHAPTER V

PRISON BUILDINGS

5.1 One of the shocking realizations of the Committee during its visit to prisons and institutions associated with prisons in different States and Union Territories was the deplorable condition of the barracks, dormitories and cells in which inmates are generally housed.

5.2 Prisons in the country, in general, are housed in old and dilapidated buildings. In spite of casual repairs and occasional white wash done to make them somewhat presentable to important prison visitors, the cracks and crevices, the crustings and dinginess, betray the chronic neglect to which they have been subjected over the years. The actual living places of prisoners, even in the few prisons which otherwise appear clean from outside, bear a forlorn, dismal and depressing look. The standards and norms prescribed under the existing rules regarding accommodation for prisoners are generally not followed. Inspecting officers as also official and non-official visitors to prisons, looking at the apparently clean exterior are often too much in a hurry to see the filth and stink, dirt and darkness, and the crowdedness of dormitories, where inmates have to spend almost 12 to 15 hours of confinement each day. Looked more carefully, the inadequate and badly made lavatories, over-flowing drains, open sewage, water-loggings, basket type dry latrines and insufficient overhead water tanks are a common sight in our jails. A natural corollary to such unhygienic conditions is the breeding of pests and vermin resulting in infectious and communicable diseases which adversely affect the health of the prisoners.

5.3 The most important factor determining not only the general living conditions of prison inmates but also the operational efficacy of prison programmes is the plan and architectural design of prison buildings. It is now a generally accepted sociological fact that housing patterns of a given mass of human-beings can appreciably influence not only their health and hygiene, social relationship and collective development, but also their mental attitude towards their fellow-beings. If this be taken as a criterion of judgement for the appropriateness of our prison buildings, we have no hesitation in saying that our prison buildings are functionally most inappropriate and inadequate. Most of the buildings, having been constructed (or even improvised) during the British colonial regime, are oriented basically to custodial and security requirements. Facilities for proper classification, individualised care, education, training, and reformation are generally lacking. By and large, all types of casual and habitual offenders are lodged in the same buildings and institutional setting. What is most depressing is that in many jails juvenile and young offenders, mentally sick and diseased prisoners are also not effectively segregated.

5.4 According to the statistics collected by the Committee, 23 prison buildings in the country are more than 125 years old while 187 are about a hundred years old. It appears that financial constraints have always restricted the work of renovation of existing prisons and setting up of new buildings. Consequently, the prisons of almost every State suffer from periodic and functional overcrowding. The problem of overcrowding has assumed chronic dimensions in some of the prisons in the States of Andhra Pradesh, Bihar, Maharashtra, Tamil Nadu, Uttar Pradesh and the Union Territory of Delhi. If in the near future the existing prison buildings are not renovated and new ones not set up the problem of overcrowding is likely to get worse.

5.5 The Committee also found that the existing arrangements with the Public Works Departments for the maintenance of prison buildings were insufficient and unsatisfactory. Some of the general complaints made by prison administration were that the Public Works Department did not pay sufficient attention to the day to day repairs in prisons; that annual repairs were not properly undertaken by them; that the funds provided in the budget for annual repairs of prison buildings were generally inadequate and that even this insufficient amount was usually diverted to buildings other than the prison buildings. This neglect by the Public Works Department is one of the main reasons for the continuing deterioration of prison buildings over the years. Poor maintenance of living barracks, prison hospitals, factory enclosures, workshops, offices, guard rooms, interview-sheds, waiting rooms, watch towers, bathing places, urinals, etc., leaves one convinced of this general neglect.

5.6 It appears that there is no expertise available to States and Union Territories to guide and help them in designing right type of prison buildings. Even the new prison buildings coming up in some States do not meet the requirements of security, correctional programmes or even basic minimum needs of collective living in prisons.

5.7 One of the major factors adversely affecting morale of prison staff, we believe, is the lack of sufficient and properly maintained residential quarters for them. Because of the lack of accommodation for staff, the low paid prison guards are often constrained to live in those areas of the city which are infested with anti-social elements close to the underworld of crime. It has been found that by their association with this element of the society, the prison guards start developing vested interests in prison inmates either for small material advantages or for averting physical threat to themselves and their families. An effective way of tackling this problem is to provide residential accommodation to all prison personnel. This will also ensure the ready availability of force within the prison campus round-the clock to meet any emergent situation. Otherwise also proper residential accommodation for the staff is an essential ingredient of better institutional management.

5.8 Housing is a basic and essential requirement of human beings, be they prisoners or free citizens. The quality of housing along with other necessary facilities considerably influences the quality of human life and work. This, in the restricted environment of prisons, assume special significance. In this background we make the following recommendations :

5.8.1 The State Governments and Union Territory Administration should undertake an immediate survey, to be completed within a year, of prison building with regard to minimum needs in respect of :—

- (i) regular supply of water for drinking and for other purposes in terms of overhead tanks, tubewells, water pipe lines, etc.;
- (ii) flush/septic type latrines ;
- (iii) proper drainage and sewer system;
- (iv) renovation of existing living barracks/cells/work-shed for protection against direct sun, cold winds, rain, etc.;
- (v) constructional devices to check flies, mosquitoes, pests and rodents;
- (vi) electrification of prison buildings;
- (vii) general repairs to floors and sleeping berths in living barracks and cells;
- (viii) covered verandahs or sheds to be used as dining places; and
- (ix) Any other work essential to maintain minimum standards of living and cleanliness in consonance with human dignity.

5.8.2 The State Governments and Union Territory Administrations should execute this minimum essential work plan within two years after survey.

5.8.3 Each State and Union Territory should prepare a comprehensive plan for remodelling and renovating existing prison buildings, where necessary and feasible, so that they not only become functional but also habitable in consonance with human dignity. This will involve heavy expenditure and, therefore, funds for the purpose should be made available by the Central Government to the State Governments as recommended by us in Chapter XXV on 'Planning, Research and Development'.

5.8.4 The State Governments and Union Territory Administrations should draw within one year a Master Plan for the construction of new buildings on the principles laid down hereunder:—

- (i) Separate jails for undertrial prisoners;
- (ii) Separate institutions for women offenders;
- (iii) Separate institutions for young offenders;
- (iv) Arrangements for mentally sick prisoners;
- (v) Open Camps, mobile and permanent, for prisoners sentenced to less than one year;
- (vi) Semi-open and open prisons for prisoners sentenced to one year or more;
- (vii) Camps for those courting arrest during non-violent socio-political economic agitations for declared public cause;
- (viii) Buildings for training institutions for prison staff at the State level and at the Regional level ; and
- (ix) Staff quarters.

5.8.5 Based on the statistical data available with the Committee, an estimate of the requirements together with financial outlays of buildings of different categories has been made which is attached as Annexure 'A' to this Chapter. The total estimated financial outlay comes to about Rs.376 crores. The estimates do not include the cost of land. The Central Government should make available this amount to State Governments as recommended by us in Chapter XXV on 'Planning Research and Development'.

5.8.6 The proposed National Commission on Prisons, the National Buildings Organisation and the National Institute of Social Defence should coordinate to evolve standards and norms keeping in view the functional needs of the buildings of different categories of prisons. The National Commission on Prisons should keep itself informed through regular monitoring that these norms and standards are observed by States and Union Territories while renovating and constructing prison spacing buildings.

5.8.7 The National Buildings Organisation should design model plans of buildings for different categories of prisons. A special cell with necessary staff and expertise from prison department at proper levels should be established at the National Buildings Organisation for this purpose.

5.8.8 While preparing model plans for prison buildings special attention should be paid to the patterns and designs of common facilities like prison hospitals, kitchens, association barracks, common lavatories and bathrooms, community halls, factory sheds, interview-sheds, classification centres and quarantine wards, to combine security with human dignity and simplicity with reasonable comfort. There should be inbuilt system

of hygiene and sanitation to suit the type of restrictive mass living which prisons are constrained to provide.

5.8.9 There should be a properly designed administrative block for each category of prisons. According to the needs of the institution the administrative block should have office rooms, record room, conference rooms, common rooms, enquiry cabins and control rooms for efficient functioning of administration. Fire fighting equipments, telephones, wireless sets, electric alarms, close-circuit TV, metal detectors, etc., should be provided at appropriate places.

5.8.10 There should be four types of living accommodation (a) association barracks with accommodation for twenty inmates; (b) a row of dormitories, each dormitory providing an accommodation for four to six prisoners; (c) single seated room accommodation for prisoners needing/desiring privacy for pursuing studies, etc., and (d) cells for segregation of inmates for purposes of security and punishment.

5.8.11 In the association barracks and dormitories each berth should normally be $6\frac{1}{2}' \times 2\frac{1}{2}'$ and 1 foot in height.

5.8.12 A fixed or in-built shelf should be provided for each inmate so that he may keep permissible personal belongings there.

5.8.13 Cells for maximum security should be fitted with flush type latrines, and existing cells should not be used till this facility is provided in them.

5.8.14 There should be a separate fly proof, well ventilated kitchen for every 200 inmates. Existing buildings should be renovated to provide this facility.

5.8.15 Each prison should have an independent stand-by arrangement for water supply in the form of adequate tube-wells or hand pumps.

5.8.16 Adequate funds for annual repairs/renovation of prison buildings should be earmarked in the budget and placed at the disposal of the Prison Department. These works would be executed by the Prison Department.

5.8.17 New constructions costing upto Rs. 2 lakhs should also be executed by the Prison Department; other new works should be executed by the Public Works Department.

5.8.18 A special cell with adequate staff functioning under a Superintending Engineer deputed from the Public Works Department should be set up at the prison headquarters of each State to plan, monitor and supervise all construction and repair works in the department.

5.8.19 All constructions in Prison Department should adhere to ISI standards.

5.8.20 New prison buildings should be constructed close to cities but away from crowded areas. The location of buildings should not give an impression of isolation of prisons and prison staff from the community.

5.8.21 No building other than prison buildings should be constructed within 100 meters of the prison campus.

5.8.22 Old prison buildings surrounded by crowded localities should not be abandoned even if new ones are constructed to replace them. These should be remodelled to house undertrial prisoners to give them the facility of proximity to the courts and their families.

5.8.23 All additional institutions to accommodate any future increase in convict population should be open institutions or semi-open institutions which will involve comparatively less capital investment on buildings and security. This would also be a positive step towards rehabilitation of offenders.

5.8.24 The existing condition of buildings and management of sub-jails has attracted our special attention and our recommendations with regard to them are contained in Chapter XVIII on 'Sub-Jails' of this Report.

5.8.25 Housing for prison staff should be included in the National Plan and residential accommodation for all prison personnel should be provided in a phased manner. Staff housing should be developed on modern lines with adequate community facilities.

5.8.26 We generally agree with the recommendations regarding details of construction of prison buildings as contained in Chapter IV- 'Architecture and Buildings'— of the Model Prison Manual.

ESTIMATED COST OF ADDITIONAL PRISON BUILDINGS AND OTHER INSTITUTIONS

(i) **Separate jails for undertrials prisoners**

There are, at present, 76 Central Prisons, 250 District Prisons and 822 Sub-jails in the country. Satisfactory arrangements for housing undertrials away from convicts do not, however, exist and they are huddled together with convicts. In order to provide separate prisons for undertrial prisoners, 50 additional units, each with a capacity of 400, need to be set up. An expenditure of Rs. 100 crores would be necessary for this purpose taking the cost to be Rs. 50,000 per prisoner.

(ii) **Separate institutions for women offenders**

Each Central Prison, District Prison and Sub-jail should have a separate annexe for women prisoners. Wherever possible, separate institutions for convicted women prisoners should be constructed. As on 31-12-1980 they were 4073 women offenders in Indian prisons. At present, there are 6 prisons for women with a capacity of 975. Additional accommodation would, therefore, be needed. On the basis of an expenditure of Rs. 50,000 per prison, a sum of Rs. 15.50 crores would be required.

(iii) At present, there are 11 Borstal schools and 8 juvenile jails in the country spread over 10 States with a capacity for about 4,000 inmates. The total number of young offenders in prisons, Borstal schools and juvenile jails as on 31-12-1980 was about 17,000. Therefore, additional institutions are needed for young offenders. The inadequacies of the present approach towards the treatment of young offenders and the need for a new approach have been spelt out in Chapter XV on 'Young Offenders'. As according to that approach nearly 50% of the young offenders will be kept in Semi-open/Open Kishore Sadans/Yuva Sadans, additional institutional facilities with medium security, will be needed for 4,500 young offenders. On the basis of an expenditure of Rs. 35,000 for each young offender the cost would come to Rs. 15.75 crores. In addition, a sum of Rs. 1.90 crores would be required for providing necessary facilities in the existing 19 institutions so that they may function effectively as Kishore Sadans/Yuva Sadans.

The expenditure of keeping a young offender in Semi-open/Open Kishore Sadan/Yuva Sadan is estimated to be Rs. 20,000 per inmate and thus the cost of establishing Semi-open/Open institutions for 8,500 young offenders would be Rs. 17 crores.

The total cost of providing buildings for separate institutional facilities for young offenders would, thus, be Rs. 34.65 crores.

(iv) **Arrangements for mentally sick prisoners**

There should be separate wards for mentally sick prisoners in the prison hospitals. In addition, each big State should have a separate hospital/annexe for treatment of prisoners suffering from very serious mental illness. The capacity of each such hospital/annexe may be 100. The cost of providing building for 15 such hospitals/annexes would be Rs. 7.50 crores on the basis of an estimated expenditure of Rs. 50,000 per inmate.

(v) Open camps, mobile and permanent, for prisoners sentenced to less than one year

Prisoners sentenced to less than one year should be kept in open camps, mobile or permanent. As on 31-12-1980, the number of such prisoners was about 23,000. The cost of establishing open camps for them would be Rs. 46 crores on the basis of an estimated expenditure of Rs. 20,000 per prisoner.

(vi) Semi-open and Open prisons for prisoners sentenced to one year or more

Of those sentenced to a term of imprisonment for one year and above, about 20 per cent may be kept in semi-open/open prisons. As on 31-12-1980, there were about 41,000 convicted prisoners with a sentence of rigorous imprisonment of one year or above in Indian prisons. Therefore, about 8,200 such prisoners would be kept in semi-open/open prisons. At present, the available capacity of semi-open/open prisons in the country is 4,626. Additional provision would accordingly be needed for about 3,600 prisoners. The estimated expenditure for this purpose per prisoner would be Rs. 20,000. Therefore, the total cost of setting up semi-open/open institutions would be around Rs. 7.20 crores.

(vii) Camps for those courting arrest during non-violent, socio-political economic agitations for declared public cause

Such prisoners should be kept in separate camps each having a capacity of 500. These camps should be located in the sensitive areas where such agitations are likely to take place. The total cost of providing 50 such camps with minimum security would be Rs. 50 crores taking the cost per prisoner to be Rs. 20,000.

With the construction of new buildings and setting up of new institutions as suggested above, some capacity in existing institutions may appear to become surplus. However, many prison buildings are old, some being 100 years old and some even more than 125 years old. The buildings which have outlived their utility and are beyond repairs should be demolished.

Taking into account the factor of increase in the general population it would not be unrealistic to expect that the incidence of crime will also go up, and there will be an increase in the total prison population, in terms of daily average population, as well as yearly turn-over of prisoners. In this context, it would be realistic to provide for additional accommodation for prisoners. The accommodation that will be available in the present central and district prisons through the adoption of the above suggested measures, may be utilised first for diversification of prison programmes at the institutional level and secondly for keeping some spare accommodation for likely increase in the prison population.

(viii) Buildings for training institutions for prison staff at the State level and at the Regional level

The facilities for training of staff are inadequate though training schools for warders, ministerial staff, etc., do exist in some of the States. Even where such schools exist, physical facilities available there are not up to the required standard. All States except smaller States and some Union Territories, which can be served by schools in the neighbouring States, should each have a training school. According to the information made available to us, 12 States already have training schools. We think that at least 8 new training schools will be required to be set up. The State of Karnataka has already constructed a building for a new training school and the State of Rajasthan has worked out details of such a school. On the basis of their estimates, capital cost for 8 training schools would come to Rs. 4 crores.

The existing training schools also need to be provided additional buildings and other facilities. On the basis of average expenditure of Rs. 10 lakhs per such school, a sum of Rs. 1.20 crores will have to be provided.

For the training of officers of higher level, in Chapter XXIV on 'Development of Prison Personnel', we have recommended setting up of four new regional training institutes in addition to the one such regional institute already functioning at Vellore for the four southern States. This institute does not have a building of its own and is housed in improvised buildings. The building for a regional institute is estimated to cost Rs. 2 crores. Thus, the cost of buildings of 5 regional institutes would be Rs. 10 crores.

The total estimated expenditure on buildings for training schools/institutes will thus come to about Rs. 15.20 crores.

(ix) **Staff quarters**

According to information as on January 1, 1981, there were about 32,000 prison personnel in the country. However, residential accommodation exists only for about 45 per cent of them. The remaining 55 per cent need to be provided with family quarters. Thus, about 17,500 new housing units would be required to be constructed. Of these, 7 per cent would be for higher level staff and the remaining for other staff. This would involve an estimated expenditure of about Rs. 100 crores, assuming that pattern of housing would be the same as that for other Government servants.

CHAPTER VI

LIVING CONDITIONS IN PRISONS

6.1 Of all the aspects of prison administration living conditions of inmates have been subjected to the strongest criticism by courts, prisoners and others interested in the maintenance of basic minimum standards of human dignity in places of human confinement like prisons. The criticism has been levelled on account of insufficient accommodation, indiscriminate huddling of all categories of offenders, unhygienic conditions, sub-standard food, insufficient water supply, use of drugs and narcotics by inmates, atrocities on children and women, maltreatment of prisoners and corruption in prisons.

6.2 During our visits to various States and Union Territories, we found that the criticism generally levelled against prisons on account of inhuman living conditions was not unfounded. In certain States, inmates were huddled together in insufficient spaces. The standard of hygiene, sanitation, medical care, clothing, bedding and even diet in most of the prisons was not compatible with human dignity. The routine of prison life is monotonous and irritating. The policy of running prisons in as cheap a manner as possible is still continuing in utter disregard of the fact that prisoners are also human beings and have to be provided with basic needs of human life. Unless adequate funds are provided, appreciable improvement in the living conditions would not be possible.

6.3 We are strengthened in our views by the observation of the Seventh Finance Commission that "facts show that jails have been neglected for too long and that there has been practically no improvement in the environment, or in the methods of handling inmates." "The Commission was convinced that "a certain minimum standard of upkeep of prisoners, improvements in diet and amenities and, to a certain extent, additions to jail capacity are urgently called for".² On analysing expenditure incurred on prisons the Commission was "perturbed to find that, with rare exceptions, the level of expenditure on prisoners has been extremely low."³ We believe that it is not only the financial constraints that have led to deplorable conditions in prisons; there has also been a general apathy on the part of prison personnel towards improvement of living conditions in prisons. Even senior prison administrators at the supervisory level pay little attention to this important aspect of prison management. Their inspections have become occasional and perfunctory. Many of them do not even know the real meaning and significance of inspections. This has also resulted in poor living conditions.

6.4 It would not be out of place to mention that some sections of the society maintain that conditions of living in prisons should not be improved lest they lose their deterrent value for the common man. They are of the view that improvement in living conditions will reduce the fear of prisons and criminals would walk in and out of them without feeling the pinch of incarceration. We do not subscribe to this view. A criminal is not written off from the society for ever. And if he has to be reformed and rehabilitated, all efforts will have to be made to eliminate the dehumanizing effects of prison life. We are of the view that prisons should neither be made so comfortable as to be treated as 'holiday homes' nor should they become 'penal colonies' where the objective of imprisonment is reduced to retribution. Living conditions in prisons should be compatible with human dignity.

6.5 There is hardly any aspect of prison administration, whether it is the condition of prison buildings or the attitude of prison personnel, that does not effect directly or indirectly living conditions of inmates in the prison setting. We have given our views on aspects having an indirect bearing on living conditions such as prison buildings; medical and psychiatric services; classification of prisoners; diversification of institutions; treatment programmes including work programmes; educational programmes; recreational and cultural activities; decongestion of prisons; complaints and grievances of prisoners; prison discipline; procedures for awarding punishment for prison offences; rights and duties of prisoners; system of remission, leave and premature release; institution of convict officers; staff attitude; etc., in relevant chapters of this Report. In this chapter we have concentrated only on such matters as have a direct bearing on the living conditions in prisons.

DIET

6.6 Monotony of prison diet has ever been an additional ingredient of punishment. Half-baked or over-burnt rotis, maggots and worms in cooked food, bad quality of vegetables and less issue of diet than that prescribed in rules, are the common complaints about prison diet. The origin of many disturbances in prisons can be traced to bad quality of food issued to prisoners. Prisoners take resort to hunger strikes and demonstrations to protest against the quality and quantity of food issued to them.

6.7 During our visits to prisons we observed that arrangements regarding preparation of food, management of kitchens, distribution of food, supervision over distribution of food, eating places, etc., were not at all satisfactory. In most of the central and district prisons food is cooked in one kitchen for the entire prison population, even if it runs into thousands. Cooking on such mass scale affects the quality of food. In some States iron vessels are still used for cooking vegetables and dal. Diet scales have not been improved or rationalised to make food palatable and to break the monotony of prison diet. Prisoners are served food in open dusty places with scant regard for cleanliness. Plates and pots are not issued to prisoners as per the regulations laid down in prison manuals. The distribution of food is entirely left to prisoners without any effective supervision by the prison staff. The practice of presence of the prison superintendent and the medical officers at the time of distribution of food, which was in vogue in old times, has now been discarded. Distribution of food to inmates has gone in the hands of prisoners who more often than not are the favourites of prison personnel. In very few States, prison panchayats are associated with receiving of rations, cooking of food and distribution of cooked food. We received many complaints about the quality and under-issue of food and also about the prevalence of corrupt practices in the entire system of prison diet, right from purchase of food articles to distribution of food. We are constrained to remark that in an era when careful attention is paid to the feeding of even dairy cattle, prison kitchens and diet systems have remained in such utter neglect.

6.8 In the restricted environment of the prison set up where prisoners cannot exercise their choice of having food according to their taste and liking, food assumes special significance. We are of the firm opinion that priority attention should be paid to the immediate improvement of the entire diet system in prisons. Our recommendations in this regard are given below:

6.8.1 The system of purchasing food articles through contract system should be discontinued. Food articles should be purchased from Government distribution agencies or cooperative societies. Fuel should be purchased from the forest department.

6.8.2 Food articles should be of good medium quality. The system of purchasing cereals/pulses of the cheapest rate wherever in vogue should be discontinued.

6.8.3 There should be two types of diet for labouring and non-labouring prisoners.

6.8.4 Adequate and nutritious diet should be given to nursing women and to children accompanying women prisoners.

6.8.5 Norms of prison diet in terms of calorific and nutritional value, quality and quantity should be laid down. Adequate check should be provided to ensure that prisoners get diet as per rules.

6.8.6 Brass/aluminium utensils of thick gauge should be used for cooking food in prison kitchens. Pressure cookers may also be used wherever possible. Serving utensils should also be of these metals. Bread containers should be of zinc. Iron utensils should be discarded forthwith.

6.8.7 Management of kitchens or cooking food on caste or religious basis should be totally banned in prisons.

6.8.8 Prisoners should get special diet on religious, festival and national days as may be specified in rules.

6.8.9 Prison kitchens should be decentralised. Each kitchen should cater for not more than 200 prisoners.

6.8.10 There should be two shifts of workers in the kitchen. Paid cooks should be employed wherever necessary.

6.8.11 Scale of fuel should be sufficient for proper cooking of food. Prison kitchens should be modernised in terms of substitutes of fuel by the introduction of new and modern devices. Pattern of 'chulhas' in vogue in the army kitchens should be adopted and introduced in prison kitchens.

6.8.12 To break the monotony of prison diet menus should be prepared in advance, under the guidance of nutrition experts.

6.8.13 In some States Prisoners' Panchayats are associated with the management of prison kitchens such as receipt of daily rations, preparation of menus, preparation and distribution of food, etc. The system has, however, not been an unqualified success. We feel that if this system functions under proper supervision of the prison staff, it will help not only in improving the quality of food but would also provide training to prisoners in self-management and would generate in them a sense of self-confidence. The system, to begin with, may be restricted to open, semi-open and medium security prisons. If successful, it may be introduced in other prison institutions also. We should, however, like to emphasise that the introduction of this system should not absolve the prison staff of their responsibilities in this regard.

6.8.14 Some prison officials should be given special training in dietary and management of kitchens and such officials should be put in charge of supervising kitchens.

6.8.15 Prison officers including superintendent must supervise every aspect of the prison diet system, i.e. issue of rations, management of kitchens, distribution of food, immediate redressal of complaints about food, etc. The Deputy Inspector General of Prisons and the Inspector General of Prisons should pay special attention to this aspect during their inspections.

6.8.16 Medical officer should ensure that food is cooked under hygienic conditions and is nutritious.

6.8.17 Prisoners should be given food which is normally eaten by people in that area. However, prisoners coming from other areas with different food habits should be given as far as possible a diet they are accustomed to. Prisoners who are accustomed to non-vegetarian food should be given such food at least once a week and those who are vegetarian should be given some sweet dish in lieu thereof. Dal and vegetable should generally be served for both the principal meals along with roti or rice as the case may be. Morning tea should form part of prisoners' daily diet.

6.8.18 Clean drinking water should be supplied to prisoners and it should be tested periodically.

6.8.19 Prisoners should be served food in clean, hygienic and covered places. The officer in charge of the yard/area must necessarily be present when meals are served to prisoners.

6.8.20 At present prisoners get their evening meal at about 5 p.m. They get something to eat again at 7.30 the next morning. This leaves a gap of 14 to 15 hours without food which is too long. In Chapter X on 'Treatment Programmes', we have suggested that the time of lock up should be shifted further by 2 to 3 hours. In view of this, the time for evening meals should be 7.30 p.m. To such prisoners as are locked up at sun set for security reasons, evening meals should be served inside their barrack, dormitory or cell.

6.8.21 Bartering of food article for other items such as gur, oil, etc., should be totally banned in prisons.

6.8.22 Prisoners should not be allowed to have their own mini kitchens inside the prison/barrack.

SANITATION AND HYGIENE

6.9 The standards of sanitation and hygiene in most of the prisons are extremely unsatisfactory. Even the open spaces inside the main prison wall are not maintained in a clean manner. Open gutters and sewer are a common feature in many prisons. Flush latrines are available in a very few prisons. In most of the prisons open basket-type latrines are still in use. Proper ratio of latrines to prisoners is not being maintained. Latrine and urinal facilities in barracks/dormitories for use at night are very inadequate. As a result, they overflow during the night. In most of the prisons latrines have not been provided in cells; only pots are kept there for answering calls of nature. A perpetual stinking smell pervades the atmosphere of most of the prisons.

6.10 Adequate water is not available in a large number of prisons. Prisoners cannot take bath and wash their clothes for days together. Properly equipped laundries for washing the clothes of prisoners at regular intervals have also not been set up. There are no arrangements for disinfection and fumigation of bedding and clothing of prisoners.

6.11 Overcrowding, sudden influx of prisoners during agitations, etc., old and dilapidated buildings, aggravate the already abysmal insanitary and unhygienic conditions in prisons. It appears that bad standards of sanitation and hygiene have become part of prison culture to which the prison personnel have got accustomed; they have developed a sort of callousness to this aspect. This state of affairs also reflects adversely on the quality of inspection of prisons by senior prison administrators. With a little imagination and by proper use of available resources prison personnel could bring about desirable improvement in environmental sanitation which is an important aspect of public health.

6.12 Our recommendations with regard to sanitation and hygiene are as below

6.12.1 Open space and roads inside the main wall of the prison should be asphalted leaving enough space for flower beds.

6.12.2 Open gutters and sewers should be covered. Wherever possible prisons should be connected to the public drainage and sewer systems.

6.12.3 The ratio of latrines to prisoners should be 1:6.

6.12.4 The system of open basket-type latrines should be discontinued. The system of carrying night soil as headloads should be stopped forthwith.

6.12.5 Flush/septic latrines should be provided in every barrack and cell.

6.12.6 Adequate number of separate urinals should also be provided.

6.12.7 Every prison should have arrangements for storing enough water for at least a week.

6.12.8 Every prison should provide cubicles for bathing at the rate of 1 for 10 prisoners with proper arrangements to ensure privacy.

6.12.9 Separate platforms for washing clothes should be constructed.

6.12.10 Properly equipped laundries for periodic washing, disinfecting and fumigating clothing and bedding should be set up at each central and district prison.

6.12.11 Medical officers of the prison must look after all aspects of prison sanitation and hygiene.

6.12.12 Every prison should be got thoroughly inspected by the local public health officer periodically.

CLOTHING, BEDDING AND EQUIPMENT

6.13 Clothing, bedding and equipment are basic needs of life. They assume a special significance in the restricted and closed world of a prison.

6.14 It has been a long standing prison practice that convicted prisoners should be issued such clothing as can distinguish them from free citizens. They were, therefore, issued clothings with checks, stripes, etc. This practice still continues in some form or the other in many States and Union Territories. In some States even undertrial prisoners accused of offence punishable under section 302 of the Indian Penal Code are issued clothing meant for convicted prisoners. In fact, one of the severe shocks—in the series of many shocks—which a prisoner receives after his first admission in a prison is when he is required to wear prison clothing. In the present day context distinguishing clothing for prisoners is not necessary.

6.15 Prisoners' clothing is stitched on a mass basis. It is not stitched as per the body measurements of prisoners. Obviously clothing stitched on such a mass basis is either too tight or too loose.

6.16 During our visits to prisons we received many complaints from prisoners regarding clothing, bedding and other equipment. In many prisons we saw prisoners in very unclean and shabby clothing. They had not been issued adequate quantities of

soap and soda. Some prisoners were wearing worn and tattered clothing. In one prison we saw undertrial prisoners wearing only a lion cloth. Many prisoners had not been given clothing, bedding and other equipment as per the provisions of the jail manual.

6.17 Our recommendations regarding clothing, bedding and equipment are as follows :

6.17.1 Prisoners sentenced to six months and below should be issued two sets of apparel and customary under-garments, two towels and one set of working clothes.

6.17.2 Prisoners sentenced to more than six months should be issued three sets of apparel and customary under-garments, two towels and one set of working clothes.

6.17.3 Women prisoners should be issued 3 coloured sarees or three sets of coloured apparel and two towels.

6.17.4 Three sets of customary undergarment (petticoats, choli/bra, etc.) should also be issued to all the women prisoners.

6.17.5 Sterilized sanitary pads should be issued to women prisoners as per their requirement.

6.17.6 Adequate warm clothing, water-proof caps and hoods should be issued according to local conditions and seasonal changes.

6.17.7 Children allowed to stay with women prisoners should be given suitable clothing similar to that normally used by children in the free community.

6.17.8 Prisoners' clothing should have no horizontal or vertical lines. It should, however, have a uniform weave. Prisoners attending educational institutions outside the prison should be allowed to use private simple clothing.

6.17.9 Prisoners' clothing should be marked with indelible ink on the back inside of the apparel. The identification marks should not be conspicuous.

6.17.10 The period of life of each article of clothing should be fixed in accordance with the type of cloth used and the wear and tear involved.

6.17.11 Worn out, torn and tattered clothing should not be issued to any prisoner. Unserviceable clothing, garments and bedding must be written off and disposed off as per fixed schedules.

6.17.12 Every prison should maintain a repair unit where prisoners' clothing can be repaired.

6.17.13 Clothing of prisoners sentenced to more than six months should be stitched/fitted as per the body measurements of prisoners.

6.17.14 Prisoners' clothing should be sterilized at Government cost once in two months. Prisoners should be allowed to get their clothes washed through prison laundries at their own cost.

6.17.15 The following bedding and other articles should be issued to every prisoner :

- (i) One thick cotton durrie and jute mat ;

- (ii) Two cotton chudders ;
- (iii) One pillow with pillow cover ;
- (iv) Woollen blankets according to climatic requirements ;
- (v) One plate ;
- (vi) One mug ;
- (vii) One bowl ;
- (viii) One thick cloth satchel ;
- (ix) Foot-wear to prisoners working in prison farms and in open prisons.

6.17.16 Prisoners should be allowed to purchase foot-wear at their own cost from prison canteens.

6.17.17 Articles of prisoners' clothing, bedding and other equipment should be sterilized, disinfected or fumigated before issue and at regular intervals.

6.17.18 Each housing unit should have :

- (i) a shelf for each prisoner where he can keep his personal belongings, books, etc ;
- (ii) fixed mirrors ;
- (iii) adequate lighting facility for reading ;
- (iv) electric fans in places where such fans are a necessity ;
- (v) adequate number of water pots with taps ;
- (vi) mugs for drinking water.

6.17.19 All articles of prisoners bedding, clothing and other equipment should be inspected by the Superintendent at least once a week to ensure that proper standards are maintained.

LETTERS

6.18 Letters play an important role in maintaining continuity of contact between the prisoner and his family and the outside community. However, arrangements regarding receipt and despatch of letters of prisoners are far from satisfactory. There were general complaints that letters were neither delivered nor despatched in time. In fact, an efficient system of dealing with letters of prisoners has not been set up as yet. Our recommendations in this regard are as follows :

6.18.1 Each prison should have a section under the control and supervision of an experienced assistant superintendent to deal with all matters pertaining to the mail of inmates.

6.18.2 On initial admission or on admission on transfer from another prison, a printed card should be sent to the family of the prisoner. This card should contain information regarding the prisoner's full name, register number and summary of rules regarding interviews, letters and other facilities.

6.18.3 Whenever a prisoner is transferred from a prison intimation of such transfer should be sent to the family of the prisoner.

6.18.4 Spouse/family member/close relative of a prisoner should be telegraphically informed about the prisoner's serious illness, serious injury, removal to a hospital for medical treatment or for treatment of mental illness.

6.18.5 On admission each prisoner should be asked to give a list of persons with whom he wants to correspond.

6.18.6 There should be no limit on incoming letters for prisoners.

6.18.7 There should be no restriction on the number of letters prisoners may send at their own cost. However, at Government cost an undertrial should be allowed to write two letters per week whereas a convict should be allowed to write one letter per week.

6.18.8 Illiterate or semi-literate prisoners should be provided help in writing letters.

6.18.9 Guidelines for censorship of letters should be formulated so that censorship of letters is done on the basis of human considerations.

INTERVIEWS

6.19 One of the important and effective ingredients of the rehabilitative process is the maintenance of continuity of contact of the prisoner with the family and the community and interviews play an important role in this regard. During our visits to prisons we found that arrangements and facilities for interviews of prisoners were far from satisfactory. Properly constructed interview sheds and waiting rooms have been provided only at a few prisons. Generally prisoners are made to talk to their visitors in crowded rooms with barriers in between. Such barriers are usually made of grill, gratings or wire-mesh. The time allowed for interview is so short that neither the prisoners nor the visitors are able to properly convey their messages. The whole system of grant of interview is such as breeds corruption. The systems of interviews needs to be improved. Our recommendations in this regard are:

6.19.1 Convicts should be granted six interviews in a calendar month. The scale of interviews for undertrial prisoners has been recommended in Chapter XII on 'Under-trial prisoners and other Unconvicted Prisoners' of this Report.

6.19.2 Properly designed tables and benches should be provided in the interview rooms. There should be no barrier between the prisoners and the interviewers. This facility should be given to well behaved prisoners. In the case of dangerous prisoners and those involving risk of security, discipline and escape, measures should be taken to prevent smuggling and similar other activities.

6.19.3 The duration of an interview should at least be of one hour. To facilitate this, the time of grant of interviews should be from 9 A.M. to 5 P.M. Depending upon the work load of interviews in each prison, necessary staff should be sanctioned for this purpose. Interviews should also be granted to prisoners on Sundays and prison holidays.

6.19.4 A waiting room for visitors should be provided at each prison.

6.19.5 Family members, close relatives and close friends of a prisoner, who is seriously ill and is admitted in a hospital, should be allowed to visit the sick prisoner daily.

6.19.6 On receipt of information of the serious illness of spouse/family member/close relative, the prisoner should either be released on special leave or allowed to go to the ailing person's bed-side under escort.

6.19.7 Persons with known bad record should be disallowed to meet undertrial and convicted prisoners.

6.19.8 Entries regarding grant or refusal of interview should be made in the history ticket of the prisoner.

6.19.9 A senior officer in charge of interviews should be responsible for grant of interviews as per rules.

CANTEENS

6.20 Canteens have been organised in some prisons with the object of making available such small amenities and food articles to prisoners as are not given to them at Government cost and are at the same time not prohibited by law. They play an important role in breaking the monotony of prison life. Our recommendations in this regard are as follows:

6.20.1 Canteens should be organised in all the central and district prisons. A variety of articles including eatables as approved by the Inspector General of Prisons should be kept there for sale.

6.20.2 Canteen facilities should be extended to all prisoners.

6.20.3 In large prisons, canteen facilities should be decentralised.

6.20.4 Canteens should be run on the basis of marginal profit not exceeding 6%. Profits accruing from canteens should be credited to Prisoners' Welfare Fund.

6.20.5 Each prisoner should have a canteen card in which the canteen credits and debits should be recorded.

6.20.6 Prisoners should be allowed to spend not more than half of the wages earned in prisons on purchases from canteens. In addition, prisoners should be allowed to spend up to Rs. 30 per month from their private cash for purchasing articles from the canteen.

6.20.7 Canteen accounts should be got audited every month.

6.20.8 Prisoners' Panchayats should be associated with the management of canteens.

OTHER FACILITIES

6.21 Prisoners should be provided the following facilities, in addition to those suggested above:

(i) Soap for bathing and washing, tooth powder, oil for hair and barbering facilities at Government cost.

(ii) Purchase of tooth-brush, tooth paste, cigarettes, bidis, writing material such as paper, exercise books, ball pens, pencils, etc. from prison canteen.

(iii) Keeping post card size photographs of family members, religious books, religious pictures, other books on subjects in which the prisoner is interested, newspapers and periodicals, subject to rules.

(iv) Observance of religious practices at individual level subject to rules.

PRISON VISITORS

6.22 The institution of prison visitors was created to provide for an independent agency to ensure care and welfare of inmates in prisons which otherwise are closed institutions. The system has, however, not functioned satisfactorily. If the prison visitors had performed their functions effectively, living conditions in prisons would not have degenerated. We are of the view that the entire system of prison visitors needs to be revitalised. Our recommendations in this regard are as follows:

6.22.1 In each State/Union Territory a Board of Visitors for the whole State/Union Territory should be set up. In some State, State Advisory Boards for Correctional Administration have been set up and they are functioning effectively. Some such Boards hold their meetings at different places in the State and also visit local prisons. We, however, feel that it may not be possible for all the State Advisory Boards to hold their meetings outside the State capital. Moreover, all the members of the State Advisory Boards may not be in a position to spare time for visiting prisons. We, therefore, recommend that where the system of State Advisory Board, is functioning well, a small sub-committee of the Board, in place of the proposed Board of Visitors, should be set up for the purpose of visiting prisons in the State. The sub-committee should submit reports on its visits to the Chairman of the State Advisory Board and to the Inspector General of Prisons.

6.22.2 Correspondents of prisons should also be appointed in each State/Union Territory from amongst the members of the Bar, social scientists accredited press correspondents, etc., with the authority to visit prisons in the State/Union Territory. These correspondents should submit their reports to the Inspector General of Prisons and the State Government/Union Territory Administration in respect of Prisons. The Inspector General of Prisons should hold an annual conference of these correspondents to discuss various problems of prison management.

6.22.3 A Board of Visitors should be constituted for each central and district prison consisting of the following:

- | | |
|---|----------|
| (i) The District & Sessions Judge | Chairman |
| (ii) Two Members of the State Legislature/Parliament | Member |
| (iii) The District Magistrate | Member |
| (iv) The District Superintendent of Police | Member |
| (v) The Civil Surgeon/Superintendent Government General Hospital/District Medical Officer (who is not a medical officer of the Prison). | Member |
| (vi) The Executive Engineer, Public Works Department | Member |
| (vii) The District Education Officer | Member |
| (viii) The District Public Health Officer | Member |
| (ix) The District Agriculture Officer | Member |
| (x) Two lady social workers who are genuinely interested in the welfare of prisoners | Member |

The Superintendent of the concerned prison function as the Secretary of the Board.

6.22.4 A Board of Visitors should be appointed for each sub-jail.

6.22.5 The functions of the Board of Visitors should be:

- (i) to visit the prison/sub-jail and ensure that care and welfare of the inmates are properly attended to;
- (ii) to attend to requests of inmates;
- (iii) to make recommendations about the redressal of grievances and complaints of prisoners and also about living conditions in prisons; and
- (iv) to help prison administration in the development of correctional programmes.

6.22.6 The Board of Visitors for central and district prisons and sub-jails should visit the concerned institution at least once in a month. A member of the Board may visit the institution individually also, on any day.

6.22.7 A copy of the remarks entered in the Visitors' Book by the Chairman or by any member of the Board should be forwarded by the Superintendent to the Inspector General of Prisons along with his comments for necessary action.

6.22.8 It should be the duty of the Deputy Inspector General of Prisons and the Inspector General of Prisons to meet the Board of Visitors whenever they visit the prison.

6.22.9 It should be obligatory on the official visitors to pay visits to prisons as per the schedule fixed by the Chairman of the Board. In case, any official visitor is not paying regular visits to prisons, this fact should be brought to the notice of Government for necessary action. If any non-official visitor does not pay regular visits to prisons the Chairman should move the Government to replace such non-official visitor.

6.23 At present prisoners are classified into A, B, C or I, II, III classes on the basis of their social, economic, and educational backgrounds. We are of the view that such classification of prisoners is not proper. We, however, recognise that prisoners having a different social or educational background may have to be given certain facilities like accommodation in a cell or dormitory, books, facilities for continuation of education, amenities for writing and pursuing intellectual activities, etc.

6.24 We generally agree with the provisions of the Model Prison Manual in regard to living conditions in prisons. These provisions so far as they are not inconsistent with our recommendations should be given effect to.

References

1. Report of the Seventh Finance Commission, 1978; page 78.
2. Ibid, page 78.
3. Ibid, page 78.

CHAPTER VII

MEDICAL AND PSYCHIATRIC SERVICES

7.1 India, with a population of 68 crores in 1981, has a doctor person ratio of 1:3600. All the hospitals and out-patient services in the country are over-crowded, and it is becoming increasingly difficult to secure adequate medical attention for the general public. Considering this sad state of affairs prevailing in the society in general, it is little relief to realize that with the availability of at least a part-time medical officer in each prison the ratio works out to 1 doctor for 500 persons. However, prisoners live under very difficult conditions—physically crowded and uncomfortable, mentally isolated and frustrated. They are, therefore, more prone to suffer from physical and mental ill-health. Besides, the prisoners are in the custody of the State and have to be properly attended since any negligence on the part of the staff, however unavoidable, would lead to public criticism.

7.2 The state of medical service in Indian prisons has been found to be generally satisfactory by various Committees in the colonial stage of our national life. For instance, in the report of the Prison Discipline Committee (1836-1838) it has been stated that in the essentials of cleanliness, and attention to the sick, the state of Indian prisons compared favourably with those of Europe. In 1864, the British Government of India, taking a serious view of the continued high death rate in Indian prisons, and other allied conditions, appointed a second committee to go into the problems of jail management. Alluding to conditions prevailing at the time of the constitution of that Committee (1864) and the improvement made thereafter the report of the Indian Jails Committee (1919-20) recorded their appreciation as follows :

“In the ten years ending 1864 the average death rate in all the main provinces of India was 78.5 per mile while in Bengal it had been as high as 100.5 per mile. During the four years ending 1917 the average death rate in all the jails of British India was 18.55 and in West Bengal 20.10 per mile. These are the results of the work of a long series of devoted and capable officers both medical and non-medical during the past three quarters of a century”.

7.3 Dr. W. C. Reckless also commented on the medical aspects of jail administration favourably. “The health and sanitation in the larger jails in India,” he wrote, “appears to be very good. This is due to the fact that the medical side has been stressed most for the last 30 years in jail administration”. One of the reasons why health and sanitary conditions in Indian prisons continued to maintain a certain standard during the colonial period was that prison administration had, for a long time, been the responsibility of medical officers—officers of the Indian Medical Service—who, with their discipline and thoroughness gave maximum attention to health care.

7.4 But the statements made and the satisfaction expressed by the Committee referred to above would not hold good now, as medical and health care in prisons has considerably deteriorated. Indeed, it is inadequate, far from comprehensive, and in some places absent. The general practice at present is that Medical Officers posted in prisons are drawn from the Medical Department on deputation. They do not have a sense of

belonging to the prison department. This generates in them an indifferent attitude, a feeling that the posting to the jail is a kind of punishment, a relegation to a place where there is lack of professional challenge in the work involved. This generally results in a very casual approach to the whole problem of preventive and curative medical services in jails.

7.5 The Committee made it a point to see the hospital section of every prison it visited in various States and Union Territories. It was a sad revelation to us that in some of the prisons there was no hospital section at all. Sick prisoners were being treated in common barracks, and it was reported that seriously ill inmates were transferred to the nearest government hospitals. Prisoners with infectious diseases, when detected, were sent to the nearest hospital catering to such type of illness. In prisons which had separate hospital sections, the conditions were shabby, and bed-linen and clothing were generally found to be dirty. Some prisons had a hospital section for male patients only; sick female prisoners had to be sent to general hospitals outside. Some prisons did not have adequate furniture in their hospital sections and patients had to be put on the floor on blankets or mats. At some of the jails there was no full-time medical officer, and the part-time ones were too busy to find time to regularly attend to prison medical work. In most places there were no nurses and a compounder or a pharmacist managed the nursing work. Proper diagnostic facilities were not available in any prison; some prisons had only a rudimentary set of instruments. The medical officers were not interested in doing any kind of laboratory work; most of the doctors whom the Committee met, felt that this was not a part of their duty and that it could be done in the general hospitals. Specialist services were also not available in most of the prisons: serious cases and patients requiring specialist consultation and laboratory investigations had to be taken to the nearest hospital. No ambulance facilities were available at any prison. Almost all the medical officers complained that quite often the condition of sick inmates deteriorated considerably before they could secure the services of a specialist.

7.6 In almost every prison we visited, the medical officer was concerned merely with the curative aspect of medical care and was unconcerned with the preventive aspects. Although all the jail manuals detail the duties of the medical officer which include regular rounds of the jail premises with the Superintendent, and inspection of living barracks, kitchen, water facilities, etc., hardly any medical officer attends to this now. Most of the medical officers confine themselves only to the hospital section of the prison and are almost ignorant of what happens elsewhere. It was, however, refreshing in this context to talk to medical officers of two institutions who seemed well aware of their duties and were also actively participating in social and cultural programmes being organised for the inmates.

7.7 There was no lady medical officer in most of the jails and examination of women prisoners was generally assigned to part-time women medical officers, who often were not available.

7.8 Some medical officers complained that work was too heavy for them as it amounted to 72 hours a week, and that vacancies of medical officers were not filled up for long periods. As pointed out earlier Medical Officers in prisons are usually deputed from the State Medical Service but a posting in jail hospital is very unpopular with medical service personnel because of the restrictions on private practice, lack of suitable incentives, routine nature of work, morbid atmosphere of prisons, lack of suitable housing facilities, etc.

7.9 A suggestion was made to the Committee during discussions with government officials and also through opinionnaire that there should be a separate Prison Medical Service comprising medical personnel selected by prison department with the assistance of the Chief of State Medical Service. They could be given some basic training in prison

administration before being posted to prisons and would function entirely under the control of the Inspector General of Prisons. Such medical personnel, it was suggested, would be liable to be transferred within the prison department and would function as employees of this department for the duration of their service. We have examined this suggestion and have come to the conclusion that such a service would be most unattractive to medical personnel. Medical Officers constituting such service would lag behind in their knowledge and application of the latest advances in medical technology and know-how, resulting in the delivery of inadequate and outmoded medical services in jails.

7.10 Sections 13 (1) (2), 14 and 15 of the Indian Lunacy Act 1912 cover the procedures to be followed in the case of wandering and dangerous lunatics. Section 16 empowers the Magistrate to detain such wandering and dangerous lunatics in safe custody for a period not exceeding ten days during which the Medical Officer is to determine whether the person suffers from unsoundness of mind or not. It is stipulated that the total period of such detention cannot exceed thirty days. Section 23 authorises the Magistrate to detain a lunatic in safe custody pending his removal to an asylum. The Committee during its visits to various jails in the country found that such mentally-ill persons as had not committed any crime had been confined in prisons for years together. In one prison there were as many as 600 and odd non-criminal lunatics consisting of 1/3 of the population of that prison on the day of our visit. Statistics show that in one State out of a prison population of 10,618 there were as many as 1,301 non-criminal lunatics and yet in another State there were 404 non-criminal lunatics out of a prison population of 4,874. It is sad that prisons are being used as alternatives to lunatic asylums.

7.11 We also noticed that at some places psychiatrists were not available for the treatment of mentally sick inmates, whether criminal or non-criminal, and only the Medical officer of the prison was looking after them. At some other places though a psychiatrist visited the jail once or twice a week nursing facilities were not adequate and drugs were being administered by convict warders. At one place we were informed that mental patients were given tranquillizers and all forms of drug treatment but that Electro-Convulsive Therapy was not being administered as it was prohibited in prisons.

7.12 It is extremely unfortunate that lunatics lodged in jails are not only not given proper care and treatment but are forced to live in inhuman conditions. They are huddled up in small barracks or in cells under unhygienic conditions and without proper care.

7.13 In the context of our discussions on this problem our recommendations with regard to medical and psychiatric services in prisons are as follows :

7.13.1 Medical Officers should be deputed from the State Medical Service to prisons. Only such medical officers as have at least 5 years experience in the clinical field after graduation should be posted to prisons.

7.13.2 The term of deputation of medical officers should be for a period of 3 to 5 years.

7.13.3 Immediately before or soon after joining at the prison, the medical officer should be required to undergo a short-term (15-30 days) orientation course organized at the state level by the Inspector General of Prisons in collaboration with the Director of Medical Services.

7.13.4 Every central and district prison should have 2 or more medical officers. A central prison with an inmate population of more than one thousand should have three medical officers. These officers will work full-time in the prison and reside in quarters provided for them within the premises. The senior most of these officers will organise the work, and arrange duties including call duty at night for the other doctor/doctors and the para-medical staff.

