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Content Compiler & Course Writer
Lt. Dr. R. Sivakumar
Assistant Professor
Dept. of Criminology & Criminal Justice
Manonmaniam Sundaranar University
Tirunelveli, Tamil Nadu, India.

UNIT - I

NATURE OF PUNISHMENT

PUNISHMENT:

MEANING, DEFINITION, NATURE AND SCOPE

Modern Penologists are whether the conventional forms of punishment should remain the special or most important and primary weapon is restrictive criminal behavior or should be supplemented and even replaced by a much more flexible or diversified combination of measures of treatment of a reformative, restorative and protective nature. Punishment is a considered as a social reaction to crime. It is a human act and involves deliberate infliction of suffering on the wrong doer. It is an institutionalised suffering. Punishment is the reaction to crime, which is a means of social control. Walter Reckless in considering the meaning of punishment, says, "It is the redress that the common wealth takes against an offending member". Punishment, according to Westermarck, is limited to "such suffering as is inflicted upon the offender in a definite way by, or in the name of, the society of which he is a permanent or temporary member. With a view to formulate a sociological rationale of punishment, Jackson Toby brought out in an amplified manner that the society really has no other alternate by which it can control deviations. According to him, punishment, as a social control, has every possibilities of preventing or deterring crime of sustaining the morale of those who conform to the norms of the society and are morally committed to them and rehabilitating offenders.

According to Sir Walter Moberly suggests that punishment presumes that;

- What is inflicted is an ill, that is something unpleasant
- It is a sequel to some act which is disapproved by authority
- There is some correspondence between the punishment and the act which has evoked it
- Punishment is inflicted, that is imposed by someone's voluntary act
- Punishment is inflicted upon the criminal, or upon someone who is supposed to be answerable for him and for his wrong doings

According to Grunhut, three components must be present if punishment is to act as a reasonable means of checking crime;

- Speedy and inescapable detection and prosecution must convince the offender that crime does not pay
- After punishment the offender must have a fair chance to fresh start.

- The state, which claims the right of punishment, must uphold superior values, which the offender can reasonably be expected to acknowledge.

PUNISHMENTS IN ANCIENT, MEDIEVAL AND MODERN/NEW INDIA:

Punishment in Ancient India:

In Pre-Buddhist India, administration of justice was one of the primary functions of the state. Justice was administered with due deliberation. Punishment was awarded with careful measure in proportion to the nature of offence. But in the whole, the judicial arrangements were not quite sound. Theft and robbery were very common. Methods of torture were employed with a view to eliciting confessions. Some of the punishments were meaningless, but a desirable factor going with punishment was that of compensation of the aggrieved party so as to bring him to status quo.

Trial by ordeal does not, in Pre-Buddhist period, appear to be a prevalent system, though there appears to have been the ordeal by fire by which a woman could prove her chastity. For offences generally, the state did not support the system of trials of ordeal. Drunkenness, was punished with heavy fines. Slander was punished with a fine of eight *Kahapanas.* Adultery in woman was punished very heavily; even death or mutilation was imposed. The main types of punishment were: fines, whipping, imprisonment, mutilation, confiscation and banishment. Thieves and robbers were whipped very severely. And executions were terrible.

In ancient India, during the Epic Age, there were the Dharma Shastras (law books) and Dharma-pathakas (law professors). Manu was, shown by Brehaspati, the greatest lawgiver of ancient India, and his Manava Dharma Castra is the most important law book in ancient India. The Dharma Sutras emanated from Vedic Schools, and, therefore, on the whole, the law books at first represented certain schools of Brahmanica! teaching. The law books of Vishnu and Yajnavalkya who were the exponents of Yajurveda Schools, And the works of this class lose ail connection with any one school and become universally authoritative. Later legal works were Dharma Nibandhas, of the eleventh century and later, and the learned commentaries like the Mitakshara. The Manava Dharma Castra was followed by the work of Vishnu in the third century, A.D., and the law code of Yajnavalkya in the 4th century and the Code of Narada in the 5th century.

The Sutras showed that the judge originally was the king. The thief or the criminal was brought before the king for being dealt with. Theft, especially, theft of cattle, and

robbery is regarded, in the Vedas, as the chief crimes. According to Brehaspati, there were different kinds of theft. He treats theft as a form of violence. Violence according to him is of four kinds-homicides, theft, assault on other‟s wife, and injury (either assault or abuse). Thieves are also classified into different kinds, viz., „open thieves‟ and concealed thieves‟; and according to their skill and methods they are further classified. Trials were by ordeal. Manu recognised only two types of ordeals. Later writers introduced additional types. Ordeal by oath was given effect to. A farmer could swear by his cattle. One could swear and say, that a thing was truly as he deposed and if his house then was burnt up within a week, it could mean that he had perjured himself.

The two earliest ordeals recognised by Manu are fire and water. Then elaborate trials with the use of the balance, etc., till eventually there were nine formal ordeals. Those nine ordeals were:

1. by fire
2. by water
3. by balance
4. the sacred libation
5. Ploughshare
6. the ordeal by dharma
7. by grains of rice
8. by hot gold piece, and
9. by poi on

The heated gold is reserved for cases of theft; the ploughshare for those accused of theft of cattle. Originally ordeal by fire meant walking through fire; and ordeal by water meant that the accused was through into water, and if he was not drowned he was held innocent. In the ordeal by fire one had to carry a hot iron ball, and if he remained unburned he was held innocent. The ordeal by balance lay in weighing the accused twice. If he weighted more the second time, then he was found guilty because the weight of since went against him. And the ordeal by Dharma and Adharma lay in painting pictures of Justice (Right) and Injustice (Wrong) upon two leaves (one picture painted white and other black). The leaves were then, unobserved the accused, rolled in balls of earth and set in a jar. The accused was then asked to draw one of these balls. If he drew Dharma he was held innocent; if he drew Adharma he was found guilty and punished.

For murder, the offender had to render compensation to the relatives of the deceased or to the King or to both. Later this compensation was made in favour of the priests; a hundred cows have to be handed over. In the Sutra period, compensation was treated as a „royal right". In the time of Manu, compensation was regarded as a penance; hence it was renderable in favour of the priests. Treason was punishable with death. Punishing a person by making him an outcast (thereby causing him loss of social rights) was also resorted to, especially in the case of the priests.

Excepting cases of treason, differential treatment existed. The social condition of the victim of the offence was also considered while considering the question of punishment. Slaves, however, were punished with undue severity. When a warrior defamed a priest, he was fined one hundred panas; if a non-warrior (of the people -caste) did so, the penalty was one hundred and fifty panas; but for the slave there was corporal punishment for defamation of a priest. Adultery was, in legal theory, punishable by death, but in practice, male offenders were fined, and female offenders were liable to have their hair cut. off and treated with contempt; but a slave guilty of adultery with a high-caste lady could be slain. If a Vaisya man committed adultery with a high-caste lady, his property could be forfeited.

Punishment in Medieval India:

In the Mughal period, the judges thought it fit and best to follow Koranic precepts; Punishment was discretionary with the officer who tried the case, and might assume any form. In the reign of Akbar, instructions were issued to the provincial governor asking him "to pursue what the witnesses deposed by manifold inquiries, by study of physiognomy and the exercise of foresight." Superior executive officers had the authority to try criminal cases. Shayesta Khan, during his administration of Bengal, held open durbar daily for administering of justice and redressing of wrongs. The Kazi attended the hearing of cases by the trying officers and assisted them to arrive at decisions according to the precepts of Koran. Where the Koran was silent on a point in issue in a case, the trying officer applied his own discretion in arriving at decision. There was a right to appeal to the Emperor. The criminal law of the Mughal period was originated in precepts of the Holy Koran; and the professed idea in punishing the wrongdoer was that, of teaching him righteousness.

The highest Court in Mughal India was that of the Emperor himself. The Emperor was the fountain of justice. Akbar was noted for devoting several hours in the day hearing cases of appeals, Shall Jahan had his court every Wednesday in the Diwani-I-khas; and

Aurangazeb in his private chamber administered justice.

The Maratha system of administration of justice was simple and suited to the needs of the time.' The law was not codified, but was based on old customs and treatises like Mitakshara and the Code of Manu. Ordeals and oaths were allowed in determining the guilt or innocence of the accused. The Judiciary and the Executive were not separate. The Pesbwas personally also went out on tour every year for trial of cases and punishment of offenders. Capital Punishment seems to have been unknown in the days of Shahu Chhatrapati and Balaji Baji Rao. For murder, the penalties were fine, confiscation of property and imprisonment. Punishment was meant for being used as a corrective only. Fines were imposed according to the financial capacity of the offender; payment by instalments was also allowed. The offender was not needlessly sent to jail for non-payment of fine. Witchcraft was punished with fine, imprisonment and ex- communication. For adultery, the punishment for female offenders was slavery and penal servitude; but such persons were released if some relation stood surety for their future good behaviour. Sometimes mutilation was ordered in place of slavery. For the male offender the punishment generally was fine, and sometimes imprisonment. The condition of the slaves was, in spite of 'hard labour they were put to, relatively well. Penalties for forcible marriage were confiscation of property and ex-communication. Sometimes the offender was let off with a fine. But robbers and thieves were mutilated.

Punishment in Modern or New Penology

With new criminological developments, particularly in the field of penology, it has been generally accepted that punishment must be in proportion to the gravity of the offence It has been further suggested that reformation of criminal rather than his expulsion from society is more purposeful for his rehabilitation with this aim in view, the modern penologists have focused their attention on individualization of offender through treatment methods. Today, old barbarous methods of punishment such as mutilation, branding, hanging, burning, stoning, flogging, amputation, starving the criminal to death or subjecting him to pillory or poetic punishment, etc. are completed abandoned.

Pillory was a method of corporal punishment under which the offender was subjected to public ridicule by exposing him to punishment in public places. Different poetic punishments were provided for different crimes. For example, cutting off hands for theft, taking off tongue for the offence of perjury, emasculation for rape, shaving off the head of a woman in case she committed a sex-crime or whipping her in public street and similar other

modes were common forms of poetic punishment during the middle ages. Modern penologists have substituted new forms of penal sanctions for the old methods of sentencing. The present modes of punishment commonly include imposition of monetary fines, segregation of the offender temporarily or permanently through imprisonment or externment or compensation by way of damages from the wrong-doer in case of civil injury. The credit for introducing these penological changes goes to eminent Criminologist, like Becaria, Garofalo, Ferri, Trade, Bentham, and others who formulated sound principles of punishment and made all out efforts to ensure rehabilitation of offenders so as to make them useful member of society once again. Garofalo strongly recommended „transportation" or „banishment" of certain types of offenders who had to be segregated from society. Modern penal systems, however, limit the punishment of transportation within the country itself. Of late, open jails, parole or probation are being intensively used for long-timers so that they can earn their livelihood while in the institution.

It was Becaria who pioneered classical view of penology and raised voice against cruel and brutal punishments. He advocated equalized treatment for all criminals in the matter of punishment and reiterated that it was not the personality of offender but his antecedents, family background and circumstances, which had to be taken into consideration while determining his guilt and punishment. This in other word meant greater emphasis on the „act" (crime) rather than the criminal. He was equally opposed to the discretionary power of the court and argued that the function of determining appropriate punishment for different offences must be confined to the legislators and law-makers alone. The system of trial by jury is essentially an outcome of the classical thinking which treated „act" and not the „individual" as the object of punishment. The function of jury is to determine the question of fact, i.e, whether the crime has been committed by the offender or not, while it is for the magistracy to decide the guilt or innocence of the accused in accordance with the established principles of law. The central themes of penal policy advocated by adherents of classical school were equality of punishment for similar offences. However, the theory has fallen into disuse with the advance of knowledge through Penological researches.

As a reaction to classical view, Neo-classists voiced their criticism against equality of punishment on the ground that it did not respond well with the requirements of certain categories of criminals such as minors, idiots, mentally depraved offenders or those committing crime under extenuating circumstances. The adherents of neo-classical school therefore, suggested that punishment should be awarded in varying degrees depending on the

mental condition and intent of the criminal. Thus, it was for the first time that an attempt was made to shift the emphasis from „crime" to „criminal". The significant contribution of this school in the field of penology lies in the fact that it emphasized the need for individualized punishment. This finally led to classification of criminals into different categories according to the genesis of their criminality. The object was to make the reformative methods of punishment more effective. Commenting on this change, Dr. P.K.Sen rightly observed the punishment in now divested of its retaliatory characteristic and is converted into a treatment method for bringing about reformation of the Among modern penologists the names of Raffaele Garofalo and Enrico Ferri deserve a special mentions. Garofalo was an eminent criminologist of Italy who held distinguished position as a Judge, a Professor of law as also a Minister of Justice and therefore, he was deeply involved in administration of criminal justice and treatment of offenders. Out of his vast experience as a magistrate, he suggested that insane criminals should be treated leniently. In his opinion, vengeance had only a theoretical basis for penal sanctions. Surprisingly, Garofalo was a critic of reformative theory of punishment and believed that it had only a limited utility in cases of young or first offenders and believed that it had only a limited utility in cases of young or first offenders and it hardly served any useful purpose in case of recidivists and hardened criminals. He also rejected deterrent punishment since it failed to determine the exact quantum of punishment for a given offence under varying social circumstances. He, however, agreed with Beccaria that retention of punishment is necessary for recognition of individual rights and social co-existence.

Enrico Ferri was yet another Italian penologist who supported positive school of criminology. He asserted the punishment was necessary for the protection of society because crimes in society are inevitable. In his opinion, punishment was a social deterrent. Since society has to defend itself against aggressors, it has a right to punish the offenders. He strongly commended compensation as an effective sanction against crimes, particularly those relating to property. Ferri believed that dumping the prisioners in prison cells throughout their term of sentence served no useful purpose. It was wholly an unproductive process. He therefore, He therefore, suggested that inmates should be utilized to work on agricultural farms or construction sites and engaged as labour during working hours. This in his view was in the best interest of the inmates as well as the state. He preferred indeterminate sentence to a fixed term of institutionalized sentence and recommended clinical treatment for insane criminals.

Briefly stated, it is now well recognized that prevention of crime and protection of society are the main objects of punishment. It therefore, follows that no single theory of punishment will serve the real purpose. Commenting on this aspect of penal justice, Caldwell observed.

"Punishment is an art which involves the balancing of retribution, deterrence and reformation in terms not only of the Court but also of the values in which it takes place and in the balancing of these purpose of punishments, first one and then the others receives emphasis the accompanying conditions change.

The modern Penological thinking favours rationalization of punishment by taking into consideration the various approaches in their proper perspectives and making use of them to suit the given situation and requirement of the offender in accordance with the principle of individualization.

Capital Punishment:

Of all the forms of punishments, capital punishment is perhaps the most debated subject among the modern penologists. There are arguments for against the utility of this mode of sentence. The controversy is gradually being resolved with a series of judicial pronouncements containing elaborate discussion on this complex Penological issue. However, looking to the variety of considerations involved in the problem, a detailed discussion on the subject is deferred to succeeding chapter of this note.

Judicial Sentencing:

Closely related to the forms of punishment, is the problem of judicial sentencing. Expressing his view about judicial sentencing, Sir James Fits James Stephen observed that it is proper to punish criminals for the sake of the public desire for vengeance but they should not be condemned outright in the name of reinforcement of the values of a society. There may be occasion where a judge is conscious that the values presented by the criminal law have already lost much of their credence because of the rapidly changing public opinion and he may prefer to award a lighter situation than the one prescribed for that offence. Conversely, there may be a situation where a judge would chose to give legitimate expression to his denunciation for offender's act by passing exemplary sever sentence. Sentencing is dealt in detail in the ensuing chapter.

SIGNIFICANCE, CONCEPT AND OBJECTIVES OF PUNISHMENT:

The objectives of punishment are to bring about reformation of the offender, rehabilitation of the offender, to prevent him from committing crime again, and to prevent other persons from committing crimes; and there is a reiteration of the time worn saying: As you sow, so shall you reap. Through punishment, Nemesis brings home to the mind of the wrongdoer that a good act is rewarded, and a bad act meets its merited fate. The main ends of punishment, according to Jeremy Bentham, are prevention and compensation. And Holmes has pointed out, that prevention is the chief purpose of punishment. Punishment cannot work through repressive methods, for repression merely checks the wrong doing for some for some time, but which is repressed will rebound with as much vigour as it was repressed. Punishment, then, with the pain of detention must involve a re-educating process and not a bare tormenting process.. The tendency of modern punishment (at least the professed tendency) is to use all the methods of re-education rather than of infliction of pain.

Punishment, if just and good, must make the wrong doer compensate with interest, interest being meant as and by way of a penalty. To negative or undo the evil effects of the wrongful act, there must be compensation. What the wrongdoer took dishonestly from the aggrieved party, he should be made to return with something more. Restoration of the moral equilibrium necessitates compensation of the aggrieved party by the wrongdoer, and penalising of the offender by making him pay something more as a penalty. If punishment is thus rendered full of meaning, and made capable of negating the baneful effects of wrongdoing, it will be acclaimed by all as something good and not as a useless or meaningless evil to be-done away with.

Sentencing Principles Policies and Procedure:

What is sentencing?

- Hearing that imposes a criminal sanction or punishment.
- Comes at the end of the trial

Type's of sentences

By Sentencing Terms Concurrent Vs consecutive sentences

- Concurrent sentence when convicted of more than one offence, sentences begin the same day and the offender is released when the longest sentence is served.
- Consecutive sentence when convicted of more than one offence, offender begins serving time for the second sentence after the first sentenced had been served.

By Statutory Basis

1. Indeterminate Sentencing

- Treatment should fit the offender Hold the offender until he is rehabilitated
- Legislature sets maximum lawful sentence
- Judge sentences offender to a minimum and maximum term
- Parole board decides when the offender is "cured" and can be released.
- Met states in the US use indeterminate sentencing

2. Determinant Sentencing

- Sentence to a fixed term' of time amount of time served is determined at sentencing
- No release on parole or use of time off for good behaviour.

3. Different Types of Determinate Sentencing

a. Sentencing Guidelines

- Offence seriousness and criminal record are used to determine the sentence for an offender
- More serious offences receive longer sentences
- Offenders with long records receive longer sentences. Two types of sentencing guidelines
- presumptive - guidelines must be followed '
- voluntary - guidelines only suggest sentence

b. Mandatory Sentencing

- To insure certain punishment for the offender
- Require incarceration for specific crimes
- Statutes that specify a minimum sentence in prison for all offenders convicted of a certain offence

c. Habitual Offender Statutes

- Mandated enhanced punishment for chronic, multiple, or career offenders
- Three strikes laws, for example

Sentencing Procedures:

1. Seriousness of offence best predictor of sentence

- The more serious; a crime, the more likely the person will go to prison
- The more serious a crime, the longer a person will spend in prison

2. Prior Record

•The longer the record, the greater the likelihood of long sentence or prison

Sentence

3. Extra Legal Factors

1. Age; Offenders under 20 or over 50 less likely to receive prison or long sentences
2. Gender: Women less likely to be incarcerated when compared with men
3. Social Class;

- Holding offence constant;
- Poor folks more likely *to* be incarcerated than are middle class or rich folks
- Mainly because they cannot afford private attorneys and are more likely to be detained before trial.

AIMS OF PUNISHMENT:

The aim of Punishment is to control crime and to reduce the amount of crime in society. But why do we punish?

1. General Deterrence:

- Make punishment swift and severe enough that people in the general population will not want to commit crimes.
- Prevention of criminal acts in the population at large can be gained by the imposition of punishment on persons convicted of crimes.
- Belief that the pain of punishment should outweigh the benefits of crime.

2. Incapacitation

- Keep offender from committing offences by keeping him or her in prison during the time that an offender is in prison, he or she cannot commit crime on the outside.
- Prevention of criminal acts can be gained by restraining the person being punished from committing criminal acts.

3. Specific Deterrence

- Punishment should be severe enough to make the offender not want to commit crimes in the future.

4. Rehabilitation

- There is something wrong with the offender that makes him or her commit crimes
- Treat the offender so that he or she can re-adjust to society and not commit crimes.

5. Retribution / Desert

- Crimes are acts that deserve punishment.

- Has no crime control aim. Focuses exclusively on the past criminal behaviour and punishment is given solely to express condemnation of that behaviour
- Just deserts - idea that punishment should fit the crime and punishment must be equal in proportion to the seriousness of the offence.

6. Equity

- The offender should pay back society and victims for their losses; examples restitution payments, payment for court costs, imprisonment costs.

TYPES OF PUNISHMENT:

1. Types of punishment

There are basically two types of punishment. They are Positive Punishment

- Positive punishment works by presenting a negative consequence after an undesired behavior is exhibited, making the behavior less likely to happen in the future. For example- During a meeting or while in class, your cell phone starts ringing, you are lectured on why it is not okay to have your phone on.

Negative punishment

Negative punishment happens when a certain desired stimulus/item is removed after a particular undesired behavior is exhibited, resulting in the behavior happening less often in the future. The following are some examples of negative punishment:

- For a child that really enjoys a specific class, such as gym or music classes at school, negative punishment can happen if they are removed from that class and sent to the principal's office because they were acting out/misbehaving.

The types of punishment given are

- Prison
- Death penalty
- Community service
- Young offenders institution
- Fines
- Warnings
- ASBO"s

Prison - a building to which people are legally committed as a punishment for a crime or while awaiting trial.

The use of imprisonment or incarceration as a form of punishment has been used from the earliest times. It is a legal penalty imposed by the State for the commission of a crime. Imprisonment involves the deprivation of liberty and freedom, and has been seen as an appropriate way of not only punishing offenders, but also as a preventative measure to ensure offenders doesn‟t reoffend in aims of protecting wider society.

Death penalty - punishment by execution

Death penalty - also called **capital punishment**, is when a government or state executes (kills) someone, usually because they have done something wrong.

Community service - is performed by someone or a group of people for the benefit of the public or its institutions. Performing community service is not the same as volunteering, since it is not always done voluntarily. The victims are forced to do community service as a punishment for their mistake.

- **Young Offender Institution** is a type of British prison intended for offenders aged between 18 and 20, although some prisons cater for younger offenders from ages 15 to 17, who are classed as juvenile offenders. Typically those aged under 15 will be held in a Secure Children's Home.
- **Fines -** A **fine** is money paid usually to superior authority, usually governmental authority, as a punishment for a crime or other offence. The amount of a fine can be determined case by case, but it is often announced in advance. The most usual use of the term, fine, relates to a financial punishment for the commission of crimes, especially minor crimes, or as the settlement of a claim.
- **Warnings** - The police or Crown Prosecution Service can give you a caution or warning if you commit a minor crime.

  Warnings are given to anyone aged 10 or over for minor crimes - e.g. writing graffiti on a bus shelter.

  You have to admit an offence and agree to be warned. You can be arrested and charged if you don‟t agree.

  A warning is not a criminal conviction, but it could be used as evidence of bad character if you go to court for another crime.
- **ASBO - Anti Social Behaviour Order**

  An **anti-social behaviour order** - is a civil order against a person who has been shown, on the balance of evidence, to have engaged in behaviour. The orders restrict behaviour in some way, by prohibiting a return to a certain area or shop, or by

restricting public behaviour such as swearing or drinking alcohol. An ASBO may be issued in response to "conduct which caused or was likely to cause harm, harassment, alarm or distress, to one or more persons not of the same household as him or herself and where an ASBO is seen as necessary to protect relevant persons from further anti- social acts by the defendant.

The history of early penal systems of most countries reveals that punishments were tortuous, cruel and barbaric in nature. It was towards the end of eighteenth century that humanitarianism began to assert its influence on penology emphasising that severity should be kept to a minimum in any penal programme. The common modes of punishment prevalent in different parts of the world included corporal punishments such as flogging, mutilation, branding, pillories, chaining prisoners together etc., simple or rigorous imprisonment, forfeiture of property and fine.

Flogging:

Of all the corporal punishments, flogging- was one of the most common methods of punishing crimes. In India, this mode of punishment was recognised under the Whipping Act, 1864, which was repealed and replaced by similar Act in 1909 and finally abolished in 1955. The English penal law abolished whipping even earlier. In Maryland (USA) whipping was recognised as late as 1953 although its use was limited only to “wife-bearing”. Flogging, as a mode of punishment is being used in most of the middle- east countries even to this day.

The instruments and methods of flogging, however, differed from country to country. Some of them used straps and whips with a single lash, while others used short pieces of rubber-hose as they left behind traces of flogging. In Russia, the instrument used for flogging was constructed of a number of dried and hardened thongs of raw hide, interspersed with wires having hooks in their ends, which could enter and tear the flesh of the criminal. It has now been discontinued being barbarous and cruel in form.

Penological researches have shown whipping, as a method of punishment has hardly proved effective. Its futility is evinced by the fact that most of the hardened criminals who were subjected to whipping repeated their crime. There is a general belief that whipping may serve some useful purpose in case of minor offences such as eve teasing, drunkenness, vagrancy, shoplifting, etc., but it does not seem to have the desired effect on offenders charged with major crimes.

Mutilation:

Mutilation was yet another kind of corporal punishment commonly in use in early times. This mode of punishment was known to have been in practice in ancient India during Hindu period. One or the both the hands of the person who committed theft were chopped off and if he indulged in sex crime his private part was cut off. The system was in practice in England, Denmark and many other European countries as well.

The justification advanced in-support of mutilation is that it serves as an effective measure of deterrence and retribution. The system, however, stands completely discarded in modern times because of its barbaric nature. It is believed that such punishments have an inevitable tendency to infuse cruelty among people.

Branding:

The origin of this type of punishment is found in the biblical times where god brands Cain for killing his brother Able, with a mark on his forehead as a punishment. As a brand of punishment, branding of prisoners was commonly used in oriental and classical societies. Roman penal law supported this sort of punishment and criminals were branded with appropriate marks on the forehead so that they could be identified and subjected to public ridicule. This acted as a forceful weapon to combat criminality. England also branded its criminal till 1829 when it was finally abolished.

The system of branded was not uncommon to the American penal systems also. The burglars were punished by branding letter "T" on their hand and those who repeated this offence were branded "R" on the forehead. In Maryland (USA) blasphemy was punishable with branding the letter "B" on the forehead. In India, branding was practiced as mode of punishment during the Mughal rule. This mode of corporal punishment now stands completely abolished with the advent of humanitarianism in the field of penology.

Stoning:

Stoning the criminals to death is also known to have been in practice during the medieval period. This mode of sentencing the offender is still in vogue in some of the Islamic countries, particularly in Pakistan, Saudi Arabia etc. The offenders involved in sex crimes are generally punished by stoning to death. The guilty person is made to stand in a small trench dug in the ground and people surround him from all sides and pelt stone on him until he dies. Though, it is a punishment barbaric in nature, but due to its deterrent effect, the sex‟ crimes, especially crimes against women are well under control in these countries.

Pillory:

Pillory was yet another form of cruel and barbaric punishment, which was in practice till 19^{tn} century. The criminal was made to stand in a public place with his head and hands locked in an iron frame so that he could not move his body. The offender could be whipped or branded while in pillory. He could be stoned if his offence was a serious nature. At times the ears of the criminal were nailed to the beams of the pillory. Restraining physical movements of the criminal had the most agonising effect on him and it was believed would surely bring the offender to books.

The system of pillory existed slightly in different form during the Mughal rule in India. Hardened criminals and dangerous offenders were nailed in walls and shot or stoned to death. The punishment undoubtedly was more cruel and brutal in form and, therefore, it has no place in modem penal systems.

Hanging condemned prisoner to death in a public place was common mode of pillory punishment in most part of the world until the middle of the twentieth century.

Fines:

The imposition of fine was a common mode of punishment for offences, which were not a serious nature, and especially those involving breach of traffic rules or revenue laws. This mode of punishment is being extensively used in almost all the sentencing systems of the world even today. Fines by the way of penalty may he used in case of property crimes and minor offences. Other forms of financial penalty include payment of compensation to the victim of the crime and payment of costs of the prosecution. Financial penalty may be either in shape of fine or compensation or costs.

The real problem involved in imposition of financial penalties is the quantum of fine or costs- and enforcement of its payment. The usual methods of enforcement are forfeiture of property, and threat of incarceration. Recovery of fines from the source of income of offender may also be one of the best methods of enforcing this penalty.

In fixing the amount of fine or pecuniary penalty financial condition of the criminal must be kept in mind. Imposition of an exorbitant sum by way of fine beyond the means of the offender would be unrealistic and, therefore, frustrate the cause of penal justice.

In India, however, in the matter of recovery of fines the provisions of Section 421 of the Code of Criminal Procedure, 1973 would apply. The Code provides that when a Court imposes a sentence of fine or a sentence of which fine form as a part, it may direct that whole or part of the fine may be paid as a compensation to the victim for the loss or injury caused to

him on account of the crime.

In determining the amount and method of fine, the court should take into consideration the financial resources of the defendant and the nature of burden that its payment will impose on him. Normally, court should not sentence an offender only to pay a fine, when any other disposition is authorised by law, unless having regard to the nature and circumstances of the crime and prior history and antecedents of the offender, the sentence of fine alone is deemed Significant for the protection of public interest.

While awarding the sentence of fine, the court must keep in mind the gravity of offence and the financial capacity of the offender to pay the amount of fine. Besides, it is not desirable to impose fine in addition to death sentence or long-term imprisonment, which may be an unnecessary burden on the family of the convicted person.

Security Bond:

A security bond for good behaviour though strictly speaking not a punishment, may serve a useful purpose as a form of restraint of the offender. This may entail compulsory treatment or supervision of the offender. The court may „defer[5] sentence on some offender conditionally subject to his normal behaviour. This „conditional disposal" of offender is increasingly being recognised as an effective mode of corrective justice in modem penology.

A greatest advantage of this nominal measure of punishment is that it offers an opportunity- to the offender to become a law abiding citizen and chances of his reformation are better than those who are imprisoned or subjected to institutional sentence. That apart, the family members of the offender are not adversely affected by this mode of punishment, as they not deprived of their breadwinner.

Banishment:

The practice of transporting undesirable criminals to far-off places with a view to eliminating them from society has commonly used in most parts of the world for centuries. In England, war criminals were usually transported to distant Austro-African colonies. The term's transportation, banishment, exile and outlawry though similar, have different connotations. The difference however seems immaterial for the present purpose. Exile as a device merged into outlawry with earlier religious element largely supplanted by a political move.

French criminals are transported to French colonies in Guyana and New Caledonia during nineteenth century. This mode of punishment was used only for hopeless criminals, political offenders and deserters. There was no question of these criminals returning alive as

they were sure to die labouring in dense fever infested forests of the African land. The French system of deportation was most brutal, cruel and inhumane. The system was abolished after the World War II when free French Government was installed in that country.

Russian countries transported their criminals to Siberian penal camps. The condition of camps was far worse than that was in French Guyana. They were virtually hell on the earth and have been called "House of the Dead" by Dostoevksi. These camps were mostly meant for political prisoners who were completely deprived of their civil rights and were long termers.

The practice of transportation is known to have existed in penal system of British India as well. It was popularly known Kalapani. Dangerous criminals were dispatched to remote island of Andaman and Nicobar. It had psychological effect on Indians because going beyond the seas was looked with disfavour from the point of view of religion and resulted in out casting of the person who crossed the seas. The practice came to an end during early forties after these islands came in occupation of Japanese. It was finally abolished in 1955.

It must, however, be noted that the practice of banishment still persists in mini form called "externment". The object of this method of punishment is to disassociate the offender from his surroundings[1] so as to reduce the capacity to commit crime. This form of punishment has been accepted under the Indian penal system.

Solitary Confinement:

Confining the convicts in solitary prison cells without work was a common mode of punishment for hardened criminals in medieval times. Solitary confinement was intended for elimination of criminals from society and at the same time incapacitating them from repeating crimes. The deterrence involved in this mode of punishment was deemed necessary for prevention of crime. The monotony involved in this kind of punishment had the most devastating effect on criminals. Man by nature is known to be a social being hence cannot bear the pangs of separation and living in complete isolation from his fellowmen. Therefore, segregation of convicts into isolated prison cells under the system of solitary confinement resulted in disastrous consequences and the prisoners undergoing the sentence either died untimely or became insane. Besides, they became more furious and dangerous to society if at all they chanced to come out of the prison alive after completing their term of solitary confinement. As a result of these ill effects on prisoners the system of solitary confinement soon fell into disuse and it was finally withdrawn as a measure of punishment.