7.13.5 At every prison where there is a sufficiently large number of women prisoners (say 25 or above), a wholetime lady medical officer should be deputed. This lady medical officer should attend to the medical needs of women prisoners and also to those of family members of the staff. At other prisons arrangements should be made for part-time lady medical officers. If the number of women prisoners is too small to justify appointment of even a part-time lady medical officer, women medical officer from the nearest hospital may be deputed to visit the jail once a week and as often as necessary when there are seriously ill patients.

7.13.6 Every central and district prison should have the services of a qualified psychiatrist who should be assisted by a psychologist and a psychiatric social worker.

7.13.7 Staff requirements for a prison hospital are given at Annexure 'A' appended to this Chapter.

7.13.8 A senior officer of the rank of Joint/Deputy Director in the Medical Department should be deputed at the headquarters of the Department of Prisons and Correctional Services.

He will be in overall charge of all the Prison hospitals of the State and the medical and para-medical personnel posted there.

7.13.9 Medical officers posted at a prison will function under the control of the Inspector General of Prisons and immediately under the superintendent of the prison from whom they will take instructions. With reference to professional work, he will consult the District Medical Officer in the District and/or the Joint/Deputy Director Medical and Psychiatric Services at the headquarters of the Department of Prisons and Correctional Services.

7.13.10 The Inspector General of Prisons, and superintendents of prisons should make the work of medical officers stimulating by encouraging and involving them in research in collaboration with the medical and public health departments.

7.13.11 The following incentives should be provided to medical officers and psychiatrists deputed to prisons.:

- (i) Posting at a prison may be used as one of the incentives for entitlement to posting at an urban hospital or a post graduate centre, other incentives used by some States being posting to a Primary Health Centre or an ESI Dispensary.
- (ii) Priority in selection for postgraduate medical course as in Tamil Nadu.
- (iii) Rent free suitable residential accommodation within the prison premises.
- (iv) Non-practising allowance.

7.13.12 Para-medical personnel on deputation should be provided following facilities:-

- (i) 10% of the pay as special pay.
- (ii) Rent free residential accommodation.

7.13.13 The District Medical Officer or the Senior Civil Surgeon in every district should be the 'visiting consultant' for prisons. He should be paid an honorarium of Rs. 300/- per month.

7.13.14 Other part time medical officers should be paid an honorarium of Rs. 200/- per month. Visiting specialists should be paid suitable visiting fee not less than Rs. 50/- per visit.

7.13.15 The duties of medical officers connected with prison hospitals are given at Annexure 'B' appended to this Chapter.

7.13.16 All Central and District prisons should provide hospital accommodation for 5% of the daily average inmate population.

7.13.17 The prison hospital should be situated near the gate of the prison, and at ground level. The minimum floor area of the prison hospital should be 70 sq. ft. per patient. The accommodation provided should include:

- (i) Ward for patients;
- (ii) Toilet and bathing facilities at the rate of 1 for every 5 patients;
- (iii) Store room for hospital furniture and equipment;
- (iv) Dressing room-cum-injection room;
- (v) Room for minor surgery;
- (vi) Room for laboratory;
- (vii) Room for medical officer;
- (viii) Isolation rooms for accommodating patients with infectious and contagious diseases (such as T. B., Leprosy); and
- (ix) Separate ward for psychiatric cases.

7.13.18 Each prison should have a mobile out-patient service in each ward with a pharmacist carrying necessary medicines on trolley for distribution to patients suffering from minor ailments. This will reduce the movement of prisoners from their wards to the prison hospital.

7.13.19 The prison medical officer, apart from his office attached to the hospital section, must also have a separate office in a convenient place in the prison where he could examine the out-patients; review cases, discuss with other staff members and outside agencies matters relating to sanitation, water supply, food, fitness of prisoners for travel, work allotment, etc., and also maintain records.

7.13.20 There should be a separate out-patient section of the prison hospital outside the main prison building for the members of staff and their families. The Prison Medical Officer should run an out-Patient service during fixed hours. A six bedded hospital for emergency cases should be attached to this out-patient service.

7.13.21 Each prison hospital should have sufficient furniture articles, linen and equipment as given in Annexures C, D and E respectively appended to this Chapter.

7.13.22 Equipment and chemicals for a proper diagnostic laboratory must be available in every prison hospital. It will save considerable expenditure and administrative difficulty involved in transport of prisoners under security to general hospitals for simple investigations like Blood count and Blood Sugar Test. The requirements for a simple diagnostic laboratory are given in Annexure F appended to this Chapter.

7.13.23 It is absolutely essential that every jail hospital should be provided with an ambulance. This vehicle should be used only for medical purposes.

7.13.24 For all ailments where specialist's services are required (such as Tuberculosis, Sexually Transmitted Diseases, Leprosy, Dental care, etc.) visiting specialists from local hospitals must be appointed. For major surgical procedures and investigations the prisoner must be sent to the local hospital. However, such action should be taken only when all possibilities of a prisoner's treatment either with the existing medical facilities in the prison or by calling a specialist are ruled out.

7.13.25 Each State should have a fully equipped prison hospital manned by specialists for the treatment of prisoners requiring specialised treatment from all over the State.

7.13.26 Non-criminal lunatics should not be kept in or sent to prisons as also recommended in Chapter IV on 'Legislation'. A non-criminal lunatic should be taken for observation to the nearest psychiatric centre or, if that is not available, to a medical centre even if it be only a Primary Health Centre.

7.13.27 Criminal lunatics should be sent to the nearest prison having the services of a psychiatrist. Each criminal lunatic should be attended to by the psychiatrist who will send a periodic report to the Judge/Magistrate through the Superintendent of the prison regarding the condition of the individual and his fitness to stand trial. When a criminal lunatic recovers, he shall be certified by the psychiatrist as 'fit to stand trial'.

7.13.28 All criminal lunatics under observation of a psychiatrist should be kept in one barrack.

7.13.29 If a criminal lunatic undergoes trial and is declared "guilty but insane" he should be sent to the nearest mental hospital for further management.

7.13.30 If a criminal lunatic, after standing trial following recovery from his mental illness is declared guilty of the crime, he should undergo his term in the prison but should be under the care and treatment of the psychiatrist. Such prisoners, after recovery should not be kept in the prison hospital but should remain in association barracks with other normal inmates.

7.13.31 If an undertrial criminal lunatic fails to recover from his mental illness even after he has completed half of the maximum term awardable on conviction, his case should be submitted to the State Government for considering the withdrawal of the criminal case against him, unless released in accordance with our recommendation at para 4.34.19 of Chapter IV on 'Legislation'.

7.13.32 If a convict while undergoing his term of imprisonment becomes mentally ill, he should be shifted to the psychiatric wing of the prison hospital and placed under the observation of the prison psychiatrist who will diagnose, treat, and manage the person, and after his recovery send him back to his dormitory/ward. The prison psychiatrist will, however continue to periodically examine him for reviewing his treatment and suggesting for him other activities.

7.13.33 In addition to regular psychiatric wings of prison hospitals there should be in each big State at least one separate prison hospital with a capacity for 100 inmates fully equipped for the care and confinement of criminal lunatics. A psychiatrist should be in-charge of such an institution. It should be staffed with medical, psychiatric and para-medical personnel with assistance for security from prison security personnels. Admission into this institution should be on reference by the psychiatrists attached to Central and District prisons. Criminal lunatics who do not respond to routine methods of management and treatment, and who have psychopathic tendencies will also be admitted and managed in this institution until finally released by the Government after consideration of their cases by the Review Board.

7.13.34 Sick women prisoners should be treated in a separate enclosure either attached to the hospital section, or to women section of the prison.

7.13.35 Our recommendations with regard to medical services in sub-jails are contained in Chapter XVIII on 'sub-jails'.

7.13.36 Old, infirm and debilitated prisoners should be accommodated in a separate ward. All possible help for their ambulation, sensory deficits and ensuing isolation, should be included in care and treatment rendered to them. The medical officer, psychiatrist, psychologist and the superintendent of the prison should plan proper work for these aged and infirm inmates. Prison personnel should keep liaison with social security institutions, both government and voluntary, for rendering help to them. In case of unrecoverable debility, a case for premature release of convicts and withdrawal of cases against undertrial prisoners should be moved to the government, under regulations for the time being in force.

7.13.37 Requirement of drugs for 3 months should be stocked in the prison hospital. The medical officer should review the stock of drugs once a month and take precautions that time-expiry drugs are sent to other hospitals before the date of expiry if not needed in his prison hospital. Drugs may be obtained from the medical store depots by annual indent, and in case of emergency by local purchase. An amount of Rs. 250/- may be allotted as permanent advance to the medical officer for such purchase.

7.13.38 The medical officer incharge of prison hospital, should, in accordance with prison rules, and in consultation with the superintendent, work out criteria for the prescription of special medical diet to prisoners, and these criteria and the special medical diets prescribed under the m should be reviewed from time to time. The District Medical Officer while visiting the prison should specially look into this aspect of management of prison hospital and ensure that the prescription of medical diet to prisoners is neither undue nor arbitrary.

7.13.39 The medical officer will assist the Superintendent in the following situations :

- (i) Sudden influx of prisoners during riots, strikes, agitations ;
- (ii) Epidemic of infectious diseases in the prison ;
- (iii) Agitations in the prison itself.

Reference ;

1. Health Statistics of India, 1981.
2. Report of the Indian Jails Committee 1919-20, page 31.
3. Jail Administration in India—Report by Dr. W.C. Reckless, UN Expert, 1951-52.

STAFF REQUIREMENTS FOR A 25 BEDDED PRISON HOSPITAL

1. Medical Officers	}	As per recommendations made at paras 7.13.4, 7.13.5 and 7.13.6.
2. Psychiatrist		
3. Psychologist		1
4. Psychiatric Social Worker		1
5. Staff Nurses		6
6. Pharmacist		1
7. Multipurpose Workers		2
8. Laboratory Technician		1
9. Clerk-cum-Typist		1

DUTIES OF MEDICAL OFFICERS CONNECTED WITH PRISON HOSPITALS

A. PRISON MEDICAL OFFICER :

1. He will be responsible for the medical care and treatment of all inmates of the Prison;
2. He will attend to the medical care and treatment of the prison staff and the members of their families;
3. He will take rounds of the prison premises with the Superintendent once a week;
4. He will take note of any obvious evidence of sickness in any prisoner, and will make a detailed examination of the individual and organise treatment as necessary;
5. He will maintain a health card for every prisoner. (This card will contain notes on the condition of the prisoner on admission, fortnightly weight, blood counts once in 6 months, details of immunisation and of sickness);
6. He will take note of the sanitary conditions of the barracks, clothing and bedding of the prisoners and shall advise the Superintendent on any improvement that may be necessary;
7. He will inspect the kitchen and environs and advise on improvement as necessary;
8. He will arrange for periodical examination and analysis of the water supplied for drinking and cleaning purposes, and for disinfection and purification of the water as necessary;
9. He will inspect the work centres and advise the Superintendent on the suitability of work allotted to the prisoners with reference to their physical and mental health;
10. He will issue certificates in the following matters:
 - (a) fitness of a prisoner to travel when transferred to hospitals or other prisons;
 - (b) fitness of a prisoner for the work allotted to him;
 - (c) purchase of special drugs or tonics for the prisoners;
 - (d) special diet for prisoners based on their health condition;
11. In case of death of an inmate in the prison, he will take such action as prescribed in the Prisons Act/ rules.

1. DISTRICT MEDICAL OFFICER:

1. He will inspect every prison hospital (including medical arrangements at sub-jails) in his jurisdiction once a year and submit his report to the Director, Medical Services with a copy to the Inspector General of Prisons;
2. He will visit the prisons at the district headquarters at least once a week and the sub-jails as often as possible and will attend all meetings connected with health and sanitation in prisons;
3. He will take surprise rounds of the prison hospital and check the treatment planned and executed by the prison medical officer;
4. He will inspect the medical stores in prison hospitals once a month;
5. He will advise prison administration/Prison Medical Officer with regard to cooking and distribution of food in the prison;
6. He will advise the Prison Medical Officers on all aspects of professional work;

7. He will issue medical certificates relating to pre-mature release of convicted prisoners on medical grounds; and

8. He will scrutinise and forward all indents for medical stores of the Prison hospitals.

C. PSYCHIATRIST :

1. He will examine all new admissions and screen them for evidence of mental disorder and give necessary treatment to those who need it

2. He will maintain a separate case record for every case examined;

3. He will assist the classification committee in its work;

4. He will visit prison premises with the Superintendent once a week and take cognizance of any report regarding abnormal behaviour of a prisoner. He will make a detailed examination of the individual and report the same to the Superintendent, and will organise treatment if necessary;

5. He will be responsible for the care and treatment of all prisoners of unsound mind and those who have psychiatric problems. Such prisoners will be admitted into the psychiatric wing of the prison hospital, care being taken to ensure that psychotics and non-psychotics are accommodated separately;

6. He will run a daily out-patient clinic; and

7. He will advise the Superintendent on matters relating to:

(a) problems in the barracks or workshops relating to adjustment between staff and prisoners, work supervisors and prisoners;

(b) suitability of prisoners for the work allotted

(c) improving the overall quality of service rendered to the inmates in the context of the current philosophy of correctional administration.

(d) transfer of mentally ill prisoners who have not recovered within three months after starting treatment to the special prison hospital for criminal lunatics.

D. PSYCHOLOGIST :

1. He will administer psychological tests to prisoners as and when necessary and help the psychiatrist in diagnosis;

2. He will assist the psychiatrist in planning treatment programmes;

3. He will conduct group and individual Psychotherapy under the guidance of the Psychiatrist;

4. He will organise treatment and work programmes; and

5. He shall assist the Classification Committee.

E. PSYCHIATRIC SOCIAL WORKER :

1. He will study all cases referred to him by the Psychiatrist and record their case histories;

2. He will secure information relating to psycho-social aspects of such referred cases; and

3. He will plan and organise rehabilitation of prisoners referred by the psychiatrist. He will serve as a link between the prisoner and the community.

REQUIREMENTS OF FURNITURE ARTICLES FOR A 25 BEDDED PRISON HOSPITAL

	No.
1. Adults' cot with sheet mattress	25
2. Steel bed-side locker	25
3. Steel major almirah (plain)	5
4. Twelve lockers steel cupboard with individual lock and key	2
5. Back rest (Draw)	5
6. Case sheet board	25
7. Cot lifters	5 pairs
8. Dressing Trolley with S.S. trays	3
9. Revolving stool with S.S. top	5
10. Saline stand	5
11. Double Basin stand	5
12. Steel Instruments Glass-cabinet with double door	2
13. Examination couch with T.W. top	2
14. T.W. Table with drawer (Senior)	5
15. T.W. Table with drawer (Junior)	2
16. T.W. Chair with arm	6
17. T.W. Stool	25
18. T.W. Bench with back	2
19. Soil Linen Box	3

LINEN ARTICLES REQUIRED FOR A 25 BEDDED PRISON HOSPITAL

	No.
Sheet	200
Rub coir mattress	30
Pillow cover	250
Pillow	30
Drawsheet	125
Towel	50

EQUIPMENT FOR A 25 BEDDED PRISON HOSPITAL

	No.
1. Thermometer	6
2. Stethoscope	2
3. B.P. apparatus	2
4. Syringe 20 cc	2
5. Syringe 10 cc	24
6. Syringe 5 cc	24
7. Syringe 2 cc	24
8. Hypodermic needle	48
9. Sterilizer	1
10. Autoclave	1
11. Bin	2
12. Enamel Tray	2
13. Bed Pan	6
14. Rubber Catheter	2
15. Kidney Tray	6
16. Urinal Pan	6
17. Glove	12 pairs
18. Weighing machine	3
19. Tape measure	3
20. Suction apparatus	1
21. Oxygen cylinder	2
22. Artery forceps	6
23. Needle holder	6
24. Syringe needle	24
25. Tongue depressor	4
26. Straight scissors	4
27. Curved scissors	4
28. Scalpel	4

	No.
29. Blade	12
30. Instrument tray	2
31. Emergency lamp	6
32. Dissecting forceps	2
33. Tissues forceps	2
34. Sinus forceps	2
35. Refrigerator	1
36. Ophthalmoscope	1
37. I.V. Disposal	6
38. Saline stand	2
39. ECT machine	1

EQUIPMENT FOR A LABORATORY IN THE PRISON HOSPITAL

	No.
1. Photo Electric Calorimeter	1
2. Centrifuge	1
3. Hot air oven	1
4. Binocular microscope	1
5. Counting chamber (new bear)	2
6. Counting chamber (Fack Rosenthal)	2
7. Hemoglobinometer	2
8. W B C Pipette	2
9. R B C Pipette	2
10. H.B. Tubes	2
11. Microscope slide	100
12. Cover slip	100
13. ESR Pipette	2
14. Pipette 10 cc	6
15. Pipette 5 cc	6
16. Pipette 2 cc	6
17. Pipette 1 cc	6
18. Pipette 5 a	6
19. Pipette 1 a	6
20. Test tube $6 \times 3/4$	12
21. Test tube $4 \times 1/2$	12
22. Filter paper	12
23. Reagent bottle	12
24. Spirit lamp	12

CHAPTER VIII

SECURITY AND DISCIPLINE

8.1 Security and discipline are closely related aspects of prison administration. Whenever news about escape or disturbance appears in the press, the public reacts unfavourably and its attention is focussed on the failure of the prison administration. Security and discipline in a prison, therefore, assume special importance and have always been given priority in the management of prisons. The number of escapes from prisons in India have not been very high, but the escape of dangerous and desperate prisoners, now and then, is certainly a matter of great concern to the law enforcement agencies and the public.

8.2 The state of discipline largely determines the efficiency of security in jails. In the past, reliance was placed on prison punishments, and repressive measures were, therefore, adopted for the maintenance of discipline. Flogging, cross-bar fetters, standing handcuffs were some of the barbarous prison punishments which were resorted to. The attitude was mainly negative. Most of the forms of punishments still persist in the prison rules of some States.

8.3 During our visits to prisons in different parts of the country, we noticed that the administration was now generally weak and adopted the line of least resistance, quite often leaning on appeasing the inmates. Such a situation leads to indisciplinary conditions. Another important factor contributing to indisciplinary conditions is the periodic or chronic overcrowding in some prisons which generally results in lowering even the existing sub-standard level of physical conditions in prisons causing all round frustration and dissatisfaction. Indiscipline and dissatisfaction among prisoners has in recent years often led to violent agitations, disturbances, assaults, work strikes, hunger strikes, etc. We are of the strong view that through constant vigilance and alertness, areas of discontent among prisoners should be located and quick action taken to remove such discontent. On the other and, here should be no laxity in the maintenance of discipline in prisons.

8.4 Prison discipline has to be positive and constructive but firm. This is possible only when every prisoner gets reasonable physical care as is guaranteed under the rules and regulations. Implementation of our recommendations regarding de-congestion of prisons and improvement of living conditions as given in this and report would go a long way in improving discipline in prisons.

8.5 Scientific classification of prisoners is an essential concomitant of modern prison system. Attempts have been made in some States to classify convicts but they are still at rudimentary stage. Proper classification of prisoners not only improves the morale of staff and prisoners, but also has a direct bearing on the tone of discipline and security in prisons. All the prisoners do not require the same degree of security. Classification of prisoners will enable detection of desperate and dangerous characters, confirmed habituals, violent or unreliable prisoners. In some States the custody and control of spies, infiltrators, smugglers, black-marketeers, etc., who are both affluent and influential, call for special treatment and handling. At present, such prisoners are scattered in the jails all over the State and they are a constant source of trouble, causing serious disciplinary and security problems. Obviously, such prisoners need to be separated from others at the earliest and concentrated in one or more jails with proper secu-

rity and with a different type of disciplinary regime. If such prisoners are separated the remaining jails will be free from trouble and will be able to give proper attention to the reformation and rehabilitation of other prisoners according to their individual needs and requirements.

8.6 The security staff at the jails has to work for long hours, sometimes 12 to 14 hours a day. This adversely affects security in jails. For effective and efficient watch and ward no member of the custodial staff should be required to work for more than 8 hours a day, and should get a day's rest every week.

8.7 Although the number of escapes from prisons is not very large, yet in view of the rising tide of crime and the type of sophisticated, influential and professional criminals who come to prisons, it is necessary to strengthen security to meet the challenge posed by such criminals to security arrangements. Most of the prison buildings constructed more than 100 years ago have out-lived their utility and are hardly suitable to meet this challenge. A time bound plan for the replacement and improvement of old jail buildings with a view to ensuring proper security, should be worked out and implemented in a phased manner. Our recommendations in this regard are contained in Chapter V on 'Prison Buildings'.

8.8 Most of the prisons suffer from inadequacy of basic requirements of security. They still rely on lighting by kerosene oil lamps with the result that they are in perpetual darkness at night. The above system is outdated. Internal communication system linking one part of the prison to another is non-existent. Many prisons lack telephone facilities. Even important prisons do not have arrangements for communication through wireless with district authorities in case of any emergency.

8.9 At present, the Deputy Superintendent at the Central Prison and the Jail Assistant Superintendent at other jails is the chief security officer, but he is far too busy with other important administrative work such as control of offices, factories, gardens buildings, admission and release of prisoners, etc. He is thus unable to give the required attention to the security aspect of the prison. We are, therefore, of the view that at each special security and maximum security prison a whole-time officer in the rank of deputy superintendent should be appointed to look after security arrangements. Every day he will hold thorough examination and searches of prisoners, premises and equipment selected at random. The routine searches, as at present, hardly serve any purpose.

8.10 The staff available at the prison gates to receive and search prisoners and others is wholly inadequate in most of the prisons. This results in smuggling of contraband articles inside the prisons. The arrangements in this regard need to be strengthened.

8.11 Prisons have at present no means of knowing the antecedents of newly admitted prisoners. It should, therefore, be made a statutory duty of the police to inform the superintendent of the prison at the earliest possible opportunity the antecedents of a dangerous convict or undertrial admitted to the prison so that proper precautions for his safe custody may be taken.

8.12 We noticed that the prison staff is not suitably trained to meet riotous situations. Prison staff should be given proper training in the use of riot control devices so that it may meet such situation with minimum use of force.

8.13 Members of the security and administrative staff at prisons are generally not conversant with the rules and practices regarding proper security. Their knowledge needs to be updated in this regard from time to time.

8.14 Inspection of prisons at odd hours and by surprise is very necessary to ensure enforcement of rules of security. Inspection machinery needs to be strengthened for

this purpose. One of the effective ways in which this can be done is to create posts of range Deputy Inspectors General of Prisons who should be provided motor vehicles for quick transport.

8.15 The Indian Jails Committee 1919-20 and other committees/commissions set up by the Central Government and the State Governments have been strongly recommending the abolition of the system of convict officers, as this system has a very corrupting influence on the prison administration. Nothing has, however, so far been done to implement this recommendation even partially. Most of the Inspectors General of Prisons have expressed the view to the Committee that this system should be abolished. We are strongly of the opinion that no prisoner should be employed in any institution in any administrative capacity. While we appreciate that it may not be possible to abolish the system all at once due to financial constraints, we feel that it should be replaced in a phased manner by paid staff over a period of 5 years. In the meantime, to avoid favouritism in the appointment of convict officers, it should be ensured through a proper procedure that prisoners are appointed as convict officers strictly according to rules and that an eligible prisoner is passed over only for reasons to be recorded in writing. Besides, prisoners selected for appointment as convict officers should be given appropriate training about their role in administration.

8.16 Even when the system of convict officers is abolished, it would be necessary to utilise the services of some prisoners for counting inmates in barracks at night. Proper procedure for selection of such prisoners should be laid down.

8.17 Under sections 28 and 56 of the Prisons Act, 1894 a refractory, violent or escape-prone prisoner can be placed in a cell or in fetters. Usually other methods such as placing such prisoners under supervision of trust-worthy warders, confining them in more secure buildings and putting them to regular and effective searches should ordinarily be adequate to meet security requirements. But in actual practice, superintendents frequently use powers of segregating or fettering prisoners under the aforementioned sections in a summary and mechanical manner forgetting that such preventive measures are violative of human rights and human dignity. From the information gathered from various States and Union territories, we find that during 1980, 6140 prisoners were kept in fetters, 24 in handcuffs, 3691 in ankle rings and 3279 in cells on grounds of security, etc. The Supreme Court has ruled that preventive measures adopted in prisons were now open to examination by courts and the prison authorities could not plead immunity from such interference on grounds of maintenance of security and discipline. The courts in such matters can evoke their writ jurisdiction and contempt power. It has, therefore, become necessary that discretion in the use of powers referred to above is exercised only after serious consideration based on an objective assessment of the character, propensities and antecedents of each individual prisoner together with the facts and circumstances of his case having bearing on safe custody, good order and discipline in the prison. Mere violent or bad behaviour, or mis-conduct which has no relevance to safe custody should not, by itself, be construed as justification enough for exercise of these powers. Where, in exceptional cases, exercise of such power becomes inevitable, reasons for the same, in the language understood by the prisoner, should be recorded in his history ticket. In such circumstances the prisoner should have the right to appeal to the Inspector General of Prisons against the restrictions imposed on him. We firmly believe that in the context of the modern objectives of imprisonment, administrative fairness in such matters is far more productive of order and discipline than the alternative of requiring every security suspect wear irons or be put in a cell.

8.18 The powers of the superintendent of a prison regarding use of preventive measures for reasons of safe custody and security should be clearly laid down. In case such preventive measures are necessary beyond the powers vested in the superintendent, he should seek prior approval of the District Judge or the Chief Judicial Magistrate having visitatorial powers.

8.19 Undertrial prisoners are in judicial custody which is not punitive; they are, therefore, entitled to more relaxed conditions than convicts. Fetters and handcuffs should not be imposed on them except when they have a credible tendency to violence or escape.

8.20 At many places, we were told that prison administration faced problems in transferring prisoners to outside hospitals for specialised treatment as police guard was not easily available for watch and ward in the hospitals. Even when prisoners were admitted to hospitals, they were kept in general wards. This made the task of guards of ensuring safe custody of such prisoners difficult. Arrangements in this regard need to be improved.

8.21 We generally agree with the measures of security and custody enumerated in Chapter XVI and those dealing with emergencies in Chapter LIII of the Model Prison Manual.

8.22 Maintenance of discipline in prisons is of paramount importance, as without discipline it would not be possible to organise any worth-while programme of treatment, reformation and rehabilitation of prisoners which are the objectives of the prisons. However, indiscriminate resort to infliction of punishments to deal with disciplinary problems would be counterproductive. Such problems should be dealt with, with fairness, politeness and firmness. Proper discipline should be enforced through human understanding and positive and constructive approach based on rewards rather than on punishments. For this purpose, suitable progressive stage system should be developed in different institutions so that those who show improvement in their work and conduct, and a sense of social responsibility, are allowed to enjoy increasing freedom and privileges. At present privileges such as remission, leave, premature release, etc., are awarded to prisoners in a mechanical manner. Devices should, in our opinion, be developed to measure the progress of individual prisoner objectively. This will require recording of case history of each prisoner and the progress made by him as recommended in Chapter IX on 'System of Classification' of this Report.

8.23 For a progressive stage system, it will be necessary to develop a system of appropriate rewards, recognition and appreciation in deserving cases. The privileges and facilities, as suggested below, should, in our opinion, be suitably grouped for each stage in the same or different institutions according to their graded security :

- (i) Conditions of security (including time of lock up and extent of freedom).
- (ii) (a) Frequency of visits from friends and relatives.
- (b) Duration of interview.
- (c) Nature of supervision over interviews.
- (iii) (a) Frequency of letters sent or received.
- (b) Exemption from censorship of letters.
- (iv) Canteen facilities in accordance with the items one could purchase and the monetary limits up to which one could avail himself of this facility in a month out of one's own earnings.
- (v) Number of books one could borrow from the jail library at a time.
- (vi) Number of personal books and periodicals one could retain at a time.
- (vii) Writing material.
- (viii) Watching television, film shows, dramatic performances, listening to radio.
- (ix) Frequency of taking part in games, sports and indoor games.
- (x) Quantum of remission for work and conduct.

- (xi) Frequency and period of leave.
- (xii) Short leave or licence to go out for excursion or to see a movie.
- (xiii) Employment under 'work release programmes'.
- (xiv) Pursuit of hobbies and other leisure time activities.
- (xv) Permission to a prisoner to work on his own outside working hours and earn wages.
- (xvi) Use of private clothes.
- (xvii) Privilege of living alone in a room or a cell if one does not like company or wants to pursue higher studies.
- (xviii) Permission to keep a small one-band transistor set or musical instrument to be played softly at specified times and places.
- (xix) Permission to keep personal property, for example, inexpensive watches.
- (xx) Acquiring articles for ornamental or utilitarian purposes.
- (xxi) Keeping harmless pets (excluding dogs and similar other dangerous animals).

Note 1: The above is only an illustrative list of the privileges and facilities which can be enlarged with a view to developing a sense of responsibility and trust in inmates.

Note 2: Scales or norms for various privileges and facilities have been suggested at relevant places in our Report. They may be refixed for each stage of the progressive stage system when this system is introduced.

8.24 If prisoners get human treatment and their due under rules and are further provided with incentives for showing good conduct and performance, there will be very few cases requiring enforcement of discipline through prison punishments. Honest and efficient administration, humanely and effectively enforced, is what is necessary to produce a high standard of discipline. Prison personnel should seek to influence prisoners by their own example and leadership. This will foster prisoners' willing cooperation in the observance of rules. The question of punishment will arise only when such methods fail.

8.25 With a view to facilitating maintenance of proper order and discipline in prisons, prison offences should be clearly defined as recommended in Chapter IV on 'Legislation' of this Report; these offences should be codified in the prison statute. In this connection we generally agree with the acts and omission identified as prison offences in Chapter XXXI on 'Discipline' of the Model prison Manual.

8.26 Some of the punishments prescribed in section 46 of the Prisons Act, 1894 as enumerated below, are not in conformity with the modern concept of humanitarian treatment of offenders and should, therefore, be abolished:

- (i) Change of labour to some more irksome or severe form.
- (ii) Hard labour for a period not exceeding 7 days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment. (This follows from our recommendation in Chapter IV on 'Legislation' that the distinction between simple imprisonment and rigorous imprisonment should be abolished).
- (iii) Substitution of gunny or other coarse fabric or clothing of other material not being woollen.
- (iv) Imposition of fetters and handcuffs.

- (v) Cellular confinement.
- (vi) Separate confinement for period beyond 30 days.
- (vii) Penal diet.
- (viii) Whipping.

8.27 We feel that there is a need for introducing some new forms of punishment in view of the changed conditions. It is also necessary to categorise punishment into minor and major punishment depending on the gravity of the prison offences. We accordingly propose that the following minor and major punishments may be prescribed:

MINOR PUNISHMENTS

- (i) Formal warning.
- (ii) Loss of privileges mentioned in para 8.23 above for a period not exceeding one month.
- (iii) Forfeiture of wages upto earnings of 3 days once in a month.
- (iv) Forfeiture of earned remission upto 10 days.
- (v) Fatigue drill/work for a period not exceeding 1 hour a day upto 7 days subject to physical fitness certified by medical officer.

MAJOR PUNISHMENTS

- (i) Loss of privileges mentioned in para 8.23 above for a period exceeding one month but not exceeding three months.
- (ii) Forfeiture of wages upto earnings of 4 to 7 days once in a month.
- (iii) Transfer to greater security prison and consequent loss of privileges.
- (iv) Not counting period of leave towards sentence in case of breach of conditions of leave.
- (v) Forfeiture of earned remission beyond 10 days. (Any punishment of forfeiture of remission beyond 30 days will be subject to the approval of the Inspector General of Prisons).
- (vi) Postponement of privileges of leave for a period not exceeding one year starting from the date of inmate's next eligibility for release on leave. This punishment shall be awarded with the prior approval of the Inspector General of Prisons.
- (vii) Separate confinement upto 30 days.

8.28 At present complaints against prisoners are heard by the superintendents in a summary manner which does not inspire confidence in the prisoners that justice will be done to them. The whole procedure of dealing with such complaints needs to be rationalised keeping in view the need to give the prisoner proper opportunity of defending himself. In case he is awarded a punishment he should have the right to appeal to the Inspector General of Prisons. Such a procedure will enhance rather than impair the utility of disciplinary process as a rehabilitative tool.

8.29 For maintaining good discipline every prisoner at the time of his admission to jail should be apprised of his duties, obligations, rights and privileges as laid down in the Prisons Act and rules made thereunder. A small booklet in local language containing information

regarding regulations governing treatment of prisoners, disciplinary requirements, authorised methods of receiving information, making complaints and all such other matters as are necessary to enable a prisoner to understand both his rights and obligations should be prepared by each State/Union Territory and given to each prisoner within 24 hours of his admission to prison. In case of illiterate prisoners, the required information should be conveyed to them orally.

8.30 Facilities available to prisoners to file appeals or make applications, etc., are not satisfactory in most prisons and this causes dissatisfaction among them leading to indisciplinary conditions. The existing facilities in this regard need to be improved.

8.31 During our visits to various prisons, we came to know that where complaints and grievances of prisoners were not heard or looked into for long, the accumulated frustration and dissatisfaction had led to sudden out-burst of violence and indisciplinary conditions. Prisons are closed institutions which have the inherent defect of encouraging authoritarianism in the administration which ignores and fails to appreciate even genuine complaints of prisoners. If such complaints are looked into promptly, staff-prisoner relationship will improve. There is, thus, an urgent need for evolving effective procedures for receiving and enquiring promptly into complaints of prisoners.

8.32 In some States, Prisoner's Panchayats were set up to help the administration in proper checking and distribution of food, maintenance of proper sanitation, arranging recreational activities and looking into minor disciplinary problems. The system was not an unqualified success and generally the so called 'dadas' got elected as panchas and provided a breeding ground for corruption and malpractices. We, therefore, feel that although in the medium and minimum security prisons, system of elected panchayats may be continued or introduced, franchise and conditions of eligibility for seeking elections may be restricted. These panchayats should be involved only in matters pertaining to self-management and self-improvement of inmates in day to day life.

8.33 Smuggling of drugs, opium, liquor, arms and other contraband articles into jails is another serious problem affecting prison discipline. Such smuggling generally takes place with the knowledge and connivance of custodial staff. It needs to be effectively checked.

8.34 Security and discipline as we have discussed above are the two basic pre-requisites for the effective and efficient working of prisons. They are necessary for generating an atmosphere conducive to the correction and reformation of offenders. In this context our recommendations are as follows :

8.34.1 Security and discipline, the twine closely related aspects of prison administration, should be based on scientific classification of prisoners and their segregation in diversified institutions. Diversification of prisons should be done keeping in view the requirements of gradation in custody which will depend on housing, place of work, area of movement and activity, degree of supervision and type of restriction required, etc. For such an approach prisons should be classified in the following manner:

(i) Special Security Prisons

This category of institutions will consist of the traditionally high walled prisons with watch towers, secure cells, armed guards, close-circuit television and electronic devices to keep security staff alert at all times. In such institutions, difficult disciplines cases such as escape risks, violent and dangerous prisoners will be kept.

(ii) Maximum Security Prisons

Under this category also will fall the traditional prisons with high walls, watch towers, cells and barracks, with adequate guarding staff, but without any special security arrangements as suggested for the first category of prisons. In these institutions habitual, careerist, professional, organised and sophisticated criminals will be lodged.

(iii) Medium Security Prisons

Institutions under this category will have perimeter walls but the watch over prisoners would be generally relaxed as compared with that in maximum security prisons. These institutions will house those inmates who show positive response to reformatory measures.

(iv) Minimum Security Prisons

This category of prisons will be characterised by freedom from physical restraints escape against. The Committee recommends that there should be the following three types of arrangements in this category of prisons:

(a) Semi-open Prisons

This facility will be available at maximum and medium security institutions. A certain category of prisoners would be free to go out of the perimeter walls of these prisons with or without watch, for various work programmes during the day. Such prisoners would return to the prisons in the evening to stay there for the night. It will be a kind of day release for them. Prisoners working on small farms, public undertakings, self-employment schemes, etc., or attending schools would be kept under this category. Housing facilities for such prisoners would normally be provided outside the main wall of the prisons, but, in case they are kept inside the prison they will be effectively segregated from the rest of the inmates and the security arrangements for them would be minimum.

(b) Open Prisons

This category of prisons will have no walls or fencing or locks or any other physical precaution against escape. Such prisons will be characterised by an approach which will aim at building self-discipline and a sense of social responsibility in the inmates.

(c) Open Camps (Sanganer Type)

This concept has been discussed in detail in Chapter XIX on 'Open Institutions' of this report.

8.34.2 Every prison should be provided with adequate custodial staff to ensure that no one is required to work for more than 8 hours a day, besides a day's rest every week.

8.34.3 A time-bound plan for the improvement of old prisons buildings with a view to ensuring proper security should be drawn and implemented. Our recommendations in this regard are contained in Chapter V on 'Prison Buildings' of this Report.

8.34.4 Each jail should be provided with basic requirements of security such as sufficient electric lighting, alternate arrangements of kerosene lanterns or gas-lanterns, automatic alarm system, telephone, facilities of intercom and close-circuit television (where necessary), and a public address system. All special security and maximum security prisons should have

the facility of communication through wireless with district authorities in case of any emergency.

8.34.5 An officer of the rank of deputy superintendent should be appointed at each special security and maximum security prison for discharging the duties of a whole time security officer.

8.34.6 Adequate staff should be posted at jail gates for conducting search of in-coming and out-going prisoners and other persons. A senior officer should be incharge of such operations at big jails.

8.34.7 A statutory provision should be made to make it obligatory on the part of police to inform the superintendent of the prison about the antecedents of every dangerous convict or undertrial admitted to the prison.

8.34.8 Prison staff should be trained in the use of tear gas, rubber-bullets, water-hoses and other devices used for dispersing mobs in order to minimise use of lathis and fire-arms to quell disturbances in prisons. Courses should be organised from time to time to refresh the security and administrative staff about the rules and practices regarding proper security at jails.

8.34.9 Jails should be inspected at odd hours by range Deputy Inspectors General of Prisons to ensure proper observance of security measures.

8.34.10 The institution of convict officers, discharging supervisory and disciplinary duties at present, should be abolished in a phased manner and replaced by paid staff over period of five years. During the intervening period convict officers should be selected strictly according to rules and given appropriate training about their role in administration.

8.34.11 All well-behaved convicted prisoners in good health who have completed one month's confinement and who know counting should by rotation, be employed in two-hour shifts for counting of prisoners inside barracks at night.

8.34.12 Preventive measures of ensuring security through segregation and imposition of fetters should be very discreetly used. Such measures should be adopted only after an objective assessment of the situation. Reasons leading to the use of preventive measures should be recorded in the history ticket of the affected inmate and brought to his knowledge. He should also have the right to appeal to the Inspector General of Prisons against the restrictions imposed on him.

8.34.13 The superintendent should have the power to use preventive measures for ensuring security and control to the following extent:

- (i) Handcuffing upto 12 hours at a time;
- (ii) Fetters upto 15 days;
- (iii) Separation in a cell upto 15 days at a time; and
- (iv) Canvas belts for controlling violent prisoners as per medical advice.

8.34.14 Any use of preventive measures beyond the limits as suggested in the above recommendation should be subject to approval of the District Judge or the Chief Judicial Magistrate having visitorial powers over the prison.

8.34.15 Fetters and handcuffs should not be imposed on undertrial prisoners except when they have a credible tendency to violence or escape.

8.34.16 Sections 28 and 56 and other related provisions of the Prisons Act, 1894 should be revised by a fresh legislation in the light of our recommendations in this Chapter as also those made in Chapter IV on 'Legislation' of this Report.

8.34.17 Contingents of special security guards should be posted at each jail for carrying prisoners to and from hospitals for specialized treatment.

8.34.18 Each district hospital should have a separate prisoners' ward with a room for the guards so that sick prisoners are not made to stay with other patients in the general ward.

8.34.19 We generally agree with the recommendations made with regard to security and custody of prisoner in Chapter XVI of the Model Prison Manual. We also endorse the measures suggested in Chapter LIII of that Manual for meeting emergent situations in prisons. These recommendations should be implemented.

8.34.20 Disciplinary problems in prisons should be tackled with fairness, politeness and firmness. Prison discipline should be based on rewards and positive incentives rather than on the fear of punishment.

8.34.21 In order to match freedom and facilities with improvement in the conduct exhibited by inmates, a progressive stage system should be introduced in the jails. In recognition of the improvement shown by a prisoner he should be graded higher in the progressive stage system in which each higher grade shall entitle him to better facilities and greater freedom. Details of this system are given in para 8.23 of this chapter.

8.34.22 With regard to prison offences we generally agree with acts and omission identified as such and enumerated in Chapter XXXI on 'Discipline' of the Model Prison Manual.

8.34.23 In order to bring about uniformity in matters of prison punishment and to make them commensurate with human dignity, some of the existing prison punishments should be abolished and some new ones should be introduced as suggested by us in paras 8.26 and 8.27 of this chapter.

8.34.24 The existing practice of dealing with complaints against prisoners in a summary manner by the superintendent should be stopped forthwith. The inmate should be given a written statement of allegations against him. He should be given an opportunity to put up his defence in person or in writing. The order inflicting punishment should contain reasons therefor and a copy of the same should be given to the inmate under proper receipt. The inmate should be allowed the right to prefer an appeal to the Inspector General of Prisons against major punishments. The appeal should be submitted within three days of the date of order to the superintendent who should immediately forward it to the Inspector General of Prisons for decision. The Inspector General of Prisons should decide the appeal within 15 days of its filing. In case an appeal is filed within the stipulated period the punishment awarded should remain suspended till the disposal of the appeal.

8.34.25 Within 24 hours of his admission to a prison, each prisoner should be given a booklet printed in local language containing information regarding regulations governing treatment, disciplinary requirements, authorized methods of receiving information, making complaints and all such other matters as are necessary to enable a prisoner to understand both his rights and obligations. The information contained in the

booklet should be explained to illiterate prisoners orally within the stipulated period of 24 hours.

8.34.26 Facilities available to prisoners to file appeal revision/review or make other applications in regard to their criminal cases should be improved. In this connection reference to Chapter XXVII on 'Appeals and Petition of the Model Prison Manual may be made. Prisoners may also be provided free legal aid in such matters.

8.34.27 In order that genuine complaints and grievances of inmates may be promptly looked into, the following measures should be adopted:

- (i) Letters addressed by prisoners to the Government, judiciary, Inspector General of prisons or other high functionaries should be forwarded to them immediately without being censored and dated receipt therefor should be given to the prisoner. The receiving authority should acknowledge letters immediately and look promptly into them.
- (ii) The District Judge should visit each prison in his jurisdiction once a month and give opportunity to all the prisoners to put up their grievances or requests, if they so desire, in the absence of prison officers. This should be statutory function of the District Judge.
- (iii) Each prison should have a complaint box fixed at a prominent place within the reach of inmates. The key to the lock of this box should remain with the District Judge who should open it at the time of his monthly visit to the jail. He should take necessary action on complaint found in the box. The directives issued by the higher judiciary in this regard should be kept in view by the prison administration.
- (iv) Representatives of well-established voluntary welfare organisations and professions like education, medicine, law and journalism should be appointed as non-official visitors to prisons. It should be open to a non-official visitor to meet any prisoner alone, if he so desires.
- (v) The system of taking weekly rounds of inspection of prisons is either generally not followed by the superintendents or is followed only in a perfunctory manner. This function of the superintendent should be made statutory by including it in the Prisons Act. If a prisoner is not satisfied by the action taken by the superintendent on his complaint, he should be allowed to approach higher authorities for redressal of his grievance.
- (vi) The Board of Visitors should be activated. The visitors should receive and enquire into prisoners' complaints and grievances and send their suggestions to appropriate authorities.

8.34.28 The Committee during the visits noticed that the apathy of prison staff had, at some places, led to development of ugly situation which ultimately culminated in the use of force including fire-arms. We strongly recommend that the prison administration should exercise constant vigilance and alertness to locate areas of discontent among prisoners which may lead to mass indiscipline, and take quick remedial measures.

8.34.29 Prisoners' Panchayats should be involved in matters pertaining to inmates' self-management of self-improvement in day to day life.

8.34.30 The intelligence branch of the local police should be actively involved in the detection and prevention of smuggling of contraband articles in the prisons. The vigilance cell in the headquarters organisation of the Department of Prisons should also pay proper attention to this aspect of prison security and discipline.

CHAPTER IX

SYSTEM OF CLASSIFICATION

(Diversification of Institutions, Classification of Prisoners and Typology of Crime)

Diversification of institutions :

9.1 Segregation of offenders on the basis of sex, age, criminal record, social background and sequence of criminal behaviour is an essential feature of modern prison system. But during our visits to various States and Union Territories we observed that undertrial prisoners, prisoners sentenced to short, medium and long terms of imprisonment, prisoners sentenced to simple imprisonment, habitual offenders, lifers, hardened and dangerous prisoners, children, young offenders, women offenders, civil prisoners, prisoners sentenced by court martial, criminal and non-criminal lunatics, detenus under the National Security Act, persons detained under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, smugglers, etc., were all kept in the same institutions and the arrangements for their segregation even in different wards were not effective. It was also observed that factors like overcrowding and periodic large turnover of prisoners override all principles and requirements of segregation. In reality segregation has become a provision only on paper.

9.2 One of the main reasons of the lowering down of efficiency of the prison system has been the mixing up of inmates arrested during socio-political economic agitations with undertrial and convicted prisoners in the existing prisons. It has adversely affected the discipline in prisons and morals of prison personnel. Such situations have often led to serious complications and mass agitations in prisons. If prisons have to function as centres of regeneration and correctional treatment, overcrowding and sudden influx of agitators in regular prisons will have to be effectively checked. We would like here to record our concern that if the present malaise and neglect with regard to proper segregation of different categories of inmates continue, the problem of administration and management of prisons will assume such enormous dimensions that a time may come when the entire prison system might have to face a situation of total collapse.

9.3 The All India Jail Manual Committee 1957-59 had recommended that the capacity of a central prison should be 750 and that of a district prison should be 400 so that prisons can be manageable units. Capacity of many existing central and district prisons exceeds these norms. We are given to understand that in some States, during recent years, accommodation has been further increased in some of these prisons. This means that the already unmanageable and unwieldy institutions have been made more unmanageable and unwieldy. Even the new prison buildings, that are being constructed in some of the States, are being planned for an inmate capacity much beyond the norms set forth by the All India Jail Manual Committee. This only shows how the basic principle of making prisons manageable units and also the principle of their diversification are being thrown to the winds by the persons responsible for formulating prison policies and by the planners and designers of prison buildings. This is obviously done because the primary objective of rehabilitating an erring citizen is put in the background and some other considerations are given greater importance,

9.4 During our discussions with prison personnel we were told that apart from overcrowding and periodic influx of agitators, there were other factors such as ill-planned buildings, large number of short termers, insufficient staff and paucity of funds, which made segregation of different categories of prisoners either impossible or meaningless.

9.5 Segregation of certain types of hardened, aggressive and troublesome criminals in a separate institution is also necessary not only from the point of view of maintaining discipline, but also for creating that atmosphere in jails which would help the process of regeneration. Every prison has some difficult and incorrigible prisoners who through their sophistication, and capacity for intrigues, vitiate the atmosphere of the institutions and develop vested interests. More often than not, prison administrators adopt a line of least resistance and policy of appeasing such prisoners which eventually encourage them to become more troublesome and to establish a negative leadership in the prisons. Once such goons establish themselves as leaders of prisoners, they hold prison administration to ransom. These goons and other mischievous and troublesome prisoners have to be very firmly dealt with. One of the effective methods of dealing with them is to segregate them from the rest of the prison population. Such prisoners must realise that prison administration cannot be threatened, bamboozled or held to ransom through their goonda techniques. It is our considered opinion that in the interest of cleansing the prison system in India 'pucca bandobast' for such prisoners has to be made not only on a high priority basis but also on a firm and unflinching basis. This will be possible only when some special institutions are earmarked for the effective segregation of this small percentage of prison population. It was revealed to us by some prisoners and even by some prison personnel that such goons and sophisticated prisoners have access to the corridors of power and influence. We strongly feel that this must stop forthwith, for if such goondas and white collar criminals continue to get patronage from high quarters, the Indian prison system will either collapse or will be corrupted beyond redemption.

9.6 During our discussions with senior prison administrators and prison personnel working in the field we tried to know if any policy regarding diversification of institutions for the purpose of segregation and treatment of different categories of prisoners had been or was being evolved. We gathered that only in a very few States some broad policy in this regard had been established, but in other States clear guidelines for diversification of institutions had not been laid down. In fact, in most of the States this important aspect of prison administration is neither understood nor appreciated. The recommendations of the Indian Jails Committee 1919-20 and the All India Jail Manual Committee 1957-59 in this regard have remained unimplemented in almost all the States and prisoners are lodged in prisons on an ad-hoc basis without any scientific criteria. The Committee thinks that if the present severe and chronic maladies of the prison administration have to be solved on a practical and pragmatic basis the principles and procedures of diversification of institutions must be introduced in our system of prisons without any further delay.

9.7 The All India Jail Manual Committee 1957-59 has defined diversification of institutions as follows:

"By diversification of institutions we mean a network of institutions where inmates can be segregated on the basis of sex, age, criminal record, the legal reason for their detention, length of their sentence, recidivism, physical or mental health, requirements of security, needs of training and treatment, etc. Through diversifications of institutions, inmates of various categories will not only be segregated but properly designed programmes and suitable resources can be made available for carefully selected homogeneous groups of inmates. In such diversified institutions the re-education and re-processing of the offenders will receive major emphasis."

Diversification of institutions and scientific classification of prisoners are closely inter-linked. Unless a prison system establishes a clear policy regarding diversification of prisons for homogeneous groups of prisoners, scientific classification of prisoners will not be an effective proposition. We endorse the line of thinking of the All India Jail Manual Committee as quoted above. Our recommendations regarding diversification of institutions in the present context are as follows:

9.7.1 Diversification of institutions which, in fact, means classification of prisons should be evolved for basic segregation and treatment of homogeneous groups of prisoners. This can be achieved through gradation in security measures (special, maximum, medium, minimum), progressive stage system as recommended by us in Chapter VIII on 'Security and Discipline', treatment emphasis and the scope and variety of content of training and treatment programmes in different institutions. The principles and procedures of classification of prisons should be accepted and implemented by all States and Union Territories. The proposed National Commission on prisons should formulate guidelines in this respect to avoid any possible confusion.