Commenting on the torture and cruelty involved in solitary confinement, P.K.Sen, observed that it was perhaps the best way to put an end to the criminal without resorting to bloodshed or murder. Significantly, this mode of punishment is known to have found support in ancient penology of India as an effective expiatory measure. It was believed that complete isolation of man provides him better opportunity for penance and remonstrance and the feeling of guilt and self-hatred tends to bring about his reformation speedily.'

The provisions relating to solitary confinement are contained in Sections 73 and 74 of the Indian Penal Code. Section 73 provides that tire Court may order that the offender shall be kept in solitary confinement. For any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole according to the following scale:

1. For a period not exceeding one month if the term of imprisonment does not exceed six months;
2. For a period not exceeding two months if the term the term of imprisonment does not exceed for one year;
3. For a period not exceeding three months if the term of imprisonment exceeds one year.

Section 74 IPC limits the solitary confinement, when the substantive sentence exceeds three months, to seven days in any one-month. That is to say, solitary confinement must be imposed at intervals. A sentence inflicting solitary confinement for the whole term of imprisonment is illegal, though it may be for less than fourteen days.

Imprisonment for Life:

"Imprisonment for life" has been authorised as a form of punishment under section 53 of the Indian Penal Code as amended by act 26 of 1995 with effect from 1st January 1956. Section of the Indian Penal Code (IPC) clearly points out that in calculating fractions of term of imprisonment, imprisonment for life shall be reckoned as imprisonment for twenty years. The executive authorities are competent under section 55, IPC or under Section 433 (b) of the Code of criminal procedure, (Cr.P.C.) to commute sentence of imprisonment for life to one of rigorous imprisonment not exceeding a term of fourteen years. Such commuted sentence would entitle life convicts to be set free remissions earned during his incarceration. But in actual practice, it is seen that the prison authorities are illegally detaining the life convicts for a much longer period than the aforesaid maximum 14 years holding that, the nature of sentence of life imprisonment does not alter by the aforesaid provisions of IPC or Cr.P.C. This dichotomy, however, needs to be resolved by Parliamentary intervention through

necessary amendments in the existing criminal law.

Imprisonment:

Imprisonment presents a most simple penal and common form of sentencing for incapacitating the criminals. It proved to be an efficient method of temporary elimination of criminals apart from being a general deterrent and an individual deterrent. Conditions of imprisonment in civilised countries have undergone radical changes in recent decades. The minimum-security institutions such as open air prisons and prison hostels are being increasingly used as modified forms of incarceration of offenders;

Despite being a corrective measure, the most intricate problem involved in imprisonment, as measure of punitive reaction to crime is the "Prisonisation" of offenders. The prisoner is confronted with the most crucial problem of adjustment to new norms and values of prison life. He loses his personal identity in the process of adjustment and is converted into a mere impersonal entity.

Yet another setback of imprisonment, as a mode of punishment is its damaging effect of his family relationship of the offender. The offender loses contact with the members of his family and‟ if he happens to be the only breadwinner, the result is still worse. The members of his family suffer misery, starvation and financial crisis. Depriving the offender of his family for a considerably long period creates new problem for prison discipline in the form of homosexuality, bribery, corruption, revolt etc.

In India, however, parole and furlough are being extensively used as a part of penal substitutes for mitigating the rigours of prison inmates. The All India Jail Reforms Committee has further observed that the prisoners should be released on furlough after undergoing a specified period of imprisonment so that they maintain contact with their relatives and friends and may not feel uprooted from society and thus saved from the evil effects of prisonisation.

The social stigma attached to prisoners makes their rehabilitation more difficult. Prisoners quite often feel that the real punishment begins after they leave the prison institution. Sir Lionel Fox, the noted prison reformist of Britain introduced Hostel system for inmates to prevent them from stigmatisation and ensure them a honourable life in society.

Be that as it may, the fact remains that imprisonment is still one of the most accepted forms of punishment throughout the world, 'With the correctional techniques introduced in prison institutions, it serves as an efficient measure of reforming the criminal and at the time protecting the society from anti-social elements. Thus, it serves the dual purpose of

preventive and reformative justice at one and the same time.

THEORIES OF PUNISHMENT:

Punishment can involve the administration of bodily pain and injury, although there are many forms of punishment in which this element is not present. If not exclusively pain and injury, although there are many forms of punishment in this element is not present. If not physical pain, say, mental anguish or loss of social status? If pain is used in the broader, hedonistic sense, including the loss of freedom, banishment, discomfort, torture, loss of property, loss of reputation (Public shame), it would be true that punishment administers some sort of pain to the offender. The question may well be asked, why a civilised state should countenance punishments and become the medium for making a human being miserable. Jurists have evolved several theories for giving a convincing answer to this question. These theories are considered below.

1. Retributive Theory of Punishment:

Statement of the theory:

The retributive theory of punishment has two main conceptions.

- That punishment is an end in itself, and
- That the primary justification of punishment is found in the fact that an offence has been committed and not in any future advantages to be gained by its infliction, whether for society or for the offender as an individual.

Immanuel Kant states the theory thus: "Judicial punishment can never serve merely as a means to further another good, whether or the offender himself or for society, but must always be inflicted on him for the sole reason that he has committed a crime. The law of punishment is a categorical imperative". Kant gives an extreme application of his theory in the following illustration:

"Even if a community of citizens dissolve with the consent of every member (e.g. the inhabitants of an island decide to separate and spread all over the world), they must execute the last member in the prison so that everyone gets what in his due according to his deeds". There need not be any resultant benefit to society according to the retributive theory.

The Exponents of the theory:

Among the ancient philosophers, Plato was a supporter of the retributive theory. According to him "If justice is the good and the health of the soul, as injustice is its disease

and shame, chastisement is their remedy. If the man is happy when he lives in order, then when he is out of it, it is important for him to enter it again, and he enters it through chastisement. Every culpa demand an expiations the culpa is ugly, it is contrary to justice and order; the expiation is beautiful, because all that is just is beautiful and to suffer for justice is also beautiful". Another noteworthy expounder of the retributive theory was Hegel. According to this German philosopher, wrong being the negation of the right, punishment is the negation of that negation or retribution. Suffering, it is therefore conceived, should thus follow wrongdoing.

Ancient Penology:

The retributive aspect was accorded exclusive recognition in ancient penology. Early criminal law was based on the principle, that all evil should be requited. It was only thus that the community could be regarded as purged of the evil. Among the ancient Jews even animals, which killed human beings, were regarded as contaminated and were got rid of for the good of the community. Another interesting feature of early criminal law traceable to the principle of retributive justice is that it concerns it with visiting wrongdoer with injuries similar to those, which he has inflicted. The penalty is made fit the offence. "A tooth for a tooth and an eye for an eye", is the maxim on which the primitive criminal law proceeds. The governing principle is the appropriateness of the penalty without reference to the degree of the criminality of the offender.

Criticism of the Theory:

The retributive theory, even in its modified form, is defective, for as Justice Holmes points out, "this passion of vengeance is not one which we encourage, either, as private individuals or as law makers. Salmond points out that "Retribution is in itself not a remedy for the mischief of the offence but an aggravation of it". Punishment involves pain and suffering. The infliction of suffering, if un-redeemed by someone corresponding and compensating good, can only add to the sum total of misery already occasioned by the offence of the criminal. So it cannot be justified if no ulterior good is aimed at and punishment is inflicted merely as an end itself. It is thus clear that retribution is only a subsidiary purpose served by punishment.

2. Preventive theory of Punishment:

The paramount and universally admitted object of criminal justice is the prevention of crimes. As Justice Holmes points out, "there can be no case in which the law-maker makes certain conduct criminal without his will, thereby showing a wish and purpose to prevent that

conduct. Prevention would accordingly seem to be the chief and only universal purpose of punishment. The law threatens certain pains if you do certain things, intending thereby to give you a new motive for not doing them. If you persist in doing them, it has to inflict the pass in order that its threat may continue to be believed".

According to the preventive theory, the object of punishment is to deprive the offender either temporarily or permanently, the power to repeat the offence. The first case of the law is, to see that the offender is prevented from continuing to infringe the law with impunity. The offender is incarcerated for a sufficiently long period of time. The object of criminal justice is thereby secured because, during the period of detention, the prisoner is incapacitated from committing further breaches of law. If the offence is so serious that its repetition cannot be even contemplated. The offender is to put to death or exiled. Thus the preventive theory of punishment is reduced to the elimination of the culprit by death, imprisonment or deportation.

3. Deterrent theory of punishment:

Punishment, a warning to others:

The purpose of punishment is regarded by some criminologists as consisting in the deterrent effect, which would be produced on would-be criminals. The central purpose of penology is to uphold the law and to make the evildoer an example, and a warning to others that might similarly feel inclined to deviate from the straight path of duty. The deterrent theory of punishment requires that the more hardened a criminal, the severer should be his punishment. The highest punishment of death is justified if the offence is very grave and such a punishment is called for to deter other people from committing similar offences.• Punishment, according „to this theory, should be so drastic as to strike terror in to the hearts of people who may be criminally deposed.

If deterrence alone is treated as the object of punishment, punishment will lend in the direction of cruelty. The more painful a punishment, the more deterrent it is likely to be since no punishment succeeds in deterring everybody from the commission of the crime, there is always a ground for making it still more severe in order to increase the number deterred by it. Such an argument naturally opens up a prospect of tortures without limit if the theory of punishment is that, punishment should be merely deterrent.

Restrictive Principles of Deterrence:

Beccaria points out, "the more cruel punishments become, the more human minds harden, adjusting themselves like fluids, to the level of objects around them; and the ever

living force, of the passions. brings it about that, after a hundred years of cruel punishments, the wheel frightens men only just as much as it first did the punishment of prison". Hob house also observed: "people are not deterred from murder by the sight of the murderers dangling from a gibbet. On the contrary, what there is in them of lust for blood is tickled excited, their sensuality or ferocity is aroused and the counteracting impulses, the aversion to bloodshed, the compunction for suffering are arrested". In the eighteenth century England, while thieves were hung up publicly as a warning, „deterred pickpockets frequently plundered the spectators. Thus, one limiting principle to the deterrent theory arises from the fact that the fear inspired even by the most terrifying of punishments will be blunted by long familiarity with that particular mode of punishment.

Another limiting principle is that extreme severity of a penal code may make people unwilling to co-operate in carrying out the punishment. In England it was usual for juries to indulge in prior perjuries for saving petty offenders from gallows. When a prisoner was indicted for stealing goods valued at 300 pounds, the jury found him guilty of larceny of goods to the value of 39 shillings in order that the conviction should not carry with it the penalty of death. Thus if the prescribed penalty be too severe, its deterrent effect would be outweighed by the increased hope of immunity entertained by the malefactor.

4. Reformative Theory of Punishment:

The legitimate purpose of punishment according to the reformative theory is to reform the character of the wrong doer, so that he will desire to do what is right instead of fearing what is wrong. The sociological school headed by Jhering has evolved this theory of punishment according to which criminal sanctions should be adjusted to the criminal and not the crime. Criminologists hold that the reformation of the individual punished is the only legitimate object of punishment.

According to them punishment should be subservient to the education and discipline of the criminal. No criminal, however heinous his offence may therefore be punished with death. For the same reason it is argued that flogging and other corporal infliction's, which degrade and brutalise the criminal should be abolished. The reformative theory regards crime as a social anomaly and criminal justice as a means of social education.

Primary/Major Purpose of Punishment:

The foregoing discussion showed that the primary purpose of punishment is the prevention of crime and the rehabilitation offenders. This is achieved in three ways. Firstly, punishment acts on the body of the offender so as to incapacitate him for a repetition of the

crime. In the second place, by the punishment of the criminal others are deterred by fear from infringing the penal law. Thirdly punishment minimises crime by reforming the character of the criminal. In these three ways the dominant object of punishment, namely, the prevention of crime is achieved. The tendency in modern criminal jurisprudence is to emphasise the reformative aspect of punishment. The prison is tending to become a place of penitence and education. As Lioy observes in his „Philosophy of right", "Criminals are to be treated as infirmities, and the culpable ones as deceased subjects whose fury might be subdued in solitude, if they had been impelled to the evil deed by the violence of their passion. It should aim at correcting their vicious habits by the aid of the labour, if they had come to them through idleness and to enlighten their minds by means of instruction, if ignorance had led them astray. By this means law from being vindictive had become just and from being just it became charitable and it completed the act punishing by the act of healing."

Secondary Purpose of Punishment:

Punishment has also a subsidiary purpose and that is the elevation of the moral feelings of the community. The emotion of retributive indignation stirred up by injustice is characteristic of all healthy communities. A noble emotion like righteous indignation deserves to be fostered by the state. Through the criminal justice of the state, satisfaction is found for the moral sense of the community.

CAPITAL PUNISHMENT

Meaning:

Capital punishment is the infliction of the death penalty upon a person convicted on a serious crime.

Forms of capital punishment:

Just as men's ideas have differed regarding what crimes should be punishable with this penalty, so also have their ways of inflicting it. Indeed it appears that men have exhausted their ingenuity in the destruction of the condemned criminal. They have

1. Hanged him
2. Burned him
3. Flayed him alive
4. Boiled him in oil
5. Thrown him to wild beasts
6. Crucified him

7. Drowned him
8. Crushed him
9. Stoned him
10. Strangled him
11. Torn him apart
12. Beheaded him
13. Disembowelled him and
14. Smothered him

Mere killing has not always satisfied men's thirst for vengeance and so sometime as hideous prelude to death they have added the most excruciating torture. Thus, they have skinned the criminal alive and hung his body upon a sharp stake where he remained in agony and exposed to the hot rays of the sun and the vicious attacks of birds and insects until death mercifully intervened. They have subjected him to slow death from insect bites. This was the terrible fate to which Mithridates, the Persian general was condemned. He was encased in a box from which his head, hands and feet protruded forcibly, fed with milk and honey, which was also smeared on his face, and then exposed to the sun. For 17 days he lingered on in this horrible condition, until he had been devoured alive by insects and vermin, which swarmed about him and bred within him.

They have drawn and quartered the criminal, stretched him to his death on the rack, delivered him to the fatal embrace of the iron maiden, broken him on the wheel, sawed him into pieces and slowly crushed him to death beneath the weight of stones and iron. When the conditions was drawn and quartered, a horse was hitched to each of the man's legs and arms, and he was pulled into four pieces by riding the horses in opposite directions. The rack was an engine of torture consisting of a large frame and having rollers at each end to which the limbs of criminals were fastened and between which he was stretched into eternity.

The iron maiden was a hallow form shaped like a human being and made of iron or wood braced with iron strips. It was hanged to admit the criminal who, as it was closed, was impaled on the spikes, which studied his interior. Breaking on the wheel was accomplished by stretching the victim out on a frame resembling a wheel. His arms and legs were fastened to the frame and were broken by striking them with an iron bar. Then the broken and bloody limbs were tied across the middle of the body and he was shrilled on the wheel amid a scattering of gore, until life was driven from his body. A common method of cutting a man to pieces was to hang him up by his feet and then saw him in half vertically. In order to crush

the condemned criminal to death, he was usually placed on a solid platform and weights were piled on his chest until he died beneath their pressure.

Forms of capital punishment now in use:

Although men in modern society continue to inflict capital punishment, they now use only a few of its forms, the most important among which are

1. Electrocution
2. Hanging
3. Asphyxiation
4. Shooting and
5. Beheading.

Electrocution was first used at the Auburn State Prison in New York State on August 6, 1980. It is recommended by many who argue that it provides a relatively painless method of execution this contention has been strongly disputed, by a distinguished French Scientist Rota. Labelling punishment is the forms to others. Rota contends that a condemned criminal may be alive for several minutes after the current has passed through his body without a physician being certain whether death has actually occurred or not. He adds that some persons have greater physiological resistance to the electric current, than others and that no matter, how weak the person death cannot supervene instantly.