9.7.2 Each State/Union Territory should evolve a system of classification of prisons according to its requirements. For this purpose it should make a detailed survey and analysis of inmate population, available accommodation in each prison, possibilities of gradation in security measures (special, maximum, medium and minimum), architectural design of prison buildings, existing personnel resources, requirements of personnel for development of correctional training and treatment programmes, etc.

9.7.3 Homogeneous groups of inmates selected through the procedure of scientific classification should be kept in appropriate classified institutions so that diversified institutional programmes can be organised in accordance with the requirements of each such group.

9.7.4 In large States where the number of prisoners and prisons is large, classification of prisons should be done on a regional basis so that prisoners can be kept as near their home towns as possible.

9.7.5 Small States and Union Territories, where diversification is not feasible because of a very small number of prisoners and institution, should utilise this facility in neighbouring States, or apply principles of diversification in separate yards/enclosures/wings of each institution.

9.7.6 The following broad categories of diversified institutions should be set up by each State/Union Territory according to its requirements:

- (i) Separate prisons or separate annexes for undertrial prisoners.
- (ii) Separate prisons/annexes for women prisoners.

Each central prison, district prison and sub-jail should have a separate annexe for women prisoners. In States/Union Territories where the number of women prisoners is substantial separate institutions for convicted women prisoners should be established. In large States separate prisons for convicted women offenders should be set up on regional basis so that such prisoners could be as near their home towns as possible. In this context we recommend the pattern of the Nari Bandi Niketan, as annexe of the Model Prison at Lucknow or that of women's prison near the Hyderabad Central prison or of the jail for women at Yervada, Pune.

(iii) Separate camps for prisoners courting arrests during non-violent socio-political economic agitations for declared public cause. Such camps should be set up by each

State/Union Territory according to the prevailing situation in the respective State/Union Territory.

(iv) Separate institutions for young offenders. Reception Centres and Kishore/Yuva Sadans of the semi-open, open and medium security type should be set up as per recommendations contained in Chapter XV on 'Young Offenders' of this Report. As far as possible young offenders should not be kept in prisons. If, however, this becomes unavoidable they should be effectively segregated from adult offenders.

(v) Separate prisons/yards/enclosures for non-habitual adult offenders.

(vi) Maximum security prisons for habitual criminals, professional criminals, organised criminals, sophisticated criminals and criminals careerists. In order to minimise chances of contamination of casual offenders by this category of inmates, some prisons should be earmarked as maximum security prisons by each State and Union Territory on a high priority basis. A separate set of statutory rules should be formulated for effectively dealing with this group of prisoners.

(vii) Special security prisons for difficult discipline cases, escape risks, and dangerous/violent prisoners. The number of such prisons may be one or two in each State/Union Territory depending on the number of inmates falling in this category. A regime based on firm and strict discipline should be provided in these institutions. However, these offenders should be exposed to opportunities for improvement in their behaviour and should be shifted to prisons with lesser security on exhibiting sustained good behaviour.

Note : Items (vi) and (vii) above have reference to our recommendations made in Chapter VIII on 'Security and Discipline'.

(viii) Separate yards/annexes or prison hospitals for inmates suffering from diseases like tuberculosis, leprosy, S.T.D. etc. Wherever possible T.B./leprosy units should be located in the T.B. hospital/leprosy asylum.

(ix) A separate ward for geriatric prisoners in each central/district prison. It must be properly maintained to meet the needs of old and infirm inmates.

(x) Separate wards for mentally sick patients in the hospitals of central/district prisons.

(xi) Separate hospital/annexe according to the requirements of each State for the treatment of patients suffering from serious mental illness. This unit should be headed by a psychiatrist but the security arrangements should rest with prison security personnel.

(xii) Open camps, mobile and permanent, for non-habitual convicted prisoners sentenced to less than one year of imprisonment to be located where activities like afforestation, agriculture, community services, etc., can be organised.

(xiii) Semi-open and open prisons. These institutions should be set up for non-habitual offenders sentenced to imprisonment of one year or more.

(xiv) Open camps (Sanganer Type). Prisoners may be allowed to stay in these camps with their families.

Note: Items (xii), (xiii) and (xiv) above have reference to our recommendations made in Chapter XIX on 'Open Institutions'.

9.7.7 In Chapter V on 'Prison Buildings' we have recommended construction of prison buildings for certain specific categories of prisoners, and establishment of semi-open and open prisons for long termers and open camps for short termers. If this approach is

adopted, the pressure on the existing central and district will be reduced to a great prison extent and with proper planning these institutions can be converted into medium, maximum and special security institutions for adult offenders; some of the existing district prisons can also be used as Reception Centres and Kishore/Yuva Sadans for young offender.

9.7.8 In every central and district prison, a reception centre should be established where initial classification of convicted prisoners should be made to facilitate their transfer to a suitable classified institution. These reception centres should function as diagnostic centres.

9.7.9 Panels of experts should be appointed by Government of India on a regional basis to assist the States and Union Territories in the region to prepare a basic plan for setting up a system of classified institutions.

Classification of Prisoners:

9.8. The existing system of classification of prisoners in India is old and archaic, and is not based on any scientific principles. It does not aim at homogeneous grouping of offenders on the basis of their prognosis for treatment. Prisoners in the country are broadly classified on the basis of :

- (a) sex: into men and women;
- (b) age: into children, young offenders, adults and old ;
- (c) the law under which confined, into civil prisoners, criminal prisoners, detenus, prisoners under court martial, non-criminal lunatics, inmates under protective custody and inmates confined under preventive sections of the Code of Criminal Procedure (sections 107, 109 and 110) ;
- (d) stage of investigation and trial : into remand prisoners and undertrial prisoners;
- (e) nature of sentence: into prisoners sentenced to simple imprisonment, prisoners sentenced to rigorous imprisonment, prisoners sentenced to short, medium or long terms of imprisonment, prisoners sentenced to life imprisonment and prisoners sentenced to death;
- (f) criminal antecedents : into casual and habitual prisoners ;
- (g) disease or infirmity: into criminal lunatics, lepers, T.B. patients and the like;
- (h) socio-economic status: into A, B, C, or I, II, III classes.

In some of the old prison manuals, classification of casual prisoners into 'starred casuals' and 'un-starred casuals' is also found but in actual practice this classification is no longer in vogue. We observed during our visits to various States and Union Territories that procedures of classification even on these basic norms varied from State to State and the arrangements for segregation of different categories of inmates were not effective.

9.9 The contemporary approach to the treatment of offenders in Indian prisons is a mass approach. Individualised approach is totally absent because of the lack of a system of scientific classification of prisoners. As a result, prisons are doing only holding operations. It was as early as in 1924, that Mahatma Gandhi, emphasising the need for basing the classification of offenders on scientific principle, wrote in one of his articles titled "My Jail

Experiences" published in the issue dated 8th May, 1924 of "Young India", a Weekly Journal :—

"The classification being as I have shown inevitable and in existence, there is no reason why it should not be scientific and human. I know that revision of classification according to my suggestion means a revolution in the whole system. It undoubtedly means more expense and a different type of men to work the new system. But additional expense will mean economy in the long run. The greatest advantage of the proposed revolution would no doubt be a reduction in the crimes and reformation of the prisoners. The Jails would then be reformatories representing to society sinners as its reformed and respectable members. This may be a far-off event. If we were not under the spell of a longlived custom we should not find it difficult task to turn our prisons into reformatories."

However, even 35 years after attaining independence practically no attention has been paid to this basic approach for treatment of prisoners. It is only in the prison manual of Maharashtra that there is a chapter on 'Scientific Classification of prisoners'. The rules and procedures governing management of prisons in other States do not make any reference to such classification.

9.10 "One of the paradoxes in the development of modern penology has been that attempts at treatment and training programmes, meagre though they were, came before diagnosis.³" This remark was made by Loveland about the American system of classification of prisoners nearly 30 years ago; but we think that this statement is applicable to Indian prisons even in the year 1982. We have been using the jargon of training and treatment, but in fact diagnostic procedures and classification of offenders for scientific training and treatment have nowhere been adopted on a systematic basis.

9.11 The All India Jail Manual Committee 1957-59 had strongly recommended that individualised approach towards training and treatment of offenders must be adopted through the procedures of scientific classification of prisoners. It is obvious that diagnosis must precede treatment. Initial prognosis can be made at the diagnostic stage but real prognosis evolves out of a continuous study of the prisoner's response to treatment.

9.12 It is a fact that every person who is sent to prison does not necessarily stand in need of correctional therapy; most of the prisoners have to be protected from the bad effect of exposure to life in prisons. We would, however, like to make it clear that unless every person is screened through scientific measures, prison administrators will not be able to know and decide as to which prisoners need to be protected, which prisoners need correctional therapy and treatment, and which are the difficult cases in terms of correction and rehabilitation. Our recommendations with regard to classification of prisoners are as follows:

9.12.1 The principles of classification included in the report of the All India Jail Manual Committee 1957-59, which are reproduced in Annexure to this Chapter, should be adopted on an all India basis.

9.12.2 The aims and objectives of classification as laid down in Chapter XIX of the Model Prison Manual are at Annexure B to this Chapter. We agree with them and recommend that they should be kept in view while undertaking classification of prisoners.

9.12.3 A reception centre should be set up in every central and district prison, where prisoners sentenced to more than one year should be initially admitted. The professional staff at reception centres should consist of psychiatrists, psychologists, trained social workers, etc., as recommended in Chapter XXIII on 'Organisational Structure'. A classification

committee consisting of the prison superintendent (Chairman), psychiatrist, psychologist, medical officer, the officers incharge of industries, education and vocational training, and the additional superintendent/deputy superintendent (Member-Secretary), should be set up at the reception centre. This Committee should do the basic initial classification of all convicted prisoners sentenced to more than one year. After initial classification, prisoners should be transferred to the classified prisons according to the requirements of training and treatment of each individual inmate.

9.12.4 The principles of keeping a prisoner as near his home town as possible should be broadly kept in view at the time of classification of inmates.

9.12.5 Provisions of the Model Prison Manual regarding procedure for initial classification stage of classification and reclassification procedures, decision of the classification committee, progress reports, review of progress-reclassification, contents of the inmate's case file should be adopted by each State and Union territory. Relevant extracts from the Model Prison Manual on these aspects are enclosed at Annexure C to this chapter.

9.12.6 Specimen forms of history sheet, initial classification sheet and progress report as given at Annexures D, E and F respectively should be adopted with suitable changes and modifications as per local conditions.

Typology of crime :

9.13 Criminologists have recognized that criminal behaviour is heterogeneous in character. Classification of criminal behaviour under legal categories such as murder, dacoity, robbery, forgery, etc., does not give a clear picture about the genesis and ramifications of criminal behaviour. Criminologists hold that there is no single cause of crime; it is the outcome of multiple factors. In order to understand the problems of an offenders, the sequence of his criminal behaviour has to be studied and understood. Unfortunately, in India, in-depth studies of different patterns of criminal behaviour have not been undertaken and a typology of crime in the Indian context is yet to be developed. We are of the view that for giving a sound foundation to the prison system in our country, so that it can play the role of a corrective and rehabilitative system, it is very necessary to undertake extensive and deep studies of criminal behaviour patterns in India. Such studies will provide the basic material on which the foundations of Indian criminology can be built.

9.14 It would be relevant here to reproduce an extract from 'The Crime Problem' by Walter C. Reckless on the pattern of criminal behaviour in general :

"They (Lindesmith and Dunham) contend that criminal behaviour ranges between two poles of criminal types. The type of offender at one pole is the social criminal and the type of offender at the other is the individualized offender, criminal activity or behaviour tends to go towards one or the other pole. The social criminal is the one whose activities are prescribed by the culture of his milieu and who is acting in accordance with the dictates of his traditions, associates and criminal under-world connections. The behaviour of the individualized criminal is not prescribed by the culture or associates of his milieu. The professional criminal is clearly at the pole of the social criminal type and the insane criminal is definitely at the pole of the individualized criminal type. At some positions moving towards the later pole would be persons behaving in criminal ways under the influence of alcohol, criminals of passions and persons committing crime under stress and crisis. Also gathering at the pole of the individualized criminal in this typology would be the neurotic offender who acts compulsively and the psychopathic offender who acts from lack of insight and control. The criminal behaviour of individualized criminals is supposed to be accidental behaviour; individualized criminals do not form group

of criminal associates. Falling somewhere near the professional crime at the other pole, we would find the white collar criminal (according to Sutherland's formulation) as well as the organized criminal. At this pole also we would find the very much more infrequent political criminals who belong to underground terrorist criminal bands."⁴

9.15 During the last few decades the pattern of crime in India has been showing significant changes. Some of the newly emerging trends can be identified as professional crime, career crime, organized crime, crimes committed due to political conflicts, crimes committed due to religious, caste and communal conflicts, crimes committed because of a nexus between criminals of the underworld and anti-social elements having money power on the one hand and anti-social persons holding levers of influence, the police, and other public servants on the other; economic offences; smuggling; criminal behaviour as defined in the COFEPOSA; corporate and syndicate crime; crimes committed due to industrial conflicts; bank robberies; mass violent behaviour; and atrocities on women. This, however, is only an indicative list; other patterns of crime emerging in the country might be identified if systematic studies on the subject are undertaken by experts. These newly emerging patterns of crime are a sufficient indication that crime in the country is taking a serious and diabolical turn. The law enforcement agencies have become less effective for many reasons. Social controls have also become weak. The process of social disorganisation is rapidly gaining ground. Alliance of anti-social muscle power of criminal of the under-world, money power of some anti-social persons and the power wielded by greedy persons holding key and important positions of influence create vicious circles which lead to serious crimes. This is a very grave situation of which government should take immediate note and take effective measures to curb this disturbing trend. Unless very strong and unflinching action is taken against socially conditioned criminals such as persons operating in the underworld, musclemen of slums, goondas of urban areas, slumlords, anti-social persons using money power for criminal activities, persons using their positions of influence for protecting or encouraging criminal activities, public servants functioning as vassals of the criminal under-world and of persons holding money power and levers of influence, the problem of crime cannot be effectively controlled. The vicious circles taking roots in the social structure and the resultant criminal activities of serious type will keep on damaging the fabric of our social life and the common man will continue to suffer from a sense of acute insecurity.

9.16 It is a matter of concern that while the concept of 'habitual offender' has changed, the State laws have remained archaic and have hampered serious handling of the problem. The definition of habitual offender given by the State laws is so narrow that only offenders like petty thieves continue to be the concern of the police while people connected with big business and industries go unnoticed even when they offend the law habitually in continued violation of Foreign Exchange Regulations, Customs Laws and other legal measures aimed at checking hoarding, profiteering and corruption. Such offenders have the potential to do much more harm to the society than the traditional habitual offenders listed in the State laws and they have infinitely more resources including protection from those who are called law officers to shield themselves against the use of criminal processes. The state laws do not take into consideration the new trends and tendencies of several classes of persons who, while committing an offence, also acquire status and power to meddle with the State machinery in their favour. These persons have a vested interest in the commission of crime not for their economic needs, but for pure economic greed. Such hardcore elements are known to the community as socio-economic offenders. The State Legislatures should identify them as habitual offenders and strike at these real culprits whose repeated crimes need more surveillance.

9.17 Crime has ever provided material for sensational news. During recent times, sensational reports about crime and treatment of criminals in prisons have been appearing in the press. The highest court in the country has also taken a serious note of the alleged ill-treatment of inmates in prisons, the presence of children in prisons and so on. Mass massacre of persons belonging to weaker sections, cruel depredations of bands of dacoits, atrocities against women, dowry-deaths and many other similar patterns of crime are given wide and bold publicity through the press. This is increasing the sense of insecurity among people. We have earlier discussed in Chapter III on 'Realities in Indian Prisons', the necessity of

developing a culture favourable for the rehabilitation of the offender. It is our firm belief that such a favourable culture of rehabilitation will not grow in the society as long as the common man suffers from a sense of insecurity. Therefore, to reassure the common man the regime in the prison system must be so tuned that social groups outside the prison feel that while the individualized criminals are being protected from the demoralising effects of imprisonment, the socially conditioned criminals are being firmly dealt with within the frame-work of rules.

9.18 During our visits to various prisons in the States and Union Territories, we observed that some socially conditioned criminals and sophisticated prisoners have got an upper-hand in various aspects of prison management. This, in our opinion, has been one of the principal causes of deterioration in the tone of discipline and morale in prisons. This situation has been created because prisoners have not been properly classified and offenders having potential for damaging and undermining prison discipline have not been effectively segregated from the remaining groups. Prison officers have lost their morale and confidence to deal with such prisoner in a firm manner. The reasons for this are many. Suffice it to state that the morale of prisons officers in this regard is at a very low ebb. We are of the view that if the small percentage of socially conditioned criminals who have the potential to undermine prison discipline are firmly dealt with as per rules and if they are effectively segregated, many prison disturbances would be avoided and the tone of discipline in the prisons can be improved to a considerable extent.

9.19 Against the backdrop of the above discussions, our recommendations are as follows :

9.19.1 A typology of crime should be developed in the context of the current patterns of crime in India. One of the objectives of research to be made by the Department of Prisons and Correctional Services as suggested in Chapter XXV on 'Planning, Research and Development' should be the development of such typology in order to facilitate proper classification of prisoners and their appropriate treatment. A scientific typology of crime will emerge through in-depth studies of patterns of crime, social investigation, life histories of prisoners, case recording, etc.

9.19.2 Newly admitted prisoners should be broadly categorised into socially conditioned criminals and individualised criminals. This would facilitate grouping of prisoners on certain broad homogeneous basis. The following types of criminals should be categorised as socially conditioned criminals :

- (i) criminal careerists;
- (ii) professional criminals;
- (iii) organized criminals;
- (iv) criminals who operate in the underworld of vice, prostitution, gambling and bootlegging; smugglers; dealers in stolen property; and persons engaged in similar other activities;
- (v) dacoits, bank robbers, and similar other organised criminals;
- (vi) persons who commit crimes for religious or caste or political reasons ;
- (vii) organized gangs of criminals who rob trains; hijackers, etc.;
- (viii) white-collar criminals;
- (ix) habitual criminals;
- (x) kidnappers;
- (xi) professional thieves and robbers and pick-pockets;

- (xii) persons trafficking in narcotic drugs;
- (xiii) persons who adulterate food articles; and
- (xiv) persons who manufacture spurious drugs, etc.

The following is a broad categorization of individualized criminals :—

- (i) persons who commit crime because of neurological and psychiatric disorders (epileptics, neurotics, psychotics, psychopaths and mentally retarded);
- (ii) persons committing crime under the influence of alcohol, drug, etc.;
- (iii) persons who commit crime in anger, passion, and under stress and crisis;
- (iv) persons whose criminal behaviour is extemporaneous i.e. behaviour of the moment;
- (v) persons whose behaviour is eruptive; and
- (iv) persons who commit crime because of poverty and socio-economic circumstances; a large percentage of prison population in Indian prisons falls under this category.

The above is only an indicative and not an exhaustive list. These and other types of socially conditioned and individualized criminals, as are identified through research, should be effectively segregated and a firm prison regime should be organised for socially conditioned criminals.

9.19.3 In each State and Union Territory study groups should be set up for the purpose of undertaking studies of various patterns of crime. These study groups should consist of social scientists, senior trained officers of the Department of Prisons and Correctional Services, senior officers of the Police Department, and experts and persons having wide experience in correctional field. The studies should be completed within two years and the basic material received through the reports of these study groups should be utilised for evolving classification of prisoners on scientific basis.

9.19.4 The existing legal provisions in regard to the classification of habitual offenders should be so amended as to plug the loopholes in the process of classification of such offenders. Habitual offenders should be dealt with in accordance with the provisions of the Model Prison Manual.

9.19.5 Every prison officer should be given thorough training in behavioural sciences and techniques of social work. These subjects should be included in the training curricula for prison officers. Persons incharge of classification of prisoners should be given special training in this field.

References :

1. Report of the All India Jail Manual Committee : 1957—59; page 15.
2. M.K. Gandhi: My Jail Experiences: Young India, A Weekly Journal : 8-5-1924.
3. Paul W. Tappan, Contemporary Correction: Chapter VII. Classification in the Prison System by Frank Loveland; page 91.
4. Walter C. Reckless: The Crime Problem; pages 21-22.

EXTRACTS FROM THE REPORT OF THE ALL INDIA JAIL MANUAL COMMITTEE PARAGRAPHS 71—73

The term 'classification' of prisoners is used with different connotations. Sometimes, it is used to mean classification at the court level; sometimes it means only administrative classification; and sometimes it means division of the inmates into various groups and categories. It would, therefore, be worthwhile to indicate the scope and basis of classification as a dynamic technique of Correctional Administration. Classification is a method by which study of the offender, understanding of his problems, treatment planning, execution of treatment programmes and adjusting and changing the treatment according to requirements are co-ordinated in an individual case. It is a method by which the treatment programme is adjusted to the inmate's changing needs. Classification procedure does not end with initial study and planning of programmes. It has to be a dynamic process, operating right from the admission of the inmate till his release. It has to pervade the entire institutional activity.

Classification of prisoners should be made on the basis of age, physical and mental health, length of sentence, degree of criminality and character. So also factors like sequence of an offender's criminal behaviour, his social processing, his sophistication in crime, possibilities of contamination, requirements of gradation in custody, educational and vocational training needs, urban and rural backgrounds, possibilities of social adjustment and rehabilitation needs, etc., should be taken into consideration. Our view is that classification of prisoners should become a dynamic operation from admission till release. It is only through the development of such classification procedure that the reformation and rehabilitation of the inmates can be attempted in correctional institutions.

The period immediately following the admission of an inmate is of great significance for the programme of classification and treatment. It is during this period that the study of the offender has to be initiated and initial decisions about the inmate have to be taken. The admission period is thus of fundamental importance.

EXTRACTS FROM THE MODEL PRISON MANUAL CHAPTER XIX— CLASSIFICATION

The purpose of classification programme should be :

- (i) to study the offender as an individual ; to understand the sequence of his criminal behaviour and the problems presented by him ;
- (ii) to segregate inmates into homogeneous groups for the purpose of treatment ;
- (iii) to organise an overall, balanced, integrated and individualized training and treatment programme ;
- (iv) to review inmate's response to institutional regime and treatment and to adjust the programme to suit his needs ;
- (v) to co-ordinate and integrate all institutional activities and to develop a system of constructive institutional discipline ; to maintain an informed continuity in the various phases of institutional management ;
- (vi) to ensure maximum utilization of resources and treatment facilities available in the institution as well as in the community.

Classification has to remain a dynamic operation. This can be achieved through review of inmate's progress. Initial classification and review of progress that is reclassification procedures together afford opportunities for the scientific handling of offenders.

The reclassification procedure aims at continuous study of the offender and his response to training and treatment. It maintains an informed continuity in the institutional handling of the offender. Through review and reclassification procedure :

- (i) New information about the offender gets examined and fuller understanding of his problems becomes possible ;
- (ii) Subsequent knowledge about the abilities, skills, potentialities and deficiencies of the inmate is used for modification of the treatment programme ;
- (iii) The inmate's response to treatment gets periodically evaluated and the programme is adjusted to the needs of the inmate ;
- (iv) The Administration remains informed about offenders having contamination, discipline and escape risks ;
- (v) The Administration knows about shortcomings in institutional management, programmes and about staff effectiveness ;
- (vi) An informed continuity, co-ordination and integration in all the phases of institutional work becomes possible.

EXTRACTS FROM THE MODEL PRISON MANUAL CHAPTER XIX— CLASSIFICATION

Procedure for initial classification :

The following procedure should be generally adopted at the time of initial classification of inmates :

- (i) As far as practicable, advance rotation of the case file amongst committee members ;
- (ii) A brief oral summary of each case by the Deputy Superintendent in-charge of classification ; discussion of the case ; understanding the sequence of the inmate's criminal behaviour and the problems presented by him ;
- (iii) Chalking out the institutional training and treatment programme as indicated in rule 7 ;
- (iv) Informing the inmate about the programme chalked out for him, modifying the programme, if found necessary ;
- (v) Recording of decisions taken and communicating the same to the concerned staff members.

Stages of classification and reclassification procedures :

Classification and reclassification work should be phased as indicated below :—

- (i) Admission-quarantine-orientation ;
- (ii) Study of the offender through, (a) interview, (b) collection of social information, (c) tests and examinations, (d) observation ;
- (iii) Analysis of the collected material, compilation of various reports, preparation of the case file, central indexing ;
- (iv) Planning of training and treatment, implementation of the same and observation of response to treatment programme ;
- (v) Review of progress and reclassification ; adjusting institutional programme to the needs of the inmates ;
- (vi) Planning post-release rehabilitation programme in collaboration with the aftercare service ;
- (vii) Pre-release preparation ;
- (viii) Release procedure.

Decisions of the Classification Committee :

(i) The Classification Committee should take decisions on the following points in accordance with the needs of each individual inmate :—

- (a) Recommendations about transfer.—Inter-State, or to another institution, if found necessary ;

- (b) Gradation in custody.—Maximum or medium or minimum; housing, place of work, area of movement and activity, degree of supervision and type of restriction required, etc.;
- (c) Medical matters.—As per the recommendations of the Medical Officer, referral to a Psychiatrist or any other expert ;
- (d) Individual problems of the inmate.—Family welfare, family contacts and adjustments, economic problems, land, litigation, legal help, institutional adjustment, etc.;
- (e) Work, employment, vocational training;
- (f) Education.—Health education, social education, academic education, vocational education, moral education ;
- (g) Social adjustment.—Recreation, group work activities, guidance and counselling;
- (h) Special instructions, if any, to personnel about.—collection of more information, special precautions to be taken if any, etc.;
- (i) Date of reclassification.
- (ii) While taking the above decisions the Committee should indicate the type of training and treatment most needed by the offender so as to help him to solve his problems. The initial decisions taken by the Committee should be recorded in the appropriate columns of the initial classification sheet ;

Note : The treatment programme should be practical. Sometimes it should prove useful to indicate alternative work or employment or an interim programme for the inmate. Through such indications the programme that will be chalked out for him will tend to become more realistic and practical.

- (iii) After initial classification is over, the prisoner will be removed from the quarantine area and sent to various sections of the institution.

Progress Report :

The officers in charge of various sections and programmes will maintain progress reports of the inmates. These reports should be written at least once in a quarter or more often if necessary. At the end of each quarter the progress reports should be sent to the Deputy Superintendent in charge of classification work.

Note : The progress reports should contain information about : the inmate's adjustment to institutional life; his discipline; the interest taken by him in various programmes; his attainments in educational, vocational and other fields; any marked change in his habits, attitudes and behaviour; his family and social adjustment; changes in his health and personality set-up, etc. The progress reports should contain all relevant information about the inmate's response to institutional programme. The review of the inmate's progress has mainly to be conducted on the basis of this information; hence it is essential to establish a system through which all significant information about the offender is properly collected.

Review of progress—reclassification :

- (i) The Classification Committee will review the progress of inmates and their response to institutional regime. This work will continue from the inmate's initial classification till their release. The functions of the Committee in this respect will be as follows :

- (a) Studying the inmate's response to institutional training and treatment,

- (b) Modifications and changes in training and treatment programme;
- (c) Recommendations about transfer to other institution having a different line of training and treatment;
- (d) Examining whether the inmate has reached peak points of institutional impacts and whether he is getting stagnated in a particular institutional activity;
- (e) Examining whether the inmate is fit for being transferred to a semi-open or open institution;
- (f) Planning for post-release rehabilitation programme in collaboration with the aftercare service;
- (g) Instructions about pre-release preparation and release planning;

(ii) The case of every inmate shall be placed before the Committee at least once in six months for review of progress and reclassification. It may be examined more often if found necessary. The case may be brought before the Committee on the date as fixed by the Classification Committee or on report from the officer in charge or on request by the inmate;

(iii) When cases of inmates are being reviewed by the Classification Committee, the Assistant Superintendents, technical and educational personnel and senior members of the guarding staff from the respective areas should as far as is practicable attend the meetings of the committee.

Note : Such association of the field staff would enable the committee to review the cases on the basis of first hand information and to change and adjust the treatment programme on practical and realistic lines.

Contents of the inmate's case file :

The inmate's case file should contain the following items of information:—

- (i) Record of court documents and copy of findings;
- (ii) Police reports;
- (iii) Previous criminal record, if any ;
- (iv) Probation reports, if any ;
- (v) Information from previous institutions, if any ;
- (vi) Initial interview material; information from family members, relatives, friends, and co-accused, miscellaneous informations;
- (vii) Sources of further information;
- (viii) Observation reports from staff members in charge of admission programme;
- (ix) Reports from various sections such as medical examination, I.Q. tests, vocational aptitude tests, educational tests, etc.;
- (x) Social history ;
- (xi) Summary and analysis by the Correctional Social Worker/Officer in charge of the Reception Unit ;
- (xii) Initial classification sheet ;
- (xiii) Instructions regarding training and treatment programme and about special precautions to be taken, if any ;
- (xiv) Remission sheet ;

- (xv) Leave and emergency release sheet ;
- (xvi) Prison violations and punishments, special achievements ;
- (xvii) Quarterly progress reports from various sections ;
- (xviii) Reclassification sheet ;
- (xix) Pre-release programme ;
- (xx) Final progress report ;
- (xxi) Release plan ;
- (xxii) Details of release ;
- (xxiii) Follow-up reports ;
- (xxiv) Closing remarks ;
- (xxv) Central Index reference.

SPECIMEN OF HISTORY SHEET

1. Name of the prisoner _____
 2. Number of the prisoner _____
 3. Age _____
 4. Sentence _____
 5. Section _____
 6. Social History :
 - (a) Childhood _____
 - (b) Family history _____
 - (c) Health history _____
 - (d) Neighbourhood _____
 - (e) Educational background _____
 - (f) Adolescence _____
 - (g) Economic background _____
 - (h) Employment history _____
 - (i) Associations, companionship, etc. _____
 - (j) Habits, attitudes, etc. _____
 7. Personality (general impressions only) _____
 8. Habitual or Casual _____
 9. Criminal history and statement of the prisoner regarding present and previous crimes, if any _____
 10. Clues regarding sequences of criminal behaviour _____
 11. Is he a socially conditioned or individualised criminal ? _____

Is he an ordinary criminal or careerist or professional criminal or organised criminal ? _____

Is his criminal act a behaviour of the moment or eruptive behaviour ? _____
 12. Is his mal-adjustment at the surface level or at the deep emotional level ? _____
 13. His defects and weaknesses _____
 14. His assets _____
 15. Which are the favourable and unfavourable points for his rehabilitation _____
 16. Suggestions about reference experts like psychologist, psychiatrist, etc. _____
 17. Indications about other sources from where information about the inmate's social background can be available. Suggestions about additional materials to be collected _____
- Date on which the case history was prepared _____

SPECIMEN OF INITIAL CLASSIFICATION SHEET

1. Prison _____
2. Name of the prisoner _____
3. Number and age of the prisoner _____
4. Sentence and Section _____
5. Recommendations about transfer, if any _____
6. Gradation in custody (special, maximum, medium, minimum) accommodation in barrack or cell; place of work; area of movement and activity; degree of supervision; type of restrictions, etc. _____
7. Health and medical matters _____
8. Individual problems of the inmates, (Family welfare, appeal, family adjustments, economic problems, land, litigation, legal help, institutional adjustments, etc.) _____
9. Work
(Apprenticeship training, allocation to production unit, etc.) _____
10. Education
(Health, academic, social, vocational, moral and cultural education) _____
11. Social adjustment (Recreation, group work activities, guidance and counselling, etc.) _____
12. Special instructions to the institutional personnel, if any
(Collection of more information, special precautions to be taken if any, etc.) _____
13. Date of review _____

Date of initial
classification.

Chairman of the
Classification Committee.

SPECIMEN OF PROGRESS REPORT

1. Name of the prisoner _____
2. Number of the prisoner _____
3. Sentence _____
4. Date of initial classification _____
5. Physical and Mental Health _____
6. Work (task, proficiency, quality, etc.) _____
7. Attainments in Education _____
8. Interest taken in institutional activities (P.T., prayers, recreational and cultural activities). _____
9. Discipline _____
10. Changes in habits, attitudes and behaviour _____
11. Attitude towards staff _____
12. Attitude towards inmates _____
13. Prison offences and punishments _____
14. Individual problems, if any, about family, land, litigation, business, etc. _____
15. General assessment about progress _____

Date :

Officer
Circle/yard

Recommendation of the Classification Committee.

Orders of the Superintendent.

Date :

Superintendent,
Prison.

CHAPTER X

TREATMENT PROGRAMMES

10.1 The philosophy of reformation and rehabilitation of offenders casts upon prisons the responsibility of utilising the period of imprisonment of offenders for their treatment with a view to modifying their behaviour to resocialise them. As a matter of fact the contents of the daily routine of prisons have to be planned in such a way that the course of life of inmates tends to flow towards the ultimate aim of their rehabilitation in the society. The entire atmosphere of prisons, including the behaviour of prison personnel, should be surcharged with positive values and the inmates should be exposed to a wholesome environment in which they can retrospect and reform themselves. Such congenial atmosphere is an essential pre-requisite for the execution of any reformatory treatment. Apart from this, the inmates have to be given specific treatment programmes in accordance with their different needs and personality characteristics.

10.2 It is indeed a sad revelation that in our prisons today there is neither a healthy atmosphere for executing any sustained programme of behaviour modification nor any planning for specific treatment programmes. There is even no clarity about the components of correctional treatment among prison administrators anywhere in India. Prison administrators are least bothered about this important aspect of prison work. It seems that no heed has been paid either to the report of the All India Jail Manual Committee 1957-59 in which the question of correctional treatment and training has been elaborately discussed or to the Model Prison Manual in which some of the basic concepts and procedures of treatment programmes have been incorporated. We are of the view that these aspects need to be highlighted in order to put Indian prison system on sound foundation.

10.3 Criminologists have recognised that every prison has its own sub-culture which gets concentrated over a number of years. This accumulated sub-culture is transmitted from prisoner to prisoner and even to prison personnel. This sub-culture is reflected in many ways such as prison grapevine, prison code language, under-world in the prison, undesirable activities such as gambling, homosexuality, auto-erotic practices, domination of goonda prisoners, favouritism, corruption, etc. A large majority of prison inmates consisting of first offenders have basically to be protected from getting contaminated by such prison sub-culture. It is the prime responsibility of the prison system to save the simple, impressionable first offenders from the damaging and dehumanising impact of the concentrated sub-culture of the prison. In addition to this protective aspect, there is also the reformatory aspect which requires prison administrators to properly plan the daily routine of prisoners and to develop balanced, wholesome and diversified treatment programmes for various categories of offenders requiring treatment and reformation.

10.4 Treatment of offenders in prison should be looked at from three angles : (i) the essential pre-requisites for carrying out appropriate treatment programmes conducive to rehabilitation of offenders ; (ii) variety and contents of treatment programmes; and (iii) evaluation of the effectiveness of treatment programmes. Looked from these angles the elements and components of treatment programmes in prisons can be identified as follows :—

- (i) A relaxed, positive and constructive atmosphere in the institution ;

- (ii) Good personnel-inmate relationship based on mutual trust and confidence ;
- (iii) Study of the individual inmate ; initial classification.
- (iv) Care and welfare of inmates ;
- (v) Firm and positive discipline ;
- (vi) Attending to the immediate and urgent needs and problems of inmates ;
- (vii) Attending to long term needs, planning a balanced and diversified training and treatment programme consisting of diversified education, work, vocational training, recreational and cultural activities, etc. ;
- (viii) Helping the inmate to maintain continuity of his contacts with his family and community and the outside world ;
- (ix) A good system of incentives for self-discipline such as remission, leave, transfer to semi-open and open institutions, and premature release ;
- (x) Individual guidance, counselling and case work ;
- (xi) Group activities, group guidance, group work ;
- (xii) Social implantation of proper habits, attitudes and approaches ; preparation for social living ;
- (xiii) Psychotherapy ;
- (xiv) Supportive therapy ;
- (xv) Personal positive influence of institutional personnel ;
- (xvi) Periodical review of progress, reclassification ;
- (xvii) Review of sentence and premature release ;
- (xviii) Planning for release ; pre-release preparation ;
- (xix) After-care and follow-up ; and
- (xx) Community participation.

10.5 The atmosphere of a prison is artificial, highly tense and surcharged with distrust. According to modern penology, prisoners should be sent to a prison not 'for' punishment but 'as' punishment. But unfortunately in the Indian prison situation, as it exists at present, prisoners are treated as if they have been sent to a prison not only 'as' punishment but even 'for' punishment. The subtle difference in these two concepts has to be fully appreciated if the atmosphere in prisons is to be improved.

10.6 The atmosphere in a prison depends on many factors such as the faith and belief of persons at all levels responsible for prison administration in the improvability of offenders, operational philosophy and character of prison personnel, tone of discipline in the institution, importance attached to care and welfare of inmates and the opportunities created for the re-education of offenders. If these factors are positive they will help in creating a relaxed, positive and constructive atmosphere in which the inmates will feel that prison personnel are genuinely interested in their welfare and in their ultimate re-assimilation in society as useful citizens. By relaxed atmosphere we do not mean an atmosphere which is devoid of discipline and order. Our connotation of a relaxed, positive and constructive atmosphere is of an atmosphere which is conducive to and helpful in the process of implantation of useful attitudes, habits and values in inmates. We believe that such an atmosphere is a *sine qua non* for successful implementation of treatment programmes in prisons.

10.7 One of the direct outcomes of a relaxed atmosphere would be a healthy relationship between the personnel and inmates based on mutual trust and confidence. During our visits to prisons we observed almost a total lack of such mutual relationship. There were certain prisons which were virtually run by goonda prisoners and the prison staff was at their mercy. In some other prisons where the administration was inefficient, there was complete indiscipline both among the prisoners and the prison staff. In prisons which were still being run on old traditional methods the inmates were subdued and repressed. In any case, neither did inmates have confidence in prison personnel nor did the staff have faith in the improvability of inmates. We are of the view that for making treatment programmes effective it would be necessary to develop good relationship between the prison personnel and inmates. Prison personnel will have to develop friendly but not too familiar a relationship between themselves and the inmates, and for that the quality of prison personnel will have to be improved.

10.8 Study of the individual inmate, initial classification of prisoners, their care and welfare, and firm and positive discipline in prisons constitute essential pre-requisites for planning balanced treatment programmes. All these aspects have been discussed in our Report at appropriate places.

10.9 The process of treatment should begin right from the time of admission of an inmate in an institution. A newly admitted inmate faces a number of problems of adjustment with the new environment. The regimented routine of institutional life, the pattern and timings of prison food, and anxieties about health, family and domestic problems such as land, litigation, etc. keep bothering him. He attempts to seek adjustment with inmate groups and prison personnel and with the work allotted to him. If these urgent needs and problems are explored, identified and attended to by prison personnel sympathetically and with understanding the inmate will get a lot of relief. This will also enable prison personnel to establish a rapport with the inmate and secure his cooperation in the effective implementation of treatment programmes.

10.10 We found during our visits to various States and Union Territories that programmes of work and vocational training in prisons were stuck up in the quagmire of traditions embedded in the prison system for decades together. Prison industries have not been modernised and they are not in a position to train prisoners for the competitive labour market in the free community. There is a lot of unemployment and under employment in prisons. Programmes of work and vocational training in prisons have not been developed with a view to imparting requisite skills, habits of hard and concentrated work and fostering in inmates desirable attitude towards work. Prisoners consider prison work as the main ingredient of their punishment and a sort of enforced drudgery through which they have to go during the period of their incarceration. If a prison has to function as a centre of correctional treatment, the entire outlook towards prison work programmes must undergo a complete change. We are of the view that work which is purposeful and meaningful and which can impart new set of values and a positive attitude towards work has to be the central focal point round which all the institutional activities should be planned and developed. It is from this angle that the people responsible for the formulation of prison policies in States and Union Territories should look at work and vocational training in prisons. In view of the importance in these aspects, we have devoted an entire chapter (Chapter XI) to 'Work Programmes and Vocational Training' in this Report.

10.11 It is well recognised that diversified education is an important channel through which the outlook of a person can be developed and his total understanding and perspective of life can be changed. It is, however, unfortunate that education is not at all treated as an important item of prison programmes. In some prisons some perfunctory adult education programmes have been organised. In some other States prisoners are allowed to study during their spare time and are permitted to appear at regular examinations conducted by Boards and Universities. But only a few prisoners can avail of this opportunity. Education

is not a compulsory or essential activity in prisons. A certain period of the day has not been specifically earmarked for educational activities. Regular classes where prisoners of different educational backgrounds can devote a few hours to education have not been provided in prisons. In some States we were informed that prisoners were expected to undertake educational activities in the barracks only after lock-up. Lighting in the barracks is generally so dim and insufficient that it is impossible to undertake any serious educational activity inside the barracks after lock-up time. It is only in some prisons that teachers have been appointed but they are not regarded as having any importance in the staff organisation of a prison. Under the circumstances they cannot play any effective role in creating wholesome opportunities for prisoners for their educational development. Our impression is that in Indian prisons education is not regarded as a vital channel for the overall development of prisoners, or as an important process through which their outlook, habits and total perspective of life could be changed.

10.12 Education is an important component of correctional treatment. In the context of prison programmes education should be taken in its broader perspective. Educational activities in prisons should be diversified. The essential elements of educational programmes in prisons as contained in the Model prison Manual are given in Annexure A attached to this chapter. In agreeing with the thinking of the All India Jail Manual Committee we visualised that educational activities in prisons should provide to the inmates such vital channels for the development of attitudes and outlook as might help them in their reassimilation in society.

10.13 Prison administrators generally argue that as prisoners have to complete their prescribed tasks, there is hardly any time left for education (or even for recreation) during a working day in a prison. They attach primary importance to production of goods in prison factories rather than to the education and training of inmates. Some senior prison administrators stated with pride as to how the production of their prison factories had gone up and how the prison department had made profit during a particular year. They never mentioned if some prisoners had attained a certain degree of academic standard or had acquired new skills which could be helpful to them in earning their bread by honest means after their release. This indicated how prison administrators look at prison factories as means of production only. We would like to emphasise that in prisons equal importance should be given to imparting useful skills and comprehensive education to inmates, which help in moulding the offenders into useful social units on their release.

10.14 Life in prisons is extremely monotonous, routinized and regimented. As discussed elsewhere in our Report, conditions of living in many prisons have become so degenerated that prisoners have to undergo a very depressing experience. Even otherwise, in the monotony of prison setting, recreational and cultural programmes assume a special significance. They offer opportunities to prisoners for relaxation and some joy. Recreational and cultural activities aim at providing opportunities to inmates for restoration of energies, cultural development, channelizing surplus energies in a useful manner and for establishing useful relationship in group situation.

10.15 Recreational and cultural activities have, however, not been fitted at present into a plan of treatment programme. In some prisons, such activities are only occasionally organised without aiming at any specific objective. They are supposed to be the pastime of a privileged few. They are not an essential part of the daily routine of prisons and no fixed time has been earmarked for them. Our impression is that adequate attention is not being paid to this aspect of institutional activity in prisons in India. We, however, consider that recreational and cultural activities should be treated as essential components of the total treatment programme in prisons.

10.16 Recreational and cultural activities, a few examples of which are given below, could be extended to each inmate or groups of inmates depending upon various factors in

the prison setting :

- (i) Outdoor games : Kabaddi, wrestling, volley ball, football, basketball and ring tennis.
- (ii) Gymnastics : Physical culture, single and double bar, roman rings, barbell and malkhamb.
- (iii) Indoor games : Chess, draughts and carrom.
- (iv) Films : Historical, mythological, biographical, scientific and educational films, travelogues, documentaries, newsreels, films dealing with social themes. Films depicting crime, sex, violence, suspense, etc., and films which will have a damaging impact on the life of inmates should not be shown to them.
- (v) Music : Music has a special significance in the abnormal and artificial atmosphere of a prison. It can bring relief to the lonely, the distressed and the unhappy inmate. It can relieve boredom and promote interest in institutional programmes. Music programmes could consist of radio music, recorded music, group singing, folk music, instrumental music, orchestra and musical band.
- (vi) Community and folk dances : Group dances could be performed on festival and social occasions. Folk dances can also be of great value in the prison set up.
- (vii) Drama : Useful social values and models of behaviour can be presented before the inmates through dramatic performances. Dramas dealing with social problems, pageants, musical dramas, tableau, soliloquies, dialogues, radio plays, play reading, humorous skit, etc., could be performed for the benefit of inmates. Inmates themselves can be encouraged to take part and organise these activities.
- (viii) Arts and crafts : Arts and crafts can play an important role in imparting useful values to the inmates. Through these activities inmates can maintain their individuality. Such activities can also function as supportive therapeutic measures in the monotonous life of an institution. In this context prisoners can be provided with necessary facilities for pottery, basketary, wood carving, home carpentry, marquetry and veneers, wood turning, fret work, leather work, home decoration, lamp shade making, metal craft, plastics, toy making, artificial flower making, horn craft, clay modelling, lacquer work, drawing, painting, stencilling, papercrafts, papier mache, rug making, raffia work, felt work, spinning, knitting, embroidery, needle work, crochet, sewing, tatting, etc.
- (ix) Reading : Inmates can be encouraged to read books, newspapers and magazines. Group reading and guided reading can also be useful for them.

10.17 Every prisoner looks forward to go back to his family and community and to resettle there. Maintaining continuity of contacts with family and the community is very important from the point of view of a prisoner's ultimate resettlement in society. This can be achieved through letters, interviews, release on leave and special leave, premature release, etc. These facilities together with award of remission and transfer to semi-open institutions constitute a good system of incentives for self-discipline and behaviour modification of inmates. These aspects have been discussed at appropriate places in different chapters of this Report.

10.18 Techniques of case work and group work which aim at helping the prisoners at the individual level and in a group situation should be treated as important components of the total treatment programme. Prison officers of all ranks should be trained in these techniques so that they can help prisoners at the individual level through case work and

can utilise group situation in a prison for group work activities, ultimately aiming at helping a prisoner to appreciate his individual problems as well as problems of group adjustment. At present these established techniques of behaviour modification are not applied in prisons anywhere in India.

10.19 Social implantation is another important component of the treatment programme. Wrong attitudes and habits and anti-social approaches have to be removed from the thought processes and value schemes of the anti-social persons. Anti-social value schemes should be replaced by useful and proper habits, attitudes and approaches. This can be achieved through individual and group guidance, and through exposure of inmates to an atmosphere of wholesome opportunities which should predominate and permeate an institution. Prison personnel should be given specific training in these fields.

10.20 Psychotherapy is an effective approach for treatment of prisoners who suffer from some degree of mental disorders and mental defects. Dr. J.C. Marfatia has defined psychotherapy as a form of "psychological treatment which aims at altering the attitude of the patient to himself and to his environment, and attempts at re-educating the personality and strengthening the ego so as to enable him to face reality and to meet the demands of the outside world."¹ Discussing the need for considering the problem of crime from its psychological and of psychiatric aspects, Dr. Marfatia has said :

"Crime presents a problem not only to the public, the lawyer, and the judge, but also to the psychiatrist, the psychologist, the sociologist, the anthropologist the social worker and the criminal himself. It is the lack of understanding of the criminal himself that makes the problem of crime so complicated. In order to understand the offender, we ought to know the forces that drive him to criminal behaviour. Such an understanding is possible when the problem of crime is considered from its psychological and psychiatric aspects. This approach will make intelligent and effective management of the offender possible."²

10.21 In western countries psychiatrists function as technical aids to prison administrators in the fields of criminology, delinquency and penology. The All India Jail Manual Committee had recommended appointment of psychiatrists so that psychiatric services in prisons could be developed. But unfortunately this recommendation has not been implemented in any State or Union Territory. As a result, offenders suffering from mental disorders, anxiety states, neurosis, psychopathy, psychosis, drug addiction, sex perversion, etc., are not getting proper treatment. Scientific method of psychotherapy for the treatment of these categories of offenders should be adopted in Indian prisons without any further delay. Psychotherapy, however, must be applied in correctional work in our prisons against the background of the Indian culture.

10.22 In the prison world inmates have to face many anxieties about themselves and about their family members. During their stay in the prison a number of situations arise, resulting from their own interaction with fellow inmates and the staff or from some unfortunate happenings with the family, land or property, by which they get emotionally upset. Such situations do not so much require a scientific treatment as a sympathetic approach and support from persons in immediate contact. In times of crises and calamities prisoners need this support to face life situation with resilience. Prison personnel of all categories should be oriented and trained to extend such support whenever a situation of emotional depression arises in the life of an inmate. This approach, generally called supportive therapy, is primarily a human approach i.e., an approach of helping the human being in times of crises. Supportive therapeutic approach grows out of the faith and belief of prison personnel in higher human values and develops through a continuous process of training. This approach should percolate from the senior prison administrators to other personnel functioning at the field level in a prison setting.

10.23 Personal influence of prison personnel plays a very important role in the total treatment programme of prisoners. The sociological principle of suggestion and imitation operates effectively in prison situations. The models of behaviour presented by prison personnel are likely to influence the behaviour of prisoners. We are, therefore, of the view that prison personnel should present such models of behaviour as would be useful to offenders in their ultimate resettlement in society. Wrong models and patterns of behaviour presented by staff will have damaging effect on the prisoners. On the other hand, if prison personnel are consciously aware of the principle of suggestion and imitation and also about the positive operational philosophy of behaviour, they can operate at a useful level. The aspect of operational philosophy of behaviour has to be constantly instilled in prison personnel through continuous training. In the long run all these factors can prove helpful in moulding the attitudes of prisoners and in their ultimate re-assimilation in the society.

10.24 Treatment programmes in prisons should be assessed and evaluated continuously. Such evaluation can be done independently by scholars and researchers. But some in-built mechanisms in the prison system such as periodical review of progress of inmates and their re-classification, review of sentence and consideration of conditional or unconditional premature release, planning of release and pre-release preparation, aftercare and follow-up, which would continuously assess the effectiveness of treatment programmes, have been discussed at relevant places in different chapters of this Report. We have also discussed and recommended in Chapter XXI on 'Community Involvement in Corrections', how the resources in the community and the services of voluntary individuals and groups can be utilised for making treatment programmes more varied and effective.

10.25 Adequate provision should be made in the budget of the Department of Prisons and Correctional Services for undertaking diversified treatment programmes in various institutions under the department. There might, however, be certain aspects of welfare and treatment of prisoners which could not be covered by the budget of the department. We feel that in each State/Union Territory a Prisoners' Welfare Fund should be set up to meet such contingencies and proper rules should be framed for the operation of such fund.