Hanging:

Hanging has been the most widely used form of capital Punishment and it is still the one of most frequently employed throughout the world today. In the past it was usually a public spectacle and in its crudest form it merely involved the putting of a slip noose around the victim‟s neck, pulling him from the ground or platform and leaving him to die of slow strangulation. During the early years of the modern period, the corpse and gibbeted, that is, it was hung in chains, and then, sometimes after being soaked in tar to preserve it from the elements, it was allowed to remain as a gruesome warning to evildoers. At present, however, hanging is relatively secret and a drop or a trap is used in order to break the neck of the victim and thus hasten his death. The condemned criminal is made to stand or sit upon a trap door in a platform which is a cross beam to which is attached a rope, and the noose formed in the lower end of this rope is put around his neck. A black cap is pulled over his head, and at a given signal, the trap door is released, dropping him through the opening with a jerk, which is supposed to break his neck and cause instant death. But to hang a man with the minimum of

pain requires the exercise of considerable art.

Asphyxiation:

During the past few decades‟ asphyxiation in a leather chamber has been adopted as a form of capital punishment by some states in the United State. The condemned person is placed in airtight chamber, and into this is sent a gas, which caused painless and almost instantaneous death. It appears that this is the quickest and most humane of the various forms of the penalty that are now being used. When a man is hanged, he may remain conscious for many minutes after the trap is released. When he is electrocuted, he may have to be given several stocks before he is dead. And when he is executed by shooting, he may not lose consciousness immediately even though his wounds are mortal. But when he is asphyxiated with lethal gas, he dies without pain and without delay.

Beheading:

Beheading has been one of the most universally employed forms of capital punishment and has been regarded as a relatively noble and enviable way of being sent to one‟s maker. Beheading by guillotine was the form of capital punishment used in France.

Capital punishment in various countries:

Rome and Greece:

In ancient Rome the offender was put to public ridicule and this execution took the form of a festival. One who killed his father was sown iri a sack along with a live dog, cat and a cobra and thrown in the river. The idea was to make him die most painfully. The death penalty extended even to a debtor who was unable to pay off the debt of his creditor. Thus, a creditor who found that his debtor was unable to pay off the debt could vent his wrath upon the debtor by marching him up the Tarpeian rock and hurling him from there to his death. Under the Greek penal system the offenders were stripped, tarred and feathered in public.

England:

Henry VII who ruled over England for over 50 years (1491 to 1547 A.D) used to boil the offenders alive. His daughter Queen Elizabeth subjected the offender to slow his process of amputation by bits so that they suffered maximum pain and torture. The execution of criminals in public was also quite frequent. These brutal methods of condemning century when the system of transporting the criminals to American Colonies at their firmly.

America and Australia:

The recent American trend is to limit the capital punishment only to the offences of murder and rape. Another noticeable trend during the recent days is to make the process of execution private painless and quick as against the old methods of public executions which were torturous, brutal, painful and time consuming. The recent modes of inflicting death penalty in' United States are electrocution, hanging, lethal gas, shooting. With the abandonment of the torturous and barbarous methods of inflicting death penalty, the meaning of the team capital punishment now extends only to death sentence for murder or homicides. Particularly in Western countries rape is no longer a serious crime. Australian law also provides death penalty for the offences of murder.

India:

The ancient history of India contains references that the offenders were frequently punished with death sentence for quite a large number of offences. The Indian epic the Mahabharata and the Ramayana contain references about the offender being punished with vadhadan, which meant amputation, by bits. Fourteen such modes of amputating the criminals to death are known to have existed, which included chaining and imprisonment of the offender.

Justifying the retention of death penalty King Dyumatsena observed, „if the offenders were leniently let off, the crimes were bound to multiply". He therefore pleaded that the true ahimsa lay in the execution on unworthy persons. He ordered execution of a number of criminals. His son Satyaketu protested against this mass scale execution and justified on any ground. Dyumatsena, however, ignored the advice of his son and argued that the distinction between virtue and vice must not disappear and the evil elements must be removed form the society.-During the medieval period when Moguls ruled over India the death sentence seemed to have revived in its crudest form. At times the offender was made to dress in the tight robes prepared out freshly slain buffalo skin and thrown in the scorching sun. The shrinking of the raw hide eventually caused the death of the offender in agony, pain and suffering. Another mode of inflicting death penalty was by nailing the body of the offender on the wall. These modes of putting the offender to death were, however brought to an end by the British rulers during the early decades of 19^{lh} century when death by hanging became the legalised mode of inflicting death penalty.

Arguments for and against capital punishment:

The following arguments for and against capital punishment should be considered against the background of the broader and more fundamental discussion of the philosophy of punishment.

1. The Argument of Retribution
2. The Argument of Social Solidarity
3. The Argument of Economy
4. The Argument of Protection
5. The Argument of Deterrence

Argument of Retribution:

One Argument advanced in favour of capital punishment is that the criminal should die because he has committed a terrible crime and that only his death will satisfy the public and keep it from taking the law into his own hands. The tendency to reduce the number of capital crimes and to make the method of execution as painless as possible is evidence against this argument.

Argument of Social Solidarity:

Another argument in favour of death penalty is that an execution constitutes a spectacular exhibition, which unifies society against crime. Here again actual practice does not support the argument. Executions are closed to the general public and no special effort is made to give them publicity. Even serious crimes often attract little attention because of the increasing impersonality of social relationship.

Argument of Economy:

Another interesting argument in favour of death penalty is that it is cheaper than the cost of maintaining a prisoner for life or for a long period of time at the taxpayer‟s expense. A careful calculation will disprove this argument. A life termer if given the opportunity, can help to support himself contribute to the maintenance of his dependants and if necessary to make payments to the victim and even he can pay the tax to the state. The humanitarian feelings of the public would not tolerate the economic consideration. One cannot also ignore the fact that the state incurs considerable expense in the conviction, sentencing and execution of a prisoner who is fighting for his life.

Argument of Protection:

The fourth argument for the death penalty is that it protects society from dangerous criminals by insuring that they neither commit other crimes nor spread their undesirable

hereditary traits. This contention can be met with strong opposing arguments,

1. Heredity alone is not the only cause of criminal behaviour.
2. By improving rehabilitation facilities of correctional institutions and by strengthening the pardon, probation and parole procedure, the prisoner can be made a useful citizen.

Argument of Deterrence:

The most frequently advanced and widely accepted argument in favour of the death penalty is that the threat of its infliction deters people from committing offences. It will be apparent at the outside that those who commit murder as a result of psychopathic compulsions or in fits of rage or relatively immune to the deterrent effect of the death penalty. No form of deterrence short of overt physical restraint before the deed could serve to avert such murders. The same is true of those who commit murder as a result of defective personality of highly unfortunate social environment. Nor can death penalty be supposed to act as an effective deterrent in the case of the professional gunman. He realises that his chances of being apprehended for his crime are relatively slight, that the probability of his conviction after arrest is not more than 50 percent, that he runs a fair chance of being released on a technicality in appeal, even if he is convicted and sentenced to death and of is likely to have this sentence ultimately he is pardoned and restored to a life of freedom. Even those who commit murder to settle a deep-seated grudge by the strong pressure to commit murder and the consciousness of a large probability of escaping its application would give little weight for any fear.

This discussion of arguments for and against capital punishment indicates that most people want to keep it in the law. It has become an unacceptable and ineffective method of punishment. Under the impact of humanitarian approach of the increasing impersonality in social relationships and the growing belief in the powers of science it has been largely replaced with imprisonment.

RECENT APPROACHES TO PUNISHMENT:

In our society's criminal justice system, justice equals punishment. Because our society defines justice in this manner, the victims of crimes often seek the most severe possible punishment for their offenders. Society tells them this will bring justice, but it often leaves them feeling empty and unsatisfied after getting what they sought. Punishment does not address the other important needs of victims. It cannot restore their losses, answer their questions, relieve their fears, and help them make sense of their tragedy or heal their wounds.

The Need for Punishment:

Incapacitation must continue until we can learn how to generate change in such individuals. However, it is important to understand the need to incapacitate dangerous offenders as separate and distinct from punishment. When we focus on punishment and incarcerate offenders who are not dangerous (including those who have committed victimless crimes), we consume precious correctional system resources that should be reserved for those offenders whom we must incapacitate for our protection.

Prisons have become one of the fastest growing priorities of the government and some states now have a punishment budget that is larger than their education budget. Unless this monumental draining of the public coffers is stemmed, it is unlikely that there will ever be stable and adequate resources for the human services needed to address the societal roots of crime-poverty, injustice, illiteracy and unemployment.

Why punishment?

If punishment is not really about incapacitation, deterrence or rehabilitation, *then what is it about*? Punishment is primarily for revenge (or retribution). Victims of heinous crimes commonly demand revenge. It seems like a natural response. Some may argue that the desire for revenge in response to victimisation is "hardwired" into the human animal. History suggests this may be true.

Our Criminal Justice system is a system of *retributive justice.* Our policy of inflicting pain (i.e., punishment or *retribution*) upon those who harm others often leaves offenders feeling like they are victims. Those "victims" may then seek their own revenge. Unless they are executed or put away for life without the possibility of parole, they will eventually come back to the criminal justice system, often with their need for revenge screaming for satisfaction.

So punishment does not work as deterrence or as rehabilitation and it often exacerbates the problems we are trying to correct. Still the public (sometimes) and the politicians (more often) cry out that we must "get tougher on crime, demanding more punishment and more prisons. A well-known anthropologist once said that human beings are the only species on earth that recognises what is not working and then does more of the same. Our society must find more creative, more effective solutions.

Restorative Justice

If need not punishment, then what?

"Restorative Justice" is a systematic formal legal response to crime victimization that emphasizes healing the injuries that resulted from the crime and affected the victims, offenders and communities. This process is a departure from the traditional retributive form of dealing with criminals and victims which traditionally have generally perpetuated the conflict which resulted in the original crime.

"Restitution" is a formal judicial procedure used by a judge after guilt is determined as part of a sentence which can provide money and/or services to the victim for damages or suffering which resulted from the victimization to be paid or performed by the offender.

Victim-offender mediation, is but one of many approaches to *restorative justice. Restorative justice* sees crime as a violation of human relationships rather than the breaking of laws. Crimes are committed against victims and communities, rather than against a government.

Our offender-focused system of *retributive justice* is designed to answer the questions of, "what laws were broken, who broke them and how should the law-breaker be punished?" Focusing on obtaining the answers to these questions has not produced satisfying results in our society. Instead, restorative justice asks, "who has been harmed, what losses did they suffer, and how can we make them whole again?" *Restorative justice* recognises that, to heal the effects of crime, we must attend to the needs of the individual victims and communities that have been harmed. In addition, we must give offenders the opportunity to become meaningfully accountable to their victims and to become responsible for repairing the harm they have caused, merely receiving punishment is a passive act and does not require offenders to take responsibility.

By focusing on punishment, our criminal justice system treats offenders as "throwaway, people." *Restorative justice* recognises that we must give offenders the opportunities to right their wrongs and to redeem themselves, in their own eyes and in the eyes of the community. If we „do not .provide those opportunities, the offenders, their next victims and the community will all pay the price.

Restorative justice is not just victim-offender mediation. It is not any one program or process. It is a different paradigm or frame of reference for jym- understanding of Crime and Justice. Some- other *restorative justice* responses to crime include family group conferencing, community sentencing circles, neighbourhood accountability boards, reparative

probation, restitution programs and community service programs.

What is Restorative Justice?

Restorative justice is a new movement in the fields of Victimology and criminology. Acknowledging that crime causes injury to people and communities, it insists that justice repair those injuries and that the parties be permitted to participate in that process. Restorative justice programs, therefore, enable the victim, the offender and affected members of the community to be directly involved in responding to the crime. They become central to the criminal justice process, with governmental and legal professionals serving as facilitators of a system that aims at offender accountability, reparation to the victim and full participation by the victim, offender and community. The restorative *process* of involving all parties – often in face-to-face meetings – is a powerful way of addressing not only the material and physical injuries caused by crime, but the social, psychological and relational injuries as well. When a party is not able, or does not want, to participate in such a meeting, other approaches can be taken to achieve the restorative *outcome* of repairing the harm. In addressing offender accountability these approaches can include restitution, community service and other reparative sentences. In addressing victim and offender reintegration they can include material, emotional and spiritual support and assistance.

A definition of restorative justice that emphasizes the importance of both restorative processes and outcomes is the following:

Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by criminal behaviour. It is best accomplished through cooperative processes that include all stakeholders.

Restorative justice is different from contemporary criminal justice in several ways. First, it views criminal acts more comprehensively-rather than defining crime as simply lawbreaking; it recognizes that offenders harm victims, communities and even themselves. Second, it involves more parties in responding to crime-rather than giving key roles only to government and the offender; it includes victims and communities as well. Finally, it measures success differently -- rather than measuring how much punishment is inflicted, it measures how much harm is repaired or prevented.

Victim, Offender & Community Meetings

Meetings between victims, their offenders, and members of the affected community are important ways to address the relational dimension of crime and justice. It is accepted that the following three methods are hallmarks of restorative justice. Each requires that the

offender admit responsibility for the offence. Each is limited to parties who volunteer to participate.

•**Victim offender mediation:** This is a process that provides an interested victim the opportunity to meet his offender in a safe and structured setting, engaging in a discussion of the crime with the assistance of a trained mediator. The goals of victim offender mediation include: permitting victims to meet their offenders on a voluntary basis, encouraging the offender to learn about the crime's impact and to take responsibility for the resulting harm, and providing victim and offender the opportunity to develop a plan that addresses the harm.

There are more than 300 victim offender mediation programs in North America, and over 500 in Europe. Research on such programs has found higher satisfaction among victims and offenders who participated in mediation, lower fear among victims, a greater likelihood that the offender will complete a restitution obligation, and fewer offenders committing new offences, than among those who went through the normal court process.

•**Family or Community Group Conferencing**: This process brings together the victim, offender, and family, friends and key supporters of both in deciding how to address the aftermath of the crime. The goals of conferencing include: giving the victim an opportunity to be directly involved in responding to the crime, increasing the offender's awareness of the impact of his or her behaviour and providing an opportunity to take responsibility for it, engaging the offenders' support system for making amends and shaping the offender's future behaviour, and allowing the offender and the victim to connect to key community support.

Conferencing was adapted from Maori traditional practices in New Zealand, where it is operated out of the social services department, and was further modified in Australia for use by police. It is now in use in North America, Europe, and southern Africa in one of those two forms. It has been used with juvenile offenders (most New Zealand juvenile cases are handled by conferencing) and with adult offenders. Research on such programs shows very high degrees of satisfaction by victims and offenders with the process and results.

Peacemaking or Sentencing Circles: This is a process designed to develop consensus among community members, victims, victim supporters, offenders, offender supporters, judges, prosecutors, defence counsel, police and court workers on an appropriate sentencing plan that addresses the concerns of all interested parties. The goals of circles include: promoting healing of all affected parties, giving the offender the opportunity to make amend, giving victims, offenders, family members and communities a voice and shared responsibility in finding constructive resolutions, addressing underlying causes of criminal behaviour, and

building a sense of community around shared community values.

Circles were adapted from certain Native American traditional practices, and are being used throughout North America.

Repairing the Harm Caused by Crime

Each of the hallmark restorative justice processes -- victim offender mediation, community or family group conferencing, and peacemaking or sentencing circles -- ends with an agreement on how the offender will make amends for the harm caused by the crime. Two traditional criminal justice sanctions are used in restorative responses to crime: restitution and community service.

Restitution is the payment by an offender of a sum of money to compensate the victim for the financial losses caused by the crime. It is justified in a restorative perspective as a method of holding offenders accountable for their wrongdoing, and as a method of repairing the victim's injury. Restitution can be determined in the course of mediation, conferencing or circles; it can also be ordered by a judge. In other words, it is a potentially restorative outcome that may result from either a restorative or a conventional process.

Studies have shown that restitution increases victim satisfaction with the justice process. Some studies have shown that the use of restitution was associated with reductions in recidivism. Other studies have shown that when restitution is determined during mediation, it is more likely to actually be paid than when it results from court order alone.

Community service is work performed by an offender for the benefit of the community. It is justified in a Restorative perspective as a method of addressing the harm experienced by communities when a crime occurs. However, it can be used instead for retributive reasons or as a means of rehabilitating the offender. What distinguishes its use as a restorative response is the attention given to identifying the particular harm suffered by the community as a result of the offender's crime, and the effort to ensure that the offender's community service repairs that particular harm. So, for example, offenders who put graffiti on buildings in a neighbourhood can be given the community service of removing graffiti from buildings in that neighbourhood.

Community service programs in Africa build on customary processes for making amends, thus addressing community concerns and easing the offender's reintegration into the community.

Restorative Justice around the World

Although restorative justice is less than 20 years old, its influence has spread around the world at a remarkable speed. We can track international development in two basic categories: innovation by countries in their use of restorative justice, and integration by countries of restorative ideas into their justice systems.

Innovation, Following are examples of innovative restorative practices:

Indigenous or customary practices are being adapted for use in the criminal justice system. Examples of this include conferencing and circles.

- Victim-offender encounters are taking place inside prisons in Europe and North America. In some instances this involves victims meeting with their offenders in a kind of "post sentencing mediation;" it is even used in this way on death row in Texas. In other instances the meetings involve groups of unrelated victims and offenders. These "surrogate" encounters may be used because the actual victim or offender is unknown or unavailable, or as a preparatory step toward a meeting of the person with the actual victim or offender.
- "Circles of Support" in Canada work with serious sexual offenders (often guilty of paedophilia) released into fearful communities at the conclusion of their sentences. The program increases safety of the public by establishing a reintegration plan with the offender, by regularly monitoring the behaviour of the offender, and by ensuring that community resources needed by the offender are made available. It ensures the safety of the offender by offering a forum for community members to voice their concerns, by intervening with community members when necessary, and by working with the police and other authorities to provide protection and services as needed.
- **Unique prison regimes** have developed in Latin America and elsewhere in which prisoners volunteer to stay at facilities run largely by volunteers and the prisoners. The regimes establish a particular spiritual or cultural ethos that involves learning through example and apprenticeship.
- **Victim-offender-community meetings are being done at many phases of the justice process.** They are run by police prior to charge, by probation officers and on occasion by parole officers in Canada. This is in addition to the rich tradition of NGO provision of community-based victim-offender-community meetings.
- Restorative processes are being used to address conflict between citizens and the government. Examples include the Truth and Reconciliation Commission in South Africa

and the Treaty of Waitangi Commission in New Zealand.

- **Integration**: There are also signs that restorative approaches are joining the mainstream of justice around the world.
- **Legislative action** has reduced legal or systemic barriers to the use of restorative programs, created legal inducements for using restorative programs, guided and structured restorative programs, and protected the rights of offenders and victims.
- **Funding and staff for programs is expanding**: Belgium, for example, has adopted a "Global Plan" to fight unemployment and to change certain aspects of criminal justice. Municipalities receive funding for program staff if they agree to help carry out certain penal sanctions and measures such as policed-based mediation.
- **Jurisdiction-wide planning** is incorporating restorative principles in a systemic framework. This has been done at the state and provincial level, and on a national level in some countries. The purpose of the exercise is to involve criminal justice professionals and members of the community in a process that leads to a plan for implementation and expansion of restorative approaches.
- **The number of restorative programs is growing.** There are more than 500 mediation programs and projects in Europe, and over 300 in the US. A Canadian survey of restorative programs and projects in that country resulted in over 100 listings.
- **Intergovernmental bodies** are taking note of restorative justice. In 1999 the Committee of Ministers of the Council of Europe adopted a recommendation on the use of mediation in penal matters. The UN's International Handbook on Justice for Victims notes that "the framework for restorative justice involves the offender, the victim, and the entire community in efforts to create a balanced approach that is offender-directed and, at the same time, victim centred. Victim compensation has become a key feature of restorative justice in many developed countries."

RESTITUTION AND VICTIM-OFFENDER MEDIATION AND VICTIMS' RIGHTS

Restitution:

"Restitution" is a formal judicial procedure used by a judge after guilt is determined as part of a sentence which can provide money and/or services to the victim for damages or suffering which resulted from the victimization to be paid or performed by the offender.

Victim-Offender Mediation and Victims' Rights:

Over the years, there has sometimes been an uneasy relationship between victims'

rights advocates and the growing restorative justice/victim-offender mediation movement. Victims' assistance programs are now co-training with victim-offender mediation programs, teaching mediators how to work more sensitively and respectfully with victims. Victim advocates have sometimes viewed mediation as "soft on crime" and therefore, not in the best interests of victims. Those victim advocates who have observed or participated in mediation sessions, taking note of the trepidation have seen in offenders as they face their victims, know that mediation is not soft on crime. Notable is the choice made by many offenders to face the judge rather than to face the victim. Many victims' rights advocates are now asserting that a mediated confrontation ought to be a victim's right, available for all victims who want such an opportunity.

The recognition of common ground between victim advocates and restorative justice advocates has led to recent alliances, partnerships and collaborations to support or promote restorative justice reform of the criminal justice system. Some of the organisations, which have contributed to these efforts, include the U.S. Department of Justice office for Victims of Crime, the National Institute of Corrections, and the office for Juvenile Justice and Delinquency Prevention's "Balanced and Restorative Justice Project." The other national organisations contributing to this work include the National Organization for Victim Assistance (NOVA), Mothers against Drunk Driving (MADD), the Victim-Offender Mediation Association (VOMA) and the Centre for Restorative Justice and Mediation, at the University of Minnesota School Of Social Work.

Understandably feeling deprived of justice in so many ways, crime victims and their advocates have often- sparked, and championed the recent flood of "get tough" legislation and ballot initiatives for longer prison terms and increased mandatory minimum sentences. At the same time, many other victims, victim advocates and criminal justice experts are re-thinking the value of more punishment.

Social research is suggesting that for many crimes, sentences of from one to two years' are the most likely to be effective, while longer sentences may be counter-productive to rehabilitating offenders. Such relatively moderate sentences serve the dual purposes of denouncing the crime and punishing the offender, while reducing the likelihood that the offender's bonds with family and community support systems will be permanently destroyed and replaced with allegiances to other criminals. The fracturing of family and community bonds and the long-term imprinting of prison culture and values are the two factors, which are the most predictive of an offender's prompt return to crime after being released from

prison.

Mediation:

Most victim-offender mediation programs do their work only with juvenile offenders and only with non-violent offences. The mediation of severely violent crimes is not commonplace. However, in a growing number of victim-offender programs, victims and survivors of severely violent crimes, including murders and sexual assaults, are finding that confronting their offender in a safe and controlled setting, with the assistance of a mediator, returns their stolen sense of safety and control in their lives. Increasingly, mediation is helping to repair the lives of surviving family members and offenders devastated by drunk-driving fatalities.

Such violent offences are usually mediated upon the initiation of the victim, and only after many months (sometimes-even years) of work with a specially trained and qualified mediator, collaborating with the victim's therapist and/or other helping professionals. Participation must be completely voluntary, for both victim and offender. Mediators carefully screen cases and every aspect of the mediation process has the safety of the victim as its foremost concern. Only offenders who‟ admit their guilt, express remorse and want to make amends are candidates for mediation.

There may be restitution agreements for funeral expenses, psychotherapy and other financial losses, but there is obviously no way to restore the lost life of a loved one. The primary focus is upon healing and closure. Heartfelt apologies are usually offered and the victim and offender may discuss the issue of forgiveness. Forgiveness is not a focus of the mediation process, but the process provides an "open space" in which forgiveness may occur, for victims who wish to consider it at that time. Forgiveness is a process, not a goal. It must occur according to the victim's own timing, if at all. For some victims, forgiveness may never be appropriate. In cases of severely violent crime, victim- offender mediation is not a substitute for punishment. In such cases, judges seldom reduce prison sentences as a result of mediation.

Prison Statistics in India

India’s prison system plays a critical role in the country’s criminal justice system, housing individuals who are undertrial, convicted, or detained under various laws. As of the latest available data from the National Crime Records Bureau (NCRB), prison statistics provide crucial insights into the demographics, infrastructure, and challenges faced by the Indian prison system.

Prison Population

India's prison population is diverse, comprising both undertrial detainees and convicts. According to the **Prison Statistics India 2022** report by NCRB, the total prison population stood at approximately **5.5 lakh inmates**. Among them, around **77% were undertrials**, reflecting a systemic issue of prolonged pretrial detention. Convicted prisoners constituted about **22%**, while the remaining were detainees under preventive detention or other legal categories.

The overrepresentation of undertrials highlights a significant challenge in India's justice delivery system. Many undertrial inmates spend years in prison awaiting the conclusion of their cases, often due to judicial delays, lack of legal representation, or systemic inefficiencies.

Demographic Profile

The majority of prisoners in India belong to marginalized sections of society. A large proportion of inmates are from Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC), showcasing a strong link between socioeconomic status and incarceration. Additionally, more than **90% of prisoners are male**, although the number of female prisoners is gradually increasing, constituting around **4% of the total prison population**. Juveniles are housed in separate observation homes and are not included in regular prison statistics.

Overcrowding in Prisons

One of the most pressing issues in the Indian prison system is **overcrowding**. As of the latest figures, the occupancy rate of prisons in India is about **130%**, with some states like Uttar Pradesh, Bihar, and Delhi reporting rates above **150%**. This overcrowding exacerbates issues such as poor hygiene, lack of access to healthcare, and increased tension among inmates, often leading to violent incidents.

Infrastructure and Facilities

India has approximately **1,400 prisons**, including central prisons, district prisons, sub-jails, and open jails. Despite this number, the infrastructure remains inadequate to cater to the burgeoning prison population. Basic amenities such as clean water, proper sanitation, and healthcare facilities are often insufficient. Many prisons lack adequate staff, with a significant gap between sanctioned and actual manpower, particularly for prison guards and medical personnel.

Deaths in Custody

Custodial deaths are another critical concern. In 2022, over **1,800 deaths were reported in prisons**, with a majority attributed to natural causes, such as illnesses exacerbated by inadequate medical care. However, a significant number of deaths were due to suicides and alleged unnatural causes, raising questions about mental health support and accountability mechanisms within prisons.

Rehabilitation and Vocational Training

While efforts have been made to rehabilitate inmates, such as providing vocational training, education, and counseling, the reach of these programs remains limited. Open prisons, which allow prisoners to work and live with minimal supervision, have shown promise but are not widely implemented. Rehabilitation programs often lack the funding and focus needed to effectively reintegrate prisoners into society after their release.

Gender-Specific Concerns

Female prisoners face unique challenges, including inadequate access to healthcare, lack of proper facilities for childcare, and insufficient focus on gender-sensitive rehabilitation programs. Many female inmates are also single mothers, adding to their psychological and emotional burden.

Legal and Policy Reforms

India has made efforts to address these issues through legal and policy reforms. For instance, the **Model Prison Manual 2016** emphasizes humane treatment, rehabilitation, and modernizing prison administration. Additionally, recent Supreme Court interventions have aimed to reduce overcrowding by promoting alternatives to incarceration, such as bail reforms and community service.

Conclusion

India's prison statistics underscore the urgent need for systemic reforms. Addressing overcrowding, improving infrastructure, ensuring access to legal aid, and focusing on rehabilitation are critical to transforming prisons into institutions of reform rather than punishment. A more balanced approach to incarceration, with an emphasis on human rights and reintegration, can significantly enhance the effectiveness of India's criminal justice system.

Suggested Readings:

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UNIT - II

PRISON SYSTEM AND PRISON POPULATION

Historical development and Administration of Prison Systems in India:

Prisons in the shape of dungeons had existed from time immemorial in all the old countries of the world. In his book „The Future of imprisonment", Norval Morris refers to punitive imprisonment used extensively in Rome, Egypt, China, India, Syria and Babylon and firmly established in Renaissance Europe. But prison sentence, as a specific punishment, is of relatively recent origin. The prison as we know it now came into existence largely as an interim house of detention of an offender pending his trial and punishment. The earlier prisons were not very different from the ill-ventilated and ill- provided dungeons of old. These prisons were managed by private persons who were trying to make profits, and that resulted in corruption and cruelty.

Gradually, influenced by the writings of social workers highlighting the pathetic conditions in prison, Governments took over their management and control. It was believed that rigorous isolation and custodial measures would reform the offenders. With the development, of behavioural sciences, it began to be realised that reformation of offenders was not possible by detention alone. The traditional approach of retribution and deterrence is being gradually replaced by the modem concept of social defence, which means protection of society and prevention of crime. Till the end of 18th century prison in England of those days came to be described as, places from which the prisoners came out into become pests in society, if they did not die earlier.

Corrections in India:

Role of Central and State Governments:

"Prisons" is a State subject. As such, prison management is primarily the responsibility of the State Governments. However, die Central Government has been providing financial assistance to State Governments, through the Finance Commission's awards as well as under the Central Scheme for Modernisation of Prison Administration, for strengthening their prison infrastructure. During 2000-2001, an amount of Rs.6.95 Crore was released to the States. In the year 2001-2002, a sum of Rs.2.66 Crore has so far been released to the States.

The Central Government has been in touch with the State Governments from time to time on various aspects of prison management and correctional administration so as to improve the condition of the prisons and the prisoners. The Bureau of Police Research and Development has been entrusted the task of framing a Model Prisons Manual. It has also been entrusted the task of monitoring the implementation of the recommendations of Justice V.R. Krishna Iyer Committee-on Women Prisoners.

The Government of India runs an Institute of Correctional Administration in Chandigarh for imparting training to prison personnel. A Regional Institute for Correctional Administration is also functioning at Vellore, Tamil Nadu. The Regional Institute of Correctional Administration (RICA) is the pioneering institute in the world to train prison and correctional officers, who are working in the Criminal Justice System of India. The efforts put forth by the four Southern State Governments viz., Andhra Pradesh, Tamil Nadu, Karnataka and Kerala, materialised on 01.10.1979. The Ministry of Home Affairs for developmental activities also provides assistance to this Institute. Its aim is to train prison and correctional officers of South India and other states in general, at cost. On 3.1.2001, the history of RICA was rewritten to meet the present day challenges of Prisons and Correctional Administration in which the emphasis is laid-down on pragmatic lines including the Co-operation and Co-ordination of training aspects of the Police and Judiciary. In the year 2001, the Institute of Correctional Administration, Chandigarh trained 527 trainees while Regional Institute of Correctional Administration; Vellore trained 353 trainees from States and NGOs.

EVOLUTION AND DEVELOPMENT OF PRISON SYSTEM IN INDIA:

The word “Prison” and “Gaol” derived from the Latin words, which mean respectively to “seize” and “cage”. The Oxford English Dictionary defines prison as, “A place properly arranged and equipped for the reception of persons who by legal process are committed to it for safe custody while awaiting trial or punishment”. Prison, traditionally defined, is a place in which persons' are kept in custody pending trial, or in which they are confined as punishment after conviction. Penal institutions are places where persons whose liberty has curtailed by law are confined to assure the successful administration of justice or the application of penal treatment. Three epochs may be distinguished in their history. During the first, which lasted until the middle of sixteenth century, penal institutions were chiefly dungeons of detention rooms in secure parts of castles or city towers which were used to detain prisoners awaiting trial or execution of sentences.

The second epoch was one of experimentation with imprisonment as a form of punishment for certain types of offenders, mostly juveniles, “sturdy beggars”, vagabonds and prostitutes. The London Bride well, the Amsterdam Rasphusis and Spinhuis, founded respectively in 1557, 1595 and 1597; Francis Florentine Hospice established in 1677, the reformatories for boys and women, in St. Michael’s Hospice in Rome founded in 1704 and in 1735; and the Ghent work house, established in 1775, were the most important institutions of this period. Most of the elements of penal institutions were brought into general use towards the end of the Eighteenth Century.

The third epoch was of universal adoption of imprisonment as a substitute for virtually all-corpora or capital penalties. In contemporary society the prisons have replaced the scaffold, the stocks, the pillory and the whipping post as the most conspicuous if not the most commonly used instrument of penal treatment. From the point of view of the role they play in the judicial administration, four classes of institutions can be distinguished; those for temporary confinement of persons arrested; those for persons awaiting trial or execution of sentence; those in which sentences of penal treatment are liquidated; and those for the interment of socially dangerous offenders.