10.26 Before concluding this discussion on treatment programmes it is necessary to add a word about locking-up time in prisons. At present, prisoners are locked up in their barracks at sunset. This arrangement does not leave adequate time for diversified treatment programmes of work, education and recreation. This also results in many disciplinary problems as after lock-up inmates have hardly anything purposeful to do. It is significant to note that no meaningful programmes of education, recreation or other activities can be organised in barracks after lock-up.

10.27 The idea of locking-up prisons at sunset has its origin in the need for adequate security against escapes and other mishaps. We are of the view that a large section of the prison population does not require such tight security measures. If the lock-up time is shifted further by two to three hours, sufficient time would be available for proper implementation of some of the important treatment programmes. This would also reduce disciplinary problems. For a properly planned daily routine a reference may be made to Chapter XXI on 'Routine and Programme' of the Model Prison Manual.

10.28 Our recommendations with regard to treatment programmes are as follows:—

10.28.1 Treatment programmes should be properly planned and developed. They should be regarded as an integral part of prison programmes. Diversified programmes of treatment of offenders should be devised and executed in such a manner as would inculcate in inmates useful habits and attitudes which may be helpful to them in proper assimilation in the society after their release.

10.28.2 The atmosphere of prisons, including behaviour of prison personnel, should be surcharged with positive values and the inmates should be exposed to wholesome environment with opportunities to reform themselves. Such an atmosphere is an essential pre-requisite for successful execution of treatment programmes.

10.28.3 Inmate-personnel relationship in prisons should be based on mutual trust and confidence. Prison personnel must have faith in the improvability of offenders while the inmates must feel that prison personnel are working for their welfare.

10.28.4 Discipline in prisons (as already elucidated in Chapter VIII on 'Security and Discipline') should be firm and positive so that treatment programmes in prisons may be carried out uninterruptedly and effectively.

10.28.5 On admission, initial classification of prisoners should be done on the basis of a proper study of their personality, antecedents and prognosis for treatment. This will help in the segregation and protection of a large majority of first offenders from getting contaminated by the prison sub-culture. This will also help in devising individualised treatment programmes for all categories of inmates.

10.28.6 Immediately on admission in prisons, inmates are faced with a number of problems of adjustments with the new environment. Prison staff should promptly attend to these problems of inmates. This will help in generating confidence of the inmates in prison personnel and secure their willing cooperation in treatment programmes.

10.28.7 Treatment of offenders through diversified work programmes and vocational training should be the focal point of prison activities.

10.28.8 Each State and Union Territory should formulate its prison educational policy on the basis of the principles enunciated in Annexure A attached to this Chapter.

10.28.9 Educational programmes should consist of :

- (i) Physical and health education;
- (ii) Academic education;
- (iii) Social education;
- (iv) Vocational education;
- (v) Moral education;
- (vi) Cultural education.

Note: For details, references should be made to Chapter XXIII of the Model Prison Manual—Educational programme—(i) to (vi)—page 134-135.

10.28.10 Keeping in view the special needs of prisoners, literature for inculcating new set of values and attitudes in them should be prepared.

10.28.11 Every prisoner (including undertrial prisoners) should be offered a suitable educational programme during his stay in the prison.

10.28.12 Education should be a compulsory activity in prisons. At least one hour a day should be earmarked for this purpose.

10.28.13 Every central and district prison should have a regular school where prisoners can attend educational classes in shifts. For undertrial prisoners and for prisoners

sentenced to short terms of imprisonment educational classes should be organised in yards/enclosures where such prisoners are kept. This would facilitate the organisation of regular educational classes for prisoners who are required to undertake educational programmes on a short, medium or long range basis.

10.28.14 Every prison should organise adult educational programmes in collaboration with the education department of the State/Union Territory.

10.28.15 Educational activities in prisons should be organised at different levels, for example :

- (i) for the illiterates ;
- (ii) for the neo-literates ;
- (iii) for the semi-literates ;
- (iv) for the literates ; and
- (v) for those desirous of getting higher education.

10.28.16 The school in prison should be properly staffed with trained personnel. Facilities like proper class rooms, educational equipment, charts, maps, etc., should be provided.

10.28.17 Diversified education should be compulsory for young offenders. For this group academic and vocational education should be organised according to the educational level, aptitude, intelligence, interest and other factors. Every illiterate, neo-literate and semi-literate young offender should attend school for 4 periods a day. Adult education programme with greater stress on vocational and craft training should also be organised for them. Young offenders who have reached some grade in education should attend the school in the Kishore/Yuva Sadan on a regular basis. They should also undergo vocational and craft education and for them education above the primary stage should be vocationalized. Young offenders, who have good potential for education or other types of technical and other training and in whose case prognosis has been good, should be allowed to attend schools, colleges, industrial training institutes and other educational institutions in the community subject to rules as might be made in this regard.

10.28.18 Educational programmes in prisons and in Kishore/Yuva Sadans must be integrated with the educational system in the States/Union Territories. This would facilitate the continuation of education of inmates even after their release from the institution.

10.28.19 The classification committee and the educational personnel should decide as to how much time should be devoted for academic education, vocational education, work, etc., for each inmate. As there will be variations in the educational levels, intelligence and interests of inmates diverse educational programmes should be organised for different groups of inmates.

10.28.20 Inmates who have reached a certain stage of education should be allowed to continue their education. They should be allowed to join schools/colleges subject to rules made in this regard. They should be allowed to appear at Board/University examinations, language examination, etc., under correspondence course schemes.

10.28.21 Special attention should be paid to the development of suitable educational programme for women prisoners.

10.28.22 The Inspector General of Prisons and Director of Correctional Services should formulate a detailed educational programme for each institution taking into account the size of the institution, homogeneous groups of inmates in the institution, the number of inmates and other relevant factors. Such programmes should be drawn up in consultation with the State education department.

10.28.23 It should be one of the primary responsibilities of the prison superintendent and other prison personnel that this programme of education is implemented in its proper spirit. The success or failure and the extent of the educational activities in each institution should be one of the principal factors on which the performance of the prison superintendent and other prison personnel should be evaluated.

10.28.24 Programmes of adult education, social education and moral education should also be organised in sub-jails.

10.28.25 Literate inmates whose conduct is good should be given training in imparting education to other inmates. Such trained inmate teachers should assist the educational personnel of the institution in organising diversified programmes of education. However, habitual offenders, professional and sophisticated criminals should not be selected for working as inmate-teachers.

10.28.26 Curricula and syllabii should be drawn in accordance with the needs of different inmate groups. As far as possible the syllabii and curricula should be in line with those followed in the educational institutions in the community. Factors such as potential of inmates, length of sentence, etc., should be taken into account while drawing up the syllabii and curricula for prison educational programmes.

10.28.27 Prison schools must be properly equipped. Facilities such as text books, coaching for preparations for examinations, permission to appear for external examinations, facilities for self-study, correspondence courses, guided reading, financial assistance in deserving cases for continuation of education should be extended to inmates.

10.28.28 Tests and examinations should be conducted and certificates awarded by the education department of the State/Union Territory.

10.28.29 The strength of educational personnel at each institution should be fixed in accordance with the diversity and content of educational programmes in that institution.

10.28.30 Social, moral and health education lectures should be organised.

Note: For details regarding educational programmes, provisions of Chapter XXIII of the Model Prison Manual, p. 133-137 should be referred to.

10.28.31 Each State and Union Territory should accept and adopt the essential elements of recreational and cultural activities as are given in Annexure B to this chapter.

10.28.32 The Inspector General of prisons of each State/Union Territory should formulate a plan for recreational and cultural activities for each institution taking into account the requirements of homogeneous groups of prisoners. Facilities available at each institution should be fully utilised and additional facilities created so that recreational and cultural activities become a vital part of the treatment programme.

10.28.33 Recreation should be properly designed and planned. It should also be adequately guided and supervised. Necessary personnel for this purpose should be earmarked in each institution.

10.28.34 The facility of recreational and cultural activities should be extended to prisoners in accordance with their response to institutional regime. Recreation should be treated as incentive for good behaviour and self-discipline.

10.28.35 Recreational and cultural activities as specified in para 10.16 of this chapter should be provided in prisons depending upon various conditions such as availability of space, composition of inmates and arrangements of security.

10.28.36 Each central and district prison and Kishor/Yuva Sadan should have a 16mm film projector.

10.28.37 A library of good films should be developed at the headquarters of the Inspector General of Prisons and Director of Correctional Services and these films should be sent to various institutions. Close liaison should be established between the Department of Prisons and Correctional Services and the Films Division, Department of Information and Broadcasting, Film and T.V. Institutes, film societies and other organizations which can supply good films for being shown to inmates. Television will also have good educational and recreational value.

10.28.38 Every prison and allied institution should have a proper library with sufficient number of newspapers, periodicals and books. From the main library, reading material should be circulated to each yard/enclosure. Books from the local libraries should be borrowed and circulated to the inmates.

10.28.39 Every prison and allied institution should have annual sports meet. Inter-institution and inter-state sports meets of inmates should also be organised. ✓

10.28.40 Every prison and allied institution should have a committee for recreational and cultural activities. This committee should consist of very carefully selected inmates who are of good conduct and who have the potential and ability to organise such activities. These committees should plan and execute daily recreational programmes and special celebrations on national holidays and festivals.

10.28.41 The Department of Prisons and Correctional Services should maintain close liaison with the Department of Sports and committees for recreational and cultural activities at the district and state level. Such liaison will be useful in developing good public relations and in promoting healthy recreational and cultural activities in prisons.

10.28.42 Continuity of contacts of prisoners with their family members and the community should be maintained.

10.28.43 Incentives of remission, leave, transfer to semi-open and open institutions, pre-mature release, etc., should be judiciously used to promote self-discipline and modification of behaviour of inmates.

10.28.44 Techniques of case work, group work, individual and group guidance and counselling should be applied in prisons as measures of treatment of offenders. Prison personnel should be trained in these techniques.

10.28.45 Anti-social value schemes of offenders should be replaced by proper habits and attitudes through individual guidance and through exposure of inmates to an atmosphere of wholesome opportunities.

10.28.46 Psychotherapy which has been recognised as an effective measure for treatment of prisoners suffering from some degree of mental disorders and mental defects should be used in prisons.

10.28.47 Supportive therapy should be used as a technique of treatment of inmates. All categories of prison personnel should, during the course of their training, be oriented to supportive therapeutic approach towards inmates so that they may help inmates in times of crises.

10.28.48 Prison personnel should present such models of behaviour in their conduct before the inmates as would be useful for the offenders to imitate. Personal positive influence of prison staff can play an important role in the treatment of prisoners.

10.28.49 The impact of treatment programmes for offenders in prisons should be regularly reviewed both through independent agencies (such as, experts and social scientists of schools of Social Work and University Departments) and through inbuilt mechanisms in the prison system (such as, periodical review of progress of inmates, re-classification of inmates, review of sentences, after-care, follow-up, etc.) .

10.28.50 Community participation in treatment programmes should be encouraged.

10.28.51 A Prisoner's Welfare Fund should be set up in each State/Union Territory.

10.28.52 Daily routine in prisons and allied institutions should be regulated to provide for diversified treatment programmes. The locking-up time may be shifted by two to three hours after sunset.

10.28.53 In the end we would like to emphasise that the ingredients of treatment programmes, as outlined above, should be adopted by all the States/Union Territories and that the Government of India should provide an effective and forceful leadership in this field so that the Indian prisons are revitalised as effective centres of re-education of prisoners for their ultimate re-assimilation in society.

References :

- 1 . Dr. J.C. Marfatia : 'Memorandum on Psychiatric Services in Prisons' attached to the report of the All India Jail Manual Committee 1957-59 as Annexure E ; page 150.
2. Ibid.

EXTRACTS FROM THE MODEL PRISON MANUAL CHAPTER XXIII— EDUCATION

Essential elements :

Education is a harmonious and all-round development of human faculties, mental and physical. It is a process by which the knowledge, character and behaviour of the inmates can be moulded. Education is a preparation for social life. It helps to acquire such knowledge and skills as would help the inmate in his rehabilitation in society.

Education is adjustment to social environment. It is a process by which inmates can be helped in their ultimate resettlement in society. Education is character-building. Through precept and example correctional personnel should inculcate among inmates good habits and healthy attitudes.

A diversified education programme aims at :

- (i) Providing opportunities to the illiterate inmate to achieve at least a minimum level of education;
- (ii) Extending facilities to literate inmates to advance their educational standards;
- (iii) Developing a better understanding of the duties and obligations of a citizen ; improving the attitude of inmates towards society and fostering a desire to live as good citizens;
- (iv) Assisting the development of good social and ethical habits and attitudes so that the inmate may properly adjust his life in the community ; helping the inmate to improve his personality and his ability for social adjustment through individual and group guidance in social living ;
- (v) Developing points of view which will make apparent to the inmates the futility of a criminal way of life ; making the inmates aware of the advantages of a law abiding life;
- (iv) Stimulating sustained interest and effort towards self-improvement;
- (vii) Developing social consciousness and a sense of social responsibility and obligations.

To these ends, each prisoner should be given a programme of education which will help the process of his socialization and rehabilitation. In order to achieve these objectives an adequately trained educational staff, minimum facilities like class-rooms, library, equipment, etc., should be provided.

The education of illiterate adolescent and adult prisoners shall be compulsory. Correctional Administration will pay special attention to educational programmes.

Because of wide variations in intelligence and interests of inmates, it is essential to organize diverse educational programmes to suit the needs of inmate groups. Prisoners should be re-educated in order to assume total responsibility in the outside world.

Educational programme should cover material which would help to develop the inmate as an effective member of social groups. The programme should also help to develop insight on the part of the inmate with the problems involving crime and its consequences.

The nature of the educational programme in an institution should be related to the size and type of the inmate population and the time earmarked for educational programmes. Educational activities should be developed in conjunction with the total programme in the institution.

So far as practicable, the education of prisoners shall be integrated with the educational system of the State so that after their release they may continue their education without difficulty. Educational programmes should be related to aftercare programmes.

EXTRACTS FROM THE MODEL PRISON MANUAL CHAPTER XXVI— CULTURAL ACTIVITIES

Essential elements :

Cultural and recreational activities will have the following objectives :—

- (i) To break the tedium and boredom of institutional regimentation and bring in an atmosphere of relaxation and joy in the institution;
- (ii) To offer opportunities to inmates for :
 - (a) restoration of energies, (b) outlets in socially accepted ways, (c) establishing helpful social relations, (d) aesthetic pursuits and cultural development, (e) creative satisfaction, (f) channelising surplus energies in a constructive manner;
- (iii) To utilize group living in the institution for the purpose of imparting training in —
 - (a) group adjustment;
 - (b) gaining mastery over self, environment and situation;
 - (c) good standards of social relations;
 - (d) good attitude towards fellow men;
 - (e) respect for rules and procedures and fairness;
 - (f) proper way of living;
- (iv) To inculcate a discipline of healthy interests so that after release the inmate may utilize his spare time constructively;
- (v) To minimise the possible harmful effects of incarceration occurring through abnormal sex activities, reveries, day-dreams etc.;
- (vi) To offer healthy substitutes for perverted practices like gambling and other underworld pursuits;
- (vii) To improve the tone of institutional discipline and to promote good morals;
- (viii) To improve the institutional discipline in attitudes.

Cultural and recreational activities should be provided in all institutions for the benefit of the mental and physical health of prisoners. These activities are basic elements of the rehabilitation programme for inmates. They should form integral part of the institutional regime. Recreation and cultural pursuits should be considered as important factors in the social development of the inmates.

The effects of good recreational and cultural projects can be just as constructive as the products of education and vocational training. Cultural and educational activities should be co-ordinated. The inmates can be socially educated through cultural

programmes. Sufficient time in the daily programme should be allowed for recreation so that the institutional programme gets well rounded and properly balanced.

There should be a sufficient variety for choice in cultural and recreational opportunities, so that inmates of various age groups and interests can participate in these programmes. Cultural and recreational activities should be so organised as would be within the range of interests and abilities of inmates.

Recreation through small size groups should prove of special value in the institutional set-up.

CHAPTER XI

WORK PROGRAMMES AND VOCATIONAL TRAINING

(Industries, Agriculture and Prison Maintenance Services)

11.1 It is well recognised that work and vocational training are the most important components of prison programmes. In fact, all other institutional activities have to be planned around them. In the prison set-up, employment of inmates in work programmes and vocational training have specific objectives. The principal objective is that an inmate should be imparted such skills and attitudes as can facilitate his resettlement in society after his release.

11.2 The U. N. Standard Minimum Rules for the Treatment of Prisoners make specific mention of work and vocational training and lay down principles on which these programmes should be organised in view of their usefulness in the rehabilitation of offenders. In spite of this paramount importance of vocational training and work programmes, the Committee has found during its visits to various States and Union Territories that there is an absolute lack of planning in this field, and the objectives of these programmes have been completely lost sight of in the plethora of problems of prison administration.

11.3 The importance of vocational training and work programmes has been emphasised and re-emphasised by various committees and commissions during the past six decades and a number of valuable suggestions have been made for the reorganisation and modernisation of prison work programmes. At the national level, the Indian Jails Committee 1919-20, the All India Jail Manual Committee 1957-59 and the Working Group on Prisons 1972-73, made some important suggestions to plan and reorganise prison work programmes and vocational training in order to make them efficacious for achieving the objectives of imparting work-skills to the inmates for their socio-economic resettlement after release. In some States (such as in Andhra Pradesh, Maharashtra and Uttar Pradesh) state level committees were constituted to suggest measures for the reorganisation of prison industry and agriculture. Jail Industries Reorganisation Committee, 1961 constituted by the Maharashtra State made some innovative suggestions and we found these suggestions useful to us. Prison industries in Maharashtra are being developed on the basis of that report. Some attempts have also been made in the States of Andhra Pradesh, Karnataka and Uttar Pradesh to reorganise prison industries; but in most of the other States and Union Territories, this important aspect of prison administration has remained virtually neglected.

11.4 Our general observations regarding work programmes and vocational training for prisoners, based on our visits to prisons and on other methods of study, are as follows:—

- (i) In most of the States and Union Territories, there is no proper planning for work programmes and vocational training for prisoners;
- (ii) The existing capacity of work opportunities in prisons has not been fully utilised. No thought seems to have been given to create new work opportunities for the

optimum employment of inmate population. In a number of States, workshops in prisons are lying idle and the available agricultural land has not been brought under cultivation. Out of a total of 3892 hectares of agricultural land attached to prisons only 2487 hectares of land is used for cultivation and more than one third is lying waste. The mismanagement in the field of optimum utilization of work opportunities is also evident from the fact that while the capacity of open prisons in India was 4626, the average daily inmate population of these camps was only 2842 during the year 1980. The prison administration is obviously not concerned about the optimum utilisation of man-power in prisons.

- (iii) Requirements of man-power in prison industries, agriculture and prison services have not been worked out on unit basis. Agreeing that prisoners are generally unwilling workers, it would be impossible to plan optimum utilisation of prison labour unless some norms of requirements of man-power per unit of work in each section of prison industry and agriculture are worked out. No efforts have been made in this direction.
- (iv) There is a strange juxtaposition of unemployment, under supply and over supply of labour in various work programmes in prisons. The reasons for this situation are many; the important ones being: concentration of most of the prison industries in central prisons or in some large district prisons, absence of work programmes in a number of district prisons and lack of adequate work opportunities for inmates eligible to work. There is widespread unemployment caused by lack of work programmes in a number of district prisons. In prisons where industries function, there is periodic unemployment due to lack of adequate employment facilities or non-supply of raw-material in time. In some prisons, where large number of inmates are confined, adequate work opportunities have not been created, and, merely to reduce the figures of unemployment, prison labour is over-supplied in the available industries. On the other hand, in some institutions, certain work programmes suffer for want of supply of labour. Agricultural farms attached to prisons and open institutions, for example, generally suffer from this malady. All these situations exhibit poor planning of work programmes in prisons.
- (v) Prison industry and agriculture in most of the States are still run on obsolete patterns. The progress shown by private and public sector industries in adopting modern techniques of management and production has not been reflected in the prison industry at all. Outdated and outmoded machinery, tools and equipment are still being used. The system of wages and incentives is so unattractive that it hardly encourages prisoners to work willingly.
- (vi) In most of the States, prison industries are still being managed by executive staff such as jailors and deputy superintendents assisted by a handful of technical staff. These personnel are not trained and equipped for efficient and effective management of prison industries. The infra-structure of technical personnel is meagre and has no say in the planning and development of industrial and agricultural units.
- (vii) There is no properly planned and organised vocational training programme anywhere in India to promote future settlement of inmates after their release. The absence of such training programmes has also affected adversely the production in prison industries and the quality of articles produced.
- (viii) Development of prison work programmes and vocational training has suffered for want of funds. The subject of prisons has not yet been included in the mainstream of our national developmental plans; it has continued to be in the non-plan sector. It is indeed a sad reflection that the huge man-power

available in prisons has not been fully utilised in the States and Union Territories for want of adequate and planned investments. It appears that the State Governments and Union Territory Administrations do not recognise that such investment will not only enhance the production of prison industries but will also be in the larger interests of the society as it would help in the resocialisation of offenders.

- (ix) Due to lack of adequate attention to the development of prison industries and work programmes there has also been a conspicuous deterioration in prison discipline. We feel that one of the causes of indiscipline in prisons is the rampant idleness of inmates resulting from lack of meaningful employment in work programmes and vocational training.

11.5 The objectives of work programmes in prisons have been undergoing changes in various countries in accordance with their thinking about objectives of punishment. In India, the objectives of punishment have been accepted as protection of society through the reformation and rehabilitation of the offender. Obviously the objectives of work programmes have to be in line with this thinking.

11.6 The All India Jail Manual Committee has discussed in detail the principles and objectives which should guide the designing of work programmes in prisons and we are in agreement with the views of that Committee :

"All prisoners under sentence should be required to work subject to their physical and mental fitness as determined medically. Work is not to be conceived as additional punishment but as a means of furthering the rehabilitation of the prisoners, their training for work, the forming of better work habits, and of preventing idleness and disorder.

Institutional work should be the activating centre of all operations and programmes. Institutional routine and other programmes should be integrated and dovetailed with work and training programmes.

Punitive, repressive and afflictive work in any form should not be given to prisoners. Work should not become a drudgery and a meaningless prison activity. Work and training programmes should be treated as important avenues of imparting useful values to inmates for their vocational and social adjustment and also for their ultimate rehabilitation in the free community.

Prison labour should be performed under conditions and in an environment which will stimulate industrious habits and interest in work.

The interests of prisoners and vocational training must not be subordinated to the purpose of making a financial profit from an industry in the institution. Production and vocational training should be properly balanced. Correctional employment programmes must be constructive from the point of view of the welfare of prisoners as well as the welfare of society."¹

11.7 While the prison work programmes have to be so revised as to meet the above objectives, their economic aspect should not be lost sight of. The economics of prison work programmes has many perspectives. Some of the basic criteria which should be principally kept in view for the development of work programmes in prisons are : (a) optimum meaningful employment of inmates ; (b) full utilisation of the available man-power in prisons for supply of services and goods required by the prison community, government and semi-government departments; (c) qualitative and quantitative improvements in prison production; (d) supply of capital, working costs, margin of profit and such other

aspects as are inherent in the planning and development of an industrial or agricultural organization on sound business and commercial principles ; (e) development of work programmes and vocational training in terms of imparting skills to inmates and also for changing their outlook towards work as the focal point in their scheme of life; (f) availability of resources that is men, money and material. Human effort is the most vital of these resources. Other resources can be fully utilized only through human effort.

11.8 The efficiency of any industrial organization can be tested from different angles. Some of these are : (a) achieving maximum returns with minimum outlay; this is the classical economic theory ; (b) largest output at the lowest money cost; this is the business outlook ; (c) the extent of profit; this is the commercial test; (d) production and cost; these are the generally applied tests to any production unit ; (e) largest output at the lowest human cost in terms of fatigue, monotony and accidents; this is the perspective of economic utilization of labour.

11.9 However, the above test cannot be applied to prison industry. It is our view that the efficiency of work programmes in prisons has essentially to be assessed in terms of human efforts, human costs, human benefits and human satisfaction. There is no doubt that such an assessment is indeed very complex. In fact, the question of devising workable measures and standards on the basis of which the relation between human efforts and endeavours and human benefits and satisfaction can be assessed is one of the enigmas in the field of industrial economics and much more so in prison work programmes.

11.10 The data supplied by the States and Union Territories shows that on December 31, 1980, the total convicted inmate population was 64090 (63235 males and 855 females). As against this the total undertrial inmate population was 92276 (89639 males and 2637 females). Out of the convicted inmate population, meaningful employment and vocational training programmes can be planned for the inmates who are in the age group of 16—60 and are sentenced to rigorous imprisonment above one year upto life imprisonment. The number of such inmates comes to 40746 in the whole country. This, however, is the analysis of inmate population of one day; the annual turn-over would naturally be much larger.

11.11 The total capacity of employment in prison industries and agriculture is 30785. The statistics reveal that even this capacity was not fully utilised and only 23409 inmates were actually employed in prison industries and agriculture. While the existing capacity of prison industries and agriculture was not utilised to the extent of 7376 inmates, 17337 convicted inmates who were employable, were left out without any meaningful work programmes or vocational training. A large percentage of convict population is employed in prison maintenance services. If the total number of inmates kept unemployed in work programmes is calculated for the whole year, it would amount to a huge national loss in the form of wastage of man-power.

11.12 There are some categories of prisoners who present basic difficulties about their meaningful and full-time employment in prisons. These categories are :

- (i) undertrial prisoners;
- (ii) prisoners sentenced to simple imprisonment;
- (iii) prisoners sentenced to rigorous imprisonment for less than 3 months;
- (iv) old, infirm and physically handicapped prisoners;
- (v) sick and convalescent prisoners;
- (vi) prisoners suffering from mental illness and border-line cases;

- (vii) aggressive criminal psychopaths and prisoners having violent tendencies;
- (viii) highly indisciplined inmates, instigators and prisoners having escape risk.

These prisoners are unemployable from the legal, medical, disciplinary and administrative points of view. However, in some States, rules provide for the employment of undertrial prisoners and prisoners sentenced to simple imprisonment in case they volunteer to work. But the response of undertrial prisoners to this facility is not quite good. In all, about 21,000 undertrial prisoners who volunteered to work were employed in prison maintenance services or small industries as on December 31, 1980, according to the statistics received. In some of the States undertrial prisoners volunteering to work were paid wages while in other States they were given only a labouring diet equal generally to that given to the convicted prisoners.

11.13 It is obvious that in prisons where adequate work opportunities have not been created even for the full employment of employable convicted population, it will be unreasonable to expect undertrial prisoners to opt to work. Apart from this, the incentives to work and the system of wages have little to offer by way of attraction to the undertrial prisoners to take up employment in prison work programmes on a voluntary basis. It is, therefore, necessary to create adequate work opportunities and a rational system of wages and incentives if we want to fully utilise the manpower in prisons comprising those who are employable by virtue of their sentence and those who volunteer to work. We have suggested elsewhere the setting up of work camps and work centres for prisoners sentenced to less than one year but for the group of prisoners sentenced to one year or more, useful work opportunities will have to be created in either closed or open institutions.

11.14 The statistics about prison industries and agriculture in different States and Union Territories are maintained in a very unsatisfactory manner. Even in the absence of reliable data we are of the view that as compared to the private sector industries, public undertakings, and large agricultural farms in the public and private sectors, the production of prison industries and agriculture is very unsatisfactory.

11.15 In most of the States and Union Territories that we visited, it was observed that prison industries were being run on outdated and outmoded practices and procedures. Only in some States such as Andhra Pradesh, Karnataka, Maharashtra and Uttar Pradesh, some industries have been semi-mechanised or mechanised. Since the advent of freedom and especially after the launching of five year plans, industrial development in our country, has been going on at a rapid pace. Apart from the development of capital industries, the growth of cottage and small scale industries has also been remarkable. In the process of industrial growth various new products have been introduced, modern methods of management and production have been adopted and as a result India has made its own mark in the field of industrial development. Despite all this, it is regrettable that in prison industries there has not been much progress. Except in a few States the necessity of modernizing prison industries has not yet been tangibly accepted and implemented.

11.16 During our visits, we studied the organizational pattern of prison work programmes. Our general observations in this regard are : the pattern of organization varies from State to State; the organization at the headquarters is weak and technical staff is not adequate; there is lack of proper coordination between the organization at the headquarters and that at the prison level; the functions and responsibilities of personnel in the organizations at various levels have not been clearly defined; authority and responsibility have not been properly decentralized; executive officers such as deputy superintendents, jailors and deputy jailors are made incharge of work programmes at the prison level; and, personnel in charge of prison industries have no training in modern methods of management of industrial and production units.

11.17 The existing organization at the headquarters, regional and institutional level is not equipped for planning and implementing work programmes and vocational training on modern and progressive lines. Work programmes in most of the States and Union Territories have suffered because of poor planning. Proper and methodical planning is an essential pre-requisite for the efficient management of work programmes, and for their co-ordination, direction, control, supervision and evaluation. At present, there is no assessment of the available man-power and no properly planned programmes for its utilization. Prison industries suffer from lack of adequate monetary provision, and physical facilities. Procurement and supply of raw-material, equipment and stores is unsystematic and uneconomical. The management organisation pays little attention to fixing of priorities of employment and production programmes or to marketing of products.

11.18 In most of the prisons that we visited conditions of work in prison industries and agriculture projects were unsatisfactory. The management does not observe even the minimum standards in matters of hours of work, precautions against health hazards, prevention of accidents and fire, and provision of hygienic and sanitary conditions.

11.19 The system of tasks and wages which is another essential pre-requisite for an organised industry has also not been rationalised. It differs from State to State. Tasks for different production units and their man-power needs have not been standardised on the basis of proper studies of work, time and motion.

11.20 The system of paying wages to prisoners working in prison industries and other work programmes has not been introduced in a number of States and Union Territories. The rate of wages varies from Re. 0.10 to Rs. 2.00 per day. We found that wages have been fixed on an ad hoc basis. While certain categories of prisoners are eligible for wages others are not. Prisoners on wage system are kept in the same institution and even in the same production units with those who are not eligible to earn wages. In some States where wages to the tune of lakhs of rupees are being paid per year, there is lack of adequate infrastructure for the proper implementation of wage system and for keeping proper records. The system wherever in existence is operated mostly by convict clerks. In some of the States, the system of wages has been inter-linked with the prison canteen. Responsibilities regarding measurement of tasks, computation of wages, distribution of coupons through the canteen from the wage account have not been clearly defined. The general impact of such haphazard application of wage system is that it is gradually losing its utility as an incentive for greater inmate participation in work programmes.

11.21 The question of fixing rates of wages in prisons is, no doubt, a complex job. For obvious reasons, prisoners cannot be given the same rates of wages as are given in the private sector or in a public undertaking. Linking rates of wages of prisoners with commercial wage rates presents many practical difficulties. We are of the view that prisoners should be paid fair, adequate and equitable wages in proportion to the skills required for the product or job or service and the satisfactory performance of the prescribed tasks. While fixing such fair, adequate and equitable wage rate, the minimum wage rate for agriculture, industry, etc., as may be prevalent in each State and Union Territory should be taken into account. Units of work prescribed for such minimum wage should also be taken into consideration. The average per capita cost of food and clothing on an inmate should be deducted from the minimum wage and remainder should be paid to the prisoner. We consider that this would be a fair and equitable basis for fixing wage rates in prisons.

11.22 A substantial percentage of prison population consists of prisoners hailing from poverty groups. In the free community they are economically under-privileged.

If the earning member of such a family is sent to the prison the entire family suffers great financial hardship. Taking this aspect into consideration, we are of the view that the rates of wages should be so fixed in prisons as would enable the wage earning prisoner to spend a portion of his wages on his own needs, send some portion for the maintenance of his family, save some portion of his earnings for his post release rehabilitation, and pay compensation to the victims of his offence if so ordered by the court.

11.23 During our discussions with prison administrators in different States and Union Territories with regard to the question of prison industries and agriculture we found that inadequacy of funds has handicapped the growth of prison work programmes in majority of States and Union Territories. The availability of manpower in prisons and the possibilities of their optimum utilisation in work programmes, which are the central activity of such institutions, are indeed great assets from the economic point of view; but unfortunately these assets have never been fully appreciated or utilised by the departments dealing with prisons in the secretariats or by the Finance Departments of the States/Union Territories. The Department of Prisons has never been treated as a development department and no attention has been paid to augment production in prison industries and agriculture. If this was properly appreciated there should have been no paucity of funds for the development of work programmes in prisons. This, we consider, is the principal reason why in most of the States and Union Territories prisons have not been included in the Five Year Plans. If the economic aspect of prison work programmes is properly and scientifically planned, there is no reason why the industrial and agricultural activities of prisons should not yield reasonable and rational margin of profit.

11.24 Vocational training has been recognised as one of the most important components of correctional programme. The objectives of imparting vocational training to inmates are : (a) training and equipping them for lasting vocational adjustment and for their rehabilitation; (b) imparting training in work-skills, vocational ethics, vocational practices and principles; proper use of material, tools, implements and machines; processes, operations and stages; skills and techniques; (c) improving work habits, workskills, work performance, job intelligence and craftsmanship of inmates and thus equipping them for conditions of work in the outside labour market; (d) creating an active interest in work; (e) developing a sense of self-confidence and pride in their work and vocation; (d) developing reserve pool of trained inmates to maintain continuity in work programmes in prisons.

11.25 We are distressed to note that vocational training of inmates is completely neglected in all the States and Union Territories. In the mass handling of prisoners, as is in vogue at present all over India, vocational training has not received any attention at all. It has been neglected because the main emphasis in prison work programmes has been only on increased production. It is our belief that vocational training must be treated as an important component of treatment programmes so that offenders are trained in terms of their lasting occupational adjustment and for their ultimate re-settlement in society as useful social units.

11.26 Diversification of work programmes and vocational training is closely inter-linked with the system of diversified prisons and scientific classification of prisoners which we have discussed in Chapter IX on 'System of Classification'. During our visits to various prisons, we found that the question of diversification of work programmes and vocational training has remained neglected in the country. We discussed this aspect with senior personnel, but we found that even amongst them there was no clarity of thinking about this important element of prison programmes. There was no awareness in the prison administrations of many States and Union Territories about the necessity of classifying prisons and prisoners or about diversification of work programme and vocational training.

11.27 Diversification of work programmes and vocational training being an integral part of a modern and progressive system of correctional administration, it cannot be considered in isolation. We would, therefore, identify various aspects which have to be taken into account while diversifying programmes of work and vocational training. These are:

- (i) objectives of work programmes and vocational training;
- (ii) policy of the State Government/Union Territory Administration regarding work programmes and vocational training;
- (iii) priorities of employment and production;
- (iv) policy regarding optimum employment of manpower available in prisons;
- (v) economic aspects of production units;
- (vi) diversification of prisons;
- (vii) classification of prisoners;
- (viii) policy regarding employment of convicted prisoners, undertrial prisoners and prisoners sentenced to simple imprisonment who volunteer to work;
- (ix) policy regarding employment of prisoners sentenced to short, medium and long terms of imprisonment;
- (x) personnel organization, that is, technical personnel, supervisory and executive personnel;
- (xi) planning for developing programmes of work and vocational training in different institutions; and
- (xii) availability of funds.

11.28 Taking into account the present situation in Indian prisons, we are of the view that diversification of work programmes and vocational training can be organised in the following areas:—

- (i) Essential institutional maintenance services, like culinary, sanitary and hygienic services, prison hospital, other prison services, repairs and maintenance services, etc.
- (ii) Institutional maintenance shops (carpentry, smithy, masonry, etc.),
- (iii) Work camps, as suggested in Chapter XIX on 'Open Institutions'.
- (iv) Production units of prison industries, including handicrafts.
- (v) Agricultural farms.
- (vi) Agro-based industries like poultry, dairy, etc.
- (vii) Maintenance of farm tools and machinery, etc.
- (viii) Employment of carefully selected prisoners from the groups of individualized offenders in public undertakings, farms of State Farming Corporation, agro-based industries organized in the co-operative sector.

11.29 There will be wider possibilities of diversification of programmes of work and vocational training at the central and large district prisons. In small district prisons, diversification will have limited scope. In work camps also which are contemplated to be linked with community services, work programmes can be diversified. In open agricultural institutions there will be good scope for diversification of programmes such as: mixed farming, irrigated crops, seasonally irrigated crops, dry farming, horticulture, dairy, poultry, agro-based industries, etc. It should be recognized that the total pattern of

diversification of work programmes will emanate through the diversification of industrial production units, agricultural activities, agro-based industries, institutional maintenance services, institutional maintenance shops, work camps and work centres in the community. We are of the view that vocational training programmes should invariably be organized in all production units and maintenance services.

11.30 There is yet another possibility for diversification of work programmes. Our country has a long heritage and tradition in handicrafts of different types. Production units in prison industry can be linked up with suitable local handicrafts. Manufacture of wooden toys can be an ancillary handicraft of the carpentry unit. Likewise, manufacture of artificial limbs of simple design for the use of physically handicapped persons can also be developed as an ancillary unit of the main carpentry production unit. There is a great demand for artificial limbs all over India because they are not readily available and are beyond the economic reach of a large number of handicapped persons hailing from the poverty groups. By developing the craft, and by selling artificial limbs at reasonable price the Department of Prisons and Correctional Services can render a useful social service to the needy and economically under-privileged persons. We have cited this only as an illustration to show how imaginative planning can harness vast potential of skills which are available amongst the groups of inmates all over India, not only for augmenting production but also for rendering certain urgent social services. Involvement of inmates in such activities has the additional utility of generating among them a sense of doing some service to the community which has been injured by their anti-social act.

11.31 Diversification of programmes of work and vocational training will not only offer opportunities to the inmates for participation in a variety of activities, but will also make it possible for them to acquire skills in different trades and occupations. It will also develop in them a sense of self-confidence for self-employment.

11.32 As we have already stated, one of the principal reasons for demoralization, indiscipline and disorder in prisons has been the lack of development of meaningful programmes of work, vocational training and education in Indian prisons. It is our view that the present disarray in Indian prisons can be substantially removed if inmates are employed in useful and meaningful work and other activities. Diversification of work programmes and vocational training is one of the principal methods through which this can be achieved.

11.33 In fact the problems of prison industries, agriculture and vocational training have not been studied in depth in most of the States and Union Territories. They deserve an earnest and urgent attention and prompt action. We think that a thorough study of all the problems related with programmes of work and vocational training is very necessary. The work of reorganization, expansion and development of work programmes and vocational training should be undertaken by each State/Union Territory without any delay. We are devoting separate section of this chapter to the special problems of agriculture. However, our general recommendations about work programmes including industrial units and prison maintenance services and about vocational training follow in succeeding paragraphs.

11.33.1 Prison work programmes and vocational training should be integrated with the national economic policies and development plans in terms of :

- (i) increase in national production;
- (ii) vocational training of inmates in accordance with the national needs for trained manpower and conditions of labour market in the free community.

11.33.2 Institutional work programmes and vocational training should aim at :

- (i) imparting discipline of work to inmates;
- (ii) developing right attitudes towards work and dignity of labour;
- (iii) promoting:—
 - (a) physical and mental well-being of inmates,
 - (b) proper development of the mind through intelligent manual labour,
 - (c) spirit of fellowship and a co-operative way of living, and
 - (d) sense of group adjustment;
- (iv) developing capacity for sustained hard work; building up habits of concentration, steadiness, regularity and exactness in work; imparting and improving work-skills;
- (v) awakening and strengthening inmates' self-confidence and self-reliance;
- (vi) training and preparing inmates for achieving lasting social readjustment and rehabilitation; imparting an occupational status and thus creating a sense of economic security in inmates;
- (vii) keeping inmates usefully employed in meaningful and productive work; preventing idleness, indiscipline and disorder amongst inmates; maintaining a good level of morale amongst inmates and thus promoting a sense of self-discipline and also institutional discipline among them.

These objectives should be adopted by all the States and Union Territories as basic foundation for the development of work programmes and vocational training in correctional institutions.

11.33.3 Undertrial prisoners who volunteer to work should be employed on work programmes and also given vocational training. In order to promote their willing participation in these programmes, undertrial prisoners employed in prison industry or agriculture should be given fair and equitable remuneration on the same scale as prescribed for convicts. They should also be given labouring diet.

11.33.4 Vocational training programmes in self-employing trades and occupations should be organized in every central and district prison for employable convicts and undertrial prisoners who volunteer to undergo such training.

11.33.5 Prison industries should be organized on business-cum-commercial basis. Even when this becomes a reality, States and Union Territories will have to embody in the policies for government purchases, the element of preference for prison products in respect of price, quality and finish. Such preference should be continued till prison industries are re-organized on modern lines and are able to compete with similar industries in the free community.

11.33.6 While designing employment and production policies in prisons the composition of inmates coming from rural and urban areas should be taken into consideration. A variety of opportunities of work and vocational training should be created to cater for the heterogeneous inmate population. In the plan of re-organization and modernization of work programmes in prisons emphasis should be given on such skills and jobs as would ensure employment or self-employment to the released inmates. Prison work programmes should consist of services as are required by the community such as construction work, masonry, carpentry, plumbing, electrical fittings, tailoring, fabrication of readymade

garments cloth printing, lathe work, etc. A list of fields in which vocational training could be organised has been given in para 11.33.64 (9). In addition, handicrafts, cottage industries and small scale industries (as per local market surveys) should be introduced in prisons.

11.33.7 Production units should be semi-mechanized and, where possible, fully mechanized. Proper care should, however, be taken to see that this does not result either in unemployment of available inmates or in idle waste of mechanized units.

11.33.8 Every inmate should be given training and work experience in the use of hand tools in different services, jobs and production units. Once the inmate acquires requisite skill in the use of hand tools, he should be put in semi-mechanized or mechanized units for further improvement of his skills. Inmates should be given work experience in every section of a trade/industry. Such work experience will equip the inmate for self-employment after release.

11.33.9 In the plan of reorganisation of work programmes, existing prison industries such as textile, carpentry, leather work, tailoring, smithy and foundry, printing press, stationery articles, book binding, soap and phenyle, etc. should receive due priority. They may be modernised and their production diversified keeping in view market demands.

11.33.10 The possibility of introducing products according to market trends, should be explored so that prison products may be able to reasonably satisfy customers' expectations.

11.33.11 There is an urgent need for standardizing various products of prison industries. Such standardization should be done in terms of (i) specifications, patterns, designs and quality; (ii) break-up of separate operations involved in each type of product or job and arrangement of these operations in a sequence; (iii) quality and quantity of raw material required; (iv) type of equipment, tools, accessories and consumable stores required; (v) requirements of labour (un-skilled, semi-skilled and skilled) for each operation; (vi) man-hours required for each operation, taking into consideration the capacity of an average prisoner; (vii) units of time required for the completion of the product or job; (viii) unit/units of production/job, out-put in unit/units of time i.e. tasks, time schedule and wages to be paid to prisoners for separate operations involved in each type of product or job or service.

11.33.12 Tools and equipment in the production units should be such as would facilitate the production of articles of good quality.

11.33.13 A hand-book containing details of standardization, as indicated above, and details of manufacturing process of various production units should be prepared for the guidance of personnel.

11.33.14 Catalogues of standardized products of prison industries should be prepared. Such catalogues would be helpful in securing orders for various production units.

11.33.15 Standard lists of equipment and tools should be prepared for each service unit/production unit.

11.33.16 Standard lists of accessories and spare parts, which each production unit must always have, should be prepared.

11.33.17 In every institution there should be a separate and properly organized maintenance workshop to repair the machinery, equipment, etc., in time to prevent break-downs.

11.33.18 Adequate funds should be provided for annual replacements of equipment accessories, spare parts, etc.

11.33.19 Technical supervision should be improved and a system of quality control should be introduced at every stage of production.

11.33.20 A policy for purchase of raw material, consumable articles, stores, tools, and equipment, etc., should be laid down to eliminate chances of corruption or of waste. The board which we have recommended later, should work out details in this regard and should ensure that raw material and other requirements are purchased as far as possible from government departments, government owned mills, public undertakings or through government rate contracts subject to standards of quality.

11.33.21 The accounts and stores organization should be modernized on business-commercial principles. In every production unit charts indicating availability of funds, supply of manpower, units of work, standards and specifications, progress of production, etc., should be maintained in order to regularly assess the performance of each production unit in terms of time schedule and fulfilment of targets.

11.33.22 Costing of prison products should be done on a rational basis taking into account various limitations and handicaps of prison management. Costing of prison products should be done on the following broad guidelines :

The cost of raw material utilized inclusive of waste, plus the cost of semi-manufactured articles, plus the cost of consumable stores, plus the cost of power, proportionate depreciation charges on machines, plant and equipment, plus the cost of insurance of raw material, plus proportionate percentage of overhead charges, plus selling and marketing charges where necessary.

The percentage of profit will vary from product to product and the sale price should be worked out taking into account the above factors and also the current market price of the product.

11.33.23 Comprehensive and detailed statistics for each service unit and production unit should be maintained on a systematic basis. Proper maintenance of statistics would be useful from the point of view of evaluating the efficiency and economic aspects of prison industries and agriculture.

11.33.24 (a) A board for work programmes and vocational training should be set up at the headquarters of the department. This board should consist of :—

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| (i) Inspector General of Prisons and Director of Correctional Services. | Chairman |
| (ii) Joint/Deputy Director of Industries (in the headquarters of the Department of Prisons and Correctional Services) | Member-Secretary. |
| (iii) Addl./Joint Director, Correctional Services (Young Offenders) | Member |
| (iv) Joint/Deputy Director of Agriculture (in the headquarters of the Department of Prisons and Correctional Services) | Member |
| (v) Director, Technical Education | Member |
| (vi) Deputy Inspector General of Prisons (to be nominated) | Member |

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|--|--------|
| (vii) Joint/Deputy Director of Industries in the Industries Department of the State/Union Territory | Member |
| (viii) A senior officer of a public Undertaking located at the headquarters of the Department of Prisons and Co-rectional Services | Member |
| (ix) A management expert from private sector | Member |
| (x) A representative of the State Finance Department of the rank of Deputy Secretary | Member |

(b) This board should be autonomous and vested with full fiscal and administrative powers. The functions of this board should be to :—

- (i) plan and implement programmes of work and vocational training ;
- (ii) provide funds ;
- (iii) fix a policy of production ;
- (iv) put prison work programmes on sound business-cum-commercial basis ;
- (v) examine the economic aspects of work programmes ;
- (vi) bring coordination at all levels ;
- (vii) evaluate the performance of each institution ;
- (viii) introduce practices and procedures of modern management of production units ;
- (ix) guide, supervise, direct and control all matters relating to institutional work programmes and vocational training ;
- (x) organise workshops in after-care homes for discharged prisoners ; and
- (xi) promote marketing of prison products.

(c) The constitution and the powers of the board should be spelt out in detail so that its working is not hampered by the usual handicaps of financial inadequacy and the hide-bound views of the finance department which have hampered the growth of prison industries, agriculture and vocational training programmes. We would like to emphasise that the board should be vested with wide and adequate powers in every respect so that work programmes and vocational training in prisons might grow on modern and progressive lines.

(d) In large States the board should have regional offices to ensure that the production and training units function on proper lines i.e., as per the framework laid-down by the board.

(e) The board should meet at least once a month. The Joint/Deputy Director of Industries (Member-Secretary) should be vested with full powers for the efficient and effective implementation of the decisions of the board.

11.33.25 At the prison level, there should be a committee consisting of the following :

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| (i) Head of the institution | Chairman |
| (ii) Deputy Superintendent/Assistant Superintendent
Grade I/Officer-in charge of prison industries. | Member-Secretary |

- | | |
|---|---------|
| (iii) Technical personnel in-charge of different production units | Members |
| (iv) Officer-in-charge of agriculture | Members |
| (v) Vocational training instructors | Members |

It should be the joint responsibility of the committee to implement the policies and programmes as chalked out by the board for each institution. This committee should meet twice a month. At the end of each month the chairman of the committee should send a performance report, in the prescribed form, to the board. The chairman should be responsible for the efficient running and management of every production unit, vocational training programme and also for maximum utilization of available manpower in the prison.

11.33.26 Qualified technical personnel should be appointed in adequate numbers in every production unit and for every programme of vocational training.

11.33.27 The executive and supervisory personnel like assistant/deputy superintendent, superintendents, principals of Kishore/Yuva Sadans etc., should be given thorough training in modern methods of managing industrial units and vocational training projects.

11.33.28 Accounts branches should be separately constituted at every institution, at regional offices and at the office of the board at the headquarters. Personnel in the accounts branch should be professionally trained. The accounts of production units and vocational training projects should be maintained separately.

11.33.29 Systems of concurrent audit and external audit should be introduced. The auditing of production units should be done on business-cum-commercial basis and a trial balance sheet for each institution should be prepared every month. At the end of the financial year a regular audited balance sheet should be prepared in order to assess the performance of every institution on business-cum-commercial basis.

11.33.30 While planning work programmes for an institution the following factors should be taken into consideration :—

- (i) available employable manpower ;
- (ii) available and required physical facilities, plants and equipment for each production unit ;
- (iii) available and required technical and supervisory organization ;
- (iv) employment possibilities in each production unit ;
- (v) available and require employment facilities for optimum utilization of manpower ;
- (vi) monetary requirements ;
- (vii) requirements of raw material, consumable articles, stores, etc., and
- (viii) optimum production capacity of each production unit.

11.33.31 Based on plans of each institution, a master plan should be prepared for the whole department. While preparing this plan, the requirements, as indicated in para 11.33.39, for priorities of employment and production should be taken into account. At the board level, coordination with other departments and agencies will also be essential in this context.

11.33.32 The requirements of the Department of Prisons and Correctional Services, other governments departments, semi-government agencies, etc., should be consolidated in the office of the board. All such planning should be done at least one year in advance.

11.33.33 The targets of production for each unit for the ensuing year should be fixed for each institution in accordance with the employable inmate population and production potential of the unit. These targets should be communicated to the respective institutions in advance, so that planning for procurement of plant and equipment, raw material, stores, etc., can be done in advance with a view to maintaining continuity of production and employment in the various units.

11.33.34 At the institutional level plans for employment and production for each quarter should be prepared on the following basis :—

- (i) targets of production for each unit ;
- (ii) time schedule for the completion of the product or job ;
- (iii) specifications and patterns of production ;
- (iv) operations involved in the manufacture of each product ;
- (v) requirements of raw material, equipment, tools, stores, etc. ;
- (vi) requirements of labour (un-skilled, semi-skilled and skilled) ; and
- (vii) estimates of number of man-hours needed for each operation involved in the product or job.

11.33.35 The chain of command, lines of authority and spans of staff control should be clearly defined at the institutional, regional and board level. The quality of supervision, direction and control over work, employment and production programmes in institutions should be improved.

11.33.36 Staff meetings and joint staff consultations for evaluating manufacturing processes, personnel effectiveness, production targets, time schedule, etc., should be held regularly.

11.33.37 The performance of technical, executive and supervisory personnel functioning in the fields of work programmes and vocational training at every level should be evaluated on the basis of the performance of each individual staff member. The tendency of shirking responsibility and passing the blame to someone else which is at present rampant at all levels in the department should be sternly dealt with. Personnel whose performance is above average in the production units and in programmes of vocational training should be considered for 'out-of-turn' promotion in the hierarchy.

11.33.38 Every State and Union Territory should have a clear policy for the employment of inmates and for production programmes.

11.33.39 The following priorities of employment and production should be adopted :

- (i) Prison maintenance services such as culinary, sanitation, laundry, barbering, hospital and other prison services ;
- (ii) Maintenance unit : all work pertaining to repairs and maintenance of the buildings should be attended to by this unit ;
- (iii) Production of articles required for the maintenance of prisoners ;

- (iv) Agricultural, dairy and poultry products required by the Department of Prisons and Correctional Services ;
- (v) Production of articles required by government departments such as police, medical, public works, education, stationery, excise, agriculture, etc. ;
- (vi) Production of articles required by the departments of Government of India like railways, posts and telegraph, etc. ;
- (vii) Production of articles required by municipal bodies, zila parishads, co-operative societies, public undertakings, autonomous institutions, universities, etc. ;
- (viii) Production of handicrafts and other articles which have local and other markets ; and
- (ix) Production of articles for public sale based on market survey. Such sale, however, should not involve any unfair competition with any cottage or small scale industry or handicrafts in the free community.

11.33.40(a) Requirements of man power should be fixed for each production unit.

(b) Tasks for each operation and sub-operation involved in each product or job or service should be standardized.

(c) Ancillary processes, operations and sub-operations involved in each job or product or service should be properly classified.

(d) Time schedule for measurement of tasks on piece basis or on completion of a job, as is possible, should be fixed for each type of job or product.

11.33.41 Correct work-sheet for each prisoner should be maintained by the technical personnel.

11.33.42 (a) There should be a complete ban on the use of inmate labour in the offices or at residential quarters of prison personnel.

(b) Except in the case of old, weak and physically handicapped prisoners, the system of half task and two-third task, wherever in vogue, should be discontinued.

11.33.43 (a) Every prisoner who performs his work satisfactorily and gives the prescribed task should be brought on the wage system from the date he starts giving the prescribed task. The Committee (para 11.33.25) should decide the date from which the prisoner should be brought on the wage system.

(b) Newly admitted prisoners who are allotted to prison services or production units, should be given some token remuneration till they start performing the prescribed task.

11.33.44 While fixing the tasks for ancillary processes, sub-operation and operations of a product or a job, advice of experts from various industries should be taken so that the tasks are fixed on the basis and principles of work study, time and motion study, units of work, etc.

11.33.45 Wage system, on the lines suggested by this Committee, should be introduced in prisons of all States and Union Territories.

11.33.46 Prison administration in every State and Union Territory should undertake a thorough evaluation of the working of the wage system.

11.33.47 Rates of wages should be fair and equitable and not merely nominal or paltry. These rates should be standardized so as to achieve a broad uniformity in the wage system in all the prisons in each State and Union Territory. Prisoners should be paid wages at a rate not less than the following :

- (i) Unskilled work, Rs. 3/- per day.
- (ii) Semi-skilled work, Rs. 4/- per day.
- (iii) Skilled work, Rs. 6/- per day.

The above wage rates are net rates which should be credited to the prisoners' account without any deduction.

11.33.48 The accounts branch should be responsible for computation of wages and maintenance of all wage accounts. Convict-clerks should not be employed for the maintenance of wage accounts.

11.33.49 A system of concurrent audit should be introduced for thoroughly auditing the wage accounts.

11.33.50 With a view to keeping the wage system in prisons in harmony with the wage system in the free community, the rates of wages should be reviewed once every three years and revised whenever necessary.

11.33.51 Wage system should not be operated on a mass basis. It must be individualised so that the element of incentive is retained in the system. The classification Committee and the committee as mentioned in para 11.33.25 should function effectively in this field.

11.33.52 Hours of work for each group of prisoners should be prescribed in accordance with the programme content of each institution. Ordinarily, a span of twelve hours is available for various programmes in an institutional set up, i. e. from 6.00 a.m. to 6.00 p.m. We suggest the following standards in regard to the programme content for different groups of offenders :—

- (i) Adult male and women offender:

Work : 7 hours a day;
education : at least one hour a day;
vocational training : one hour a day;
Exercise and recreation : one hour a day.

- (ii) Young offenders :

The programme content for young offenders should be devised keeping in view our recommendations in Chapter XV of this Report.

11.33.53 The daily routine, time schedule, etc., should be worked out for each institution on the basis of the principles laid down in Chapter XXI of the Model Prison Manual.

11.33.54 Prisoners should not be made to work in the production units after lock-up of the prison. Night shifts of prisoners in production units of closed prisons should not be permitted.

11.33.55 The following facilities should be provided in work-sheds and other places where prisoners work :

- (i) protection from heat, cold, rain, dust, smoke, fumes, gases and chemicals;
- (ii) damp-proof work areas;
- (iii) safe drinking water ;
- (iv) spittoons, urinals and latrines ;
- (v) washing and bathing facilities ;
- (vi) annual white-washing of work-sheds and factories;
- (vii) first-aid facilities;
- (viii) sufficient ventilation and lighting ;
- (ix) safety equipment and accident prevention measures. The standards adopted in outside factories in this respect should be adopted in prison factories. The standards in this regard should be fixed in consultation with the chief Inspector of Factories ;
- (x) fire prevention measures and fire fighting equipment;
- (xi) periodical medical examination of prisoners working in production units having hazards of occupational diseases;
- (xii) payment of compensation to prisoners who meet with accidents resulting in physical or mental disability or serious injury or death or loss of health due to occupational diseases as specified by the Chief Medical Officer.

11.33.56 Conditions of work in every factory, work-shed, etc., in every institution should be inspected once a year by the Inspector of Factories who should send a copy of his report to the Inspector General of Prisons and Director of Correctional Services.

11.33.57 Conditions of work should also be inspected by the head of the institution, Deputy Inspector General of Prisons and Inspector General of Prisons during their inspections.

11.33.58 Work programmes in prisons, especially the production units, should be run on sound commercial basis. The traditional conservative policy of minimum investment in prison industries and agriculture should be discarded and a new and realistic financial policy in all these matters should be adopted by each State/Union Territory. Production units in prisons should not be made to suffer for want of adequate finance and prisons should be treated as a development department and included in the Five Year Plan—both in the State and Central sector.

11.33.59 The performance and economic aspects of each production unit, and of agricultural farms, should be got evaluated periodically by a committee consisting of experienced prison administrators, officers of the industries, cottage industries, agriculture and technical education departments, and management and financial experts from the private and public sectors.

11.33.60 Flow process charts should be introduced in every prison industry. Such charts should indicate the flow of work and the progress in production in each unit of prison industry and agriculture and also the level of performance of the personnel working in the field of work/programmes.

11.33.61 (a) In view of the fact that for obvious reasons the Department of Prisons and Correctional Services will not be able to enter competitive open market, it should mainly concentrate on the production of articles and supply of services which are readily marketable.

(b) Government departments, semi-government departments, and cooperatives and public undertakings should purchase from the Department of Prisons and Correctional Services their requirements of such articles as are produced in prison industries.

11.33.62 For promoting sale of products of prison industry, show-rooms open to public should be established outside prison gates and the department should participate in exhibitions to display its products.

11.33.63 Vocational training programmes should be designed to suit the needs of prisoners sentenced to short, medium and long terms of imprisonment.

11.33.64 (a) Training projects should be planned as follows :

- (i) Apprenticeship training : a sort of introduction and orientation to the work initially allotted to an inmate ;
- (ii) On-the-job training : placement of an inmate, after apprenticeship training, in production unit for on-the-job training to be imparted by technical personnel in charge of the production unit.
- (iii) Vocational training : regular training in a particular craft, trade, industry or job which can offer opportunities of self-employment to the inmate.

(b) These three training projects should be properly coordinated so that there is no overlapping or confusion in the implementation of training programmes.

(c) These training projects should be started in every central and district prison in each State/Union Territory.

(d) Training programmes should be designed for inmates, both men and women, between the age group of 16 to 45 years as they stand the possibility of deriving maximum benefit out of such projects.

(e) Emphasis should be placed on the vocational training of young offenders kept in Kishore/Yuva Sadans.

(f) Special training projects for women offenders, illiterates, semi-literates and drop-outs should also be designed.

(g) Training programmes should be organised in the following fields of work :—

- (1) prison services, (2) prison maintenance units, (3) textiles, (4) leather work, (5) tailoring and cutting, (6) carpentry and pattern making, (7) smithy and foundry, (8) sheet and plate metal work, (9) fitting and turning, (10) agriculture, (11) horticulture, (12) dairy, (13) poultry, (14) floriculture, (15) maintenance of diesel engines, (16) maintenance of electric pumps, (17) irrigation pipe laying, (18) tractor repairing, (19) masonry, (20) plastering, (21) tile laying, (22) reinforced concrete construction work, (23) iron and steel fabrication, (24) plumbing, (25) cycle repairs, (26) scooter and auto-rickshaw repairs, (27) automobiles servicing & repairing, (28) cane work, (29) bamboo work, (30) basket making, (31) pottery, (32) book-binding, (33) typography, (34) handicrafts, (35) stenography, (36) type-writing, (37) cloth printing, (38) embroidery and needle work, (39) hosiery, etc.

(h) A survey of the employment possibilities in different crafts, trades, industries and agriculture should be made in each State/Union Territory and vocational training projects should be aimed at meeting such labour requirements.

11.33.65 Vocational training projects should consist of class-room instruction, training, demonstrations, exercise in observation, practical work and audio-visual education. Details about the duration of each training course, syllabus and time schedule should be worked out by the board (para 11.33.24). A few illustrative examples of the vocational training courses are given at Appendix XVIII.

11.33.66 Adequate number of vocational training instructors should be appointed for organizing vocational training programmes on a proper and regular basis.

11.33.67 (a) With a view to developing training programmes on a practical and pragmatic basis, liaison should be established with the department of technical education, directorate of industries including cottage industries, industrial training institutes, polytechnics and vocational training institutions.

(b) On completion of vocational training courses, inmates should be examined by the Department of Technical Education of the State/Union Territory concerned and on successful passing of the examination, they should be awarded a regular certificate by that Department.

(c) As a measure of incentive, inmates demonstrating good progress in work programmes and vocational training should be allowed to visit important undertakings and other government owned industries.

11.33.68 Adequate provision of finances should be made in the annual budget of the Department of Prisons and Correctional Services for vocational training projects. Expenditure in this regard should be treated as investment in the treatment of offenders for their ultimate resettlement in society.

11.33.69 A perspective master plan for the development of work programmes and vocational training should be prepared by each State and Union Territory Administration. This plan should aim at full utilization of the existing facilities of work programmes and vocational training and at developing new programmes with a view to providing meaningful and useful employment and training to short term, medium term and long term convicted prisoners and to undertrial prisoners and prisoners sentenced to simple imprisonment who volunteer to work. The master plan should deal with all aspects of work programmes and vocational training which have to be developed during the coming ten years and should phase these programmes for two, five and ten years.

11.33.70 In large States, diversification of programmes of work and vocational training should be planned on a regional basis. In small States such planning will have to be done at the institutional level. Plans of diversification for each institution, region and ultimately the State or Union Territory will have to be fitted in such a way that diverse opportunities of work and training are available to different groups of inmates at the institutional, regional and State/Union Territory level. The central and district prisons, Kishore/Yuva Sadans, prisons/annexes for women offenders, work camps, work centres, semi-open and open programmes of diversification. Obviously the basic principle of homogeneous grouping of inmates will also have to be taken into account while diversifying employment, work and training opportunities.

11.33.71 Production units should be properly classified into two categories i.e. (i) principal (mechanised and semi-machanised) and (ii) ancillary and cottage industries. Likewise agricultural farms should be classified as large, medium and small size farms. Each central prison (750 capacity) and each district prison (400 capacity) should have some principal and some ancillary production units. District prisons where prisoners sentenced upto two years are kept should mainly have ancillary and cottage industries.

11.33.72 Open agricultural institutions and institutions having attached agricultural land should diversify work programmes according to cropping schemes such as mixed farming, irrigated crops, dry farming, etc. In some open prisons work can be diversified into agricultural activity, industrial units and agro-based production units.

11.33.73 Diversification of programmes of vocational training should be given due priority when the master plan for diversification of work programmes is designed. Diversification will become a practical proposition only if it is viewed in its totality, i.e., in the context of work and vocational training programmes.

11.33.74 Diversification of prisons and classification of prisoners as discussed in this Report and diversification of programmes of work and vocational training should be planned and executed simultaneously.

11.33.75 Prisoners sentenced to medium and long terms of imprisonment should be given training in multiple skills so that they are able to compete with the conditions of labour market in the free community.

11.33.76 For planned employment of inmates the following factors should be taken into consideration while organizing work programmes :

- (i) mental and physical health ;
- (ii) requirements of security, custody and discipline;
- (iii) age;
- (iv) length of sentence;
- (v) inmates' skills and abilities and also potential for acquiring skills; and
- (vi) urban and rural background.

11.33.77 Work camps and work centres should be developed in areas of community service such as (a) maintenance of public buildings; (b) services in government hospitals; (c) construction of public buildings; (d) service units (plumbers, electricians, carpenters, etc.); (e) plantation of trees; (f) work in public undertakings; (g) railway work camps, etc.

11.33.78 (a) Prisoners sentenced to less than one year should be employed in prison maintenance services, work centres and work camps.

(b) Prisoners sentenced to one year or more should be employed in production units in closed or open prisons.

(c) Employment of women offenders and young offenders should be done in accordance with our recommendations contained in Chapters XIII on 'Women Prisoners' and XV on 'Young Offenders' respectively.

(d) Old, infirm and physically handicapped prisoners should, as far as practicable, be employed in suitable prison services, in gardens inside the prison and in simple operations like opening of yarn, weaving of narrow tape and manufacture of simple stationery articles like envelopes, etc.

(e) Prisoners suffering from leprosy, in whose case the disease has been arrested and who are in a position to do some useful work, should be given work in work-centres organized by government or by voluntary organizations (such as Jagdamba Kushtha Niwas at Amravati in Maharashtra).

11.33-79 Each State and Union Territory should appoint, without delay, a committee of experts, with wide terms of reference, for the reorganisation and development of programmes of work and vocational training in correctional institutions in accordance with the recommendations of this Committee. However, the work of developing work programmes and facilities of vocational training should not be postponed by States and Union Territories till the report of such committee is available, as these are matters which need urgent attention and prompt action. The Government of India should issue necessary guidelines in this regard to the States and Union Territories immediately.

AGRICULTURE

11.34 We had the opportunity of seeing some of the agricultural and allied activities organised in some prisons during our visits to various States and Union Territories. Agriculture is the principal activity in open prisons. However, at some places, allied activities have also been developed. Horticultural and agricultural development at the Koramangala Open Prison in Karnataka is indeed impressive. At the Maulali Open Prison in Andhra Pradesh, dairy and poultry projects have been well developed. At Anantpur Open Prison, in Andhra Pradesh, diversified agricultural activities including agro-industries have been organized. A Pattern of mixed farming has been developed at the open prison at Paithan in Maharashtra. At Nabha Open Prison in Punjab extensive facilities for reclamation of land and agriculture, have been undertaken. At Sanganer Open Camp, Jaipur, in Rajasthan, agricultural plots have been allotted to prisoners who are allowed to live with their families in the Camp; Sampurnanand Shivir in Uttar Pradesh is the largest open agricultural prison in the country. At Model Prison, Lucknow, agricultural work is allotted on co-operative basis to prisoners.

11.35 Small, medium and large agricultural farms are attached to some closed prisons and our general impression is that the state of affairs in these farms leaves much to be desired. In some States agricultural land available with prison department is not fully brought under cultivation. The infrastructure for agricultural work programmes in prisons in most of the States is inadequate; organizational structure is weak and ineffective, and tools and equipment are outmoded. Development of agricultural work for inmates has remained neglected in most of the States/Union Territories.

11.36 Agriculture has since long been one of the main activities in central and district prisons. After the advent of freedom, especially after the launching of open prison movement, agriculture and allied activities gained some importance, and for a decade or so development of agriculture was treated as an important aspect of prison administration. But during the last decade the emphasis on the development of agriculture and allied activities has considerably decreased in many States and Union Territories.

11.37 A large percentage of prison population consists of persons coming from the rural areas. Obviously, the principal occupation of such persons is agriculture. We are, therefore, of the opinion that agriculture must receive priority in the development of work programmes and vocational training in correctional institutions and it should be developed on sound business-cum-commercial lines. Prison farms, if properly managed, can supply foodgrains, condiments, fresh vegetables, milk, meat and other dairy products to the department. This self-sufficiency in food articles can, to a large extent, reduce the per capita cost on the maintenance of prisoners. Planned agricultural activity in prisons will provide useful employment to a large number of inmates especially to those who come from rural areas.

11.38 We identify the following problems which agricultural activities have been facing in Indian prisons :—

- (i) Land and other resources are not fully utilized to maximum advantage in some States and Union Territories.
- (ii) Prison farms attached to central and district prisons suffer from under-supply of labour.
- (iii) Farm equipment is outmoded and insufficient.
- (iv) Technical staff is not adequate for full development of agricultural activities.
- (v) Irrigation facilities have not been fully developed.
- (vi) Modern methods of cultivation and management have not been introduced in most of the States and Union Territories.
- (vii) Development of agriculture and allied activities has not been properly planned.

11.39 In order to give agriculture its proper place in prison programmes we make the following recommendations:

11.39.1 Agriculture, horticulture, dairy projects, poultry, sericulture, fishery, bee-keeping, mushroom cultivation, fruit preservation and other allied activities and agrobased industries should be given high priority in the planned development of work programmes and vocational training in correctional institutions.

11.39.2 A systematic survey of the agricultural land attached to central prisons, district prisons, open prisons and sub-jails should be undertaken to plan maximum utilization of all available land. Every piece of cultivable land should be brought under cultivation. Wherever necessary, methods like bulldozing, tractor ploughing, addition of soil, etc., should be used for the purposes of land reclamation.

11.39.3 Farm lands and lands which are not under cultivation should be examined in terms of soil analysis, irrigability, fertility, requirements of drainage, etc.

11.39.4 While planning construction of new prison buildings it should be ensured that adequate farm land is available, preferably adjoining the campus of the institution or in the vicinity of the new institution.

11.39.5 Farms should be divided into suitable plots according to the cropping scheme to facilitate better management and evaluation of performance.

11.39.6 Cropping schemes should be prepared well in advance every year for each farm and each plot of the farm, so as to improve the productivity of land and to introduce mixed farming where irrigation facilities are available. Such schemes should be prepared in consultation with senior officers of the agriculture department.

11.39.7 Projects of land development such as bunding, levelling, drainage, etc., should be undertaken on a priority basis.

11.39.8 Where cultivable government land is available in the vicinity of an institution the same should be attached to the institutional farm. All un cultivated government land adjoining an institution or in the vicinity of an institution should also be attached to the institutional farms so that all such uncultivated government land could be brought under cultivation.

11.39.9 Land belonging to the prison department should not be surrendered for the use either of other government departments or of private agencies.

11.39.10 Institutional land should be properly fenced by developing live/natural fencing. Wherever necessary, barbed wire fencing should be provided so that crops of prison farms are properly protected.

11.39.11 A regular plan for maximum utilization of the existing irrigation facilities and also for providing additional facilities should be prepared for each farm. Existing wells should be deepened and repaired and additional open wells and tube wells should be dug. The possibility of developing surface tanks and ponds, putting bunds and 'bandhara' on streams, rivulets, etc., should be explored. Existing tanks and ponds should be deepened and repaired so as to facilitate the use of rain water for irrigation purposes.

11.39.12 Where possible lift irrigation schemes should be set up.

11.39.13 Outmoded methods and equipment for irrigation should be discarded. Diesel oil pumps or electric pumps should be installed for irrigation in farm lands.

11.39.14 Pucca irrigation channels should be constructed in every prison farm so as to utilise all available water to maximum advantage and to minimise water losses.

11.39.15 Adequate funds for developing irrigation facilities should be provided in the annual budget of the department.

11.39.16 Following buildings should be provided on each farm :

- (i) Store for implements and farm produce ;
- (ii) Sheds for prisoners ;
- (iii) Cattle sheds;
- (iv) Buildings for dairy units;
- (v) Administrative block.

11.39.17 Standard lists of improved equipment and spare parts should be prepared for each farm and the required equipment and spare parts should be made available. Improved agricultural implements, tractors and other mechanical implements should be provided in large farms.

11.39.18 Pucca approach roads and pucca internal roads should be provided for all farms.

11.39.19 On large farms having more than 40 acres of land and at open prisons a maintenance shop should be set up for maintenance and repair of farm equipment including tractors, etc.

11.39.20 At farms of medium and large size, transport facilities such as carts, push carts, wheel carts, medium size utility vans, trucks, etc., should be provided according to actual requirements.

11.39.21 At large farms where there are a number of vehicles, a fuel depot/pump should also be set up to store petrol/diesel.

11.39.22 The requirements of labour for each small, medium and large farm should be worked out in detail and prison administration should ensure that the required labour

is continuously provided for each farm. During operations like sowing, weeding, harvesting, etc., which have to be completed during a short period, additional labour should be provided as per the requirements of each farm. Peak requirements of labour should be assessed in advance and arrangements should be made for timely supply of labour to each farm so that time-bound agricultural operations do not suffer.

11.39.23 The practice of putting prisoners working on farms in ankle rings and fetters as in vogue in some States should be discontinued forthwith.

11.39.24 Our recommendations with regard to the type of inmates to be sent to open agricultural farms/are contained in Chapter XIX on 'Open Institutions'.

11.39.25 Prisoners sentenced to medium and long terms of imprisonment and prisoners sentenced to imprisonment for life who have spent sometime in closed prisons and who are considered suitable for being transferred to open institutions should be sent for work on farms attached to closed prisons. Such prisoners should work on prison farms during day and should come back to the prison for lock up in the evening. In some farms housing facilities for keeping such prisoners even during night should also be provided. Prisoners who are eligible for being transferred to open institutions should first work in such semi-open facilities so that they could be tried under proper supervision and could be transferred to open institutions after due observation of their response to a regime of trust and confidence. Inmates kept in such semi-open units should get all the facilities like wages, remission, etc., admissible to prisoners kept in open institutions.

11.39.26 Prisoners working on prison farms, in dairy units and in agro-based industries should be given adequate and proper wages on the principles discussed earlier.

11.39.27 Budget for each farm, dairy unit, agro-based industry, etc., should be carefully prepared and adequate funds for the development of agriculture and allied activities should be provided. There should be annual financial provision for replacement of live stock, dead stock, equipment, plant, tools, machinery, etc.

11.39.28 Accounts of agriculture and allied activities should be separately maintained. They should not be mixed up with other miscellaneous accounts of the institutions. The accounts of each plot of agricultural land should be prepared separately.

11.39.29 Personnel requirements of each farm should be worked out and it should be ensured that the requisite personnel is provided to each unit.

11.39.30 The duties, responsibilities, functions and powers of personnel working in agriculture and allied fields should be clearly laid down. The agriculture officer/dairy officer should be directly responsible to the superintendent in all matters connected with effective management of agriculture and allied activities.

11.39.31 Percentage of wastage, driage, etc., should be fixed for each crop. Principles regarding cost of agricultural and other produce should be fixed on business-cum-commercial lines. The proposed board for work programmes and vocational training should fix details in this regard.

11.39.32 The efficiency of each prison farm, dairy unit, poultry project, agro-based industry, etc., should be annually evaluated. If targets fixed are not achieved, responsibility for failure should be fixed.

11.39.33 The inmate population of an agricultural farm should not exceed 200. Large farms should be divided into sub-units and on each unit the required number of inmates should be employed.

11.39.34 While selecting sites for open agricultural prisons, it should be ensured that facilities like adequate land, sufficient irrigational facilities, electricity, roads, transport, etc., are available.

11.39.35 While selecting prisoners for working in agricultural and allied activities, a thorough screening should be done. The following criteria are suggested in this regard:

- (i) health (mental and physical fitness);
- (ii) standard of behaviour and conduct in the closed prisons;
- (iii) group adjustability;
- (iv) discipline.

11.39.36 Prison dairies should be treated as items of mixed-farming so that the cropping scheme could be properly coordinated with the needs of dairy units. Prison dairies should be put on commercial basis.

11.39.37 While developing prison dairies, factors such as availability of fodder, grazing area, etc., should be taken into account. The economic viability of a dairy unit should be essentially taken into consideration before starting dairy project on prison farms.

11.39.38 A project report from the department of animal husbandry should be obtained before starting prison dairies at any institution. Technical know-how from this department should also be obtained for the efficient running of the dairy units.

11.39.39 The dairy units should be provided with adequate veterinary cover. Dairy animals should be of good breed and should be purchased in consultation with the animal husbandry department. Old and uneconomic milch cattle should be replaced at regular intervals.

11.39.40 Adequate buildings and equipment should be provided for dairy units in prisons in consultation with the animal husbandry department.

11.39.41 The milk produced in the prison dairy should be supplied to the prison, the prison hospital, the prison canteen, etc., and the excess milk should be sold to co-operative dairies, dairy development corporation, etc. Manure should be supplied to prison farms.

11.39.42 There are limitations on developing dairies in closed prisons. Such dairies, wherever they exist, should be closed down.

11.39.43 Poultry should also be treated as items of mixed farming. Project reports from the poultry development department should be obtained before starting poultry in prisons.

11.39.44 The requisite number of personnel should be provided for each poultry unit.

11.39.45 Birds of the recommended breeds should be kept in the poultry units. Old and uneconomic birds should be replaced in consultation with the poultry development department.

11.39.46 Adequate and proper buildings and equipment should be provided for each poultry unit.

11.39.47 In Jail Training Schools and Regional Training Institutions, Prison personnel should be imparted training in various aspects of agriculture, dairy, poultry and other allied activities. The executive and supervisory personnel should also be given thorough training in management of these activities.

11.39.48 Bio-gas plants, windmills, solar-cooking ranges, etc. should be introduced in open institutions.

11.39.49 Vocational training projects in agriculture, dairy, poultry, agro-based industries, improved methods of agriculture, maintenance and repair of farm equipment and every allied activity should be started.

11.39.50 Extension services for agriculture and allied activities have been established all over India. The benefit of these services should be availed of by the Department of Prisons and Correctional Services for every institution in regard to the development of agriculture and allied activities. The department should establish close liaison with agricultural universities, forest department and other government and non-governmental agencies for the development of agriculture, dairy, poultry, agro-based industries, forest farming, social forestry and similar other activities.

Reference :

1. Model Prison Manual, 1960; page 138.

CHAPTER XII

UNDERTRIAL AND OTHER UNCONVICTED PRISONERS

12.1 Preliminary examination of the available data on undertrial prisoners in India has revealed the appalling nature of the many inter-linked problems. There are problems posed by the pressure of a large unconvicted population in the jails in terms of congestion, idleness, and wastage of human resources. The energies of the prison personnel are spent not on providing creative and corrective treatment to prisoners but on routine clerical and custodial functions. The important function of prisons in offering corrective treatment to offenders is therefore being perpetually frustrated by the presence of this disproportionately large population of undertrial and unconvicted inmates.

12.2 The magnitude of the problem is evident from the fact that as on January 1, 1975 for every 100 convicted prisoners (who could possibly be given some kind of corrective treatment in prisons) there were 136 inmates awaiting trial or were on remand. While the total prison population in India has shown a declining trend over the past few years, the ratio of unconvicted prisoners per hundred of convicted prisoners went upto 149 as on December 31, 1980, and to 160 as on June 30, 1981 (Annexure attached to this chapter). The Seventh Finance Commission taking stock of the situation of overcrowding in prisons looked into the proportion of undertrials to the total jail population in various States and found this proportion to be very high in several States, as for instance in Assam, Bihar, Orissa, Uttar Pradesh and West Bengal. In some cases this proportion rose to as much as 80 per cent of the total inmate population.¹

12.3 The presence of an excessive number of undertrial, remand and other unconvicted prisoners in jails has created, and not wrongly, an increasing public and professional concern about the non-observance of human rights in these institutions. This is particularly so due to their protracted detention during pendency of investigation and trial which take a long time. It may be noted that the number of undertrial and remand prisoners had reached alarming and disproportionate dimensions in recent years. The entire criminal justice system was rocked by certain revelations made through public spirited litigation about the palpable lack of human conditions for the undertrials. Indeed the undesirability and constitutional invalidity of protracted detentions during pendency of investigation and trial were brought to the notice of the Supreme Court of India in a number of cases. In one such case, the Supreme Court observed that :

“An alarmingly large number of men and women, children including, are behind prison bars for years awaiting trial in courts of law. The offences with which some of them are charged are trivial, which, even if proved, would not warrant punishment for more than a few months, perhaps for a year or two, and yet these unfortunate forgotten specimens of humanity are in jail, deprived of their freedom, for periods ranging from three to ten years without even as much as their trial having commenced.

“It is a crying shame on the judicial system which permits incarceration of men and women for such long periods of time without trial. We are shouting from house-tops about the protection and enforcement of human rights. We are talking passionately and eloquently about the maintenance and preservation of basic freedoms. But, are we not denying human rights to these nameless persons who are languishing in jails for years

for offences which perhaps they might ultimately be found not to have committed? Are we not withholding basic freedom from these neglected and helpless human beings who have been condemned to a life of imprisonment and degradation for years on end? Are expeditious trial and freedom from detention not part of human rights and basic freedoms?

"It is high time that public conscience is awakened and the government as well as the judiciary begin to realise that in the dark cells of our prisons there are large number of men and women who are waiting patiently, impatiently perhaps, but in vain, for justice—a commodity which is tragically beyond their reach and grasp. Law has become for them an instrument of injustice and they are helpless and despairing victims of the callousness of the legal and judicial system"²

12.4 It is noticed that a large number of remand and undertrial prisoners are languishing in prisons because of their poverty. They are there because they are not able to furnish the bail, whereas the affluent can afford to do so. In this connection the Supreme Court has made the following observations :

"....Some of the undertrial prisoners have been in jail for as many as 5, 7 or 9 years and a few of them, even more than 10 years, without their trial having begun. What faith can these lost souls have in the judicial system which denies them a bare trial for so many years and keeps them behind bars, not because they are guilty, but because they are too poor to afford bail and the courts have no time to try them. It is a travesty of justice that many poor accused, 'little Indians, are forced into long cellular servitude for little offences' because the bail procedure is beyond their meagre means and trials don't commence and even if they do, they never conclude....A procedure which keeps such large number of people behind bars without trials so long cannot possibly be regarded as 'reasonable, just or fair' so as to be in conformity with the requirement of that article (Article 21 of the Constitution of India). One reason why our legal and judicial system continually denies justice to the poor by keeping them for long years in pre-trial detention is our highly unsatisfactory bail system.....being unable to obtain release, they have to remain in jail until such time as the court is able to take up their cases for trial, leading to grave consequences, namely (1) though presumed innocent, they are subjected to psychological and physical deprivations of jail life, (2) they are prevented from contributing to the preparation of their defence, and (3) they lose their job, if they have one, and are deprived of an opportunity to work to support themselves and their family members with the result that the burden of their detention almost invariably falls heavily on the innocent members of the family"³

It will be relevant to mention here that on June 30, 1979 in the State of Uttar Pradesh alone as many as 5281 remand and undertrial prisoners, out of a total of 17,280 of such inmate population, were confined in prisons for more than six months because they were not able to fulfil the conditions of bail set forth by courts, although bail in their cases had been granted (Annexure B to this chapter).

12.5 Apart from other aspects of the situation, the problem of undertrials has posed a great challenge to prison administration. Firstly due to the increasing number of unconvicted prisoners the problem of overcrowding in prisons has reached unmanageable proportions. The year 1978 witnessed acute overcrowding in Indian prisons. There were 2,11,963 inmates in all the prisons in the country as on January 1, 1978 out of which as many as 1,13,777 (54%) were undertrials, while the total available capacity in the entire country for

the prison population was 1,79,567. However, at the close of the year, while the total prison population came down to 1,85,655 the number of undertrial prisoners rose to 1,19,336 constituting 64 percent of the total inmate population (Annexure A). This large number of undertrial prisoners not only contributes to serious problems of congestion in jails owing to insufficient space, but also produces sub-human conditions of living. Tour Note No.15 (December 1978) of the National Police Commission dealing with "Under-trials of India" speaks of some of the prisons as "true exponents of a system which is slowly grinding thousands of people into dust".

".....The undertrials consist of large variety of persons. Hundreds of them are dumb, simple persons, caught in the web of the law, unable to comprehend as to what has happened, what the charge against them is, or why they have been sent to jail. These are the people without a calendar or a clock, only a date in a court diary, extended from hearing to hearing..... there are girls sent to jail because the Ashram had to be closed down after some sort of scandal and several girls ran away, and they are now kept in the jail in "protective custody", tearful, unwilling, and positively wanting no protection at all. Then there are more of them charged with ticketless travel, possession of weapons, or illicit liquor or some minor infraction of the law..... A cause of concern for any student of law is the fact that several of them have been undertrials for more than five years".⁴

12.6 In most of the States and Union Territories there are no separate buildings for keeping undertrial prisoners. They are confined for long periods in the same buildings with the convicted inmates. The segregation of undertrial prisoners in separate wards in the same buildings is also not an effective method. It has been observed that the lodging of undertrial prisoners with convicted offenders leads to contamination of crime. Many inexperienced young men come into contact with hardened criminals who have had the experience of prisons on several occasions. Gangsters are known to recruit members for their criminal gangs from out of the borderline, yet redeemable, offenders admitted to jails as undertrials.

12.7 Since the undertrial prisons constitute a floating population in prisons, their frequent admission, release and transit to and from courts create lot of administrative problems for the prison personnel. Much of the sneaking of contraband articles inside the prisons and the contagion of diseases amongst inmates are due to this perpetual movement of undertrials in and out of prisons.

12.8 During our visits to various jails in different States and Union Territories we found that a large number of undertrial prisoners, who were confined for long periods in prisons, were only involved in petty offences. We received complaints from undertrial prisoners that they were not produced before the concerned magistrates on the dates of hearing. This is a serious matter and is tantamount to non-observance of the essential judicial process. The two main reasons given by prison administration for this state of affairs were lack of transport facility and overload of work with magistrates. Complaints were also received about indiscriminate arrests by police. This has been referred to by the Bihar Jail Reforms Committee in its report, as well.

12.9 The number of non-criminal lunatics and lunatic undertrials was astoundingly large in some of the prisons. Instances of some lunatic undertrials, apprehended for petty offences like ticketless travel and theft, and languishing in prisons for more than 20 years, have been brought to the notice of the Supreme Court of India through public interest litigation during the year 1981-82.⁵

12.10 Problems relating to 'Delay and Arrears in Trial Courts' and 'Congestion of Undertrial Prisoners in Jails' have been dealt with at length by the Law Commission of India in its Seventy-seventh Report and Seventy-eighth Report respectively. The

Commission has done some extremely commendable work in analysing the causes of delay in criminal trials and crowding of undertrials in prisons. Its recommendations with regard to suitable amendments in the present law, the disposal of cases, expansion of the category of bailable offences, determination of the amount of bond, release of accused persons on bond without sureties and arrangements for detention of undertrial persons, deserve immediate attention and implementation by the Government. A summary of the recommendations of the Law Commission as contained in its Seventy-eighth Report which is directly relevant to the problem of undertrials in jails is appended to this chapter at Annexure C. The Commission has suggested enlargement of the scope of bailable offences by appropriate amendments in the existing law. We, however, feel that bail should be granted to the accused as a matter of right unless proved by prosecution, by due process of law, that his being at large might endanger the security of the society. This will not only protect the spirit of the Constitution enshrined in the Fundamental Right to Equality but will also save public exchequer from the cost of feeding and supervising inmates during their unduly extended pre-trial detention.

12.11 Before we proceed to record our recommendations with regard to the unconvicted prison population we would like to clarify that though undertrials constitute an overwhelmingly large portion of this population, they do not exhaust this category. Other inmates included in the category of unconvicted prisoners are:

- (a) Remand prisoners: accused persons apprehended and remanded to judicial custody but not served with a charge sheet to enable commencement of trial.
- (b) Non-criminal lunatics: lodged in prisons for observation under provisions of the Indian Lunacy Act.
- (c) Persons under protective custody such as stray-children and victims of rape lodged in prisons in violation of or circumventing the provisions of special enactments to deal with them.
- (d) Persons confined under preventive sections of the Code of Criminal Procedure (sections 107, 109 and 110); and
- (e) Prisoners detained under executive orders under provisions of special legislations.

12.12 Non-criminal lunatics, as recommended by us in Chapter IV on 'Legislation' and in Chapter VII on 'Medical and Psychiatric Services', should not be lodged in prisons under any circumstances. Similarly children below 16 years of age in case of boys and below 18 years in case of girls should under no circumstances be kept in prisons as categorically stated by us in Chapter IV on 'Legislation' and Chapter XIV on 'Children in Prisons'; and rules framed or notifications issued to circumvent the provisions of Children Act should be withdrawn. Women needing protective custody should also not be confined in prisons. We reiterate with emphasis, here again, that non-criminal lunatics, children and persons needing protective custody should be kept out of the purview of prisons.

12.13 The Committee found a large number of persons including children and women detained in prisons under section 109 of the Code of Criminal Procedure (either pending trial of their case or for failure to furnish requisite security for keeping good behaviour). They bore evidence to K. F. Rustamji's reference to:

".....the case of about 500 others languishing in jail under section 109 Cr. P. C. Some of them looked as if they have been youngsters wandering over the country, drop-outs from school, and the law had picked them up because the number of cases had to be brought up to the specified figure".⁶

12.14 We feel that the preventive sections of the Code of Criminal Procedure, specially section 109, should be reviewed and amended suitably to restrict their use only in very genuine cases and the practice of using these sections as a matter of routine to swell figures of apprehension by police stations should be effectively checked.

12.15 Persons detained under orders made under provisions of special legislations such as National Security Act, Conservation of Foreign Exchange and Prevention of Smuggling Act and the like, should as far as possible be kept away from convicted and undertrial prisoners.

12.16 As we all know, an apprehended person has his first encounter with the criminal justice system in a police lock-up where he is temporarily confined before being produced before a magistrate or on remand to police custody. The conditions of these police lock-ups in our country are generally very unsatisfactory. Most of these lock-ups have insufficient accommodation and are without even such basic facilities as lavatories, light, water and ventilation. Sanitary conditions in these lock-ups are also utterly unsatisfactory. There seems to be no rules or scales prescribed for the diet or bedding for those detained in police lock-ups. There are no Visiting Committees which could inspect or report about the conditions prevailing in these lock-ups. The essential requirements of law with regard to the time limit for keeping in custody persons arrested without warrant are often flouted. The very first encounter of a person with the criminal justice system, thus, invokes in him reaction of abhorrence for and distrust in the criminal justice system. Conditions of police lock-ups need to be urgently improved.

12.17 Our recommendations with regard to undertrial, remand and other unconvicted prisoners are as follows:

12.17.1 A review of all the police lock-ups should be taken up in each State and Union Territory and the living conditions in them should be improved. Proper provision of bedding, sanitary arrangements, diet, drinking water and medical attention should be immediately made to meet the basic requirements of human beings.

12.17.2 A Board of Visitors should be appointed in each district to visit regularly all police lock-ups in the district and report on their conditions.

12.17.3 Undertrial prisoners should be lodged in separate institutions away from the convicted prisoners. We have recorded our recommendations in this regard in Chapter V on 'Prison Buildings' also.

12.17.4 Institutions meant for lodging undertrial prisoners should be as close to the courts as possible. Undertrial prisoners should not be taken to and from courts on foot or roped with each other. There should be proper arrangement for their transportation at each jail.

12.17.5 The recommendations of the Law Commission with regard to speedy trials and simplification of bail procedures made in its 77th and 78th Reports should be accepted and implemented. In addition, bail should be granted to the accused as a matter of right unless proved by the prosecution that his being at large might endanger the security of the society.

12.17.6 The feasibility of launching bail hostels on the lines of those sponsored and financed by Xenia Field Foundation (U.K.) should be examined under Indian conditions. A brief note on such hostels is appended to this chapter (Annexure D). To begin with a few experimental projects could be sponsored by the proposed National Commission on Prisons.

12.17.7 Release of accused persons on personal recognizance should be encouraged. A large number of accused undertrial prisoners who have a settled social life and a permanent abode would stick to their obligation to appear before and surrender to the court. As recommended by the Law Commission, violation of this obligation can be made an offence. Accused persons released on personal recognizance may be placed under the supervision of probation officers or Gram Panchayats or non-official voluntary organisations recognized by the Government for the purpose.

12.17.8 The provisions of section 167 of the Code of Criminal Procedure with regard to the time limit for police investigation in case of accused undertrial prisoners, should be strictly followed both by the police and the courts.

12.17.9 The classification of undertrial prisoners into Class I, II and III or A, B and C on the basis of their socio-economic status should be abolished.

12.17.10 The time spent by inmates in jail, awaiting investigation and trial, should be put to use for the benefit of both the prisoner and the community. Following are some of the measures which could be adopted in this regard :

- (a) Undertrial prisoners volunteering to work may be employed on prison work programmes with proper and sufficient incentives. The work programmes should take into consideration floating nature of the undertrial prison population. Best suited work programmes for such inmates would be those in which learning period is small and wages can be earned on piece-work basis.
- (b) Undertrial prisoners who offer to work in prison maintenance services and are so employed by prison authorities having considered their security risk should be paid wages for such work at a reasonable rate.

12.17.11 In Chapter IV on 'Legislation' we have discussed the rights of all prisoners including undertrials. For undertrial prisoners we specifically reiterate that they should be given all facilities of access to legal material, legal counsel and legal aid. In Chapter XXIII on 'Organisational Structure' we have suggested that law officers should be posted in all central and district prisons for this purpose.

12.17.12 All undertrial prisoners should be effectively produced before the presiding magistrates on the dates of hearing. Local officers of the prison, the police, the prosecution and the judiciary should evolve set procedures to ensure observance of this essential aspect of judicial process.

12.17.13 Undertrial prisoners should be allowed to obtain cooked food from their families. A proper check should, however, be kept on the food contents through the medical section of the prison so that nothing contraband or injurious passes to the undertrial prisoners.

12.17.14 Those undertrial prisoners who do not have sufficient clothes should be supplied clothes at Government cost. These clothes should be of a type different from those given to convicts.

12.17.15 There should be no restriction on the number of letters which undertrial prisoners may send at their own cost. However, at Government cost they should be allowed to write two letters per week.

12.17.16 There should be no restriction on the number of interviews sought by undertrial prisoners for the sake of legal assistance. Interviews with family members and friends should, however, be restricted to two per week.

12.17.17 Undertrial prisoners should be allowed the facility of canteen available to other prisoners in the prison.

12.17.18 The daily routine of undertrial prisoners should, wherever possible, include programmes for diversified education such as adult education, social education, etc. and recreational activities to enable them to utilise their time in constructive pursuits.

12.17.19 Habitual undertrial prisoners should be segregated from other undertrial prisoners.

12.17.20 The management and discipline of undertrial prisoners should be the responsibility of only the paid staff of the prison department and in no circumstances should they be put under the charge of convicted prisoners.

12.17.21 (a) An effective mechanism to review the cases of undertrial prisoners regularly both at the district level and the State level should be evolved.

(b) At the district level a Review Committee consisting of the following should be constituted :

1. District Judge	Chairman
2. District Magistrate	Member
3. District Superintendent of Police	Member
4. Public Prosecutor	Member
5. Prison Superintendent	Member-Secretary

This Committee should be a statutory committee. It should visit the district/central prison in the district at least once a month and meet every undertrial prisoner present on the day. It should, thereafter, hold a meeting to review the cases of all undertrial prisoners in the district/central prison and see that no undertrial prisoner is un-necessarily detained in the prison.

(c) The Code of Criminal Procedure should be suitably amended to provide that as soon as an undertrial prisoner completes the period of detention equal to half of the maximum sentence awardable to him on conviction, he should be released immediately and unconditionally. This should be a statutory function of the District Review Committee. Such undertrials should for all purposes in law be treated as having been discharged by the court of law.

(d) A Committee for the review of undertrial prisoners should also be constituted at the State level with the following composition :

1. A Judge of the High Court	Chairman
2. Home Secretary/Secretary dealing with prisons in the secretariat.	Member
3. Inspector General of Police	Member
4. Director of Prosecution	Member
5. Inspector General of Prisons	Member-Secretary

This Committee should also be a statutory committee and should meet at least once every three months to review the position of undertrial prisoners in the State as a whole.

It should also sort out problems of coordination among various departments resulting into delay in trials.

(e) Procedure for the review of undertrial prisoners in Sub-jails has been recommended by us in Chapter XVIII on 'Sub-jails'.

12.17.22 Broad guidelines about the arrest of persons, specially those involved in minor violations of law, should be laid down.

12.17.23 Non-criminal lunatics, persons needing protective custody and children should not be sent to prisons at all.

12.17.24 Preventive sections of the Code of Criminal Procedure, specially section 109, should be reviewed and amended suitably to restrict their use only in very genuine cases.

12.17.25 Persons detained under executive orders made under provisions of special legislations should be kept away from convicted and undertrial prisoners.

References:

1. Seventh Finance Commission Report 1978, page 103—Chapter 10, para 39.
2. (1980) Supreme Court cases 81, Writ Petition No. 57 of 1979 : Hussainara Khatoon and others *versus* Home Secretary, State of Bihar.
3. *Ibid.*
4. National Police Commission : Tour Note No. 15, December, 1978 : The Undertrials of India—by Shri K.F. Rustamji, Member.
5. Writ Petition No. 73/82 through Miss Veena Sethi, Secretary, Free Legal Aid Society, Hazaribagh.
6. National Police Commission - Tour Note No. 15 December, 1978 : The Undertrials of India—by Shri K.F. Rustamji, Member.

STATEMENT OF INMATE POPULATION LOCKED UP IN JAILS IN INDIA
ON VARIOUS DATES

Date	Total inmates	Convicts	Under-trials	Ratio of convicts to under-trials	Source of information
1-1-1975	2,20,146	93,374 (42.4)**	1,26,772 (57.6)	100:136	Ministry of Home Affairs
1-4-1977	1,84,169	83,086 (45.1)	1,01,083 (54.9)	100:122	Do.
1-1-1978	2,11,963	98,186 (46.3)	1,13,777 (53.7)	100:116	Do.
31-12-1978	1,85,655	66,319 (35.7)	1,19,336 (64.3)	100:180	Do.
31-12-1979	1,57,824	62,023 (39.3)	95,901 (60.7)	100:154	Do.
31-12-1980	1,59,692	64,090 (40.1)	95,602 (59.9)	100:149	Statistical data collected by this Committee.
30-6-1981	1,41,761	54,617 (38.5)	87,144 (61.5)	100:160	Ministry of Home Affairs

**Figures given in brackets are percentage to total prison population.

Annexure XII-B

**BAIL CASES OF UNDERTRIALS CONFINED IN PRISONS
FOR OVER 6 MONTHS AS ON 30-6-1979**

Sl. No.	Name of State/Union Territory	Who did not apply for bail	Who applied but were refused bail	Who could not fulfil conditions of bail	Total
1.	Gujarat	38	24	5	67
2.	Haryana	40	124	11	175
3.	Himachal Pradesh	8	2	5	15
4.	Maharashtra	151	126	80	357
5.	Punjab	29	119	58	206
6.	Rajasthan	202	291	40	533
7.	Tamil Nadu	154	136	7	297
8.	Tripura	5	..	2	7
9.	Uttar Pradesh	5758	6241	5281	17280
10.	Arunachal Pradesh	3	..	..	3
11.	Chandigarh	45	4	11	60
12.	Mizoram	19	22	6	47

Note:—Information from other States and Union Territories was not available.

Source:—Ministry of Home Affairs, Government of India;

SEVENTY-EIGHTH REPORT OF LAW COMMISSION ON CONGESTION OF UNDERTRIAL PRISONERS IN JAILS

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

We give below a summary of the conclusions reached and recommendations made in this Report.

1. *Introductory*

(1) The problem of undertrial prisoners in jails has assumed magnitude, as is evident from figures collected from various sources. The problem is not confined to India, nor is it new. Several recommendations made in the past in various studies and reports have placed emphasis on various aspects of the problem. A high percentage of jail population comprises persons undertrial. This is not a satisfactory situation.

In dealing with the problem, three types of prisoners have to be considered :

(a) Persons being tried for non-bailable offences, in respect of whom the courts have declined to pass an order for their release on bail.

(b) Persons being tried for non-bailable offences in respect of whom courts have passed order for bail but who, because of the difficulty of finding appropriate surety or because of some other reason, do not furnish the bail bond.

(c) Persons who are being tried for bailable offences but who, because of the difficulty of finding appropriate surety or some other reasons, do not furnish the bail bond.

For reducing the burden of undertrial prisoners on jail, all the above three categories should be dealt with.

(2) The various measures recommended in the 77th Report of the Law Commission to reduce delay and arrears in trial courts should be implemented in order to deal effectively with the problem of large number of undertrial prisoners. Other remedies suggested in this Report should also be adopted.

2. *Present law, comparative position and question for consideration*

(3) An examination of the concept of bail, the present law as to bail, the various statutory time limits connected with the investigation or trial of offences and the issues that fall to be considered, shows that in formulating legislative policy in relation to release on bail, several conflicting considerations have to be balanced. It also shows that the problem of undertrial prisoners has to be dealt with on several fronts.

(4) In England, there is now a presumption in favour of the right to bail for all offences. Further, a discretion is given to the Courts to release a person without surety. There

is no personal recognizance. A duty to surrender to custody is created, and its violation is made an offence. On release on bail, certain conditions can be imposed.