Whatever may be the official designation of prison as jail, workhouse, reformatory, penitentiary, state prison, house of correction or whatever else, it is a place where the punishment of imprisonment is executed. According to prevailing usage in India, the term “jail" is a generic term, which applies to penal institutions housing both prisoners awaiting trail and prisoners committed to sentences. Consequently, the jails perform the function of remand institutions and prisons.

Characteristics of Prison:

The word prison means different things to different people. To the law-abiding it is the place where criminals end up. To the criminal it may be a vague hazard or unavoidable indignity often experienced. To some isolated individuals it may be the only the place where they can find some semblance of companionship. To the prison officer it is his place of work. To the administrator it is a unit that costs so much to run needs so many staff, can hold number of inmates. To the politician it may be a headache. Someone who should be inside gets out or someone who should be outside has been mistakenly locked up.

Prison System in Ancient India:

In India, the early prisons were only places of detention where an offender was detained until trial and judgement and the execution of the latter. The structure of society in

Ancient India was founded on the principles enunciated by Manu and explained by Yajnavalkya, Kautilya and others. Imprisonment occupied an ordinary place among the penal treatment and this type of corporal punishments was suggested in the Hindu Scriptures. The evildoer was put into prison to segregate from the society. The main aim of imprisonment was to keep way the wrongdoers, so that they might not defile the members of social order. These prisons were totally dark dens, cool, damp and unlighted. There was not proper arrangement for the sanitation and no means of facility for human dwelling.

Yajnavalkya, had narrated that a person who was instrumental for the escape of a prisoner had to undergo capital punishment, (hanging). Vishnu suggested the penalty of imprisonment to a person who hurt the eyes of a man. Kautilya prescribed that jail should be constructed in a capital and provide separate accommodation for men and women. He is of the opinion that every fifth day some prisoners should be made free who pays some money as fine or undergo some other mild corporal punishment or promise to work for social uplift. He has also suggested general amnesty on the birth of a prince or coronation of a royal heir.

Kautilya has further described the duties of the jailer who always keeps eyes on the movement of the prisoners and the proper functioning of the prison authorities. If a prisoner by chance moves out of his cell, he is fined twenty-four panes and the warder who is in league with the prisoner is fined the double amount. In case the warder disturbs the prison life, the higher authority imposes a fine of five hundred rupees. Sometimes the prisoner is put to death by the warder so the penalty in this case is the highest, i.e. one thousand rupees. Kautilya has gone deep to jail life and opines that the prisoner escaping after breaking the prison walls must be put to death. This shows that the jail authority called Bandhanagaradhayaksa was always vigilant and alert and no evil action count escape his eyes.

In the early years of Ashoka, there was an unreformed prison in which most of the traditional fiendish tortures where inflicted and from which no prisoner came out alive. When Buddhism influenced him, it appears that many reformatory measures were taken by him. In the post-Ashokan age the Jatakas give a picture of the society and supply information regarding crime and imprisonment. Seyya jataka relates that, king having fettered and officer put him in jail. But when the king was informed of his guiltless action, the kind released the officer form prison. The other Jataka narrated about the fettered prisoner while another jataka describes the release of the political prisoners at the time of war and commissioned them in the army. The release of prisoners was a common feature in ancient India.

From Harshacharita it appears that the condition of the prisons was far from satisfactory. The life of Hiuen-tsang records that prisoner‟s generally received harsh treatment. They were not allowed to.shave. They had hairy faces and matted beards. The officers of the jail were known as Bandhanagaradhayaksa and Karaka. The former was the superintendent of jail and the latter was one of his assistants. The jail department was under the charge of Sannidhata, who was to select sites for their location and build necessary buildings.

Regular prison system as such was not in existence in ancient India and imprisonment as a mode of punishment was not a regular feature when compared to the modern prison system in India.

Classification of Prisoners in India

The classification of prisoners in India plays a pivotal role in the effective management of prisons and ensures that inmates are treated appropriately based on their legal status, behavior, and rehabilitation needs. The prison system in India is governed by the **Prison Act of 1894**, various state prison manuals, and contemporary reforms introduced to align with modern human rights standards. Prisoners are classified primarily on the basis of their legal status, the nature of the offense committed, their gender, age, and behavioral patterns. This classification helps maintain order within prisons, facilitates the design of tailored rehabilitation programs, and ensures that different categories of prisoners are housed under conditions suited to their circumstances.

Classification Based on Legal Status

1. **Undertrial Prisoners**:

   Undertrial prisoners are individuals who are detained in prison while their trial is ongoing or awaiting the outcome of their case. These inmates constitute a significant portion of the prison population, often exceeding the number of convicted prisoners. Undertrials are presumed innocent until proven guilty and are entitled to basic rights and legal assistance under the Indian Constitution. However, delays in the judicial process often result in prolonged detention, which has been a persistent concern in India’s criminal justice system.

2. **Convicted Prisoners**:

   Convicted prisoners are those who have been found guilty of an offense by a competent court and sentenced to imprisonment. They serve their sentences as per the court’s ruling, which can range from short-term incarceration to life imprisonment.

Convicted prisoners are further classified based on the severity of the crime and the length of the sentence, such as those serving rigorous imprisonment (with hard labor) and simple imprisonment (without labor).

3. **Detained Prisoners**:

   Detained prisoners are individuals held under preventive detention laws, such as the **National Security Act (NSA)** or other special legislations, where incarceration is used to prevent an individual from committing a potential crime. These prisoners are not undergoing trial or serving a sentence but are detained as a preventive measure based on perceived threats to public safety or order.

Classification Based on the Nature of Offense

1. **Petty Offenders**:

   These are individuals convicted or accused of minor offenses, such as theft, trespass, or public nuisance. Petty offenders are generally considered less dangerous and are often housed in separate sections of prisons or even in open prisons, which provide less restrictive environments.

2. **Hardened Criminals**:

   Prisoners involved in serious crimes, such as murder, rape, terrorism, or organized crime, fall under this category. Such individuals are considered a higher security risk and are typically housed in maximum-security prisons or high-risk wards within central prisons. Their rehabilitation programs are often more intensive, focusing on de-radicalization and behavior modification.

3. **Habitual Offenders**:

   Habitual offenders are individuals with a history of repeated criminal behavior. They are classified separately as their recidivist tendencies require specialized intervention and monitoring. Habitual offenders are often subjected to stricter surveillance and segregation from first-time offenders.

Classification Based on Gender

1. **Male Prisoners**:

   The majority of the prison population in India consists of male prisoners, who are housed in general prisons. Their classification further depends on the legal and offense-based categories mentioned earlier.

2. **Female Prisoners**:

   Female prisoners constitute a smaller proportion of the prison population and are housed in separate facilities or exclusive female wards within larger prisons. Female prisoners often face challenges related to access to healthcare, childcare, and gender-sensitive programs. Pregnant inmates and mothers with infants are provided additional support, such as nursery facilities and medical care, as per the provisions of the **Model Prison Manual 2016**.

Classification Based on Age

1. **Adult Prisoners**:

   Adult prisoners, aged 18 and above, form the bulk of the prison population. Their classification is based on other factors, such as the nature of the offense, legal status, and behavioral characteristics.

2. **Juvenile Offenders**:

   Juvenile offenders, below the age of 18, are not housed in regular prisons but are instead placed in **juvenile homes**, observation homes, or special juvenile correctional facilities governed by the **Juvenile Justice (Care and Protection of Children) Act, 2015**. Juveniles are treated with a focus on rehabilitation and reintegration rather than punishment.

3. **Elderly Prisoners**:

   Elderly prisoners, particularly those above 60 years of age, are categorized separately due to their specific health and welfare needs. They may be provided with specialized medical care and other facilities to ensure humane treatment during incarceration.

Classification Based on Behavioral Characteristics

1. **Well-Behaved Prisoners**:

   Inmates who demonstrate good behavior and comply with prison rules are often rewarded with privileges, such as better living conditions, participation in rehabilitation programs, or even parole and remission benefits. These prisoners are often housed in less restrictive environments, including open prisons.

2. **Problematic Prisoners**:

   Inmates who exhibit violent or disruptive behavior are classified as problematic and are kept under stricter surveillance or in high-security cells. Such prisoners are often subjected to counseling or behavioral therapy to address their issues.

Special Categories

1. **Political Prisoners**:

   Political prisoners, although rare in contemporary India, are individuals detained for their political beliefs or activities. They are often housed separately from common criminals to prevent ideological influence or unrest within the prison.

2. **Foreign Prisoners**:

   Foreign nationals detained or convicted in India are categorized as foreign prisoners. They face unique challenges, such as language barriers and lack of familial support. Indian authorities, in collaboration with foreign embassies, often work towards the repatriation or transfer of such prisoners under international agreements.

3. **High-Risk Prisoners**:

   Prisoners considered to pose a significant threat to national security, such as terrorists, are classified as high-risk inmates. They are housed in maximum-security facilities and are subjected to intense surveillance and stringent restrictions.

4. **Mentally Ill Prisoners**:

   Inmates diagnosed with mental illnesses are treated as a special category, requiring medical care and psychological support. They may be transferred to mental health institutions if deemed necessary for their treatment and well-being.

Importance of Classification

The classification of prisoners in India is essential for maintaining discipline, ensuring safety, and facilitating effective rehabilitation. It prevents the mingling of hardened criminals with first-time offenders, reducing the risk of negative influences and fostering a safer prison environment. Proper classification also aids in the allocation of resources, such as vocational training, educational programs, and counseling services, tailored to the needs of specific groups. Moreover, it enables the implementation of gender-sensitive and age-appropriate facilities, addressing the diverse needs of inmates.

Undertrial Review Committee (UTRC)

The Undertrial Review Committee (UTRC) is a mechanism established under the direction of the Supreme Court of India to address the issue of prolonged detention of undertrial prisoners. UTRCs operate under the guidelines provided by the **Legal Services Authorities Act, 1987**, and their mandate is to review cases of undertrials and recommend measures for their release, ensuring their rights are upheld as per Article 21 of the Constitution.

Objective and Functioning:

The primary goal of UTRCs is to reduce overcrowding in prisons and uphold the rights of undertrial prisoners. They focus on individuals eligible for release under Section 436A of the Code of Criminal Procedure (CrPC), which allows release based on the period of detention. UTRCs prioritize cases such as those involving petty offenses, prisoners with disabilities, women, and the elderly. The committees include the District Judge, the Superintendent of Police, the Superintendent of Prisons, and the Secretary of the District Legal Services Authority (DLSA).

Impact and Challenges:

While UTRCs have helped release several undertrials, challenges like delays in committee meetings, lack of legal awareness among prisoners, and systemic inefficiencies persist. Strengthening UTRCs and enhancing collaboration with stakeholders is essential to ensure justice for undertrials.

National Legal Services Authority (NALSA)

The **National Legal Services Authority (NALSA)** was established under the **Legal Services Authorities Act, 1987**, to provide free and competent legal aid to marginalized and economically weaker sections of society. NALSA plays a critical role in ensuring access to justice for prisoners by promoting legal awareness, facilitating representation, and working on prisoner welfare.

Initiatives for Prisoners:

NALSA's schemes include providing legal representation for undertrials, aiding in bail applications, and conducting legal literacy programs in prisons. It also coordinates with State and District Legal Services Authorities to assist prisoners who cannot afford private legal representation.

Achievements and Challenges:

NALSA has made significant contributions, such as improving legal aid accessibility and addressing the plight of undertrial prisoners. However, limited awareness among inmates and the shortage of legal aid counsels often hinder its reach. Strengthening NALSA's resources and enhancing coordination with prison authorities can improve its effectiveness.

Simple and Rigorous Imprisonments

The Indian Penal Code (IPC) prescribes two types of imprisonments: **simple imprisonment** and **rigorous imprisonment**, depending on the severity and nature of the offense.

Simple Imprisonment:

Simple imprisonment involves confinement without mandatory labor. It is imposed for less serious offenses, such as public nuisance or defamation. The focus is on restraining liberty rather than inflicting physical hardship.

Rigorous Imprisonment:

Rigorous imprisonment requires the convicted individual to engage in hard labor during their sentence. It is assigned for more severe crimes like theft, dacoity, or murder. Labor may include tasks such as carpentry, weaving, or agricultural work.

Rehabilitation vs Punishment:

While rigorous imprisonment emphasizes deterrence, modern prison reforms advocate humane treatment, focusing on rehabilitation rather than mere punishment. Balancing these goals remains a challenge for the Indian prison system.

AIDS Prisoners

Prisoners with **HIV/AIDS** face unique challenges within the Indian prison system, including stigmatization, inadequate healthcare, and the risk of transmission due to poor living conditions. Addressing their needs is essential for upholding their human rights and ensuring public health.

Healthcare and Awareness:

The National AIDS Control Organization (NACO) collaborates with prison authorities to implement HIV prevention and care programs. Initiatives include awareness campaigns, voluntary counseling and testing (VCT), and the provision of antiretroviral therapy (ART).

Challenges:

Stigma and discrimination against HIV-positive inmates often discourage them from seeking treatment. Overcrowded prisons exacerbate health risks, making the spread of HIV and other infectious diseases more likely. Strengthening healthcare facilities, reducing stigma, and ensuring privacy in medical consultations can improve conditions for AIDS prisoners.

Life Convicts

Life imprisonment is a severe form of punishment under Indian law, intended as an alternative to the death penalty for heinous crimes like murder, rape, or terrorism. Life convicts are sentenced to remain in prison for their entire natural life, though remission policies and parole opportunities may apply.

Legal Framework:

Under Indian law, life imprisonment does not automatically mean imprisonment for 14 or 20 years unless explicitly stated. The Supreme Court has clarified that life imprisonment means imprisonment for the convict's entire life unless remission is granted by the appropriate authority under Sections 432 and 433 of the CrPC.

Challenges and Rehabilitation:

Life convicts often face social stigma and challenges in reintegration after release. Prisons implement vocational training and counseling programs to aid their rehabilitation, but limited resources often hamper these efforts. Strengthening rehabilitation programs and fostering public awareness are crucial for addressing the plight of life convicts.

Capital Punishment

Capital punishment, or the death penalty, is the most severe form of punishment in India, reserved for the "rarest of rare" cases involving heinous crimes such as terrorism, brutal murders, or crimes against the state. The death penalty has been a subject of extensive debate concerning its morality, effectiveness, and alignment with human rights.

Legal Provisions:

The death penalty is sanctioned under various sections of the IPC, such as Section 302 for murder and Section 376E for repeat offenders of rape. The execution method is by hanging, as stipulated under the CrPC. India has also enacted stringent anti-terrorism laws, like the Unlawful Activities (Prevention) Act (UAPA), which prescribe capital punishment for acts endangering national security.

Judicial Principles:

The Supreme Court of India, through landmark judgments like **Bachan Singh v. State of Punjab (1980)**, established the doctrine of the "rarest of rare" cases, emphasizing that the death penalty should be imposed only when alternative punishments are insufficient to meet the ends of justice.

Debate and Alternatives:

Critics argue that capital punishment violates human rights and is often arbitrarily applied. Advocates for abolition point to its irreversible nature and the possibility of judicial errors. Others contend that it serves as a deterrent for heinous crimes. Many countries have abolished the death penalty, and India continues to face international pressure to do the same.

Conclusion:

While capital punishment remains a contentious issue, efforts to ensure its fair application and adherence to judicial principles are critical. Strengthening the criminal justice system, reducing delays, and focusing on rehabilitation rather than retribution are essential steps toward a more humane and effective penal system.

Suggested Readings:

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UNIT-III
PRISON LEGISLATIONS

HISTORY AND EVOLUTION OF PRISON LEGISLATIONS: CORRECTIONAL MANUALS, RULES, ETC.

We have seen how with the development of Penological and criminological thought, a philosophy of corrections emerged and gained maturity in the light of experiences gained in its implementation. The primary of the principle of n found useful in practice, in certain cases. The present position acknowledges that correction laws should be based on a judicious mix of the policies of rehabilitation and reforms on the one hand and deterrence of the other. Seen in this light one can appreciate the guiding principles behind the correctional manual today.

Historical Development of Prisons and Prison reforms:

The refinement and modification of correctional manuals have gone hand in hand with the development of underlying philosophy. It will be useful to look back prison reforms into the state of prisons in England and America before the reform of prisons in 18th century was first undertaken. There were two kinds of prisons

i. Common goals or places for detentions in safe custody and
ii. Houses of correction.