3. *Disposal of cases*

(5) For dealing with the problem of large number of undertrial prisoners implementation of recommendations made in the 77th Report of the Law Commission (delay and arrears in trial courts) is a measure of the first importance.

(6) Cases in which the accused persons are in Jail should be given preference and the target for their disposal should be four months instead of six months recommended in the 77th Report.

(7) In order to prevent interested parties from prolonging pendency of cases a certain amount of strictness is necessary to ensure prompt disposal.

(8) Trial Magistrates should furnish periodical statements of cases in which the accused are in custody and which are not concluded within the prescribed time.

(9) In time of some agitation numerous persons defy law and court arrest, causing a sudden spurt in the number of undertrial prisoners. Most of them would not offer bail. Such persons should be put up for trial soon after their arrest in order to avoid congestion in Jails.

(10) Quite a substantial number of persons who are being proceeded against in security proceedings for keeping peace and for good behaviour are detained in jail as undertrial prisoners because of their inability to furnish the requisite bond. The cases against those persons should be heard with due promptness and despatch. Efforts should be made to conclude these proceedings within 5 months.

(11) Inordinate delay in the investigation of cases should be avoided. The diversion of police officials concerned with investigation to other duties relating to law and order should be avoided. It causes delay in investigation as pointed out in 77th Report.

(12) Investigation of cases should be completed as soon as possible. The law provides that if an investigation is not completed within the specified period, the accused should be released on bail, thus highlighting the need for prompt investigation.

(13) Where the accused is in Jail, adjournments of cases should not be granted unless absolutely necessary.

4. *Expansion of the category of bailable offences*

(14) Certain offences under the Indian Penal Code, as listed in the Report, which are at present non-bailable should be made bailable. The Code of Criminal Procedure, First Schedule, Part I, should be amended accordingly.

(15) Offences under the Law other than the Indian Penal Code punishable with 3 years' imprisonment should be made bailable with the exception of offences under the Official Secrets Act 1923. The Code of Criminal Procedure, 1973, First Schedule, Part II, should be amended accordingly.

5. *Amount of bond*

(16) The statutory requirement that the amount of bond shall not be excessive, should be observed.

(17) There is, however, no need to impose a statutory ceiling on the amount of bail.

6. *Release on bond without sureties*

(18) In regard to bailable offences, section 436(1), Code of Criminal Procedure, 1973 which empowers the officer or court to "discharge" a person on bond without sureties, should be amended by adding an Explanation to the effect that where a period of one month expires after arrest without the accused furnishing sureties, that shall (in the absence of reasons to the contrary as recorded) be a fit ground for release on bond without sureties. The word 'discharge' should be replaced by the word 'release'.

(19) In regard to non-bailable offences, a discretion should be given to the officer or court to release a person on bond without sureties. Section 437(1), Code of Criminal Procedure, 1973 should be amended for the purpose.

(20) A definition of "bail" should be inserted as section 2(aa) in the Code of Criminal Procedure, 1973 to make it clear that references to "bail" include references to a person released on bond without sureties, where such release is permitted by the Code.

(21) Further, in sections 395(3) and 439(1) (c) of the Code, power to release on bond without sureties should be expressly provided for.

7. *Obligation to appear and surrender—violation to be an offence*

(22) A provision should be inserted in the Code of Criminal Procedure, 1973 to the effect that a person released on bail shall be bound to appear and to surrender to custody.

(23) There should be inserted in the Indian Penal Code a provision creating a new offence punishing violation of the obligation so undertaken with imprisonment upto 2 years or fine or both.

(24) The new offence to be created as above should be :

- (a) Cognizable;
- (b) Non-bailable ;
- (c) Triable by any Magistrate.

The Code of Criminal Procedure, 1973, First Schedule, Part I, should be appropriately amended for the purpose.

8. *Arrangements for detention*

(25) There should be separate institutions for the detention of undertrial prisoners, the induction of a large population of undertrial prisoners in a building essentially meant for convicts being undesirable. However, the creation of such institution is a matter of long-term planning and of financial implications. Other steps to reduce the number of undertrial prisoners may therefore have to be taken.

(26) The question of providing for bail hostels for persons who, though ordered to be released on bail, cannot offer bail has not been considered in the Report as apart from its financial implications and need for long-term planning, its prospects in the present conditions are rather remote.

(27) A lot needs to be done to improve the conditions of detention in prisons. The Report, however, refrains from going into this matter being outside the scope of the reference.

A NOTE ON FIELD WING BAIL HOSTELS : LONDON

(Sponsored and financed by the Xenia Field Foundation)

The Establishment of Field Wing :

Field Wing was opened by the then Home Secretary, Mr. Reginald Maudling, on November 8, 1971. It is a wing of Booth House, a modern hostel for men run by the Salvation Army in White-chapel, London, and is reserved for men sent there on bail by the courts. The establishment of Field Wing resulted from the coming together of several people and organisations, each with a particular interest in the setting up of bail hostels as an alternative to remands in custody.

The project is sponsored and financed by the Xenia Field Foundation, whose chief trustee, Mrs. Xenia Field, gave the money needed for the scheme to help defendants who might otherwise be denied bail because they had nowhere to go. The Salvation Army, in providing premises and administration for a bail hostel, saw it as a social welfare experiment in which they could work with official agencies (the courts and the probation service) to meet a human need.

The Inner London Probation and Aftercare Service welcomed the plan, hoping that defendants sent to the hostel would make more positive use of the remand period than they could have done in custody, and that these more favourable circumstances would help probation officers in preparing social enquiry reports.

The Home Office, U.K., concerned to keep the use of remand in custody to a minimum, both in the interests of the defendants themselves and on account of overcrowding in the prisons, welcomed a proposal which might show one way of reducing the number of people in custody, and were grateful to Mrs. Field for her offer to finance Field Wing. Besides coordinating the arrangements, the Home Office agreed that the Research Unit should study the working of the scheme. It was understood that the Xenia Field Foundation would pay for the wing for an initial period, probably 3 years.

Sir Frank Milton, Chief Metropolitan Magistrate, gave enthusiastic support. He saw a particular need for a bail hostel for young men who drifted into London, got into trouble of a not very serious kind, and had to be remanded in custody because there was nowhere else for them to go. He arranged that his own court, Bow Street, and its neighbour, Marlborough Street magistrates' court, should supply Field Wing with its first residents. Later, the scheme was extended to other London courts.

The Aims of the Field Wing Project :

The chief aims of the scheme were :

1. to enable the courts to release on bail men charged with comparatively minor offences who would otherwise have to be remanded in custody simply, or mainly, because they had no fixed abode;
2. to enable and help the men to make constructive use of the remand period in Field Wing. In particular it was hoped that if an offender could show the court that he had used the time to obtain work and accommodation, this would increase his chances of avoiding a custodial sentence.

While agreeing generally on these aims, the various parties to the scheme differed in their emphasis on them and on related objectives. The main interest of the courts and the Home Office in a bail hostel was as an alternative to remands in custody; the trustees of the Xenia Field Foundation and the Salvation Army had expectations beyond this. They wanted the Field Wing to cater for a highly select group of men who would be likely to respond to the individual treatment it was hoped the hostel would offer.

The Xenia Field Foundation were particularly concerned to protect criminally inexperienced young men from the experience of imprisonment and from contact with men who had been in prison. The Foundation intended Field Wing to take only unconvicted men (as distinct from convicted men on remand for reports before sentence), and only men without experience of custody whether on sentence or remand. These criteria were somewhat modified later on.

The Salvation Army thought the men selected should be those who were likely to respond to the high standard of accommodation, and to the individual encouragement, and support in sorting out personal problems, that the staff could give. The Army were also concerned that the men should fit in with the residents in the main part of Booth House, and therefore preferred those who were not criminally sophisticated, and those having no special problems such as alcoholism and drug use.

The Probation Service hoped that the Field Wing would enable remanded men to improve their immediate social circumstances in a way not possible if they had been kept in custody; for example, they could keep or find a job, and look for accommodation, they could sort out personal affairs, and renew or keep family contacts, more easily than in prison. During remand a man might be especially open to offers of help in such ways; with this in mind the Inner London Probation and Aftercare Service arranged to attach to Field Wing a parttime liaison probation officer to do 'social crisis' casework with the men. He would not normally prepare social enquiry reports, this being the task of the court probation officer.

It was not one of the direct aims of the Field Wing scheme to prevent men from re-offending, however welcome this outcome might be.

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CHAPTER XIII

WOMEN PRISONERS

13.1 The number of women prisoners in the country is not very large. As on Decemer 31, 1980, the total number of women prisoners was 4073, forming 2.6 per cent of the total prison population of the country. Out of these, 21 per cent were convicted, the rest falling under various categories of unconvicted inmates, mostly undertrials. About 17 per cent of the unconvicted women prisoners were non-criminal lunatics. The statement at Annexure A to this Chapter gives these details. The Committee during its visits to various States and Union Territories found that some destitute women, and women and girls rescued from moral danger and needing protective custody were also lodged in prisons.

13.2 The information collected by the Committee from various States and Union Territories reveals that, in the entire country, there are only six separate institutions for women prisoners. These institutions cater mainly to the training and treatment needs of convicted prisoners in their respective States. Undertrial female prisoners continue to be confined in separate enclosures in the common jails of the respective districts or sub-divisions.

13.3 The Indian Jails Committee 1919-20 had recommended that structurally separate jails or at least separate enclosures for women prisoners should be so constructed that the "female prisoners or lady visitors entering the jail should be able to reach the female yard without coming under the observation of the male prisoners"¹. But the conditions in this regard have not changed ever since. Women prisoners, whether in sub-jails, district prisons or central prisons in most of the States, have still to walk through men's sections and sometimes have to go through experiences which are humiliating.

13.4 The Indian Jails Committee 1919-20 had argued in favour of creating one or two institutions for convicted women prisoners in each State and to concentrate women offenders there from all over the State. They were of the opinion that if the choice was between two evils, the removal of women offenders from their home towns was a lesser evil than their rotting under in-human conditions of incarceration in some neglected corners of common prisons in their own districts. It is a matter of regret that in most States these recommendations have either been neglected or ignored. The result is that only a small section of the men's jail is generally provided for the confinement of women prisoners and all categories of them are huddled up together in the same wards and barracks. Pointing to the inadequacies of such arrangements the Indian Jails Committee 1919-20 had emphasised the desirability of separating not only the convicted from the unconvicted women prisoner, but also "female adolescents away from older prisoners, habituals from non-habituals, and prostitutes and procuresses from women who have lived hitherto a respectable life"². These recommendations have, however, received very little attention in various States and Union Territories.

13.5 It hardly needs to be argued that the principles underlying the training and treatment of male prisoners, and the conditions of their confinement, should apply to their

female counter-parts also, with necessary adjustment of details issuing from sex differences. The fact, however, is that while living conditions, treatment and training for male prisoners are nowhere near the desired level, the lot of women prisoners is much worse. Women in prisons as we have witnessed during our visits to various jails in different States and Union Territories suffer from unhealthy living conditions, exploitation, unnecessarily prolonged severance from their families and lack of gainful and purposeful employment. However, the conditions of confinement of women offenders seemed somewhat satisfactory in those States which have totally separate institutions for women prisoners.

13.6 Women continue to be in jails for long periods, sometimes for very minor violation of law, unable to defend themselves, and totally ignorant of ways and means of securing legal aid or help even to write a petition for quick disposal of their cases. They are not aware of the rules of remission or premature release, and live a life of resignation at the mercy of officials who seldom have understanding of their problems. The kind of shy, inhibited village women that usually land in jails have no courage to communicate their needs to the male staff posted to their jails, and they maintain a 'purdah' as such on their sufferings as on their faces. They have no means of communicating their needs to higher officials as there is hardly any woman officer at the headquarters of the prison department who would appreciate their needs and requirements.

13.7 Women prisoners confined in enclosures, the keys of which are held by male staff, are far from safe from moral danger—they are exploited and given little opportunity to express their grievances. They cannot express their grievances to visitors. Surprise visits by higher authorities to women sections of prisons have their own limitations. This imparts to these sections a kind of oblivion in which a senseless fear prevails. Whenever visitors appear on the scene a show of cleanliness, good hygienic conditions of food and kitchen, and general well being of inmates is put up for display. Women often do not complain of the realities because of the fear of the consequences which they may have to face. Thus, visitors never get to know the truth. We are of the view that if there is a senior lady officer in any wing of the headquarters organisation of the Department of Prisons and Correctional Services, she should look after the problems of women prisoners.

13.8 It is the small number of women in prisons, which in our view, is responsible for their needs being neglected. The position of these women, scattered in small clusters in jails, is highly vulnerable. Establishing separate institutions at every district or sub-divisional headquarters for 2 to 5 women offenders is financially prohibitive and administratively difficult. On the other hand any attempt to concentrate women offenders of a given State at any one place, so as to give them systematic and sustained correctional treatment, would be open to criticism on the ground that women are being removed from their home districts and placed far away from their kith and kin. A balance has to be struck between these two alternatives.

13.9 Women offenders in India face peculiar problems of rehabilitation during their post release period. Indian social customs make women ex-offenders more vulnerable to suspicion and rejection. The stigma of having been in a prison has much more adverse consequences for women than for men. The social system imposes many limitations on them and considers them outcasts. They are suppressed and forced to make compromises. The Committee was informed that in some parts of the country women ex-prisoners have to undertake an expensive pilgrimage, followed by a holy bath and a community feast before they are permitted to come back to their village to lead a normal life. Much thought should, therefore, be given to the problem of rehabilitation of women offenders both economically and socially.

13.10 Woman in India has through the ages been given a great deal of importance as the nucleus of traditional family life, and, therefore, of the society in general. She has played a key role as wife or mother to bind the family together and to stand by it in adverse circumstances. She has been identified as the supporting post of the edifice of the family in sickness, in death and in financial adversities. Taking cognizance of the position of women in family life, society should consider ways and means of not removing them from their homes and community as far as possible. This special status of women in Indian society also justifies provision of special work programmes during their incarceration suiting their needs and more lenient conditions of review of their cases for premature release, so as to enable them to unite with their families as early as possible.

13.11 In view of the status of women in the family and the society, their special needs and problems and their vulnerability while in prisons, special consideration has to be given to the segregation, protection, care, treatment, training and rehabilitation of women offenders. It is in this context that we make the following recommendations:—

13.11.1 All police investigations involving women must, as far as possible, be carried out in the presence of a relative of the accused or her lawyer and of a lady staff member. Women should not be called to the police station for investigation.

13.11.2 Police personnel should treat women with due courtesy and dignity during investigation and while they are in police custody.

13.11.3 Women kept in police lock up should invariably be under the charge of a women police official and while in transit they should always be accompanied by women escorts.

13.11.4 We reiterate that instructions of the Ministry of Home Affairs for the guidance of the police on the subject of handling women offenders should be followed in letter and spirit.

13.11.5 A separate place with proper toilet facilities should be provided on court premises for women prisoners awaiting production before presiding magistrates.

13.11.6 Bail should be liberally granted to women undertrial prisoners, and those not able to furnish surety may be released on personal recognizance.

13.11.7 The Probation of Offenders Act should be extensively used for the benefit of women offenders in order to keep them away from prisons as far as possible.

13.11.8 Women prisoners should be lodged in separate institutions/annexes meant exclusively for them as recommended by us in Chapter IX on 'System of Classification' and in Chapter V on 'Prison Buildings' of this Report.

13.11.9 Till arrangements as recommended in the above para are made enclosures for women in common prisons should be so renovated as to ensure that women prisoners do not come in view of male prisoners during their passage to and from these enclosures. The enclosures should have a 'double lock system'—one lock outside and the other inside, the keys of the latter remaining always with a woman guard inside. This would prevent entry of male staff into these enclosures without proper authority.

13.11.10 All prisons/annexes for women must be staffed by women personnel only. No male staff should enter the women's jail, unless accompanied by a female staff member.

13.11.11 All general duties such as search, photographing, fingerprinting, escorting to hospitals, etc., with regard to women offenders should be performed by women staff only. The work of conservancy and sweeping should also be done by women.

13.11.12 As recommended in para 18.9.15 of Chapter XVIII on 'sub-jails', it should be the duty of the officer-in-charge of the sub-jail to arrange for women guards to look after women prisoners confined there.

13.11.13 The staff posted at institutions for women should be properly trained and their service conditions should be on par with those of the male staff.

13.11.14 As recommended in Chapter XXIII on 'Organisational structure', if there is a senior lady officer in any wing of the headquarters organisation of the Department of Prisons and Correctional Services she should be entrusted with the job of looking after the problems of women prisoners in addition to her own duties. If such a lady officer is not available, the Additional/Joint Director of Correctional Services (young offenders) may be entrusted with this job.

13.11.15 Immediately after admission to a prison every woman prisoner should be medically examined so as to ascertain if she is pregnant; the result of such examination should be recorded in the relevant register and in her history ticket. Pregnant women prisoners should be transferred to local maternity hospital for purposes of delivery.

13.11.16 While registering the birth of a child to a woman prisoner, the place of birth should not be mentioned as 'prison', if such a birth takes place there; instead the name of locality should be mentioned.

13.11.17 Pregnant and nursing women prisoners may be prescribed special diet and be exempted from unsuitable types of work. They should be regularly checked and advised by medical officer.

13.11.18 There should be proper arrangement for the segregation of various categories of women inmates such as convicts, undertrials, habituals, prostitutes, procuresses, etc.

13.11.19 Women needing protective custody should in no case be sent to prisons and those already there should be removed to special institutions run for that purpose by the social welfare departments. If no such special institution exists, the State Government/Union Territory Administration should take immediate steps to set up such institutions.

13.11.20 There should be a separate ward for women in prison hospitals. If there is no such hospital ward they should be treated in their own barrack by a lady doctor and attended to by female staff. Adequate precaution should be taken to isolate inmates suffering from infectious and contagious diseases.

13.11.21 Lady Assistant Superintendent Grade II should be responsible for the care, discipline and welfare of women prisoners. In case of annexes or separate wards of common jails where the number of women prisoners is too small to justify the appointment of an Assistant Superintendent, voluntary social workers should be inducted on part-time basis to look after their care and welfare.

13.11.22 All valuable ornaments should be removed from women in custody and should be safely deposited. They should be permitted to retain their 'mangal sutra', glass or plastic bangles, etc.

13.11.23 Clothing and linen provided to women should include underlinen, upper and other garments, towels, sanitary towels, and socks in cold climates. Adequate quantity of toilet and washing soap should also be provided to them. In order that they may retain their interest in life they should be given all possible facilities for their personal maintenance such as use of 'kum kum' according to their custom. Mirrors at appropriate places, with sufficient quantity of oil, combs, etc., should also be provided to them.

13.11.24 Convicted women must have adequate work programmes in jails. In organising such programmes due consideration should be given to their occupational background and to the prospects of their rehabilitation on discharge from the jail. An illustrative list of the type of work programmes in which women offenders may be engaged is enclosed as Annexure B to this chapter. Wherever feasible such work programmes should include training in shorthand and typewriting for the educated inmates. Women in prisons should also be given training in (a) mother craft and child welfare, (b) first aid, (c) nutrition and (d) health care. Staff of the local nursing school or general hospital should be involved in such training. Diversified educational programmes should also be organised for women prisoners. While formulating the policies regarding treatment of women offenders, the Director of Women and Child Welfare in the concerned State/ Union Territory should be consulted.

13.11.25 Suitable recreational programmes should be organised for women prisoners which may include simple outdoor games, bhajans, music, folk dances and drama. Those who have talent in any of these fields should be encouraged to develop and continue it. Sufficient funds should be allotted from prisoners welfare fund or contingency funds for carrying out such recreational programmes.

13.11.26 Facilities like radio, film projectors, cassette players etc., should be provided to women institutions in view of the special restrictions on the movement of women inmates out of the prison.

13.11.27 Some State Jail Reforms committees have recommended construction of self-contained units for group of 8 to 10 woman prisoners to provide them a kind of family living. Such living accommodation will have its own facilities like kitchen, common room, space for kitchen garden, common bathrooms and toilets so that women prisoners living there may function as a family unit doing their own cooking, cleaning and laundry. We recommend that some units of this kind should be provided in the institutions for women offenders so that some selected long term prisoners can be given this facility as a part of their training in family or group living.

13.11.28 Women prisoners are deprived of the facility of open institutions for reasons of the possibility of their abuse. This should, however, be compensated by allowing them frequent visits to religious and historical places under proper escort in prison vans as part of their social education.

13.11.29 Women prisoners must be given the facility of maintaining contacts with their families through (a) letters, (b) visits from relatives, and (c) leave. If the relatives by reason of their poverty cannot afford to visit the prison, Government may assist them financially for the purpose.

13.11.30 Children (upto the age of five years) accompanying women prisoners may be allowed to be kept with them. Creches should be organised for these children outside the main prison building.

13.11.31 Prisons and annexes for women offenders in common prisons should be open for frequent visits by lady visitors, lady lawyers, lady doctors, lady social workers and accredited lady journalists. Voluntary workers from these fields should be actively

associated with treatment programmes and other social activities for women prisoners. This will not only help improve the subdued atmosphere of such institutions but will also keep the staff on the alert against neglect and maltreatment.

13.11.32 Special consideration should be given to women prisoners in the matter of their premature release. Our recommendations in this regard are contained in chapter XVI on 'Prisoners Sentenced to Life Imprisonment', and chapter XX on 'System of Remission, Leave and Premature Release' of this Report.

13.11.33 Prior to the release of women convicts proper pre-release preparations as recommended in chapter XXII on 'After-care, Rehabilitation and Follow-up' of this Report should be made by Lady Assistant Superintendent of the prison with the help of voluntary agencies, if any, and the Department of Social Welfare/Directorate of Women Welfare. Avenues for the settlement of marriage of women prisoners willing to get married after their release may also be explored. Assistance of the social welfare agencies in the government sector and voluntary sector may be sought. Released women prisoners, whose family members do not come to receive them and who have no place to go to, may be transferred to social Welfare Institutions run by the Department of Social Welfare. They should as far as possible be escorted by women guards in plain clothes.

13.11.34 Voluntary women organisations should be encouraged to work in collaboration with the government agencies to organise release on bail, bail projects, Rescue Homes and After-care Homes for women offenders and ex-prisoners. State Government should support such schemes financially. (Reference chapter XXII on 'After-care, Rehabilitation and Follow-up this Report.)

13.11.35 There should be a women's non-official organisation at the national level to attend to the following :—

- (a) Revision of legislation in respect of women prisoners ;
- (b) Establishment of homes for released women prisoners ;
- (c) Action against atrocities committed against women in prisons ;
- (d) Reintegration of ex-women prisoners into the family and community ;
- (e) Supply of free legal aid to women prisoners ; and
- (f) Welfare of prisoner's family.

This organisation should be given financial assistance by the Central Government through the National Commission on Prisons.

References:

1. Report of the Indian Jails Committee 1919-20; page 252.
2. Ibid ; page 252.

**STATEMENT SHOWING THE FEMALE INMATE POPULATION IN PRISONS
IN THE COUNTRY AS ON 31-12-80.**

Sex	No	Percent- age
Male	155619	97.4
Female	4073	2.6
Total	159692	100.0

Distribution of Women Prisoners as on 31-12-80.

Category	No.	Percent age to total wo- men pri- soners
1. Convicted	855	21.0
2. Unconvicted	3218	79.0
Total	4073	100.00

Distribution of Unconvicted Women Prisoners as on 31-12-80.

Category	No.	Percent- age to total Un- convicted Prisoners
1. Undertrials	2637	81.9
2. Detenus	15	0.5
3. Lunatics		0.6
(i) Criminal	21	16.6
(ii) Non-criminal	534	0.1
4. Civil Prisoners	2	0.3
5. Others	9	
Total	3218	100.0

WORK PROGRAMMES FOR WOMEN PRISONERS

1. Toy making
2. Doll making ;
3. Tailoring and garment manufacture ;
4. Stitch craft ;
5. Knitting ;
6. Spinning ;
7. Weaving ;
8. Cotton tape and tag making for offices ; stationery and paper-binding ;
9. Basket and mat making ;
10. Cooking , bakery, fruit preservation, etc ;
11. Hand and machine embroidery ;
12. Noodles, pickles, papad making, etc. ;
13. Painting ;
14. Fine arts, singing, dancing, etc.;
15. Gardening and flower arrangement ;
16. Hosiery ;
17. Match Box industry ;
18. Pottery ;
19. Village and khadi industries ;
20. Carpet weaving ;
21. Cannery ;
22. Wax industry, candle and incence making;
23. Bangle making;
24. House management ;
25. Leather Products;
26. Watch repair;
27. Laundry;
28. Flour and masala grinding ;
29. Ambar charkha ;
30. Bidi making;
31. Soap making;
32. Nursing and mid-wifery;
33. Telephone wiring, telephone operation and secretarial practice ;
34. Electronics ; and
35. Beautification course,

CHAPTER XIV

CHILDREN IN PRISONS

14.1 One of the important tests of the civilization of a nation is its anxiety for the care, welfare and development of children. Our country had ancient traditions in this regard. Till a few decades ago the joint family, the kinship organisation and the community used to provide a sense of security for children in need. These social institutions provided an inherent social system for the care and welfare of children in distress. However, during the last few decades the pattern of family ties has been changing very fast. In the process of modernization, kinship organisation as a measure of security for the younger generation has grown weak and the plight of children in distress has become increasingly critical. This has been one of the major factors contributing to the incidence of children coming into conflict with the established social and legal norms.

14.2 It was shocking for the Committee to see children of tender age confined in prisons for various reasons in some of the States and Union Territories. According to the age-wise classification of under-trials and convicts as on December 31, 1980 there were 2158 children (below 16 years in case of boys and 18 years in case of girls) in different prisons in India. This figure pertains to the number of children imprisoned only on a single day, i.e. on December 31, 1980. The total number of children admitted in prisons during the whole year must obviously be much larger. We were given to understand during our discussions with prison staff that in many cases the age of children was purposely shown to be on the higher side by the police so as to bring these children under the category of young offenders i.e. between 16/18 and 23 years. If the number of these children is added to the total annual turn-over of children in prisons it will be observed that the problem of incarcerated children is much more serious than what is apparently seen from official statistics.

14.3 Lodging of children in prisons for delinquency or destitution was discouraged even during the nineteenth century under the British rule. The Reformatory Schools Act of 1876 stands witness to the contemporary thinking on the subject. In the twentieth century the Indian Jails Committee 1919-20 very specifically recommended the necessity of separating children from adult prisoners both in matters of custody and treatment. In line with this thinking the governments in the provinces of Madras, Bengal and Bombay enacted Children Acts, a progressive legislation in the years 1920, 1922 and 1924 respectively. The All India Jail Manual Committee 1957-59 further emphasised the need for the enactment and application of Children Act on a uniform pattern throughout the country. During the two decades following this recommendation several States came up with this legislation while the Government of India enacted the Children Act in 1960 for the Union Territories. As for girls, the Suppression of Immoral Traffic in Women and Girls Act extending to the whole of India was passed in 1956 and modified and amended in 1980. This legislation provides among other things for the care, protection and rehabilitation of girls in moral danger.

14.4 Annexure A to this chapter gives details about the enactment and actual enforcement of Children Acts in various States and Union Territories in India. It gives the number of districts covered under these Acts, institutions set up, total inmate capacity

of these institutions and sanctioned budget. Under the provisions of these Acts it was obligatory on the part of State Governments and Union Territory Administrations to create an infrastructure of Children's Courts, Children's Homes, Observation/Remand Homes, Special Approved/Certified Schools, After-care organisations, etc., to implement the provisions of the Act. The Annexure will show that the Children Act has not been enacted in Nagaland and though enacted in Assam, it has not been enforced there. Even other States and Union Territories have either not enforced it in their entire jurisdiction or have not created an appropriate and adequate infrastructure for implementing it. It is only in Andhra Pradesh, Gujarat, Karnataka, Kerala, Maharashtra, Tamil Nadu and Delhi, that the Children Acts have been made applicable on a fairly wide scale and a proportionately larger number of institutions for children have been established. We are given to understand that in Bihar, the Children Act has been passed but children's courts and children's institutions have not been set up as yet. As a result, hundreds of children are still sent to prisons in this State. We were also given to understand that in West Bengal prisons have been declared as homes for children. In this State the Department of Prisons runs an institute of Correctional Services for children. Destitute, vagrant as well as delinquent children are sent to this institute and are kept there together. Children being processed under Children Act are kept in ordinary prisons in separate barracks. Thus it is only in some States and Union Territories that the care and welfare of children has been taken up somewhat seriously. In other States and Union Territories the Children Act has been adopted only for name's sake and the required infrastructure of personnel and institutions has not been set up. A look at the sanctioned budget as given in Annexure A would indicate as to how this work has remained neglected in large parts of our country.

14.5 In the Directive Principles of State Policy enshrined in part IV of the Constitution of India a special reference has been made to the care of children. Article 39 of the Constitution says:

"The State shall, in particular, direct its policy towards securing—

* * * * *

- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment."

In our National Policy for Children adopted in 1974, provision has been made for the education, training and rehabilitation of the socially handicapped children. Priority has been given in this National Policy to the maintenance, education and training of orphaned and destitute children. During the International Year of the Child, 1979, a National Plan of Action was also drawn for adopting various welfare measures for children. It is worth recalling that in recognition of the importance of development of children in a free and wholesome atmosphere the United Nations Organisation had adopted the Declaration of Rights of Children. But despite all these steps, it is indeed a shocking state of affairs that the work of protection, care, welfare and rehabilitation of children in distress has remained virtually neglected in most of the States and even in some Union Territories.

14.6 This neglect points squarely to the lack of sensitivity on the part of governments and the society in general about the presence of children in prisons. It is common knowledge that the life of inmates in prisons is infested with all kinds of vices including sex perversions. Children kept in prisons along with young offenders and adult criminals are exposed to these vices and to the risk of being homosexually exploited. In States and Union Territories where children are thrown in prisons, the Government s and the Department of Prisons, Social Welfare, Social Defence and Child Welfare are obviously callous to the cruel and traumatic experiences which children of tender age have to go through while in prisons. These Governments and Departments have not realized

the dangers of contamination of these children with the criminal culture of the prisons. People at the helm of affairs and senior administrators use literary jargon and rhetoric about the work done in the fields of social welfare and child welfare. But in several States and Union Territories, they have failed to take substantial and concrete steps for protecting children from disastrous experiences in prisons.

14.7 Problems of care and welfare of orphaned, neglected, abandoned, homeless, destitute and delinquent children are expected to be handled through two major approaches, namely, non-institutional services and institutional services. Foster homes, adoption, sponsorship, family assistance programmes, SOS Children's Villages and juvenile probation are non-institutional measures. Orphanages, Observation Homes, Children's Homes, Approved Institutions and Special Schools are expected to provide institutional care, welfare and rehabilitative services. The Government of India and some State Governments have designed various schemes for the welfare of children, but the work of implementation of these schemes is generally ineffective. In the local sector, that is, in the panchayats, zila parishads, municipalities and municipal corporations practically nothing is being done for children in distress.

14.8 During our visits to States and Union Territories, we attempted to find out the reasons for the poor implementation of Children Acts and other child welfare services. While discussing the problems of children in prisons with personnel working in the field of child welfare, we made several queries as to why the Children Act had not been made applicable to all the districts ; why children's courts had not been set up ; why the institutional infrastructure necessary for proper implementation of Children Act had not been built up ; why juvenile probation was not used ; and why the voluntary organizations were not involved in the work of child welfare. In some of the States we could not have the privilege of meeting the Directors of Social Welfare or the heads of departments dealing with the work of child welfare ; only some junior officers of these departments happened to meet us and they could not give any plausible replies to our queries. However, it was generally understood that, inadequacy of funds was one of the principal reasons for the lack of development of non-institutional and institutional services for children. In some States various schemes for expansion of the work under the Children Acts and other schemes of child welfare were not approved by the planning departments of State Governments and as such they could not be included in the Five Year Plans. Financial allocations for child welfare in the non-plan sector were very meagre. Surprisingly enough, even the allocated funds were not fully spent by the Department of Social Welfare or the concerned department for developing various welfare services for children in some of the States. These facts show that there is no anxiety on the part of Governments and the concerned departments for the development and expansion of welfare services for children in distress and difficulty.

14.9 The argument of lack of funds in some States and Union Territories as a reason for not developing services for the welfare of children distressed us very much. Welfare of children has been the declared objective of our nation. With that aim in view we have passed social legislation for children. The importance of the development of children with freedom and dignity has been recognised nationally by our Constitution and internationally by the United Nations Organisation in its Declaration of Rights of Children. Obviously the problems of children must receive high priority in our national plans. A child of today is going to be an adolescent of tomorrow and in course of time he will be an adult. If for lack of funds the welfare of children is neglected, and if, as a consequence, children are thrown in prisons where conditions are most uncongenial and where they cannot be "protected from moral and material abandonment", the nation can hardly justify its claim of being a welfare State. It is unfortunate that while including various schemes of national development in the Five Year Plans, required allotment of funds for the expansion and development of child welfare services is not made. Adequate funds for these services are not provided even in the Centrally sponsored schemes. The real reason for all this is the lack of awareness in the State Governments and Union Territory

Administrations about the urgency of the problems of the unfortunate children in distress. If the concerned Governments were earnestly seized of the pressing problems of child welfare in general and of the problems of delinquent children in particular, the planning departments in the States and Union Territories would have made larger allocations for the expansion and development of child welfare services in the plan sector. If the concerned Governments were sensitive enough to the suffering caused by the presence of children in prisons, it should not have been difficult to convince the Planning Commission about the necessity of expanding the services for children on a priority basis through national plans. We are constrained to state that even in the Planning Commission the urgent necessity of setting up a wide network of services for children does not seem to have been fully appreciated as yet. A direct consequence of all this is the harsh fact that thousands of children are thrown in prisons under very dehumanizing conditions of living.

14.10 Child welfare work has to grow essentially as a joint sector of Government and voluntary organizations. Government should look after the funding of child welfare services and the management of these services should be looked after by voluntary organizations of good reputation, under proper guidance and supervision of the concerned department of the Government. As of today, a very small number of voluntary organisations or individuals are involved in this work. One of the main reasons for this is that the funds provided by Government to voluntary organisations for child welfare services are so inadequate that these organisations are not keen and are also not in a position to undertake child welfare activities on an extensive scale. Child welfare work has to be visualized as a complex network of various services : Protective, preventive, non-institutional, institutional and after-care services. These services represent different approaches to the problem of child welfare and have to be dovetailed so that the socially and economically handicapped children and children in conflict with law could be appropriately dealt with and properly helped to grow within socially accepted norms.

14.11 There is a growing tendency in our country to find solutions to most of our social and economic problems through prisons and even the solutions to the problem of the unfortunate children in distress are sought to be found through the imprisonment of children of tender ages in some States and Union Territories. We cannot imagine a more tragic and deplorable situation than this. While making recommendations in the succeeding paragraphs about children in prisons we have kept in view three aspects, namely, removal of children currently lodged in prisons ; checking the present inflow of children to prisons ; and development of child welfare services to curb the future inflow of children to prisons. Our recommendations are as follows :

14.11.1 In States where no separate legislation for children has as yet been passed, the Children Act of 1960 as amended in 1978 by the Government of India or the recently amended Maharashtra Children Act which embodies the latest trends in child welfare should be adopted by promulgating an ordinance followed by passing of the Act by the State legislature within the prescribed time. States and Union Territories, where the Children Act has already been passed, should make it applicable to every district/area within their territorial jurisdiction.

14.11.2 Necessary infrastructure such as Children's Courts/Juvenile Courts, Children Homes, Special Schools, required under the Children Act should be immediately set up in every district.

14.11.3 Cases of children kept in prisons should be brought before the Children's Courts. Orphaned, abandoned, neglected, destitute, victimised and similar other categories of children who are not involved in delinquent acts and children who have committed delinquent acts of minor nature should be placed under the care of voluntary probation officers or released on licence under the care of approved persons (fit persons), approved institutions (fit person institutions), orphanages and foster homes,

14.11.4 School teachers, doctors, professors, retired government servants and social workers who are actually working in the field of social work or who voluntarily offer to work in the field should be recognised as voluntary probation officers, fit persons and approved persons for the purposes of Children Acts. These persons should, however, be very carefully selected. Only such persons as are really interested in child welfare work should be selected for this purpose. They should be given a short basic training in child welfare. Good educational institutions having hostel facilities should be recognized as approved institutions. In every taluk and city at least fifty persons should be recognized as voluntary probation officers and approved persons, and at least 10 good educational centres and children's institutions run by voluntary organizations should be recognized as approved institutions. In large cities, industrial centres and metropolitan cities the number of such persons and voluntary organizations may be increased in accordance with local requirements. Thus without incurring any capital expenditure a network of voluntary social workers and organisations can be set up.

14.11.5 For supervising a child released on probation a voluntary probation officer should be paid an honorarium of Rs. 50/- per month to cover conveyance and postal expenses. The case load of such officer should not be more than three children at one time. For each child released on licence to the care of an approved institution or a children's institution run by a voluntary organization, Government should pay Rs. 150/- per month as maintenance allowance.

14.11.6 While providing funds to voluntary organisations and individuals for the proper care of children in need, the government should exercise effective supervision to ensure that such voluntary participation is selfless, secular and genuinely in the interest of the child.

14.11.7 Each State and Union Territory, where children's homes, approved schools or special schools have not been set up in adequate number, should take on rent some suitable houses for setting up such institutions. Children who cannot be released on probation or on licence and delinquent children not dealt with under non-institutional programmes should be kept in children's homes, approved schools or special schools. Voluntary organisations with good reputation should be helped to set up such institutions on the basis of grant-in-aid of 100% of approved expenditure.

14.11.8 The Director of Social Welfare or the head of the department of child welfare should be the Chief Authority under the Children Act. He should formulate schemes for non-institutional services such as adoption, foster care, family assistance programme for children and S.O.S. Children's Villages. As recommended in para 14.11.5 above for each child covered under such schemes the institution should be paid Rs. 150/- per month for his maintenance, health, and education. Such non-institutional measures will be much more economical than running children's institutions through Government department.

14.11.9 Till appropriate services are created for the care and welfare of children a monthly review of children confined in prisons should be taken by each prison superintendent and a report in a prescribed form should be sent to the District Judge for necessary action. A copy of this report should be sent to the Inspector General of Prisons and Director of Correctional Services and also to the head of the department dealing with child welfare for initiating appropriate action at their level.

14.11.10. The Ministry of Home Affairs, Government of India should ask every State Government and Union Territory Administration to take a review of the presence of children in prisons. The Chief Ministers of the States and Union Territories should be requested to take a personal interest in this problem and initiate action for removal of children from prisons. The Ministry of Home Affairs, Government of India, should also

request the Chief Justices of the High Court in States/Union Territories, where children are kept in prisons, to issue suitable orders to the subordinate courts for removal of children from prisons.

14.11.11 The Ministry of Social Welfare of Government of India which is incharge of child welfare should request the Ministers of Social Welfare/Child Welfare/Social Defence in the States and Union Territories to take immediate necessary action for the removal of children from prisons and also for making appropriate arrangements for care, welfare and rehabilitative services for children who are at present kept in prisons.

14.11.12 Officers of the Ministry of Home Affairs such as the Director of Prisons and Officers of the Ministry of Social Welfare should be jointly deputed to each State and Union Territory where children are kept in prisons to advise and help the concerned Governments/Administrations in regard to taking immediate action for removing children from prisons.

14.11.13 Juvenile probation is virtually non-existent in India. Releasing children on probation and treating them in the community under supervision through the probation organisation will be a practical solution to many problems of children welfare. Another practical alternative would be to give benefit of non-institutional services to children in need. (The pattern of non-institutional services for children in Maharashtra can initially be adopted by other States and then further developed according to local requirements).

14.11.14 A child should be sent to a children institution only as a last resort. As far as possible he should stay with the family and the requisite help extended through the State or local sector to the family itself for the proper development of the child.

14.11.15 There should be a statutory ban on keeping boys below the age of 16 years and girls below the age of 18 years in police custody or in a police lock-up. Abandoned, destitute, neglected and similar other categories of children should be kept with the family of approved persons or in approved institutions such as hostels of educational institutions or in children's homes. Statutory provisions in this regard should be incorporated in the Children Acts, the Code of Criminal Procedure and other relevant legislation.

14.11.16 In every district there should be a separate wing in the police organisation to be named as Juvenile Aid Bureau. This bureau should consist of carefully selected and trained persons who should attend to the multifarious problems of children from the point of view of social welfare and social work and not purely from the point of view of law and order. The human aspect involved in the work of child welfare must be appreciated by the personnel of this bureau.

14.11.17 There should be a statutory ban on committing children below the age of 16/18 years to prisons either as undertrials or convicted persons. Necessary provision in this regard should be included in the Children Acts, Suppression of Immoral Traffic in Women and Girls Act, Prisons Act and the Code of Criminal Procedure.

14.11.18 The High Court of each State and Union Territory should be moved to issue standing orders to every court under its jurisdiction that under no circumstances a child below 16/18 years should be committed to police custody or to judicial custody in prisons.

14.11.19 If, despite the banning provisions as mentioned above, any court commits a child to a prison the prison superintendent should be authorised to refuse his admission

to prison and to immediately return him to the concerned court pointing out the provisions banning commitment of a child to a prison. If the prison superintendent has any doubt about the age of a person committed to the prison and in his opinion such person appears to be a child he should refer the case to the nearest Government medical officer for ascertaining such person's age. If the medical officer certifies this person to be child, he should be produced before the court with this certificate for being sent to an appropriate institution for children.

14.11.20. Despite the ban on the admission of children in prisons, if any court insists on committing a child to a prison, the prison superintendent should immediately move the District Judge sending full details of the case. The child should also be produced before a prison visitor who should record his opinion about the child and forward the same to the District Judge for necessary action. The prison superintendent should send a telegram to the Inspector General of Prisons and Director of Correctional Services giving full details about the child. The Inspector General of Prisons should immediately write to the District Judge and then, if necessary, to the High Court for passing suitable orders in respect of the child under relevant legislation. The head of the department dealing with child welfare should also be informed by the superintendent about the admission of the child in the prisons so that he may take necessary remedial action. The Inspector General of Prison and Director of Correctional Services should immediately inform the concerned department in the secretariate so that the latter may also take suitable action in the matter.

14.11.21 Each State and Union Territory should prepare a master plan for setting up a network of non-institutional and institutional services for children right from the taluka level upwards upto the State level. Each taluka or a group of 2-3 talukas should have non-institutional and institutional services for children. At the district level there should be a sufficiently senior officer who should exclusively devote his attention to the setting up, development and expansion of protective, preventive, welfare and rehabilitative services for children. In every zila parishad, municipality and municipal corporation there should be a child welfare officer for this purpose. The National Institute of Social Defence and the National Institute of Public Cooperation and Child Development should extend technical assistance to each State and Union Territory in the preparation and execution of the master plan. This plan must be made fully operative at all levels and particularly in large industrial cities and metropolitan cities where this work has remained neglected so far. The master plan should encompass within its fold both non-institutional and institutional services like adoption, foster homes, SOS Children's Homes, child guidance clinics, juvenile guidance centres, multipurpose community centres, juvenile probation, children's courts, children's boards, observation homes, children's homes, approved persons, approved institutions, special schools, after-care services etc.

14.11.22 Each State and Union Territory should formulate a policy containing guidelines regarding handling of various problems relating to children in need or children in conflict with law. These guidelines should help in bringing about coordination between the police, the judiciary, the departments of social welfare, child welfare, social defence, prisons and other concerned departments. In these guidelines all available non-institutional services and institutional facilities should be clearly indicated so that the persons at the field level would know clearly as to which child has to be given the benefit of which service.

14.11.23 The Panchayat Acts, Zila Parishad Acts and Municipal Acts should be suitably amended to make it a statutory responsibility of these organizations to set up child welfare services in their respective areas. These organisations should set apart adequate funds in their budget for these services. They should be authorised to levy a child welfare cess for financing child welfare services. If any local body fails to provide requisite welfare services, Government should take firm action against it. Withholding financial

aid to such local bodies could be one of the actions. Only through such stern measures adequate services for children can be developed in the local sector.

14.11.24 Government of India should prepare a comprehensive model Bill for children embodying various aspects of child welfare services. While preparing this bill the procedure for children's courts should be simplified. Child welfare boards would in our opinion be more useful from the point of view of expeditious disposal of cases of certain categories of children. This comprehensive Model Bill should be circulated to the States so that the Children Acts of various States could be amended in the light of the Bill and a basic uniformity brought about in the country in developing welfare services for children. However, the development of child welfare services should not be postponed till the preparation of this Model Bill and its circulation to the States.

14.11.25 Orphanages and children's homes as they are being run in most of the States and Union Territories need a lot of improvement. The services in children's institutions have been suffering for want of adequate funds. Voluntary organisations of good reputation should be entrusted with the work of child welfare activities. The Government should provide adequate funds to and proper supervision over such voluntary organisations. The quality of services in children's institutions also needs to be improved. The Ministry of Social Welfare, Government of India, through the National Institute of Social Defence has prepared an operations manual about the procedure for running children's institutions. This operations manual should be adopted by all the States and Union Territories.

14.11.26 Lack of funds should not come in the way of developing child welfare services. Necessary financial provisions should be made in the non-plan sector, State-plans, centrally sponsored schemes and also in local sector. It should be ensured that allocations under these sectors are fully utilized during the financial year and are not surrendered as is happening in many States at present. Failure on the part of the departments to utilise the funds should be strictly dealt with.

14.11.27 Budget allocations for child welfare services should be adequate and should not be reduced for reasons for economy.

14.11.28 The National Children Fund should be utilized on a high priority basis for developing services for the socially and economically handicapped children, especially in such parts of the country where these services have not yet been developed.

14.11.29 Looking to the immensity of the problems of child welfare and the need for an extensive network of services to meet them, we are of the view that it is high time that in every State and Union Territory a separate department of child welfare is established so that this department can devote full attention to the development of child welfare services. The work pertaining to the multifarious aspects of child welfare in local and State sectors is so vast that setting up a separate department of child welfare in each State/Union Territory, whether large or small, is fully justified.

14.11.30 Children who have difficult behaviour pattern and who attain the age of 16/18 years while in an institution set up under the Children Act or the Suppression of Immoral Traffic in Women and Girls Act, should, if necessary, be sent to a Kishore/Yuva Sadan. Under no circumstances should such a child be sent to a prison.

14.11.31 Children, who are dependent on undertrial or convicted prisoners and who have no other shelter, are sometimes, required to be kept in prisons. This is a special category by itself. Such children should preferably be kept with the relatives or friends of the person. If this is not possible, they should be kept in an orphanage or in an approved institution under the Children Act or in a S.O.S. family home or as a last resort, in a Children's Home.

14.11.32 We have given our recommendations about children accompanying women prisoners in Chapter XIII at para 13.11.30

14.11.33 The following organisations in India are working in the field of child welfare :

- (i) The Central and State Social Welfare Boards;
- (ii) The Indian Council of Child Welfare with its branches in the States;
- (iii) The National Institute of Public Co-operation and Child Development;
- (iv) The National Children's Board with its branches in the States; and
- (v) The National Institute of Social Defence.

In addition, there are some national and state level voluntary organisations which are involved in the work of child welfare. A common platform of all these agencies should be set up so that child welfare services could be coordinated and developed in all parts of India, especially in those States and Union Territories where these services have not so far been properly developed.

14.11.34 A committee consisting of the following should be set up at each district headquarters:

- | | |
|---|-------------------|
| (i) District Judge | —Chairman |
| (ii) District Magistrate | |
| (iii) Superintendent of Police | |
| (iv) District Probation Officer | |
| (v) District Prosecutor | |
| (vi) Superintendent of a prison in the district | |
| (vii) District Child Welfare Officer | —Member-Secretary |

The functions of this Committee should be :

- (i) to ensure that all the provisions of legislation for children are being acted upon;
- (ii) to ensure that the existing facilities for children are fully utilized;
- (iii) to bring to the notice of the police, the judiciary, the department of prisons and correctional services and social welfare department, any violations of laws, norms and rules in respect of children;
- (iv) to advise Government about removal of children from prisons.

14.11.35 A State level committee should also be constituted to advise the Government on all matters pertaining to child welfare.

14.12 Investment for the welfare of children is investment in man. We are of the view that dynamic and experienced persons should be put in charge of developing child welfare services so that with their initiative and drive the work of child welfare may get the necessary impetus and the society may accept the movement of child welfare as people's movement.

STATEMENT SHOWING THE POSITION OF ENACTMENT AND ENFORCEMENT OF

No.	Name of the State/ Union Territory	Name of enactment	No. of Districts		Remand/ Observation Homes	Approved/ Certified Special School	Children Homes
			Total	Covered			
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	(i) Andhra Pradesh (Andhra Area) Children Act, 1920.	23	23	6	4	..
		(ii) Andhra Pradesh (Telangana Area) Children Act, 1951.					
2.	Assam	Assam Children Act, 1970.	10	..	Not yet enforced		
3.	Bihar	The Bihar Children Act, 1982.	31	31	14	1	1
4.	Gujarat	(i) Bombay Children Act, 1948.	19	19	22	6	..
		(ii) Saurashtra Children Act, 1956.					
5.	Haryana	Haryana Children Act, 1974.	12	12	..	1	..
6.	Himachal Pradesh	Himachal Pradesh Children Act, 1979.	12	12	..	..	1
7.	Jammu & Kashmir	Jammu & Kashmir Children Act, 1970.	14	1	1	..	1
8.	Karnataka	Karnataka Children Act, 1964.	19	19	22	16	..
9.	Kerala	Kerala Children Act, 1972.	12	11	9	5	1
10.	Madhya Pradesh	Madhya Pradesh Bal Adhiniyam, 1970.	45	45	24*	3	5(P)
11.	Maharashtra	Bombay Children Act, 1948.	26	26	38	22	..
12.	Manipur	Manipur Children Act, 1978.	6	6	..	..	..
13.	Meghalaya	Meghalaya Children Act, 1970.	5	2	..	..	..
14.	Nagaland	Not yet enacted	7	..	Not yet enacted		
15.	Orissa	The Orissa Children Act, 1982.	13	4	..	..	..

*Out of 24 Remand Homes 3 are recognised.

P Out of 5 Children Homes 4 are recognised.

XIV-A

CHILDREN ACT IN VARIOUS STATES AND UNION TERRITORIES TOGETHER WITH THE NUMBER OF INSTITUTIONS AND THEIR CAPACITY (AS ON 31-10-1982)

Fit persons Institute	After care Institute	Others (Specify)	Total	Total capacity of the institu- tion	Total sanctioned Budget (Rs. in lakhs)
9	10	11	12	13	14
..	1	..	11	1525	41.34
..
..	2	..	18	715	25.05
32	1	..	61	1705	73.53
..	1	..	2	N.A.	0.90
..	—	..	1	25	N.A.
..	..	..	2	80	0.40
2	3	..	43	2880	79.81
—	..	..	15	1200	N.A.
..	1	..	33	1275	17.97
100	3	2	165	15410	126.72
..	—	—
..	—
..

1	2	3	4	5	6	7	8
16. Punjab	.	East Punjab Children Act, 1949.	12	12	8	1	..
17. Rajasthan	.	Rajasthan Children Act, 1970.	26	26	7	1	3
18. Sikkim	.	The Sikkim Children Act, 1982.	4	4	..	..	..
19. Tamil Nadu	.	Tamil Nadu Children Act, 1920.	16	16	9	9	..
20. Tripura	.	The Tripura Children Act, 1982.	3	3	..	..	..
21. Uttar Pradesh	.	Uttar Pradesh Children Act, 1951.	57	48	48	11	..
22. West Bengal	.	West Bengal Children Act, 1959.	16	16	2	7	1
23. Andaman & Nicobar	.	Children Act, 1960.	2	2	..	..	2
24. Arunachal Pradesh	.	Do.	9	..	..	..	..
25. Chandigarh	.	Do.	1	..	..	..	..
26. Dadra & Nagar Haveli	.	Do.	1	1	..	..	..
27. Delhi	.	Do.	6	6	3@	1	6
28. Goa, Daman & Diu	.	Do.	3	3	1(T)	..	..
29. Lakshadweep	.	Do.	1	..	..	..	..
30. Mizoram	.	Do.	3	..	..	..	..
31. Pondicherry	.	Do.	4	4	1(T)	..	..
			418	352	215	88	21

@Out of 3 obvservation homes 1 is also functioning as Children Home.

T Milti-purpose institution functioning as approved/special children home/remand home.

Figures in respect of Andhra Pradesh, Gujarat, Jammu & Kashmir, Karnatka, Madhya Pradesh Maharashtra and Meghalaya pertain to 1980-81 and in case of Punjab figures pertain to 1979-80.

9	10	11	12	13	14
4	13	N.A.	12.08
..	11	375	7.37
..
..	3	..	21	3151	133.39
..
..	..	7	66	3240	48.51
2	12	989	30.87
..	2	75	NA
..
..
..
..	2	..	12	1490	39.21
..	1(T)	139	3.53
..
..
..	1(T)	100	3.89
140	17	9	490	34474	644.57

CHAPTER XV

YOUNG OFFENDERS

15.1 Several significant reports appertaining to the problems of young offenders have made important recommendations covering many aspects of this critical category of prisoners. The Indian Jails Committee 1919-20 had made a strong recommendation that children and young persons below the age of 21 years should not be kept inside a jail and separate arrangements for their custody and treatment should be made. In his report "Jail Administration in India", Dr. W.C. Reckless, the United Nations expert had emphasised the need to have separate arrangements for young offenders. The All India Jail Manual Committee 1957-59 had also stressed the need for a different correctional approach for young offenders. The Model Prison Manual envisages separate institutions for these offenders. Most of the recommendations contained in these reports, however, remained unimplemented and as of now the number of institutions for young offenders all over the country is totally inadequate.

15.2 In India there are 11 Borstal schools, two in Andhra Pradesh, one each in Bihar, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Punjab, Tamil Nadu and Uttar Pradesh. There are 8 Juvenile Jails, one each in Gujarat, Haryana, Karnataka, Maharashtra, Meghalaya, Orissa, Rajasthan and Uttar Pradesh where young offenders below the age of 21/23 years are kept. In West Bengal in the Institute of Correctional Services at Barasat children upto the age of 16 years are kept. The total capacity of all Borstal schools and juvenile jails is 3929 whereas there were 17,217 offenders below the age of 21 years in Indian prisons, out of a total prison population of 1,59,692 as on December 31, 1980. In some States there are separate sections for juveniles in district and central prisons, but these sections are not completely segregated from other parts of the prisons. As a result young offenders get mixed up with adult offenders. The entire question pertaining to their training, treatment, education and rehabilitation thus remains completely neglected. This is indeed a very distressing situation.

15.3 Detention of young offenders in prisons along with adult criminals is harmful in many ways. These young offenders at an impressionable age come in contact with hardened and habitual criminals. They are also exposed to a kind of concentrated criminal sub-culture of prisons. This virtually defeats the main objective of punishment, viz., reformation and rehabilitation of offenders. Under such circumstances prisons instead of being centres of correctional treatment become schools of crime for many a young offender. The inhuman and cruel aspect of keeping young offenders of ages between 16 to 23 years in prisons with sex starved adult prisoners needs no detailed elaboration.

15.4 The educational and training programmes in the few Borstal schools listed above are not adequate and effective. In U.K. (from where the concept of Borstal schools was originally taken) the programmes in these institutions have been considerably developed, and diversified in order to cater to a wide range of problems manifested by young offenders on the basis of their growth continuum. But in India Borstal schools are still run on almost the same pattern as was introduced decades back in the colonial period, and there has been no improvement in their functioning on progressive and scientific lines after independence.

15.5 In our view there are serious difficulties in the development of a uniform approach towards young offenders. Some of these may be enumerated :

- (i) Except the Borstal Schools Act there is no other approach adopted in our legal system for the institutional treatment of young offenders. The Borstal schools have a limited coverage in relation to young offenders of certain categories. The Prisons Act, 1894 contains provisions only for the separation of young offenders. Most of the young offenders continue to be incarcerated along with other offenders in prisons.
- (ii) In the existing Borstal Schools Acts there is no uniformity in terminology (for instance they are variously referred to as adolescent offenders, offenders and young offenders) .
- (iii) There is no uniformity about the age of young offenders (Assam Borstal Institution Act, 1968, 14—21 years; Bihar Borstal School Act 1961, 15—21 years; Mysore Borstal Schools Act, 16—21 years).
- (iv) There is no provision for compulsory committal of young offenders to Borstal schools.
- (v) The conditions governing admission in, and discharge from, Borstal schools vary from State to State.
- (vi) All Acts, except the Assam Act, provide for the application of the Prisons Act 1894 and Prisoners Act 1900.

15.6 There are other practical difficulties in the implementation of the Borstal Schools Acts. For example, the minimum period of detention in a Borstal school is two years and the maximum five years. Transfer to a jail of a Borstal school inmate after he completes his term in a Borstal school nullifies the impact of the Borstal programme. After closely examining this matter we are of the opinion that the Borstal Schools Acts have become outdated and are far behind the requirements of our contemporary times.

15.7 The following factors have further handicaped the development of suitable correctional programmes for young offenders :

- (i) chronic or periodical over-crowding in prisons;
- (ii) lack of satisfactory and adequate facilities for effective segregation of young offenders in the existing district and central prisons where all categories of prisoners are huddled together;
- (iii) absence of scientific classification system and the resultant absence of individualisation of training and treatment programmes for young offenders;
- (iv) insufficient, ineffective and unplanned educational, training and treatment programmes for young offenders in the juvenile sections of prisons and even in separate institutions for young offenders;
- (v) absence of an effective after-care programme and follow-up;
- (vi) absence of adequate and trained staff.

We are constrained to observe that the policy makers and prison administrators seem to have remained indifferent to the most sensitive question of the treatment and rehabilitation of young offenders.

15.8 The group of young offenders is a very impressionable group. A young offender of today can have all the potentials of being a hardened recidivist of tomorrow. We

are convinced that offenders in the age group of 16-23 years can be reclaimed as useful citizens. They have better prospects for being re-educated to a socially useful way of life. Investment in the re-education and rehabilitation of young offenders must, therefore, be treated as investment in national man-power. We are, therefore, of the view that a new scientific and progressive approach must be adopted if these offenders are to be saved from the damaging and traumatic experience which they are compelled to undergo in the existing deteriorating and degenerating system of prisons in our country. It is against this background that we make the following recommendations :

15.8.1 The subject of treatment of young offenders should be included in the Concurrent List of the Seventh Schedule of the Constitution.

15.8.2 A separate uniform Act for young offenders (to cover boys in the age group of 16-23 years and girls in the age group of 18-23 years) should be passed to replace the existing outdated and outmoded Borstal Schools Acts. The draft model Bill for young offenders prepared by the Central Bureau of Correctional Services, now the National Institute of Social Defence, in terms of the recommendations of the All India Jail Manual Committee has been studied by us. We are of the view that it needs to be enlarged. We have prepared a Chapter Scheme for the new legislation which is at Annexure IV-C attached to Chapter IV on 'Legislation' of this Report.

15.8.3 In case the subject of treatment of young offenders is not brought under the Concurrent List, the Government of India should prepare a model Bill on the lines recommended by us for being adopted by all the States and Union Territories.

15.8.4 A wing at the headquarters of the Department of Prisons and Correctional Services under a senior officer of the rank of Additional/Joint Director of Correctional Services should be created for dealing with the problems of young offenders. So far as the work of treatment and training of young offenders is concerned, he should work independently, but for purposes of coordination and integration with other wings of the Department he should be under the control of the Inspector General of Prisons and Director of Correctional Services.

15.8.5 Courts to be known as 'Courts for young offenders' exercising the powers and discharging the duties conferred on such courts in relation to the trial and commitment of young offenders between 16/18-23 years of age should be set up for specified areas according to requirements in each State/Union Territory. Before making any order, the court should take into account the pre-sentence investigation report of the probation officer. This report should be a statutory requirement for deciding the cases of young offenders.

15.8.6 Pre-sentence investigation report should include information about the social, economic and psychological background of the offender so as to identify the sequence of his criminal behaviour. It should also seek to determine the degree of the young offender's involvement in a life of vice and crime. This report should attempt a prognosis in regard to the young offender's resettlement in a socially useful way of life.

15.8.7 Young offenders involved in minor violations should not be kept in police custody. Instead, they should be kept with their families/guardians/approved voluntary agencies on the undertaking that they will be produced before the police as and when required for investigation.

15.8.8 Young offenders involved in serious offences while in police custody should be kept separate from adult criminals and the police custody should be only for a minimum period required for investigation.

15.8.9 The investigation of cases of young offenders must be expeditiously done.

15.8.10 Bail should be liberally granted in cases of young offenders.

15.8.11 When it is not possible to release a young offender on bail, he should be kept in a Reception Centre/Kishore Sadan/Yuva Sadan during the pendency of his trial.

15.8.12 In case it becomes necessary to keep young offenders in a sub-jail during investigation and trial, it should be ensured that they do not come in contact with adult criminals there.

15.8.13 When any young offender is found guilty and is likely to be punished with imprisonment not exceeding one year, the court should take recourse to any of the following non-institutional measures :

- (i) Release on admission.
- (ii) Release on taking a bond of good conduct with or without conditions from the young offenders and from parents/guardians/approved voluntary agency.
- (iii) Release on probation under supervision under the Probation of Offenders Act on any of the following amongst other suitable and necessary conditions:—
 - (a) continuation of education/vocational training/employment ;
 - (b) obtaining guidance from probation officer/teacher/counsellor ;
 - (c) getting work experience in work camps during week-ends and on holidays; and
 - (d) doing useful work in work centres (agricultural farms, forestry, housing, road projects, apprenticeship in work-shops, etc.)

Suitable cases of young offenders likely to be sentenced to periods above one year should also, as far as possible, be processed through the above-mentioned non-institutional approach. Young offenders should be sent to institutions only as a last resort.

15.8.14 The existing Borstal schools and juvenile jails should be converted into a system of diversified Kishore/Yuva Sadans and Reception Centres. Besides this, additional institutions (Kishore/Yuva Sadans) as worked out in Chapter V on 'Prison Buildings' may be set up. These Kishore/Yuva Sadans should be developed as centres of scientific study and correctional treatment for young offenders.

15.8.15 There should be separate institutions for young offenders, to be called Reception Centres and Kishore/Yuva Sadans.

15.8.16 There should be separate institutions for girl young offenders.

15.8.17 Reception Centres should be organised at district or regional level as per the requirements of each State/Union Territory :

- (i) to provide safe custody for young offenders, who cannot be released on bail or who cannot be given the benefit of non-institutional measures ;
- (ii) to do initial classification; and
- (iii) to place young offenders in appropriate Kishore/Yuva Sadans after initial classification.

The period of detention in a Reception Centre should not normally exceed eight weeks.

15.8.18 Kishore/Yuva Sadans should be diversified on the following lines:—

- (i) An institution recognised as an approved Kishore/Yuva Sadan by the State Government (hostel run by Government; hostel run by a voluntary agency; hostel of an Industrial Training Institute or of agricultural school, etc.)
- (ii) Open Kishore/Yuva Sadan.
- (iii) Semi-open Kishore/Yuva Sadan.
- (iv) Special Kishore/Yuva Sadan (medium security institution).

15.8.19 The following basic operations should be adopted in a Kishore/Yuva Sadan:

- (i) Initial admission.
- (ii) A system of proper custody and positive, constructive and firm discipline.
- (iii) Care and welfare of inmates.
- (iv) Basic segregation according to requirements.
- (v) Attending to immediate and urgent needs and problems of inmates.
- (vi) Orientation to institutional life.
- (vii) Study of the individual offender. (History taking and case recording, tests and observation, etc.)
- (viii) Scientific classification.
- (ix) Attending to long term needs of inmates like education, vocational training, etc.
- (x) Use of agencies and resources in the community.
- (xi) Reprocessing of the inmate from admission till release; social implantation of proper habits, attitudes and approaches; preparation for social living; psychotherapy where necessary.
- (xii) Guidance, counselling and support.
- (xiii) Positive impact of personnel.
- (xiv) Release planning.
- (xv) After-care.
- (xvi) Follow-up.

15.8.20 Initially all hopeful cases of young offenders offering good prognosis may be kept in institutions recognised as approved Kishore/Yuva Sadans or in semi-open Kishore/Yuva Sadans. Later on, on the basis of their responses to training and treatment, suitable young offenders should be transferred to Open Kishore/Yuva Sadans. Difficult, discipline and problem cases and escape risks should be sent to special Kishore/Yuva Sadans. In due course after observing their responses to institutional programme, these young offender may be transferred to semi-open Kishore/Yuva Sadans and later to open Kishore/Yuvas Sadans. Through this approach useful cases can be saved from the bad experience of closed institutions. So also escape risk of difficult and problem cases will be minimised.

15.8.21 Decisions about placement of young offenders in the diversified Kishore/Yuva Sadans should be taken by the classification committee which may comprise trained and experienced correctional administrators. In this regard reference to Chapter IX on 'System of classification' of this Report may be made.

15.8.22 Gradation in custody should be one of the criteria for diversification of institutions into open, semi-open and special Kishore/Yuva Sadans. In addition, the diversity in these institutions has to emerge mainly through the content of educational, vocational training and other correctional programmes that may be developed in these institutions.

15.8.23 As recommended in paragraph 15.8.13, young offenders should be sent to Kishore/Yuva Sadans as a last resort. This will substantially reduce overcrowding in prisons/sadans. This would also result in considerable economy. The savings so effected should be fruitfully diverted for the development of non-institutional programmes and other services for young offenders.

15.8.24 Scientific classification, which includes not only initial classification but also continuous study of individual cases, their review and reclassification, should be adopted for young offenders. This will help in their individualised treatment and training.

15.8.25 At each institution there should be a Review Board consisting of the following :

- | | |
|--|------------------|
| (i) District Judge | Chairman |
| (ii) Two members of the State Legislature | |
| (iii) District Magistrate | |
| (iv) Superintendent of Police | |
| (v) District Medical Officer/Civil Surgeon/Medical Superintendent of the Government hospital | |
| (vi) Additional/Joint Director of Correctional Services (Young Offenders) | |
| (vii) Two social workers interested in the welfare of young offenders | |
| (viii) District Education Officer | |
| (ix) Principal of the Kishore/Yuva Sadan | Member-secretary |

15.8.26 At the end of every six months the Review Board should examine the case of every young offender. This Review Board should review cases from the point of view of the progress and response of young offenders. The Review Board must decide the case of every young offender as to whether it is necessary to continue him under institutional treatment. In suitable cases, the question of his release on licence should also be examined. The members of the Review Board should visit the Kishore/Yuva Sadan to see that the care and welfare of inmates are properly attended to.

15.8.27 Young offenders offering good prognosis may be kept in Kishore/Yuva Sadan till they attain the age of 25 years.

15.8.28 The problem of young offenders who are sentenced to imprisonment for periods above 5 years will have to be considered in a different perspective. If a young offender requires institutionalisation for more than 5 years, such a case can be continued in a Kishore/Yuva Sadan through the review procedure. In deserving cases, even such young offenders should be released on licence on certain conditions. Through such an approach, the existing practice of transferring young offenders to prisons from Borstal schools can be avoided. However, a young offender, in whose case prognosis is not favourable, should be transferred to a suitable prison; only such young offenders as are intractable, violent, criminal psychopaths, hardened or dangerous, should be transferred to prisons.

15.8.29 Specially selected and adequately trained personnel should be made available for implementing various programmes for young offenders.

15.8.30 The following staff should be provided at institutions for young offenders :

- (i) Principal.
- (ii) Senior Vice-Principal.
- (iii) Vice-Principal.
- (iv) House Master Grade I.
- (v) House Master Grade II.
- (vi) Chief Supervisor.
- (vii) Senior Supervisor.
- (viii) Supervisor.
- (ix) Psychologist.
- (x) Psychiatric social workers/case workers.
- (xi) Staff for education, physical training, vocational training, industries, agriculture, medical and psychiatric care.
- (xii) Ministerial, accounts and other staff.

Note 1: The equivalence of posts at (i) to (x) above with posts in the prisons and the mode of recruitment, promotion, training, etc. for these posts have been discussed in Chapter XXIV on 'Development of Prison Personnel'.

Note 2: Staff for education, physical training, vocational training, agriculture, industries, medical and psychiatric care should be taken on deputation from the related departments of the State Governments.

15.8.31 Adequate funds for all programmes connected with young offenders should be provided.

15.9 Non-institutional approach should be the main thrust of the programmes for the treatment of young offenders so that they are saved from unhealthy institutional experience. Where institutionalisation is imperative, young offenders should be exposed for reasonable lengths of time to programmes of re-education, vocational training, social adjustment and positive yet firm discipline through a diversified system of Kishore/Yuva Sadans. Problem cases should be kept in special Kishore/Yuva Sadans and difficult and intractable, hardened and dangerous young offenders may be dealt with differently as indicated above. The oft-repeated argument of paucity of funds for correctional programmes should not hamper the adoption of a bold new approach for handling the problems of young offenders.

CHAPTER XVI

PRISONERS SENTENCED TO LIFE IMPRISONMENT

16.1 The Committee met a large number of life convicts during its visits to various prisons. These prisoners bitterly complained about the effect of section 433A of the Code of Criminal Procedure on their release from prison. They complained that remission had ceased to act as an incentive to them. Life convicts in closed prisons stated that they did not want to go to open prisons as remission would not be of any use to them in obtaining an early release. Those in open prisons requested to be transferred back to closed prisons saying that under the provisions of section 433A of the Code of Criminal Procedure they would not be getting any benefit of remission and further that they would not be released earlier than 14 years of actual imprisonment. In some States, life convicts were extremely bitter as they were not released on home leave or furlough even though under the rules they had become eligible for such temporary release for the purpose of visiting their families.

16.2 Another serious grievance of life convicts was that their cases were not put up in time before the advisory committee for review for premature release by prison administration. They made a number of other complaints, such as, the police authorities always opposed their premature release; the advisory committees did not even study their cases in detail; when their cases were submitted to Government for orders, it took months and sometimes years for Government to pass orders on their cases; and that Government orders were usually to the effect that their cases should be resubmitted after a specific period. Our general impression was that life convicts have little faith in the efficacy of the advisory committees as they are operating at present.

16.3 When we discussed these aspects with prison personnel, the complaints made by the life convicts were corroborated as true. At present the advisory committees review the cases of life convicts for premature release alongwith cases of convicts sentenced to medium and long terms of imprisonment. It is also understood that advisory committees do not meet as per fixed schedule. The procedures adopted at present for review of sentences by the advisory committees are not only perfunctory but extremely unsatisfactory. In fact, scores of cases are reviewed in about a couple of hours. Hardly a few minutes are devoted by the advisory committee for reviewing each case. Obviously, the discussions on merits of each case are very cursory. The members of the committee do not study cases in detail. Decision on such an important issue as premature release cannot be taken in a few minutes without studying all the relevant facts and the background of each case. We would like to state that the working of the advisory committees in regard to review for premature release is most unsatisfactory and it is not serving any useful purpose at all.

16.4 It is understood that in some States some life convicts were released after only 3 to 5 years of actual imprisonment. This clearly indicated arbitrary use of discretionary powers. In the amended Code of Criminal Procedure section 433A has now been included. The proposed amendment to the Indian Penal Code in this context has not been passed. In view of these circumstances life convicts sentenced after December 18, 1978 cannot now be released before they undergo actual imprisonment of 14 years.

We have discussed this question in detail in paragraphs 4.25, 4.26 and 4.27 of Chapter IV on 'Legislation' of our Report. We reiterate that if the present approach of our law as embodied in section 433A of the Code of Criminal Procedure is continued, there is no point in thinking in terms of reformation and rehabilitation of the life convicts.

16.5 The procedure of reviewing the sentence of a prisoner sentenced to life imprisonment varies from State to State. As a consequence of the introduction of section 433A in the Code of Criminal Procedure remission has now no meaning for a life convict from the point of view of his release. These convicts are kept in central prisons and large district prisons. They do not receive any individual attention in the mass approach which is currently in vogue in our prisons. A life convict is virtually lost in the large mass of prison population. No attention is paid to his immediate and long term needs, requirements of his training and treatment, etc. The plight of a life convict in such circumstances becomes very tragic.

16.6 In Chapter VI we have discussed, in detail, how the conditions of living in prisons have deteriorated and how prisoners of all categories have to undergo very dehumanizing experiences. Taking into consideration the present apathy towards improving the conditions of living in prisons, it would not be unrealistic to expect that these life convicts will continue to live under very demoralizing conditions in prisons for long periods. They will have to live in prisons for 14 long years bereft of any hope of premature release; they will have no incentive for self-discipline and self improvement; and during their stay of 14 long years under very depressing conditions they will get prisonized and imbibe the criminal culture of prisons.

16.7 We found that very deep discontent was simmering among the life convicts in all the States and Union Territories. We have earlier stated that if this acute discontent is not relieved in some measure in the near future, it may burst into prison riots, and further that, the future of open prisons in India will become very dark as life convicts will refuse to be transferred to open prisons which have ceased to offer them any incentive at all. We are of the view that the entire approach of Government towards the problems of life convicts needs a new orientation so that it becomes conducive to their reformation and rehabilitation in society.

16.8 It would not be out of place to attempt to visualise here as to what might happen to life convicts during their stay of 14 years under dehumanizing conditions. First, they will lose all contacts with their families and the community. This will have such a harmful effect on them that when they get released from the prison after 14 years, it will be very difficult for them to adjust themselves with their families and the community outside. The hope of their re-assimilation in society as useful citizens will, thus, become futile. Secondly, life convicts will get prisonized during their incarceration for 14 years. Institutionalization of a life convict will completely cut him off from the main stream of life in the free community. He is bound to feel that he belongs to the criminal world. He will identify himself as one from the groups of criminals inside the prison. His total outlook towards life, his value schemes, his sense of right and wrong, and his quality of life will change. He will speak in prison language. He will become one with the customs, traditions and practices which are in vogue in prisons. His conjugal life will be cut off for 14 years. It would be realistic to expect that under these circumstances he will try to find alternatives to normal sex life. He may take recourse to autoerotic practices or homosexual habits. After his release from the prison he may even find it extremely difficult to adjust himself with hetero-sexual experience. His conjugal life will thus be completely wrecked. During his long stay in a prison a life convict will lose his initiative and self-confidence. He may also lose his habit of taking decisions about the problems of his day to day life. In fact, he will feel more secure in the artificial atmosphere of a prison rather than in the free community. Needless to mention that this would be disastrous from the point of view of his ultimate resettlement in society.

16.9 Some of the important aspects on which prison personnel will have to pay special attention with regard to a life convict, can be identified as follows:

- (i) Saving the life convict from the damaging impacts of the criminal sub-culture of a prison and preventing him from getting prisonized;
- (ii) His conjugal life and finding solution to his sex problems;
- (iii) Giving him optimum benefit of institutional training and treatment;
- (iv) Assessment of peak points of the benefits which he derives from his training and treatment in the institution;
- (v) Maintaining these peak points through supportive therapy; maintaining his interest and optimism in life during incarceration;
- (vi) His after-care, follow-up, re-integration with his family and the free world, and his ultimate resettlement in society.

16.10 A thorough social and psychological study of life convicts should be undertaken so that the clues and sequences of their criminal behaviour can be identified and it may be determined whether a life convict is an individual criminal or a socially processed criminal. Social scientists, experts and trained and experienced prison administrators can identify through history taking and case-recording as to who are the individual criminals and who are the socially conditioned criminals. This will help in understanding the criminal behaviour of life convicts in its full perspective.

16.11 In the light of the discussions above our recommendations regarding prisoners sentenced to life imprisonment are as follows:

16.11.1 Section 433A of the Code of Criminal Procedure should be suitably amended (See chapter IV, para 4.34.20).

16.11.2 During the period of trial a comprehensive, social and psychological study should be made of such offenders as are likely to be sentenced to life imprisonment on conviction. After conviction but before sentencing this report should be placed before the judge so that the judge can make use of this material while passing the sentence and also for making recommendations, if any, to the State Government regarding early release of a person sentenced to life imprisonment. This procedure should be incorporated in the Code of Criminal Procedure as a statutory provision.

16.11.3 On admission of a life convict in a prison a comprehensive, social and psychological study should be made for the purpose of designing a suitable diversified programme of training and treatment during his stay in the prison. Based on such a detailed study, a balanced and diversified treatment programme should be designed for the newly admitted life convicts.

16.11.4 Work should be allotted to a life convict taking into account his aptitude and potentialities for acquiring skills. A life convict should be trained in at least two or three vocations or trades during his stay in the prison. Such multiple skills will help him in finding a suitable job after his release.

16.11.5 Life convicts coming from rural areas should be given training in trades like carpentry; smithy; repairs and maintenance of tractors, oil engines and electrical pumps; laying of irrigation pipes; improved methods of agriculture, etc. Such training will be helpful to them in their re-settlement in the rural areas.

16.11.6 Special attention should be paid to diversified educational programmes for life convicts. If a life convict advances his education during the period of his stay in the prison his total outlook towards life will change. Moreover advancement of education will give him great support in undergoing the period of imprisonment.

16.11.7 The classification committee of the prison should review the case of every life convict every three months. Such a review will be helpful in solving the urgent and long range problems of the life convict.

16.11.8 In the planning and research units at the headquarters of the Department of Prisons and Correctional Services, studies of case histories of life convicts should be continuously undertaken by experts and social scientists. Through such studies the pattern of murders committed by individual offenders and by socially conditioned criminals can emerge in greater detail. The policy of release of life should be reviewed every five years on the basis of the conclusions of such studies and the response of individual inmates to institutional treatment.

16.11.9 We feel that the punishment clause under section 302 of the Indian Penal Code is too draconian in its character, and keeping in mind the innumerable circumstances and conditions of life that precipitate or prompt an offence under section 302 of the Indian Penal Code, the legislature should leave the amount of punishment to the judicial authority and not fix a minimum; for it is bound to be harsh and unjust. The legislature itself by enacting section 235 (2) of the Code of Criminal Procedure recently, has, by and large, accepted the principle that punishing a criminal should be a judicial act and this should also apply in the case of those who are convicted under section 302 of the Indian Penal Code. We also have doubts about the necessity of enacting section 428 of the Code of Criminal Procedure which, on a recent interpretation of the Supreme Court, denies the inclusion of that period as part of punishment which a convict undergoes in custody during investigation, inquiry or trial. We hope that section 428 of the Code of Criminal Procedure, even if it is retained, will be suitably clarified in the near future so that life convicts are not deprived of this benefit.

16.11.10 We have come to the conclusion that it is essential to differentiate among the persons convicted under section 302 of the Indian Penal Code and a broad typology of murderers should be kept in mind. Certain types of criminals such as professional murderers, habitual murderers, persons who commit murder in an organised manner or on a large scale, persons who commit murder connected with crimes like rape or dacoity, persons whose crime indicates revolting brutality and bestiality, persons who commit crime on account of religious or caste prejudice, and persons who commit crime against the security of the State perhaps need to be kept out of circulation for a longer period in order to provide security to the community, for their chance of reformation is extremely poor. Then comes the bigger class of life convicts who are individual criminals and who have not accepted crime as a way of life, but who have committed the crime probably suffering from a momentary lapse, or due to the conditions of life which make them lose their balance and restraint. It is against this background that we lay down below some broad guidelines for the Review Boards/Advisory Boards/Review Committees and also for the concerned senior administrators in the government dealing with cases of life convicts. It is our opinion that these guidelines should be revised from time to time on the basis of new knowledge that might be gathered about persons sentenced to life imprisonment.

- (i) Each case of life convict is different and the causes of criminal conduct are also completely different. An ad hoc and uniform approach for life convicts is

not desirable and will not at all be conducive to their rehabilitation in society. It will also not be in keeping with the actual gravity of their crime. The present interpretation of law which means that life convicts can be released only after 14 years of actual imprisonment plus the period of their custody during investigation, inquiry or trial is totally unscientific and unjustifiable and completely destroys the chance of their being reassimilated in society. With the amendment of section 433A of the Code of Criminal Procedure and that of section 302 of the Indian Penal Code and by making imprisonment for life an imprisonment not for the whole of life but for a reasonable period, this hurdle should be removed.

- (ii) Remission must operate as incentive for self-discipline and reformation of life convicts. Remission should be made effective for the purpose of review of sentence and actual release of prisoners sentenced to life imprisonment.
- (iii) The following types of socially conditioned criminals who are sentenced to imprisonment for life should be detained for longer periods as compared to other life convicts;
 - (a) Professional murderers, i.e. those who are hired for committing murder.
 - (b) Organised criminals, i.e. persons who commit murder in a pre-planned, premeditated and in an organised manner.
 - (c) Persons committing murder for religious, communal or caste reasons, and persons sentenced to life imprisonment for offences against security of the State.
 - (d) Persons who commit murder while involved in smuggling operations.
 - (e) Persons committing murder of members of prison staff, prison visitors and government functionaries on official duty.
- (iv) Some persons get involved in the commission of murder in a fit of anger, passion or momentary emotion. The behaviour of such offenders is extemporaneous or momentary. In such cases the persons who commit murder and the victims of crime both get involved in a sort of whirlwind of emotion, anger and passion and the outcome is the act of crime. The victims who get killed might have also killed the persons who extinguished their life. The pattern of such murders is not indicative of an outcome of processing of the offender in anti-social behaviour as a way of life but it is a sort of stormy eruptive behaviour. Such persons are individual criminals and not socially processed criminals. We recommend that persons who are committed to life imprisonment for such patterns of crime should be released earlier than those mentioned at item (iii) above.
- (v) Cases of offenders of the age group of 16/18—23 years sentenced to imprisonment for life should also be considered on a different basis. Cases of young offenders who are not violent, who do not show signs of psychopathic personality, who have not gone deep into a life of vice and crime and in whose case prognosis is good, should be considered on a lenient basis and should be released early.

- (vi) Women life convicts who are individual criminals; i.e. those who are not processed for anti-social behaviour should be released early.
- (vii) Women who are convicted of infanticide and similar other crimes committed under social and cultural pressures should not remain in prisons. Cases of such women offenders should be reviewed immediately on admission and these offenders should be released on the condition that they stay under the care and protection of voluntary women's organizations of good repute. Such practice is in vogue in Maharashtra and in some other States, and this policy should be adopted by all the States and Union Territories.
- (viii) Life convicts having psychopathic or psychotic pattern of behaviour should be considered for premature release on the basis of the opinion of psychiatrists and the medical board.
- (ix) The question of release of persons above the age of 65 years undergoing life imprisonment should be considered on grounds of mercy for early release.
- (x) Life convicts suffering from incurable and serious diseases such as cancer, etc. and who are on the verge of death should be released on the basis of opinion of the medical board. We are of the view that such prisoners should be released early so that they can have the satisfaction of dying outside a prison and in the presence of their family.
- (xi) Life convicts who suffer from leprosy should be released to the care of leprosy centres run by voluntary organisations or they should be kept in hospitals on the condition that they stay in the leprosy centre/hospital for a stated period for their treatment and rehabilitative training. Such an experiment is being carried out at the Jagadamba Kushtha Niwas at Amravati in Maharashtra and this experiment has proved successful.

The premature release of life convicts should be determined on the basis of their response to treatment in prisons.

16.11.11 Life convicts should be more frequently released on leave and special leave so that their contacts with their families and the community are maintained. Interviews and facilities regarding letters should also be granted to them on a more liberal basis for this purpose.

16.11.12 Life convicts who offer good prognosis and who do not pose any danger to society should be transferred to semi-open and open prisons as early as possible to save them from the danger of prisonization and contamination with criminal sub-culture of prisons. Ordinarily every life convict should be eligible to be transferred to a semi-open or open institution on completion of two years of imprisonment in a closed prison. During this period it should be possible for experienced and adequately trained prison administrators to make a prognosis about the future behaviour of the life convict. We strongly urge that life convicts should be kept in semi-open and open prisons so that their interest in life can be adequately maintained.

16.11.13 Life convicts transferred to semi-open and open prisons should be granted remission at the rate of one day remission for each day's stay at such institution. This has reference to the recommendation made in paragraph 19.33.18 of Chapter XIX on 'Open Institutions'.

16.11.14 During the stay of a life convict in a semi-open or open institution, he should be allowed to live with his family members for one week once in every six months. As recommended by the All India Jail Manual Committee 1957-59, "Arrangements for such a stay should be made outside the semi-open and open institution in family hutments erected

in a suitable place. These huts should be so erected that the inmate and his family members get the required privacy and at the same time the needs of discipline and security are also satisfied. Such a periodical stay with his family will be helpful in keeping the inmate close to his family group." This also has reference to the recommendations made in paragraph 19.33.22 of Chapter XIX on 'Open Institutions'.

16.11.15 Provisions made in Chapter XII of the Model Prison Manual (pages 312 to 316) regarding life convicts should be adopted by all the States/Union Territories.

16.11.16 It should be appreciated that there are limitations of institutional training and treatment and a lifer will not need treatment for 14 years. After five or six years a life convict will reach peak points in terms of deriving benefits from his diversified training and treatment programmes. The problems which correctional administration has to face are: how to maintain these peak points; how to maintain the interest of a life convict in institutional activities and how to maintain his optimism in life during 14 years of incarceration. Techniques of supportive therapy are useful in this respect. Transfer to a semi-open or open institution or to a Sanganer type open camp at the appropriate time is another solution to this problem. Frequent release on leave and releasing the life convict prematurely at the appropriate time will also offer some practical solution to this situation. All these possibilities should be kept in view by prison administrators so that life convicts do not lose hope about their future.

16.11.17 Pre-release preparation and planning for after-care and follow-up need special attention in case of life convicts. Prison administration and the after-care services should devote special attention to these aspects. Police administration should take a positive outlook towards all aspects of rehabilitation of life convicts released on conditions or without conditions. Many life convicts complained that the police harass them when they are released on leave, etc. Such harassment should be seriously viewed by senior police administrators.

16.11.18 The advisory committee should hold a separate meeting for the purpose of reviewing the cases of life convicts only, so that the review of each case can be done properly and adequate time may be devoted to each such case. It should be ensured that the cases of life convicts are put up before the advisory committee in time and, further, that Government orders are also passed in time.

16.12 In the end we would like to re-state that life convicts all over India have become very bitter and restless because of the inclusion of section 433A in the Code of Criminal Procedure. Very severe discontent is prevailing amongst them in all the States and Union Territories that we visited. If immediate action is not taken to remove the genuine grievances of life convicts, it would be rational to predict that there might occur riots in Indian prisons. Government of India should, therefore, take immediate steps and issue clear guidelines to the State Governments and Union Territory Administrations in regard to various problems faced by life convicts. Government of India should also ensure, through an effective follow-up, that the guidelines issued by them are properly and effectively implemented for improving the plight of life convicts. It is our considered view that the problem of life convicts is one of the most pressing problems which is being faced by prison administration all over India and urgent action needs to be taken in this regard.

CHAPTER XVII

PRISONERS SENTENCED TO DEATH

17.1 Security measures, as prescribed in section 30 of the Prisons Act, 1894, for prisoners under sentence of death are based on the presumption that such prisoners are dangerous not only to themselves but to others also. According to this provision condemned prisoners are required to be thoroughly searched on their admission to jail and to be confined in cells under constant watch round the clock. The rules framed by State Governments and contained in their jail manuals are also based mainly on similar presumptions. Prisoners of this category are not given trousers with tying cord; they are given felt beddings and earthen utensils and are searched several times during the day. Their cells have to be changed every day and when taken out of their cells, one by one, for exercise, they have to be handcuffed.

17.2 The period which intervenes between the prisoners being sentenced to death and their execution generally extends to several years as their appeals and mercy petitions are more time consuming now than in the past. During this long period, they are subjected to conditions almost akin to solitary confinement. They are also without occupation of any kind and have nothing to do except to brood over their misfortune and the dark future ahead. Obviously, the pending death sentence involves extreme mental anguish. We cannot overlook the fact that such conditions of confinement are degrading and dehumanising and in certain ways amount to denial of human rights.

17.3 In *Sunil Batra V/s. Delhi Administration*,¹ the Supreme Court held that section 30(2) of the Prisons Act, 1894, a pre-Constitution statute, did not satisfy the test of Articles 14, 19 and 21 of the Constitution of India. They, however, instead of taking the view that this section was ultra vires of the Constitution, decided to interpret it in a manner that it might conform to the humanist requirements of the Constitution and yet not offend the important consideration of security of prisoners. They restricted the use of this section by defining 'prisoners under sentence of death' as those in whose cases the sentence of death finally becomes executable after the rejection of appeals by the High Court and the Supreme Court and of mercy petitions by the Governor and the President. In effect, this will reduce the period of application of section 30(2) to a few days only.

17.4 It is instructive to note in this connection that the experience of prison officers is that prisoners sentenced to death are generally not dangerous either to themselves or to others. Murder is generally a crime committed due to an overpowering impulse or emotion beyond the control of the individual. We believe that in many ways a murderer is like any other criminal. In this respect, we are strengthened in our belief by the following observations of the British Royal Commission on Capital Punishment made in its report (1949-53) on pages 216 and 217 :

".....the evidence given to us in the countries we visited, and the information we received from others, were uniformly to the effect that murderers are no more likely than any other prisoner to commit acts of violence against officers or fellow prisoners or to attempt escape; on the contrary it would appear that in all countries murderers are on the whole better behaved than most prisoners."

17.5 Capital punishment is now seldom given. In fact, a recent ruling of the Supreme Court has restricted the award of death penalty only in the 'rarest of rare cases'. In actual practice also, only a small number of persons initially sentenced to death are finally executed.

17.6 The factual position regarding mercy petitions to the President during the period from 1965 to 1981 with regard to commutation of death sentence is given in the table below:

Year	Total number of persons, who approached the President for mercy.	Death sentence commuted.	Mercy petition rejected.
1965	188	97	91
1966	142	97	45
1967	100	16	84
1968	225	154	71
1969	7	7	..
1970	33	7	26
1971	58	9	49
1972	119	80	39
1973	69	49	20
1974	93	27	66
1975	49	23	26
1976	42	15	27
1977	13	4	9
1978	22	..	22
1979	18	4	14
1980	7*	..	..
1981	23 (upto Nov.)	7	16
Total	1208	596	605

*These cases were not decided as constitutionality of section 302 of the Indian Penal Code and section 354(2) of the Code of Criminal Procedure 1973 was challenged in the Supreme Court.

It is evident from the table that in a large number of cases death sentence is commuted to life imprisonment.

17.7 Many of the prisoners initially sentenced to death are ultimately awarded life imprisonment or their death sentence is commuted to life imprisonment and the intervening period is treated as a part of sentence undergone. It will, therefore, be appropriate that for this period, treatment programmes are so devised for such prisoners as to enhance their prospects of rehabilitation. In this context, we make the following recommendations :

17.7.1 Section 30 of the Prisons Act, 1894 should be replaced by a fresh legislation providing for a more humane and dignified treatment to prisoners under sentence of death.

17.7.2 Immediately, after admission or soon after conviction of an undertrial, the superintendent should explain to the prisoner sentenced to death the rules regarding appeal and mercy petitions. Those who require legal assistance should be extended facilities available for free legal aid.

17.7.3 Every State should have one or more specified jails where prisoner under sentence of death should be confined. Arrangement should be available for execution in such jails. These jails should have a separate enclosure with a few cells and a barrack for 10 to 20 prisoners. A prisoner under sentence of death should be quickly transferred to the nearest earmarked jail where he should be kept in the association barrack during the day and in a cell at night for about a week. During this period he should be examined by the medical officer and observed and studied by the staff engaged in the classification of prisoners. In case, he is found to suffer from any communicable disease or to have violent proclivities or is escape-prone, he should be treated like other similar prisoners in the jail; otherwise he may be kept in the association barrack both during the day and the night.

17.7.4 Security arrangements in the enclosure where prisoners under sentence of death are kept should be on twenty-four hour basis and required staff for this purpose should be provided.

17.7.5 Prisoners under sentence of death should be provided with the same diet, clothings and beddings, feeding utensils, etc. as are given to other prisoners.

17.7.6 Such prisoners are at present not required to work. We are of the view that they should not only be given necessary facilities to work, if they so desire, but should actually be encouraged to employ themselves on some useful work. They should also be allowed to earn wages like other prisoners. Facilities for work should be provided in their own enclosures.

17.7.7 Those who have some healthy hobby should be given facilities to pursue it subject to rules.

17.7.8 Necessary arrangements should be made in their enclosures for suitable outdoor and indoor games as well as for listening to radio. They should, as far as possible, be allowed to enjoy other recreational facilities available in the jail.

17.7.9 Those who are interested in education may be extended necessary facilities. Books, newspapers and magazines should also be provided to them.

17.7.10 They should be allowed to follow their own religion and belief subject to rules and requirements of discipline, and to retain religious and other books.

17.7.11 They should be given liberal facilities for interviews with and letters to and from relatives and legal counsels.

17.7.12 Canteen facilities, as available to other prisoners, should also be provided to prisoners under sentence of death.

17.7.13 Special attention should be paid to their personal and domestic problems.

17.7.14 When the death sentence becomes finally executable the prisoner should immediately be transferred to a separate enclosure where arrangements should be made to keep him in a cell under constant watch. During the day he may be allowed to associate with other such prisoners.

17.7.15 Before execution, arrangements should be made for the prisoner to meet his near and dear ones even at State cost, if necessary.

17.7.16 We agree with the provisions of paragraphs 10 to 20 of Chapter XLVI of the Model Prison Manual and recommend that they may be incorporated in the State jail Manuals. They are at Appendix XIX.

References:

1. Sunil Batra V/s. Delhi Administration and Others (1978) : 4 Supreme Court Cases 494.
2. Bachan Singh Vs. State of Punjab A.I.R. 1980 SC 898.

CHAPTER XVIII

SUB-JAILS

18.1 Of the 1220 institution run by the prison departments of various States and Union Territories in India as many as 822 (67.4%) are sub-jails with a daily average population of 19900 inmates.

18.2 The applications of the concept of daily average population to this large number of small institutions having a total sanctioned capacity of 26057 is apparently deceptive in view of the fact that the sub-jails cater mainly for undertrial prisoners whose population is constantly changing and their annual turnover is considerably larger than what the average daily population suggests. As a result these institutions suffer from periodic but acute problem of overcrowding. It is worth mentioning that the sanctioned capacity of these institutions is not calculated by State prison departments according to the standards of per-prisoner space laid down in jail manuals ; it has relevance only to the number of inmates traditionally locked up in them. Even at that, the sub-jails of Bihar and West Bengal, as well as Nagaland and Tamil Nadu suffer from constant and serious overcrowding, as may be seen from the table given below :—

State	No. of sub-jails	Sanctioned capacity	Daily average popula- tion	Variation
1	2	3	4	5
Bihar	28	2506	3562	+1056
Nagaland	5	120	150	+30
Tamil Nadu	119	3662	3754	+92
West Bengal	31	1572	2645	+1073

18.3 There is wide diversity in the management and administrative pattern of the sub-jails in various States and Union Territories. While in some States sub-jails are under the administrative control of the Prison department, in others they are under the immediate control of officers belonging to Judicial, Revenue, Police or Medical Departments. While in Rajasthan the sub-jails are under the charge of Sub-Divisional Officers, in Orissa they are under local Medical Officers. In Tamil Nadu sub-jails are manned by officials belonging to three departments, viz., the Revenue, the Police and the Prisons and in many cases by all the three of them simultaneously. Of the 119 sub-jails in the State of Tamil Nadu, only 10 are under the direct control of the Prisons Department while the rest are under the control of the Revenue Department. In Punjab the supervisory charge of sub-jails is either with part-time G.As. or with SDMs. In Andhra Pradesh the sub-jails in Tehsils, Talukas and Sub-divisions of the District are under the control of the judicial department

while security and guarding arrangements are done by the police department. Sub-jails differ not only in their administrative control and level of supervision, but also in their staffing pattern, location, buildings and the types of inmates kept in them. Even in States where sub-jails are directly under the control of the Prisons Department the staffing pattern differs not only from State to State but also from one sub-jail to another in the same State.

18.4 Problems have crept into the administration and management of sub-jails chiefly because of laxity in supervision resulting from the remoteness of the supervisory bodies in the hierarchical set-up of the department as also because of the diversity in management and dilution of responsibility. There is total lack of decision making authority with the departmental officers manning the sub-jails at present.

18.5 In most cases sub-jails are housed in improvised buildings modified more to suit security needs than to suit human habitat. These buildings are generally 'closed type' with no open space for the movement of inmates. Since in this type of buildings, the main wall of the jail is contiguous/continuous with the walls of living barracks, there is no place left for movement of inmates, for games, collective exercise, kitchen gardening and similar other activities. The living barracks of inmates in such buildings cannot be provided with cross-ventilation because three walls of these barracks forming main prison wall cannot be given any opening due to security reasons. In some States sub-jails are only a row of cells/dormitories which are kept locked throughout the day and night. The condition of some sub-jails is so insecure that prisoners are chained and put under mechanical/iron devices of human restraint. In many places sub-jails are located in the heart of busy public places where passers-by can have an easy peep into dingy barracks with idle and hapless inmates cramped into them.

18.6 The conditions of living in sub-jails are worse than in many bigger jails mainly because the buildings are old, improvised and badly maintained; there is acute paucity of funds and facilities; and the management is left to the care of ill-paid low level staff with remote or indifferent supervision. There are no adequate arrangements for preparing food for prisoners within the sub-jail premises and sub-standard cooked food is supplied through contract system.

18.7 There are generally no facilities in the existing sub-jail buildings for an effective segregation of women, youth and children from adult male inmates. The cells of women inmates are within close visibility from men's section and it is difficult for women inmates to maintain any privacy. There is acute shortage of bath-rooms and toilet facilities in most of them.

18.8 The worst affliction of sub-jails at present is the total idleness with which the inmates suffer for long periods of their confinement. One can easily imagine the repercussions of such a situation on a group of men huddled-up together in overcrowded cells/dormitories without any purposeful engagement for days, weeks and months. The Committee feels that conditions in sub-jails are dehumanizing to a large extent. This problem deserves to be met effectively.

18.9 Our recommendations with regard to sub-jails in the country aim generally at smoothing out diversities in their administration and forging at least some kind of uniformity in the matter of their location, construction, control, supervision and management. We have also recommended some useful engagements for prisoners confined in sub-jails. Our recommendations on sub-jails are as follows :—

18.9.1 A sub-jail should be located at each place where a criminal court functions.

18.9.2 A daily average number of 10 inmates/undertrial prisoners detained during the past one year should justify the construction of a new sub-jail at an administrative unit where a criminal court functions.

18.9.3 The necessity of construction of new sub-jails should not be brushed aside only for financial consideration, by calculating the comparative cost of building and establishment in relation to the cost of transport of inmates for production before criminal courts from nearest jails or sub-jails.

18.9.4 The undesirable practice of linking up sub-jails with police and excise lock-ups prevalent in some States should be discontinued forthwith.

18.9.5 Sub-jails should be located away from police lock-ups and persons in police custody should not be kept in sub-jails.

18.9.6 As an immediate measure all sub-jails housed in improvised insecure buildings, consequentially involving imposition of mechanical/iron devices for restraint on inmates, should be abolished. Pending construction of approved regular buildings all the inmates should be transferred to the nearest district jail or sub-jail.

18.9.7 All new sub-jail buildings should have living barracks and dormitories at a reasonable distance from the main wall.

18.9.8 Each sub-jail building should have a separate annexe for women under-trial prisoners with sufficient security measures. This annexe should invariably be provided with double lock system—one lock outside and the other inside, the keys of the latter remaining always with the woman guard inside the annexe.

18.9.9 There should be two types of sub-Jails in each State: (i) Class-II sub-jails for an average daily population upto 50 inmates and (ii) Class-I sub-jails for an average daily population exceeding 50 but upto 100 inmates. When the number of inmates exceeds 100 in any Class-I sub-jail, excess inmates should be transferred to the nearest sub-jail or district jail. While constructing a new Class-II sub-jail, provision should be made for its future conversion into Class I sub-jail.

18.9.10 A time-bound programme for the construction of new sub-jails on the principles laid down in these recommendations should be drawn up and implemented by each State Government/Union Territory Administration. Old sub-jails should be renovated with necessary additions/alterations to suit building requirements laid down in Chapter V on 'Prison Buildings' of this Report.

18.9.11 All sub-jails should immediately be brought under the administrative control of the respective Inspector-General of Prisons and only an officer of the Prison Department should be appointed as officer in-charge of the sub-jail.