In 1767 one writer in an article in „Gentleman‟s‟ magazine (England) said “The felons in this country lie worse than dogs or swine, and are kept much more unclean than those animals are in kennels or sties”. Another description by a medical man William Smith shows “Vagrant and disorderly women of the very lowest and most wretched class of human beings, almost naked with only a few filthy rags almost alive and in notion with vermin, their bodies rotting with the bad distemper, and covered with itch. Scorbutic and venereal ulcers and being unable to treat, the constable even with a pot of beer let them escape, are drove in shoals to gaols, particularly to the two „Clerkennels and Tothill fields‟. Then thirty and sometimes near-forty of these unhappy wretches are crowded or crammed together in one ward where, in the dark they bruise and beat each other in a most shocking fashion. In the morning the different wards are more like the black hole of Calcutta than places of confinement in a Christian country”.

Penitentiary Act 1779:

Such was the condition of prisons in 18th century England and those in Europe were not much different. In this atmosphere of darkness a ray of hope was brought by the efforts of John Howard (1726-1791) whose persistent and single-minded efforts over a long period of time, resulted in the passing of The Penitentiary Act in 1779. This act embodied the four cardinal principles of gaol (prison) administration as detailed by
Howard

i. Provision of structurally secure, roomy and sanitary prisons
ii. The subjection of all prisoners to a reformatory regimen of diet work and religious exercises
iii. The transformation of the gaoler or master from an independent profit maker into a salaried servant of the public authority and
iv. The systematic inspection of every part of the prison by some outside public servant.

At this point it is necessary to mention that in 18th century England prisons or houses correction also called bride wells were under the direct administration of justices of peace who appointed and paid a master or governor for daily administration of prisons under their charge. The feeding, working and correcting arrangements of one prisoners made by the justices were not interfered with and they were law in all respects the owners of the institutions. In course of time the master of prison was left to his own devices in the administration of prison. Since expenditure for running these prisons was gradually not sanctioned by the justices, the master converted the prison into a profit making private business where prisoners „upon their delivery or discharge gave fees varying from five shillings to three and four pence". The penitentiary act of 1779 was followed by a „General prisons act 1791".

Further Developments in Prison Reforms in England and America:

Along with the reforms in prisons that started in America under the inspiration of Benjamin Rush (1745-1813), an American physician and penologist, the ideas on prison reforms continued to develop along with the philosophy of corrections. Penitentians were built in England and America, which provided separate cells to each prisoner with workshops and exercise wards. People like Captain Alexander Manconochie (1840) a British naval officer and administrator of English penal colony at Norfolk Island and Sir Walter Crofton, Chairman of the board of directors of Irish prisons in English and Brock May (1861), Gaylod

Hubbel, Frank P.Sanborn and Bnoch O.Wines in America gave further impetus to prison refomis by applying that principles of reform in actual practice.

Reformations:

The old penitentiaries built in America under quake influence to enable offenders to-report of their wrong doings (sins) gave way to reformatories (1870). These reformations were based on the following principles

1. The supreme aim of prison discipline is the reformation of criminals not the infliction of vindictive suffering.
2. Constantly increasing privileges earned by good conduct. The prisoner‟s destiny should be placed measurably in his own hand.
3. A participation of prisoners in their earnings.
4. A gradual withdrawal of prison restraints.
5. The object (of prison discipline) is to make upright and industrious freemen, rather than orderly and obedient prisoners.

The prisoners were classified in three grades i.e.

1. The second grade given at the time of entry to all convicts
2. First grade after 5 months to those with good conduct, and release on parole of those in the first grade after a further six months of good conduct and accumulation of sufficient marks.
3. Third grade or bottom grade given to those who misbehaved seriously arid one had to earn his promotion from third to second grade after an additional period of six months of good behaviour. The reformatories were mainly designed for the convicts‟ aged between 17 and 31 years. There were programmes of educational and vocational training, moral and religious instruction, military drill, athletics and gymnastics.

Individualised Treatment:

Subsequent developments in prison reforms (1900 onwards) took place with individualised treatment of offenders. This included community based correction, the facilities of medical diagnosis (including psychiatric help) and treatment in each prison to help rehabilitation experimentation with inmate‟s self-government and expansion of indeterminate sentencing. The basic idea was to gather all the facts about a case (offender). Equipped with, this data reformer would then be able to analyse the issue in scientific fashion and discover the correct solution for each case. Needless to say that individualised treatment

of offenders was the offshoot of the principles of positivism enunciated by Ceseare Lornbroso and others.

Community based corrections:

The system of community based correction, another development from individualised treatment emphasised keeping offenders in the community and helping them re-integrate themselves in community. This gained great popularity in America. In 1967 the Presidents Commission on Law Enforcement and Administration of Justice,, had this to say, "The task of corrections was to build or rebuild solid ties between the offender and community life... This involved restoring family ties obtaining employment and education securing in the large sense a place for the offender in the routine functioning of society". Probation and to some extent parole are two of the many ways in which community base Corrections can be carried out. Later by the end of 1970s enthusiasm for community-based corrections cooled off and-as already stated modern correctional philosophy in addition to the reform and rehabilitation of offender, also believes in the utility of the old principles of deterrence.

Juveniles and Females:

As regards juveniles and females, the necessity of keeping them in separate institution for correctional treatment has been realised in the nineteenth century itself. Whereas separate houses of refuge for juvenile criminals were built in the 1820s and 1830s, the first female prison was built only in 1873 in America. The principles of correction adopted in these institutions are rehabilitation and reform as criminals in these two categories are more amenable to this kind of corrective treatment.

Prisons in India:

Having surveyed the position in correctional reforms in other countries, when we turn our attention to India, we see that by the time, Pitt"s India-Act, 1784 enabling East India Company to rule India was passed. There were a number of civil jails and criminal jails in India mostly based on the pattern of English prisons add conditions prevailing in them were much the same. Prisoners were mainly employed on the construction of public roads and other buildings.

Beginnings of prison reforms in India:

The road to prison reform in India started with the prison discipline committee (1836-1838) of which Lord Macaulay was a member. The committee mainly noted the extremely bad sanitary conditions prevailing in prisons. The conditions can well be judged by the remarks of Lord Macaulay on Alipore jail at Calcutta as "Shocking to Humanity" and "a

great dishonour to our Government". In fact prisons were no better than hells in the opinion of some visitors. Death rate in prison from contagious diseases was excessively high. About 141 out of every 1000 prisoners died in prisons.

The net result of the recommendation of the committee was building of proper prison improvement of sanitary conditions, provision of good food, and clothing to the prisoners and attention to the sick. Later „Commission of Enquiry into Jail Management and Discipline" (1864) and „Conference of Jail Experts (1877) covered / more or less some grounds of improvements in sanitary conditions better food, clothing and bedding and medical care. It should be noted of course, that in addition to the above the second jail commission of 1864 recommended separation of prisoners, males from females and children from adults.

The Fourth Jail Commission (1888) and Prison Act 1894:

The fourth Jail Commission 1888 specifically recommended uniformity in Prison Administration all over India by means of enacting a single prisons Act. As a result prison Act 1894 was bought into being applicable to prisons all over India. It provided for separation of;

1. Convicted criminal prisoners from unconvicted criminal prisoners.
2. Juvenile criminal prisoners under the age of puberty from those over the age of-puberty.
3. Civil prisoners from criminal prisoners.

Prison Medical Officer was required to visit the prisons daily. Prisoners sentenced to rigorous imprisonment were not to be worked for more than 9 hours a day. Prison Medical Officer was to be responsible to see that health of prisoners was not injured by the work on which he was employed. No officer other than superintendent of prisons had the power to award punishment to offending prisoners. Female and civil prisoners were excluded from the punishment of handcuffs of fetters or whipping. Erring prison staff was liable for punishment. It is seen from the above that the guiding principles of Prison Act 1894 were deterrence and humane treatment of prisoners. Reformation and rehabilitation which had been emerging strongly in other countries i.e. England and America was yet unknown to the Prison Reforms in India.

Reform and Rehabilitation: Indian Jails Committee (1919-20)

It is with the report of the Indian Jails Committee (1919-1920) that reform and rehabilitation of prisoners were identified specifically as the objectives of Prison

Administration. The committee strongly repudiated the practice of keeping juveniles in criminal jails meant for adult prisoners. It recommended creation of children's courts for hearing all cases of juvenile delinquents and their housing in Remand Homes. The committee made a forceful place for introduction of warning, probation fine for work in lieu of short-term imprisonment. It recommended formation of "Discharged Prisoners Aid Societies" to assist the prisoners on release in their efforts at rehabilitation. It provided for sufficient accommodation for each inmate inside the prison, working on the principle of 75 square wards per prisoner within the enclosed space. Habitual criminals were to be segregated from causal offenders. System of remission was further liberalised. System of gratuity to be paid to prisoners for turning out labour in excess of standard task was introduced. Rules for interviews and correspondence for prisoners were further liberalised. Provision of education for prisoners, prison libraries, issue of books and periodicals to the prisoners were all made.

It is thus clear that the recommendations of Indian Jail Committee were based on the then current and ruling principles of correctional philosophy in the world. It will be no exaggeration to say that the correction manuals of all the states in India owe a lot to the recommendations of this committee.

Government of India Act 1935: Prisons made subjects of State Government:

With the passing of Government of India Act, 1935, the subject of prisons was transferred from central provincial Government and a number of Jail Reforms Committee were set up both before and after independence to suggest further improvements motivated by the experience of freedom fighters in Indian Jails. The result of the recommendation of these committees was introduction of the system of parole release and payment of ways, however nominal to the prisoners for the work done by them. Further the development of open prisons serving as half way houses for long-term prisoners for their transition from prison to society was also stressed.

Dr. Walter C. Reckless (1951-52) Recommendations:

In 1.951-52 Dr.Waiter C. Reckless U.N. Expert on correctional work visited India and after studying the prison administration submitted his report, "Jail Administration in India". His recommendations included training of correctional staff, revision of outdated jail manuals, development of full time probation and revisiting boards for the after care services and also the system of premature release. He opposed the handling of the juvenile offenders by courts, Jails and police meant for adult offenders. He recommended the establishment in each state of an integrated department of correctional administration comprising prisons,

portals, children institutions, probation services and after care services. He also recommended that establishment of an Advisory Board of correctional administration at the central government to help the state government for development of correctional programmes. He also suggested the regular holding of a conference at all India level for senior correctional staff.

All India Jail Manual Committee 1957: Model Prison Manual:

As a result of the recommendations of Dr.Waiter C. Reckless and the eighth conference of Inspectors Genera! of Prisons, the Government of India appointed the All India Jail Manual Committee in 1957 to prepare a model prison manual. The Committee examined existing Jail manual and correctional Laws and while laying down the guiding principles for prison management wrote "The Institutions should be centres 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".

The model correctional manual at the outset details the guiding principles. It is divided into 6 parts (3 main parts and 3 sub parts). The parts systematically deal with organization of different institutions architecture, staff and its recruitment training and discipline, Rules relating to prisoners and their classifications, segregation, education, work, vocational training, cultural activities remission, discipline, sanitation and hygiene, diet, transfer, pre-release and release, after care and rehabilitation, medical units etc.

To achieve the guiding principles according to the model prison manual all correctional institutions shall have;

1. Proper and requisite personnel
2. A system of efficient and disciplined administration.
3. Diversified resources and facilities for training treatment programmes.

It is also seen from the All India Jail Manual particularly from the chapters on "Discipline" and "Habitual Offenders" that principle of deterrence has also been made use of in the case of recalcitrant, habitual and hardened prison offenders. A large number of offenders have been detailed as prison offenders and violation of these would result in the punishment and discipline of the prison offender.

Thus while the emphasis is on Rehabilitation and reform of prisoners the manual also utilises the feature of model principles of deterrence in cases wherever necessary.

Central Bureau of Correctional Services, 1961: Prison Manual Today:

The central bureau of correctional services set up in 1961 under the Ministry of Home Affairs in order to formulate a uniform policy of prison administration among its other duties, advised the State Government to revise their prison manuals in line with, the model prison manual. Accordingly, the prison manual as it exists today in most states is based on the model prison manual with some modifications carried out based on the recommendations of various state reform commission and All India Jail Reforms Committee 1983. In Tamil Nadu Prison Reform Commission-1978 headed by Mr. R.L. Narasimhan was set up and its recommendations have also been embodied in the prison manual. Among the punishments to be awarded to prisoners for violation of prison rules and Commission of prison offences, whipping and imposition of fetter are no longer there.

AH India Committee of Jail Reforms (1980-83) (Mullah Committee: Rights of Prisoners:

One of the major recommendations of the all India Committee on jail reforms is the wholesale revision of prison Act 1894. The important feature of the proposed (1980- 83) Act by the Committee is the stress on rights of prisoners Rights of Prisoners on line with the latest thinking on the rights of prisoners. These basic rights as enunciated in the proposed act are;

a. Right human dignity
b. Right basic minimum needs
c. Right communications
d. Right access to law 31
e. Right against arbitrary position punishments
f. Right, to meaningful and gainful employment
g. Right to be released on due date

This recommendation is yet to be acted upon.

PRISON ACT:

In the beginning people were living individually or in small groups and were leading a nomadic life. Later when they started settling down they formed villages. Such a joint living resulted in constant touch with each other, at times resulting-in conflict of interest. This again is to form some guidelines for living in-groups. For such a concession the individual surrendered some of his rights for the security he got from the society. One among them became the enforcer, to start with a leader *then, to* chieftain and later king. *The* conflicts were

classified as offences and sins. What could be proved was referred as an offence and the kind took upon himself to award punishments. What could not be proved but still considered as a conflict in their society was classified as a sin and it was left to god to punish.

Punishments were in several forms like whipping, flogging, cutting of limbs, fines, incarceration etc. separating a man from his kith and kin and by confining him to particular place, thereby restricting his freedom and made to repent was considered as a reasonable punishment. This led to the need for places to confine them and gave birth to prisons. As the society developed, the villages became towns and cities. This again led to the forming ox new laws. Such new laws, acts, etc., and the huge number of people governed by them, led to increased strength in the prisons thereby necessitating forming of ruled for the conduct and administration of the prisons. An act to amend the law relating to prisons enacted, as .it was felt expedient to amend the law relating to prisons in India and to provide ruled‟ and regulations of such prisons. This was called prisons act, 1894.

The prisons act of 1894 classified the prisons, prisoners, remission of sentence system, and the staff structure. It also prescribed the maintenance of prison, the mandatory appointment of officers, the duties of officers, medical administration, admission, removal and discharge of prisoners, discipline of prisoners, food, clothing and employment of prisoners, offence relating to prisoner, prison offence and punishment, offences by prison subordinates and the State Government‟s power to made ruled in this regard. It is noteworthy, that even then much emphasis was given to health of prisoners, in the awarding of punishments to prisoners for prison offence, in some places to which all persons within a prison have access copies of the rules made by the Government both in English and vernacular were-to be exhibited. The idea behind this is that not only the staff but the prisoners also should be made aware of the ruled and regulations. Based on this prison act the states formed their rules and regulations for the administration of the Jails of their state, called jail manuals.

THE PRISONERS ACT:

After the prisons act of 1894 it was found expedient to consolidate the law relating to prisoners confined by order of a court. Hence an act was enacted and it was called the prisoners act 1900. This act defined the court, prison, stated etc. It authorised the officers to detain persons duly committed to their custody, executing the sentences awarded, removal of prisoners from one prison to another prison of on sub-jail to another sub-jail and the officers

competent to pass such orders, procedures for dealing with lunatic prisoners act is a technical one authorising the admission, detention, producing before courts and discharge of a person by the prison authorities on orders from the authorised courts, tribunals, etc.