18.9.12 The staff of Class-II sub-jail should consist of:

- (i) Assistant Superintendent Gr. II (1)
- (ii) Head Warders (4)
- (iii) Warders (15)
- (iv) Upper Division Clerk with knowledge of maintaining accounts (1)

18.9.13 The staff of Class-I sub-jail should consist of :

- (i) Assistant Superintendent Gr. I (1)
- (ii) Assistant Superintendent Gr. II (1)

- (iii) Chief Head Warder (1)
- (iv) Head Warders (4)
- (v) Warders (21)
- (vi) Upper Division Clerk with knowledge of maintaining accounts (1)
- (vii) Lower Division Clerk (1)

18.9.14 Guarding of sub-jails should be done exclusively by prison staff. Only in times of emergency the prison guarding staff may be supplemented by police reinforcements. However, the overall responsibility of the security of the prison should continue to rest with an officer of the Prison Department posted at the sub-jail. In emergent situations the officer-in-charge may contact the superintendent of the central/district prison of the district in which the sub-jail is located and seek his help and guidance.

18.9.15 No woman prisoner in a sub-jail should be kept under the charge of a male guard. Whenever women prisoners are admitted in a sub-jail, the Assistant Superintendent should make arrangements for appointing women guard/guards on purely temporary basis from the panel prepared in advance in consultation with the appropriate authority.

18.9.16 Sub-jails should have suitable residential accommodation for all the staff members posted there with an independent guard room attached to the sub-jail building.

18.9.17 Each sub-jail should have proper lighting arrangements, proper and sufficient drinking water supply through public taps, over-head tanks for supply of water for latrines, for bathing and for washing clothes etc., sufficient number of latrines, cubicles for bathing and platforms for washing clothes in accordance with the recommendations of this Committee made in Chapter VI on 'Living Condition in Prisons', a separate kitchen with proper ovens and smoke-exits, covered drainage system, interview sheds for prisoners and waiting sheds for visitors.

18.9.18 The common practice of providing sub-jails with old, used beddings and serving utensils should be stopped and a stand-by reserve stock of these articles should be kept there in view of the remoteness of these institutions from the headquarters.

18.9.19 An effective system of regular/periodic disposal of unserviceable articles should be evolved and strictly followed.

18.9.20 A regular stock of clothings should be kept both for men and women for issuing them to needy inmates.

18.9.21 Prisoners should be transported from sub-jails to courts and back in vehicles and not on foot and, on transfer from sub-jails to any other jail, they should be taken to railway stations either in police transport or in hired transport.

18.9.22 The system of supplying cooked food to prisoners in sub-jails on contract basis should be discontinued and proper cooking facilities should be provided to the prisoners as per scales prescribed in the jail manuals.

18.9.23 The scale of diet for inmates of sub-jails should be the same as that for inmates of district or central prisons. Wherever this is not so, such parity should be brought about by suitably amending the rules.

18.9.24 There should be a dispensing unit attached to each sub-jail with a pharmacist attending in the morning and in the evening every day. One of the local medical officers should be appointed as part-time medical officer for the sub-jail. He should visit the sub-jail at least once a day. Each sub-jail should be inspected by a senior medical officer of the area at least once a month. Duties of medical officers connected with prisons are given in Chapter VII on 'Medical and Psychiatric Services' of this Report.

18.9.25 Facilities like newspapers, radio, games, etc., should be provided to under-trial prisoners. Wherever possible under-trial prisoners may be employed on some useful work programmes if they so desire.

18.9.26 Arrangements should be made for imparting adult education/non-formal education to prisoners in each sub-jail on regular basis. The inmates should be provided with basic material for such education.

18.9.27 The District Magistrate should constitute a Visiting Committee for each sub-jail under his jurisdiction. This Committee should comprise both official and non-official members, the tenure of non-Official members being two years. Each member of the Committee should on his appointment be supplied with a copy of instructions relating to his rights and duties as a visitor of the sub-jail. The Committee should visit the sub-jail at least once in three months and should record its observations to be sent to the District Magistrate with a copy to the Inspector General of Prisons. The office of the Inspector General of Prisons in each State should follow up the suggestions and observations of the Visiting Committees.

18.9.28 The District Magistrate should constitute a committee to review the position of under-trial prisoners in each sub-jail under his jurisdiction. The members on this Committee should represent local police, judiciary, prosecution, district administration and the prison department at a fairly high level. The Committee should visit the sub-jail once a month to ascertain that no person is being detained unnecessarily in the sub-jail. If the Committee comes across any case of unnecessary or prolonged detention, it should suggest measures for dealing with the case. Officer of the prison department in-charge of the sub-jail, should be the Member-Secretary of this Committee and he should send the list of all under-trial prisoners present on the day of Committee's visit together with the proceedings of the deliberations of the Committee to the District Judge. He should endorse copies also to the Inspector General of Prisons, the District Magistrate and the Superintendent of Police. The Inspector General of Prisons should review the situation with the State Home Secretary once in every three months.

18.9.29 State prison rules should be made applicable to sub-jails in all respects.

18.9.30 The lodging of known habitual offenders in sub-jails should be prohibited by making suitable provision in State prison rules. Such offenders should be transferred to the nearest district jail with the concurrence of the concerned court.

18.9.31 Provisions in State Jail manuals permitting hand-cuffing or fettering of inmates lodged in sub-jails should be re-examined in the light of our recommendations made in Chapter VIII on "Security and Discipline".

18.9.32 The Inspector General of Prisons should inspect each sub-jail at least once in 4 years. The range Deputy Inspector General of Prisons should inspect each sub-jail in his jurisdiction at least twice a year. In the States where there are no range Deputy Inspectors General of Prisons each sub-jail should be inspected at least twice a year by an officer nominated for the purpose by the Inspector General of Prisons. Wherever necessary some mechanism may be created at the district level also for the inspection of sub-jails. Surprise visits by senior officers may also be paid to sub-jails as often as possible.

18.9.33 Accounts of each sub-jails should be audited annually. Releases of convict prisoners in sub-jails should also be audited annually.

CHAPTER XIX

OPEN INSTITUTIONS

19.1 During the early nineteenth century it was a common practice to employ prisoners outside the jail walls on construction of roads or cleaning of drains under strict security arrangements. When the first Prison Discipline Committee (1836-38) reviewed the system it condemned the system and the inhuman living conditions in which prisoners were made to work in the open. It seems that this practice gradually disappeared thereafter. The Prison Conference of 1877, however, re-opened the question of employing prisoners on large public works such as digging of canals and considered such employment as very valuable. The Indian Jails Committee 1919-20 later found that the employment of prisoners on public works was no longer in vogue except in Assam and the Andamans. That committee did not consider such a form of employment proper as it made maintenance of proper discipline and segregation of prisoners difficult. It also found that this system exposed prisoners to epidemic diseases and, therefore recommended that such employment should be permitted only when the location and climatic conditions were satisfactory and arrangements for good water supply could be ensured. It did not favour employment of prisoners on canal digging or in laying of railway lines as this required frequent shifting of gangs resulting in unhealthy living conditions. The committee opposed the use of belchins at night as a means of security and recommended construction of barracks with suitable security arrangements. The committee was of the opinion that "the open air life and the employment in forms of labour not dissimilar from that in which large numbers of prisoners engage in freedom are not antagonistic to reformatory influences." During the period 1920-50, no significant progress was made in this direction.

19.2 In the post Independence period there was growing realisation of the need for change of attitude towards the treatment of offenders and attention began to be given to the introduction of humanising influences in prisons. Many experimental schemes for the reformation and rehabilitation of prisoners were introduced. Of all such experiments, the employment of prison labour in open conditions under minimum security in the early fifties proved every successful from every point of view. Even though the practice of employing prisoners in open conditions is more than a century old, the objective of this practice has vastly changed over the years, specially in the post Independence era. Whereas originally it aimed at extracting hard labour from the prisoners under conditions which were humiliating and dehumanising, now it aims at providing them with useful work under conditions which help in restoring their self-respect and giving them a sense of pride and achievement.

19.3 According to the information received from various States and Union Territories, there were 27 open prisons as on December 31, 1980 in the country. The States of Bihar, Haryana, Jammu and Kashmir, Manipur, Meghalaya, Nagaland, Orissa, Sikkim, Tripura and west Bengal and the Union Territories did not have any such prison.

19.4 During our visit to one of the open prisons we found that a high barbed-wire fencing had been raised around the barracks of inmates as a measure for safety. At another open prison we noticed that an armed guard was posted at a prominent place. It was said that this was only for ceremonial purposes and for keeping watch over the cash chest.

however, at these very open prisons as also at other such prisons, prisoners were working both by day and by night under minimum supervision over a vast agricultural area which showed that apprehensions about security of prisoners were not well founded. In some State prisoners in open prisons were allowed to keep with them their families including children of both sexes. There is, thus, wide diversity in the nature and scope of functioning of open institutions in various States. There is need for bringing about some basic uniformity in this area keeping in view the objectives of open institutions.

19.5 Some States which have framed rules for the running of open institutions have defined an open institutions as a place used as such under the orders of the State Government for the detention of prisoners. Such a definition does not serve the purpose in view. In some States, governments have indicated the purpose behind the establishment of open institutions. For example in Uttar Pradesh open prisons were established with the purpose of rehabilitation of offenders by employing them on works of public utility. The purpose of establishing the Model Prison, Lucknow was to make prisoners self-sufficient by employing them under conditions and environment as close to the outside world as possible and by granting them increasing freedom with progressive reduction in the watch over them depending on their progress. In Andhra Pradesh, Karnataka and Punjab the objective of open institutions is to give extensive training in modern methods of agriculture and horticulture to the inmates having rural background so that on release they might become progressive agriculturists in their respective villages. According to Rajasthan Government, the purpose of such institutions was social readjustment and rehabilitation of prisoners. Thus, though some elements in the thinking of State Government regarding the purpose and objectives of the open institutions were good and clear, others were somewhat vague. With the success achieved in running open institutions, it can be said that they have now become permanent feature of the correctional system. To avoid confusion in their working, it has, in our opinion, become very necessary to clearly define the objectives of such institutions at the national level.

19.6 The First United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in 1955 at Geneva recommended a frame-work for the working of such prisons, which we find was already being followed in most of our existing open prisons. We therefore, think that the internationally accepted definition of open prisons given by this Congress may be broadly accepted as a working basis.

19.7 The rules governing eligibility of prisoners for transfer to open prisons vary widely from State to State. In some States these conditions have been liberalised from time to time. The experience of the last 30 years has completely falsified the fear about escape from open prisons. During the last 5 years there were only 70 escapes from 12 open prisons. In fact there were fewer escapes from open prisons than from closed prisons. This is particularly interesting when we analyse the inmate population of open prisons. 75% of the prisoners in open prisons were those who had been sentenced to imprisonment for ten years or above including life term. Also, 70% were convicted of offences against person and 6% were there for even such grave offences as dacoity. It will not be out of place to mention here that in a country like Sweden where prison population is very low as compared to that in India and where all facilities for the examination and observation of prisoners for scientific classification are available, there were 1143 escapes from open prisons in 1978. This shows that the facility of open institutions in India extended to prisoners of various categories has not generally been misused. A stage has, therefore, now come when some broad principles for the selection of prisoners for open institutions should be laid down.

19.8 In view of what has been said above it would not be proper to debar offenders convicted of particular offences or those sentenced to long or short periods of imprison-

ment from being sent to open prisons. The most important guiding factors should, in our opinion, be the offender's suitability for admission to an open institution and the fact that his social re-adjustment is more likely to be achieved by such a system than by detention in a closed prison.

19.9 The total accommodation available in open prisons in India as on December 31, 1980 was for 4626 prisoners whereas the total number of convicted prisoners in the country was 64090. The daily average population of inmates in these institutions during the year 1980 was, however, only 2842. It is interesting to observe that in 1967, 10 States had reported that the capacity of their open prisons was about 4000. The fall in the inmate capacity and occupancy of open prisons during the last 13 years has been attributed to the general fall in the daily average population of convicted prisoners in the country. This may be partly correct but in actual practice we found that the requirements of labour for prison maintenance services and running of agricultural and industrial activities in closed prisons were given priority over the prospects of correction and rehabilitation of prisoners by treatment in open prisons.

19.10 The system of open institutions has now been in operation for the last about three decades. During this period it has been clearly established that it is not only far cheaper to control and run open institutions than the closed prisons, but that the system of open institutions has also a definite rehabilitative value; it restores dignity of the individual and gives him self-reliance and self-confidence besides instilling in him a sense of social responsibility which is necessary for an effective and useful community living. In this perspective it is disheartening to note that the prison authorities are reluctant to transfer prisoners to open institutions and are not putting to full use even the existing capacity of open institutions. Greater attention, therefore, needs to be paid to the transfer of prisoners to open institutions so that more and more convicted prisoners may avail of the benefits of these progressive institutions. This will require not only liberalization of the conditions of eligibility for admission to open institutions as discussed above but also better control and supervision from the headquarters of the prison department. If action is taken on these lines, more open and semi-open prisons will have to be established in various States and Union Territories.

19.11 We were impressed by the Sampurnanand Shivir Sanganer, an open prison near Jaipur in Rajasthan, where prisoners are allowed to live with their families in temporary huts constructed at their own cost on Government land. Here, the prisoners and their family members work and live on their own, and are not a burden to the State exchequer. The prisoners carry on their independent business or work on daily wages for outside establishments or organisations. For all practical purposes the camp is managed by the prisoners themselves through an elected panchayat. A few warders are, however, posted there to run errands and to take the count of prisoners in the mornings and evenings. The Superintendent, Central Prison, Jaipur exercises general supervision and control over the Shivir and pays an occasional visit to it. The camp inmates are given usual remissions and are released on completion of their sentences or under the premature release system. An important advantage of this scheme is that it gives the prisoners an effective exercise in self-reliance, co-operation and community living in a family atmosphere. Such an institution represents a further step within the progressive stage system of the open camp movement, where prisoners have maximum freedom and opportunity to shape their lives in their own way. We strongly feel that institutions on the pattern of Sampurnanand Shivir, Sanganer should be developed in other States and Union Territories.

19.12 There are many closed prisons which have agricultural land outside the prison wall. We are of the view that wherever such land is available, it should be converted into semi-open or open institution as an annexe of the closed prison. Prisoners eligible for transfer to open institutions may be allowed to work on such land. Suitable huts and cottages may be constructed outside the jail wall to provide living accommodation for such

prisoners. Even short-term prisoners, if otherwise suitable, could be placed in these semi-open or open institutions which could be developed into modern agricultural and horticultural farms.

19.13 Short-term prisoners, placed with long termers in a closed prison, are exposed to contamination by hardened criminals. A large number of them can be usefully placed in open institutions for community treatment. After proper screening at the local level, as soon after admission as possible, they may be transferred to camps to be run as semi-open or open prisons and employed on public projects involving unskilled labour such as digging canals, construction of roads, buildings and dams, reclamation of land for agricultural purposes, afforestation, etc. Ticketless travellers sent to prisons on conviction should be employed on railway projects in camps to be financed by the Railways. Such employment will inculcate in the short termers a habit of hard work. In the camps, living barracks of tubular structures may be provided, as they can easily be shifted whenever necessary.

19.14 Agricultural work or employment on unskilled work is provided in most of the existing open institutions. In our opinion the prisoners in such institutions should also be employed in industries which may be set up for the purpose. Agro-based industries should also be encouraged. Animal husbandry, dairy projects, poultry, sheep rearing, piggery, etc., may also be introduced, wherever possible. Skills and expertise, which inmates might acquire in open institutions, will help them in finding remunerative employment on release and facilitate their economic and social rehabilitation.

19.15 It was generally observed during our visit to open institutions that no systematic vocational training was imparted to the inmates in agriculture, animal husbandry, dairy farming and other allied fields. The rules governing management of open institutions in Punjab, however, provide for facilities for training according to a syllabus prescribed under the rules. It is our considered view that proper vocational training in agriculture and industrial and other trades should be imparted to inmates of open institutions by trained instructors through lectures, visual aids, etc. In this connection reference to Chapter XI on 'Work Programmes and Vocational Training' of this Report should be made.

19.16 Where facilities are available for employment of prisoners outside the jail, the 'day release system' should be introduced. It has the additional advantage of letting prisoners work in community along with free citizens. Under this system suitable long or short term prisoners could be released during the day on licence for employment in government establishments or public undertakings. In the evening the licencees should return to the jail where they can be accommodated in huts or cottages which may be constructed outside the jail or may even be kept in a separate barrack in the closed prison under minimum watch.

19.17 There is no uniform policy regarding payment of wages to the inmates of open institutions. While at some open institutions, where prisoners were employed by some other department, wages were paid at market rates, at others either nominal or no wages were paid. Where wages were paid at market rate, maintenance charges were recovered from prisoners but it was found that the rate of recovery was arbitrary and generally very low which was not proper. There should be a system of payment of fair and equitable remuneration for the work done by the prisoners. This will restore their self-esteem and will also give them a sense of dignity of labour. Our recommendations for the wage structure are contained in Chapter XI on 'Work Programmes and Vocational Training'.

19.18 During our visit to a particular open prison where prisoners were employed by a University on farming operations, we were surprised to find that they had not been paid wages amounting to about Rs. 15.50 lakhs for about two years. As a result, these prisoners could not pay their maintenance charges to the State which amounted to Rs.

8.30 lakhs. The University had also failed to employ all the prisoners available for agricultural work with the result that 46% of the inmate population remained idle at the open camp. This resulted in a tendency to employ more than the requisite number of prisoners on prison maintenance services. Thus, a large number of prisoners were either unemployed or under employed. From every point of view the state of affairs was unsatisfactory. The Committee is of the view that agriculture and similar other operations in open institutions should be carried out by the prisoners themselves under the management and care of the prison department. The farms run in open institutions of Andhra Pradesh, Karnataka, Kerala and Punjab are giving good results and there is no reason why similar results cannot be obtained elsewhere, if the farms are efficiently managed.

19.19 Except in a few open institutions, educational, cultural and recreational facilities left much to be desired. This correctional content of open camp programmes needs to be given due importance. Social education and functional literacy should form an important ingredient of such an approach. Trained teachers should be posted in all open institutions for educational programmes. Library and reading room facilities with books, newspapers and magazines should also be provided. Sports and regular recreational and cultural activities should be organised as they will improve the physical and mental health of prisoners. Efforts should be made to discover talent and special interest of individual prisoner and to plan educational and recreational activities at least a month in advance.

19.20 The people in the neighbourhood should be invited now and then to witness sports and cultural events in the open institutions. This will foster a sense of security among the people in the neighbourhood and will also considerably help in educating public opinion regarding the reformatory objectives of such institutions. Suitable prisoners should also be given passes to visit neighbouring towns for marketing, recreational purposes, etc.

19.21 The scale of remission for inmates of open institutions varies widely from State to State. This is not desirable. There should be a uniform scale of remission in the open institutions in all the States and Union Territories. We think it would be reasonable if remission is granted to an inmate at the rate of one day for each day's stay in the open prison subject to a maximum of half of the substantive sentence awarded to him.

19.22 In open institutions, social readjustment of prisoners is quicker and as such their long detention is not only unnecessary but may also be counter-productive. As such in the case of inmates of open institutions a liberal policy should be adopted in the matter of their premature release. Section 433A of the Code of Criminal Procedure, which debar the release of certain categories of life convicts unless they have undergone 14 years of actual imprisonment, has a damaging effect on the morale of inmates in the open institutions. The recommendation made by us in Chapter IV on 'Legislation' to amend this section has a special relevance to the open camp movement.

19.23 The Committee was shocked to learn at one of the open institutions that cases of prisoners for premature release were pending for over two years. This was rightly a source of great dissatisfaction and frustration among a large number of prisoners. This situation was being exploited by some lawyers who extracted large sums of money from prisoners giving them hope of early release. There is, thus, an urgent need for streamlining procedures for deciding cases of premature release to avoid unnecessary delay and harassment.

19.24 Rules for grant of leave to prisoners of open institutions also vary from State to State. In some States the procedure was very cumbersome as leave was granted by the Government. This generally frustrated the object of granting leave. The scale

for grant of leave and the procedure for such grant should be liberalized in case of inmates of open institutions keeping in view our recommendations made in Chapter XX on the system of Remission, Leave and Premature Release.

19.25 There should not be any restriction on the number of visitors in the open institution can send or receive. Similarly, the visits need not be restricted in view of the trust placed in the prisoners selected for open institutions. It is not necessary to censor incoming and outgoing letters. Interviews, too, need not be held in a formal atmosphere. Inmates of open institutions should be allowed to be held in a relaxed atmosphere.

19.26 Continuity of contacts of a prisoner with his family is essential for his social reintegration with the community on release. One of the effective ways of achieving this is to allow the inmates of open institutions on selective basis to stay for short periods with their families in separate huts which could be constructed near or on the premises of such institutions.

19.27 When a prisoner is selected for being transferred to an open institution, he should be oriented about the requirements and responsibilities of living in such an institution. On admission to the institution, he should be kept in the reception ward for a period of two weeks for observation.

19.28 In an open prison reliance should be placed not on punishment but on persuasion and personal example of staff in ensuring a quick and willing response to authority and observance of rules. An atmosphere of freedom and responsibility will infuse in the inmates a sense of self-discipline. Prison offences and punishments in open prisons should not be the same as those in closed prisons, and they therefore need to be separately defined. For an open prison, going out of the defined boundaries without proper authority will be a serious offence. Similarly, return to a closed prison with forfeiture of remission should be considered a severe major punishment. Warning, forfeiture of wages for offences relating to work and stoppage of privileges could be other punishments. Those prisoners who fail to co-operate with an administration based on trust and sense of responsibility or whose conduct affects adversely the behaviour of other prisoners should be transferred to a closed prison and the remission earned by them should be forfeited.

19.29 An individual unit of open institution should not have more than 200 prisoners. If the number is large, it will not be possible to give individualised attention to prisoners. As such, wherever an open prison has more than 200 inmates, it should be divided into small units of not more than 200 prisoners each. Each such unit should be an independent open prison with a separate full-time superintendent, a deputy superintendent, two assistant superintendents with adequate supporting staff should also be provided at each open prison. The strength of custodial staff should not generally be more than a proportion of the capacity of the open institution subject to minimums of 100. Special care should be taken in selecting staff for open prisons. On the basis of their good work, proper attitude, trustworthiness and known dedication to duty. They should be trained and should have the ability to develop healthy and constructive relationship with prisoners. They should be able to exercise correctional influence by their personal example and leadership qualities. From time to time staff meetings should be held to discuss the principles and policies of open prison system should be frankly and freely discussed. Whenever possible inspecting officers should also participate in such discussions. The staff of the closed prisons is generally casted in a mould where they are posted to open institutions it values security and discipline more than welfare. One of the open institutions that even the higher executive staff did not know the basic philosophy and principles on which these institutions were supposed to run. In one of these prisons, prisoners selected for and awaiting their transfer to an open institution were

sent out to work in the jail garden in fetters. The ideal position will be to have separate staff for open institutions but this is not practicable in view of the small number of open institutions. We are, therefore, firmly of the opinion that the staff at the open institutions as well as at the reception centres for such institutions should not only be carefully selected but should also be given special training from time to time regarding the philosophy and management of open institutions.

19.31 Some of the common complaints brought to our notice by the staff of the open institutions were non-payment of compensatory allowance or special pay in view of the hard and special nature of duties in such institutions, the absence or utter inadequacy of housing facility and difficulties experienced due to the absence of transport facilities for school going children and for the staff for visiting neighbouring towns for marketing, recreational purposes, etc. Contented staff is very necessary for open institutions and, therefore, working conditions of staff posted in open institutions should be commensurate with the special and arduous nature of their duties.

19.32 Open prisons are special institutions and it is necessary to frame separate detailed rules for their functioning. Model rules laying down minimum standards for open and semi-open institutions should be framed on the lines suggested in the foregoing paragraphs and keeping in view the provisions of Chapter LII of the Model Prison Manual in so far as they are not inconsistent with our recommendations.

19.33 Our recommendations with regard to open institutions are as follows :

19.33.1 Open camp movement should be given a fillip as a major step in the progressive stage system of corrections in India. It should be developed as a positive measure for the resocialization of convicted offenders as opposed to its regressive and repressive nature in the olden times.

19.33.2 The scope, purpose and objectives of open institutions should be clearly defined in the statute. An open institution should be characterised by the absence of material or physical precautions against escape (such as walls, locks, bars, armed or other special security guards); and by a system based on self-discipline and the inmate's sense of responsibility towards the group in which he lives.

19.33.3 There should be three types of open facilities available to convicted prisoners :

1. Semi-open prisons.
2. Open prisons
3. Open camps (Sanganer type)

This has reference to our recommendations contained in Chapter VIII on 'Security and Discipline' and in Chapter IX on 'System of Classification'.

19.33.4 Conditions of eligibility of prisoners for admission to open institutions should be liberalised. The most important factor while selecting prisoners for open institutions should be their suitability for such institutions and not the nature of the crime committed or the length of sentence.

19.33.5 The inmate capacity of existing open institutions should be fully utilized.

19.33.6 More open institutions should be set up to give at least 20 percent of the convicted prisoners, sentenced to a term of imprisonment of one year or above, a chance to improve themselves for better resocialization through this community based correctional programme.

19.33.7 All additional institutions for accommodating any future increase in convict population should be of open type.

19.33.8 Open camps (Sanganer type) should be developed in each State/Union Territory as the final stage in the open camp movement.

19.33.9 Closed prisons which have agricultural land attached to them should convert these open areas into small semi-open or open institutions annexed to such prisons.

19.33.10 Open camps, mobile and permanent, should be set up at public projects to provide employment to prisoners sentenced to a term of imprisonment less than one year. Ticketless travellers should be employed on railway projects in camps to be financed by the Railways. Suitable arrangements should be made for the temporary stay of such convicts at mobile camps and for their shifting from one place to another according to need.

19.33.11 Work in open institutions should be diversified to suit prisoners of various socio-economic background. At present most of the open prisons provide only agricultural and allied work. Industries may also be set up at such institutions. Vocational training on a systematic basis should also be imparted to inmates of open institutions.

19.33.12 As a measure of semi-open facility to inmates confined in prisons 'day release system' should be introduced to allow suitable prisoners to work in government establishments and public undertakings during day time.

19.33.13 The system of wages in open institutions should be rationalized. Our general recommendations in this regard are contained in Chapter XI on 'Work Programmes and Vocational Training'.

19.33.14 All work programmes including agriculture in open institutions should be carried out by prisoners themselves under the supervision and management of the prison department.

19.33.15 Social education and functional literacy programmes, library and reading room facilities with books, newspapers and magazines and well planned and regular recreational and cultural activities should be organised in open institutions to enrich the correctional content of open camp movement.

19.33.16 Free community should be liberally involved in all correctional programmes of open institutions.

19.33.17 Deserving inmates of open institutions should be given passes to visit neighbouring towns for marketing and recreational purposes, etc.

19.33.18 An inmate of open institution should be eligible to get remission of one day for each day's stay in such institution subject to a maximum of half of the substantive sentence awarded to him.

19.33.19 The rules for premature release should be liberalised in case of inmates of open institutions and the procedure for such release should be streamlined to avoid unnecessary delay and harassment.

19.33.20 The procedure for grant of leave should be liberalized in case of inmates of open institutions.

CHAPTER XX

SYSTEM OF REMISSION, LEAVE AND PREMATURE RELEASE

20.1. The system governing remission, leave and premature release has been an integral part of our prison administration for over a century now. It has been functioning as a positive incentive to prisoners for good behaviour and work. The system came as a transitional step from mere custodial confinement to reformatory treatment of offenders in which good behaviour and constructive work were considered essential pre-requisites for reducing the term of imprisonment on an individualised basis. In course of time, the concept was further enlarged and reinforced by introducing within the system certain new forms of special and State remissions.

20.2. Undoubtedly, the system of remission tends to bring in an element of flexibility in the determinateness of the sentence awarded to an offender so as to ensure, in consonance with his responsiveness to institutional treatment, his timely return to the community. The efficacy of the system has been reiterated by a number of expert bodies including the Indian Jails Committee 1919-26, the All India Jail Manual Committee 1957-59 and several state level Jail Reforms Committees/Commissions. It is fairly well established now that the remission system, if properly applied, encourages habits of industry and promotes good conduct among prisoners.

Remission System :

20.3. At present there are four types of remission of sentences namely 1. ordinary remission; 2. annual good conduct remission; 3. special remission; and 4. State remission. Each type differs from the others in respect of the criteria for eligibility, procedure for award and the authority competent to grant it.

20.4. The system of grant of remission varies from State to State. There is no uniformity in the quantum of remission granted to inmates on various counts. Although the Model Prison Manual containing inter-alia guidelines in this respect was circulated to all States and Union Territories as long back as in 1960, there has not been any uniformity in the grant of remissions in the country. There is also a wide-spread feeling that remission system is generally operated upon in an arbitrary manner with little regard to the individual differences and merits of the case. There have been complaints by the prisoners about the manner and mode of granting remission in several places. It is alleged that the grant of remission is guided by the whims and fancies of the persons competent to grant it, and as such crafty prisoners manoeuvre the system to their advantage. The grant of remission constitutes an area highly prone to corrupt practices if the discretion in this regard is not exercised judiciously.

20.5. There is no uniformity of principles for grant of State remission as well. The Committee has been given to understand that State Governments have been granting remissions even on occasions which normally do not justify such awards. It has come to the notice of the Committee that remission was granted to the inmates of a particular institution on one occasion only to mark the visit of a VIP. Grant of such remission is not only unwarranted but also purposeless so far as reformation is concerned.

20.6.1 We also feel that the system of remission as an instrument of effecting change in the attitude of inmates towards work and behaviour should be liberalised and its ambit enlarged so as to encompass more categories of inmates within its scope.

20.7 In view of the above considerations we make the following recommendations with regard to the system of remission:

20.7.1 The following types of convicted prisoners should ordinarily be eligible for ordinary remission:

- (i) Prisoners having substantive sentences of not less than 2 months
- (ii) Prisoners sentenced to simple imprisonment for not less than 2 months who volunteer to work;
- (iii) Prisoners working on conservancy jobs irrespective of the length of their sentence as long as they have not committed any offence while in prison;
- (iv) Prisoners admitted for less than one month in hospital for treatment of or convalescence after an ailment or injury not caused wilfully. (Those admitted for such purpose for more than one month should be entitled to remission for good conduct only); and
- (v) Prisoners sent for court attendance. (They should be allowed remission admissible for good conduct only provided their conduct had been good).

Note: It is the responsibility of the prison administration to provide work to all eligible prisoners. If for any reason administration fails to do so the prisoners who are otherwise eligible for remission for work should be granted such remission as per normal entitlement under the orders of the Inspector General of Prisons.

20.7.2 The following types of prisoners should not be eligible for ordinary remission:

- (i) Prisoners having substantive sentence of less than 2 months;
- (ii) Prisoners sentenced in default of payment of fine only;
- (iii) Prisoners whose sentence is reduced to less than 2 months (In such cases remission already earned, if any, should stand forfeited);
- (iv) Prisoners transferred from one prison to another on disciplinary grounds during the period of their stay in the latter prison;
- (v) Prisoners removed from remission system as punishment;
- (vi) Prisoners specifically debarred from remission system under any law or rule; and
- (vii) Prisoners out on special leave for the duration of such leave.

20.7.3 The scale of remission for non-habitual convicted prisoners should be as follows:

- (i) 8 days per calendar month for good behaviour, discipline and participation in institutional activities;
- As long as simple imprisonment as a form of punishment continues to exist, remission within its bounds even to a prisoner who is not eligible for ordinary remission.

- (ii) 3 days per calendar month for due performance of work according to prescribed standards ;
- (iii) 7 days per calendar month for prisoners employed on conservancy work, or as cooks, or on prison maintenance services requiring them to work even on Sundays and holidays ;
- (iv) 8 days per calendar month for those working as night watchmen ;
- (v) 10 days per calendar month to convict overseers and convict warders (until these two categories are abolished as recommended by us elsewhere) ;
- (vi) One day for each day's stay to prisoners sentenced to imprisonment of one year or more and transferred to open institutions.

20.7.4 Any prisoner eligible for ordinary remission, who for a period of one year reckoned from the date of his sentence or the date on which he was last punished (except by way of warning) for a prison offence, has not committed any prison offence, should be awarded 30 days annual good conduct remission in addition to any other remission.

20.7.5 Habitual prisoners should be eligible for the following scale of remission :

- (i) 2 days per calendar month for good behaviour, discipline and participation in institutional activities ;
- (ii) 2 days per calendar month for due performance of work according to prescribed standards ;
- (iii) 5 days per calendar month for prisoners who are night watchman, or are engaged on conservancy work, or as cooks, or on prison maintenance services requiring them to work even on Sundays and holidays.

20.7.6 Meritorious work by inmates should be rewarded by grant of special remission in addition to the annual good conduct remission so as to create a spirit of healthy competition among prisoners. Such special remission may be granted on following considerations :

- (i) Saving the life of a Government employee or a prison visitor or an inmate ;
- (ii) Protecting Government employees or prison visitors or inmates from physical violence ;
- (iii) Preventing or assisting in prevention of escape of a prisoner or apprehending a prisoner attempting to escape or giving material information about any plan or attempt by a prisoner or a group of prisoners to escape ;
- (iv) Assisting prison officials in handling an emergency like fire, outbreak of riots, strike, etc.;
- (v) Reporting of or assisting in prevention of serious breach of prison regulations ;
- (vi) Outstanding contribution in cultural activities or in education ;
- (vii) Specially good work in industry, agriculture or any other work programme, or in vocational training.

20.7.7 Subject to the fulfilment of any one or more of the conditions aforementioned special remission not exceeding 45 days in a year may be granted to those prisoners who are eligible for ordinary remission by superintendent of the prison. The Inspector General of Prisons may grant special remission of 75 days per annum in exceptional cases. The Inspector General of Prisons may also grant in special circumstances special remission within his powers even to a prisoner who is not eligible for ordinary remission.

20.7.8 The Government of India should lay down uniform guidelines to be followed by State Governments/Union Territory Administrations for grant of State remission.

20.7.9 The practice of granting remission on occasions or for reasons not justifiable should be immediately stopped.

20.7.10 A committee consisting of the superintendent, a deputy superintendent/assistant superintendent and officer-in-charge of industries should be formed to consider cases of grant of remission to prisoners at institutional level and for recommending grant of special remission by Inspector General of Prisons.

20.7.11 Entries regarding remission should be made, under proper attestation of the superintendent, in the remission register and the history ticket of the prisoner concerned as soon as it is granted.

20.7.12 Prisoners with substantive sentences of 2 months and above but upto 5 years should be sanctioned remission each month while those sentenced to over 5 years (including life convicts) should be granted remission once in a quarter.

20.7.13 Ordinary remission should be calculated for full calendar months. It should not be granted for fraction of a calendar month.

20.7.14. For purposes of special remission any fraction of a year should be counted as one complete year.

20.7.15 Maximum limit of remission which a prisoner can earn should be half of the substantive sentence awarded to him.

20.7.16 Grant of remission to prisoners sentenced by Court Martial should be on the same principles as those applicable to other prisoners.

Leave :

20.8 Different concepts such as parole, furlough, ticket of leave, home leave, etc., are used in different states to denote grant of leave or emergency release to a prisoner from prison. The terminology used is not uniform and is thus confusing. There is also no uniformity with regard to either the grounds on which leave is sanctioned or the level of authority empowered to sanction it. There is also a lot of diversity in the procedure for grant of leave. The scales at which these leaves are granted also differ from State to State; for example, in some States parole is granted for a period extending upto 15 days while in other States it is restricted to 10 days only.

20.9 Leave and emergency release to inmates are undoubtedly progressive measures which must continue in our prison system. The release of a prisoner on leave not only saves him from evils of prisonisation but also enables him to maintain social relations with his family and the community. This also helps him maintain and develop a sense of self-confidence. Continued contacts with family and the community sustain in him a hope in life. During the course of our discussions with eminent persons it was strongly advocated by them that the provisions for grant of leave should be liberalised to help the prisoner in maintaining harmonious relationship with his family. The privilege of leave should, of course, be allowed to selected prisoners on the basis of set norms of eligibility and propriety.

20.10 The All India Jail Manual Committee 1957-59 had recommended that the concession of leave and emergency release should be continued to be made available

to prisoners on a selective basis and that a basic uniformity in these matters should be brought on an all India basis. The Working Group on Prisons 1972-73, in its report, also observed that the "administrative and procedural delays often defeat the very purpose for which jail manuals make provision for the release of prisoners on parole, furlough, leave etc.," and "it is necessary that the powers of the Government with regard to sanction of these facilities should be decentralised and delegated to the Inspector General, the Deputy Inspector General and the Superintendent of Prisons, as appropriate, to ensure timely and prompt decision".

20.11 Despite these recommendations, nothing concrete has been done to bring about uniformity of principles and procedures in matters of grant of leave to prisoners in various States and Union Territories. During the course of our discussions with prison officials and the convicts whom we met, it was often complained that prisoners faced lot of difficulty in furnishing security required for release on leave. Many prisoners who had nothing to fall back upon were not able to avail of the concession of leave only because no one cared to come forward to stand surety for them. It is, therefore, necessary to think of some alternatives so that all eligible convicts may avail of this concession.

20.12 We are of the view that the system of release for short durations would greatly help the prisoner. It is a step forward in the direction of his adjustment in the society and his final rehabilitation. We make the following recommendations in this regard.

20.12.1 Uniformity should be brought about in the terminology used in connection with a prisoner's temporary release from prison. In our view, there should be two types of leave, viz., (1) Leave, to be regularly granted to every eligible prisoner, and (2) Special Leave, to be granted to a prisoner in special situations.

20.12.2 All convicts except those falling in the categories enumerated below should be eligible for being released on leave and special leave :

- (i) Offenders classified as habituals, provided they have not earned a higher grade in the proposed progressive stage system ;
- (ii) Prisoners sentenced under sections 392 to 402 of the I.P.C.;
- (iii) Prisoners who are considered dangerous and who are involved in serious prison violence like assault, outbreak, riot, mutiny or escape, or who have been found instigating serious violation of prison discipline;
- (iv) Prisoners committed for failure to give security to keep peace or good behaviour;
- (v) Prisoners suffering from mental illness, if not certified by the medical officer to have recovered;
- (vi) Prisoners whose work and conduct has not been good during the preceding 12 months;
- (vii) Prisoners convicted of offence against any law relating to matters to which the executive power of the Union Government extends unless approved by the Union Government ;
- (viii) Prisoners whose release on leave is likely to have repercussion elsewhere in the country.

20.12.3 Prisoners sentenced to less than 5 years should be eligible for leave of 10 days twice a year on completion of one year of actual confinement.

20.12.4 Prisoners sentenced to 5 years or more should be eligible during the first 5 years of actual confinement for leave of 10 days twice a year on completion of one year of actual confinement and for the rest of their term, if any, for leave of 15 days twice a year.

20.12.5 Prisoners should be eligible for the grant of special leave for a period of not more than 30 days at a time. However, in special circumstances such leave can be extended upto a maximum period of 90 days; but this period should in no case be extended further. For all extension of such leave beyond 30 days, orders of the government should be obtained by the Inspector General of Prisons.

20.12.6 Inspector General of Prisons should be the authority competent for grant of release on leave or special leave. However, special leave may be granted by the superintendent of the prison concerned to a prisoner in the event of an emergent situation like death of a member of his family, after verifying the facts of the situation by contacting the concerned police authority by the quickest mode of communication available to him. Such special leave may extend from a minimum of 3 days to a maximum of 14 days excluding journey time. For purposes of grant of such special leave family should include parents, brother, sister, son, daughter, wife/husband of the prisoner.

20.12.7 The period spent on leave should count as sentence served while that spent on special leave should not count as such. The period spent on special leave should be treated as 'out days' or sentence suspended for all purposes.

20.12.8 To obviate the difficulty of securing surety we recommend the following alternatives :—

- (i) Prisoners may be released on leave on executing personal bond;
- (ii) The wages earned by the prisoners may be taken as cash security ;
- (iii) The probation officer may be asked to arrange necessary surety ;
- (iv) Panchayat of the home village of the prisoner may stand surety.

20.12.9 We have worked out a procedure (Annexure A to this chapter) for grant of leave to prisoners and have recommend that the same may be followed in the matter of grant of leave.

20.12.10 A proper record of the release of prisoners on leave should be kept both at the institutions and in the office of the Inspector General of Prisons. Appropriate entries in this regard should also be made in the history tickets of the inmates concerned.

Premature Release :

20.13 The system of review of sentences for the purpose of premature release of prisoners exists in all the States and Union Territories and the jail manuals provide for the procedure for such review. Section 432 of the Code of Criminal Procedure empowers the appropriate Government to suspend the execution of sentence of any prisoner or to remit the whole or any part of his sentence. In some States special legislations have been enacted to provide for release of prisoners prematurely on grounds of good conduct. The Madhya Pradesh Prisoners Release on Probation Act, 1954 is one such example. In some other States prisoners are released under Revisory Board Rules, Shortening of Sentence

Rules or Advisory Board Rules. However, all these provisions for review of sentences draw their legal strength from section 432 of the Code of Criminal Procedure.

20.14 Release of prisoners prematurely either on specified conditions or unconditionally is prevalent in almost all the countries and such premature release is generally termed as 'parole'. Premature release is an accepted mode of incentive to a prisoner as it saves him from the extra period of incarceration which, on the one hand, is not needed for his reformation and rehabilitation, and, on the other, may be counter-productive. It reinstitutes an offender in the society prior to the expiry of his sentence in recognition of his good conduct and responsiveness to correctional treatment. The purpose is to snap off incarceration as soon as institutional treatment is considered no longer necessary. This system of premature release drives the blind, mechanical aspect out of the execution of fixed sentences and renders them somewhat indeterminate and purposeful in relation to reformation and rehabilitation.

20.15 The procedure and practices in regard to review of sentences for premature release vary from State to State. Conditions of eligibility, constitution of recommendatory boards, processing of papers and the procedures of obtaining bonds differ from one State to another. There is also a lot of confusion about the terminology used to denote review of sentences for premature release. There is need for bringing about uniformity in all these aspects.

20.16 Before we record our recommendations with regard to premature release we would like to draw the attention of the Government to the adverse repercussions of the introduction of section 433A in the Code of Criminal procedure both on the administration of prisons and the responsiveness of life convicts to prison programmes. We have elaborately discussed this subject in this Report in Chapter IV on 'Legislation'. Here we would only like to reiterate that this section should be suitably amended to remove the unreasonable restriction imposed by it on the premature release of lifers.

20.17 The whole question of premature release of prisoners should be given a dispassionate thought and appropriate steps be taken to ameliorate the adverse psychological effects of the execution of fixed sentences. Keeping in view these considerations we make the following recommendations in the matter of premature release of prisoners :

20.17.1 Cases of the following categories of prisoners should be reviewed for consideration of premature release:

- (i) Women offenders sentenced for infanticide: their cases should be reviewed immediately on admission in prison and they should be sent to the care of voluntary organisations of good repute for a reasonable period of time.
- (ii) Women offenders who have committed crime under compulsion and/or under social and cultural pressures and who have been sentenced to imprisonment: their cases should also be reviewed immediately on admission in prison and they should be sent to the care of voluntary organisations of good repute for a reasonable period of time.
- (iii) Women offenders sentenced to life imprisonment on completion of 7 years of sentence including remission.
- (iv) Life convicts, men and young offenders, on completion of 10 years of sentence including remission.

- (v) Non-habitual men and young offenders other than those sentenced to imprisonment for life and sentenced to a term of imprisonment for more than one year, on undergoing half of their substantive sentence including remission subject to the condition that they shall not be actually released unless they have undergone at least one year sentence including remission.
- (vi) Non-habitual women offenders other than those sentenced to imprisonment for life and sentenced to a term of imprisonment more than one year, on undergoing half or seven years of their substantive sentence including remission, whichever, is less, subject to the condition that they shall not be actually released unless they have undergone at least one year sentence including remission.
- (vii) Habitual offenders, other than lifers, sentenced to 5 years and above on completion of 2/3 of their sentence including remission, subject to the condition that they shall not be released unless they have undergone at least five years of sentence including remission.
- (viii) Old (above 65 years of age) and infirm offenders other than lifers, sentenced to one year and above on completion of one third of the substantive sentence including remission, subject to the condition that they shall not be actually released unless they have undergone at least one year sentence including remission.
- (ix) Offenders, certified by a state level Medical Board, to be suffering from incurable diseases likely to prove fatal.

20.17.2 The following categories of prisoners should not be eligible for consideration of premature release:

- (i) Prisoners convicted of rape, forgery, dacoity, terrorist crimes, offences against the State, and prisoners sentenced under sections 224, 376, 396 to 400, 402, 467, 471, 472, 474, 489A, 489B and 489D of the Indian Penal Code.
- (ii) Prisoners convicted of economic offences, blackmarketing, smuggling, and misuse of power and authority;
- (iii) Prisoners sentenced under Prevention of Corruption Act, Suppression of Immoral Traffic in Women and Girls Act, Drugs Act and Prevention of Food Adulteration Act.

20.17.3 The case of each prisoner eligible for review and premature release should initially be examined by the institutional classification committee. After scrutiny by the Committee, relevant papers should be submitted to the Review Board.

20.17.4 Review Boards should be constituted in each State and Union Territory. Whether such Review Board should be constituted at the district, regional or state level should be decided by each State taking into account the case-load, administrative convenience, the system prevailing and the need for expeditious desposal of cases ripe for review. The tenure of such a Review Board should be three years.

20.17.5 The case of every prisoner which is ripe for review should be decided within a maximum period of six months from the date of eligibility.

20.17.6 Each State/Union Territory should formulate a set of guidelines to be uniformly applied to govern the working of all Review Boards in the State/Union Territory. These guidelines should contain instructions for consideration of factors relating to prisoners' socio-economic background, circumstances in which the crime was committed, sequence of criminal behaviour, conduct in the prison, responsiveness to various

aspects of institutional treatment and the degree of change in their habits, overall behaviour, health, mental condition, possibility of resettlement after release, etc., to determine the propriety of premature release. As the system of premature release implies the condition of good behaviour, the guidelines should provide principles on which the Review Boards may determine whether premature release of a prisoner should be with or without supervision of a probation/welfare officer or of any other person appointed for the purpose.

20.17.7 Section 433A of the Code of Criminal Procedure should be amended suitably so that such lifers as offer good prognosis for reformation and rehabilitation can be released after 8 to 10 years of actual imprisonment. (This has reference to our recommendation in Chapter IV on 'Legislation').

20.17.8 The management of record relating to review of sentences and premature release should be streamlined on the lines indicated in Annexure B to this chapter.

PROCEDURE FOR GRANT OF LEAVE AND SPECIAL LEAVE

1. A prisoner desiring to avail the concession of leave or special leave should submit his application in the prescribed form to the superintendent of the prison. The superintendent should examine each case carefully with regard to eligibility for leave with particular reference to conduct, work, attitude towards family and community, and the manner in which previous period of leave, if any, was utilized. He should then forward the application to the District Magistrate and the Superintendent of Police for report.

2. The Police should submit their report through the District Magistrate to the Inspector General of Prisons within 15 days of the receipt of papers. In case the police disagrees with the release of prisoner on leave, reasons for doing so should be specified.

Note:(i) The opinion of the district authorities should be obtained only for the first release on leave. For the second and subsequent release no such opinion would be necessary provided that the prisoner had surrendered in time and there had been no adverse report from the police about the behaviour of the prisoner during the earlier leave.

(ii) Prisoners whose conduct is found unsatisfactory should not be considered for this concession. However, the period after which such a case should be reviewed will be decided by the Inspector General of Prisons depending upon the nature of the case.

3. The Inspector General of Prisons may make an order for release of a prisoner on leave or special leave subject to the following conditions :

(i) That the prisoner shall give cash security for the amount ordered by the Inspector General of Prisons or execute a personal recognizance bond or execute a bond with one or more sureties according to the directions of the Inspector General of Prisons ;

(ii) That the said prisoner shall reside at the place designated by the Inspector General of Prisons and shall not go beyond the specified limits ;

(iii) That the said prisoner shall be of good behaviour and shall not commit any offence during leave ;

(iv) That the prisoner shall report to the Probation Officer, if any, of the area of his stay during leave ;

(v) That the prisoner shall neither associate with bad characters nor lead a dissolute life ;

(vi) That the prisoner shall be liable to be recalled immediately to prison in case he violates any of the conditions ;

(vii) That the prisoner shall surrender himself to the superintendent of the prison on expiry of the leave granted or on recall.

4. On receipt of the order from the Inspector General of Prisons, the prisoner should be released on leave/special leave after he has executed the necessary bond and has signed

the conditions of release. At the time of release the prisoner should be supplied with an identity card and certificate of release on leave. Release of prisoner on leave should be intimated to the following authorities :

- (i) District Magistrate and Superintendent of Police of the district in which the prisoner proposes to spend the leave ;
- (ii) District Magistrate and the District Superintendent of Police of the home district of the prisoner ;
- (iii) Probation Officer in whose jurisdiction the prisoner proposes to spend the leave.

5. The prisoner should himself meet all expenses including those on journeys to and from the place of his stay during leave.

Annexure XX-B**RECORD RELATING TO REVIEW OF SENTENCES
AND PREMATURE RELEASE**

Immediately on admission of a convict eligible for being considered for premature release, the superintendent of the institution should get a copy of the judgement in his case from the court and open a file. This file should contain :

- (i) Copies of the judgements of the original court and the appellate court ;
- (ii) A sheet containing information, viz., name of the convict, his number, age at the time of sentence, previous occupation, offences, sentences, date of sentence, sentencing court, sentence undergone, unexpired sentence, remission earned, opinion of the Superintendent, opinion of the Superintendent of Police, opinion of the District Magistrate, medical report, opinion of the institutional classification committee, opinion of the Review Board, opinion of the Inspector General of Prisons ;
- (iii) History containing information about family background, economic background, habits, attitudes, etc. ;
- (iv) Report of the superintendent giving particulars about the educational progress, performance on work and vocational training, interest in recreational and cultural activities, discipline, group adjustability, conduct, attitude towards society and family members, conduct during release on leave, need for after-care programme and the manner in which the convict proposes to resettle after premature release ;
- (v) Medical report about the physical/mental condition of the offender, serious illness, if any, and his fitness for premature release ;
- (vi) Opinion of the district authorities about suitability of the offender for premature release ;
- (vii) Report from the Probation Officer or any other officer or agency about the after-care programme for the convict ;
- (viii) Recommendation of the institutional classification committee ;
- (ix) Recommendation of the Review Board ;
- (x) Order of the Government ;
- (xi) Bond furnished by the prisoner ;
- (xii) Conditions of release duly signed by the prisoner.