TRANSFER OF PRISONERS ACT:

As stated earlier the increased population leading the more villages, towns and cities, resulted in formation of states. Hence the need arose to form rules to provide for the removal from one state to another prisoners confined in a prison. Thus the transfer of prisoner‟s act 1950 came into being. This transfer was colloquially being. This act provided for the removal of prisoners from one state to another. Colloquially this transfer from one state to referred as reciprocal transfer. The practice is when a prisoner applied for a transfer to another state, his request with conviction particulars will be sent to the inspector general of prisons of that state. The inspector general of prisons after satisfying himself about the genuineness of the request of the prisoner by suitable enquiry, informs the inspector general of prisons of parent state to send the prisoner to a particular prison in this state. A prisoner will be of that state, except for supervision or remission of sentence he will be governed by the parent states government.

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT - 2000:

The convention on the rights of the child 1989 is the Magna Carta for every child. Convention on the Rights of the Child adopted by the UN in November 1989, which the Government of India acceded to in December 1992. Article 19 gives the right against all forms of exploitation. The Juvenile Justice (Care and Protection of Children) Act, 2000 which upholds the convention on the rights of the child.

Defines “Child” who has not completed 18 years of age and gives protection to children against all forms of exploitation and abuse. It is being increasing recognised that the children are the most vulnerable group in any population and need special care and protection. The Constitution of India imposes responsibility on the State to ensure that needs of children are met and their basic human rights are protected. Enactment of the Juvenile Justice (Care and Protection of Children) Act - 2000 (hereinafter mentioned as Act) seeks to achieve this objective and amends the legal position relating to the Juvenile in conflict with law and children in need of care and protection.

The Act imposes certain duties on police and it envisages creation of certain institutions including Juvenile Justice Board, Special Juvenile Police Unit and Juvenile Officers. These are intended to ensure due attention of state apparatus to juveniles who come in conflict with law or 'other children requiring protection receive due attention of State apparatus. This Standing Order intends to make police officers aware of the salient provisions of the Act and the duties imposed on them while dealing with children including those in conflict with law.

Salient features of the Juvenile Justice (Care and Protection of Children) Act, 2000:

The Juvenile Justice (Care and protection of children) Act, 2000 ensures services to children in distress in a child friendly manner; it is different from the earlier Act of 1986 in many ways.

- The upper age limit has been enhanced from sixteen to eighteen years of age.
- In the earlier Act, the children in conflict law would be dealt with by a Juvenile court consisting of a salaried judicial Magistrate and two social workers and form a bench of magistrate. In the absence of any such constituted Juvenile courts such powers can be exercised by the judicial magistrates. This provision has defeated the very concept of the establishment of juvenile courts.
- This ambiguity has been removed in the revised Act of 2000. The juvenile justice board, consisting of a Judicial Magistrate as it Principle .Magistrate and two Social worker members appointed to the Board can deal with the children in conflict with law. Any other authority other than the Higher Judiciary could not exercise this power.
- In the earlier Act of 1986 there is no eligibility criterion for the members to be appointed to the Juvenile courts and also the Juvenile Welfare Boards. In the revised Act, the persons to be considered for the appointment of Chairperson and members of child welfare committees, (previously Juvenile welfare Boards) and also the Social worker members to Juvenile Justice Boards (previously Juvenile courts).
- In the earlier Act, even a single member can order the final disposition; which defeated the concept of the Juvenile Courts and Juvenile Welfare Boards to perform the functions as a Bench of Magistrates. The revised Act has removed the ambiguity and ensures that the final disposition shall be made at least by two members among

them one shall be the Principal Magistrate.

- The revised Act ensures the application of Adoption, Foster Care, and sponsorship as the sources of rehabilitation and social reintegration, which were, absent in the earlier act. The revised act ensures any individual to adopt a child irrespective of his or her religion, race colour or community.
- The Juvenile Justice Boards shall order the placement of children in adoption, legally. This power of the District and sessions judges, which is conferred, to a lower judiciary.
- Various disposition options such as to participate in group counselling and similar activities, perform community services, order for the payment of fine by the parents are provided to ensure flexible approach towards child protection, which are absent in the earlier Act.
- The revised Act stipulated the establishment of Special Juvenile Police Units and designating Police Officers to deal with a child in conflict with law. This provision is not available in the earlier Act, 19S6.
- The revised Act ensures the establishment of exclusive institutions such as observation Home and Special Homes for children in conflict with law and Shelter homes and Children Homes to provide care and protection to children were/are kept in Observation Homes during the period of pending enquiry (pre-trial placement).
- Apprehension of neglected children, placement during the period of pending enquiry and also the disposition are rested with the police.
- By ensuring social auditing by community, the administration of childcare institution becomes transparent. . .
- The revised Act ensures the preparation of social enquiry reports not only by the probation officers but also by voluntary organisations or otherwise.
- The Act ensures the effective linkage between Governmental, Non-Governmental agencies, Corporate and other community agencies.

JAIL MANUAL:

The Tamil Nadu prison and reformatory manual consists of 4 volumes. Volume-II was revised and issued in 1983. Along with this volume-III was also issued. Thus the 3 volumes became 4 volumes from 1983. The volume - I is important because it contains various acts relating to prison administration. Volume II is the most significant of the 4

volumes.

Salient features of the Jail Manual Volumes:

Volume - I contains various acts providing for the establishment and maintaining of prisons and act son prisoners related subjects. These acts are The Prisons Act 1894, The Prisons Act 1900, The Identification Of Prisoners Act 1920, The Exchange of Prisoners Act 1948, The Transfer Of Prisoners Act 1950, The Prisoners (Attendance In Courts) Act 1955, and relevant portions of act like, the Indian Lunacy ant 1932, Extracts from the Indian Extradition Act 1903, Extracts from the Indian Penal Code 1860, Extracts from the code of Criminal Procedure 1973 and Tamil Nadu acts amending the prison and prisoners act. Volume -1 of the prison and reformatory manual was one of the oldest in the country and served as a model for other states to form their manuals.

Volume II contains the rules and regulation for the management of prisoners framed under sec.59 of the Prisons act 1894. Volume-II contains the statutory rules made by the govt, in the inspection, superintendence and management of prisons. Broadly this contains ruled relating to various aspects of the day-to-day administration of the prison. This manual is considered to be one of the best manuals of the various manuals/orders of the various departments of the Tamil Nadu Government. The value given to human life, individual‟s self-respect, religion, caste and human approach are note worthy. For example it provides for the Mohammedan prisoners to be provided with knee length trousers and also provides a Sikh to keep kirpan (sword) with him.

This volume specified the organisation and administration of the prison department, of central prisons, duties and responsibilities of executive, medical, and ministerial and correctional staff, admission and classification of prisoners, treatment of prisoners, discipline and daily routine, offence and punishment, remission system, grading of convict officers, die try, clothing and bedding, convict labour and prison industries, visitors, interview and communication with prisoners, release of prisoners, medical administration, sanitation, garden and farming, ruled relating to under- trial/remand prisoners, civil prisoners, political prisoners, female prisoners, adolescent prisoners and rules relating the general administration of the prison as well as the manufacture department of the prison.

To go in detail the various aspects of this volume, will be time consuming though it is worth, a perusal of this volume will help anyone who may be required to form rules and regulation for any Institution or system.

Volume III contains the rules framed under other enactments namely criminal procedure code 1973, Prisoners (Attendance in courts act 1982), Indian lunacy act 1912, the Tamil Nadu suspension of sentence rule 1982 and some other acts with rules relating to the administration of the prisons. Volume-Ill consists of various rules as already stated; the important of them being the prisoner‟s suspension of sentence rules 1982. This rule provides for the suspension and release of prisoners on emergency and ordinary leave by the Superintendent and Deputy Inspector General of prison/government respectively.

A prisoner is released on a short leave to attend to the serious illness, death, and marriage of a relative with or without escort. For the ordinary leave the grounds are to make arrangements for the livelihood of the family and for the settlement of life after his release, to make arrangements for the admission of his children in school or college, construction or repair of his home, to make arrangement or to participate for the marriage of son, daughter, brothers, for the marriage of self and for settling family dispute like partition etc. agricultural operation like sowing, harvesting etc. and any other extraordinary reasons. If the conditions laid down for the ordinary leave are satisfied, D.I.G. of prisons grants ordinary leave and gets it ratified by the government later. This system of granting leave by superintendents and D.I.G of prisons is prevalent in Tamil Nadu only in the whole of the country. Another salient rule in this volume is the rules for the grant of financial assistance to released prisoners. These rules as subsequently stand amended provides for grant of financial assistance up to Rs.5000/- per prisoner as a loan for buying things like tools for any trade, machineries, livestock etc. to start a new life by a released prisoner. Efforts are on to remove the financial ceiling and to prescribe the loan as a set of tools of the trade of the prisoner‟s choice, bullock carts with or without bullock, milking cows and other such requirement for any trade, and the prisoner is proposing to start.

The other salient rule in this volume is the rules relating to the prisoners‟ canteen. Canteen are run in the prison from which the prisoners are permitted to buy articles like toilet items, beedi, cigarettes, coffee, tea, bun, biscuits, stationary items etc. The prisoners can use their own cash or the wages earned by them by working in the prison.

Volume IV contains the executive and administrative orders and instructions issued by the govt, and inspector general of prisons form time to time relating to inspection, superintendence and management of prison and prisoners in the state of Tamil Nadu. Vol. lV consists of various instructions issued by the Govt, and I.G. periodically.

As unlike other government services, in prison department we deal with human beings. Hence there is a constant change of circumstances. To suit this change new rules/ instructions/guidelines are issued. While the prisons act was formed in 1894, the first circular was necessitated in 1900 itself! This volume is as important as volume-II and covers almost all the subjects of volume II.

There is a subsidiary jail manual for the management, superintendence and inspection of subsidiary jails. These rules were framed in 1898. Like the jail manual volume II, this manual contains, rules and regulations covering all aspects of running of a subsidiary jail.

Concluding, the manuals of the prisons department are as old as the department and right from the beginning are very elaborate, educative, cover all aspects, keep changing according to the changing-times, human in its approach-and with informative motive.

VARIOUS PRISON REFORMS COMMITTEES AND COMMISSIONS:

The first committee on prison reforms was the prison discipline committee with Lord T.B. Macaulay as a member. The committee noted the terribly overcrowded and unsanitary conditions of the prisons of the time, where deaths due to contagious diseases like cholera took a heavy toll of life.

The committee therefore recommended building of spacious central prisons, with improved sanitary conditions healthy diet, better medical care and stringent discipline of the prisoners. It deliberately rejected all reforming influences such as moral and religious teaching, education or any system of rewards for good conduct and system of rewards for good conduct and suggested that “convicts might be engaged not in manufactures but in some dull monotonous, wearisome and uninteresting task in which there shall be wanting even the enjoyment of knowing that a quicker release can be got by working the harder for a time”.

Clearly the first committee was influenced the contemporary ideas in England where different side of punishment appealed to the parliamentarians of the day. As a result of the recommendations of the committee several central prisons were built starting with one in Agra in 1846 in what was then called Northwest provinces.

The second prisons commission called “Commission of inquiry with jail management and discipline come into existence in 1864. It also covered more or less the same grounds as the first committee”, the reason was that recommendations of first committee could not be fully implemented and mortality in the prisons continued to the high. Actually the committee noted that 46,309 deaths had take place in the decade preceding 1864. It came to the

conclusion that sickness and mortality was mainly due to (i) overcrowding, (ii) bad ventilation (iii) bad maintenance (iv) bad drainage (v) insufficient clothing (vi) sleeping on the ground (vii) deficiency in personal cleanliness (viii) bad water (ix) extraction of labour from unfit persons and (x) insufficient medical inspection. The committee also considered and recommended segregation of juvenile prisoners from adult prisoners and female prisoners from male prisoners. It laid stress on jail discipline and improved dietary. Around this time the practice of posting LM.S. (Indian Medical Service) officer as jail superintendents instead of I.C.S. (Indian Civil Service) officers also started obviously with a view to improve the sanitary, food, health and medical care aspects of prisoners.

The result was considerable reduction in death rate. The third such review of prison conditions was done in 1877 by a "conference of jail experts". It followed the same grounds as earlier committees and there were no new recommendations.

The 4th jail commission in 1888 paid its attention expressly towards routine working of the jails. Walker and Leth bridge who were experienced jail officials were its members. The commission specifically recommended uniformity in prison administration all over India by means of enacting a single prisons act. As a result a committee was formed in 1892 whose recommendations were embodied in the Prisons act 1894 bringing all the prisons in India within the purview of act. The act provided for various prison offences and punishments and the aim of bringing uniformity in prison administration all over India was achieved.

The report of the fifth committee on Indian Jail Committee 1919-20 under the chairmanship of Sir Alexander Cardew I.C.S. Secretary to the Government of India, Home department, was a milestone in prison reform in India as it specifically recognised reform and rehabilitation and not deterrence alone. The committee in the chapter "General propositions & scheme of report noted, that "there is very general agreement that crime is an anti-social act and that it is the task of prison administrator so to deal with the offender that he and others may be deterred from the commission to such acts in future. It is also generally admitted by modem authorities that the aim of prison administration should further be to effect such a reformation in the character of the criminal as will fit him again to take his place in society and to become a useful citizen. Whatever difference exists as to the methods to be employed, we take it that, most penologists agree as to objects in view namely the prevention of further crime and restoration of the criminal to society as a reformed character".

The committee made an extensive tour of England, Scotland, U.S.A, Japan, Philippines, Hong-Kong and Andaman and studied prison systems there. It submitted a

comprehensive report suggesting far-reaching changes in the various aspects of prison system. It made 584 recommendations. Not only were the prison department affected, but penal reform also received a great fillip. The enactment of the Borstal Act, the Children‟s and probation acts and the Punjab good conduct prisoners provisional release act were undoubtedly the direct or indirect result of the general interest aroused by the reports. Some of the jails inquiry committee set up by the provinces then i.e. the united provinces jail enquiry committee 1929 were influenced by it.

In 1935 with the passing of Government of India Act the subject of prisons were transferred from central to provincial government, whereas the earlier system was that of duel control. Further reform in prison administration came after independence and was initiated by the experience of freedom fighters in Indian Jails.

Pundit Jawaharlal Nehru in his article “Prison Land” (1934) writes “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 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”.

The result of these experiences was noticeable in the work of jail reforms committees of various provinces both before and after independence in the form of introduction of the system of parole release and payment of wages however nominal to prisoners.

After independence Dr. Walter C. Reckless U.N. expert on correction work was invited to India in 1951-52 and he gave notable recommendations in his report “Jail administration in India”. One of his recommendations was revision of various jail manuals and bringing them up to-date. The All India Jail Manual Committee of 1957, which drafted a model prison manual, achieved this task. Subsequently in various states the jail manual were revised on the basis of model prison manual.

In 1961 Central Bureau of correctional services was set up under the ministry of home affairs to formulate a uniform policy of prison administration. In 1978 the government of Tamil Nadu constituted the prison reforms committee to consider the question of improvements to be made in the administration of prisons in the state under the chairmanship of improvements to be made in the administration of prisons in the state under the

chairmanship of R.L. Narasimhan, I.C.S (Retd)., Retired Chief Justice of Patna High Court. Accordingly, the committee had recommended 178 recommendations for implementation. Out of 178 recommendations, so far 129 recommendations were implemented, and Government rejected 39 recommendations and 10 recommendations are under consideration of the government. In 1980 Government of India set up All India Jail Reform Committee under the chairmanship of Justice A.N.Mullah (Retd). The mullah committee also made an exhaustive study of prison administration. Its major recommendation included wholesale revision of prisons act 1894. It laid stress on recognising the rights of prisoners. It also noted lack of uniformity and limited applications of various Borstal Schools Act of different states and recommended the legislation of a separate uniform act for young offender (to cover boys in the age group of 16-23 and girls in the age group of 18-23 years). As a result of this recommendation the juvenile justice act of 1986 was passed.

Further, the government of India have constituted a group of officers on 28.7.1986 under the chairmanship of R.K. Kapoor, I.P.S. (Retd). Director Intelligence bureau, to look into the security, discipline and closely related aspects of prison administration. The terms of the reference of the group were as follows:

a. to examine and review various aspects of administration and management of prisons especially in the context of security and discipline in prisons;
b. To suggest measures for their improvement.

Accordingly, the committee had recommended 238 recommendations of implementation and these are now being implemented.

Nelson Mandela Rules: A Comprehensive Framework for Prisoner Treatment

The **Nelson Mandela Rules**, formally known as the **United Nations Standard Minimum Rules for the Treatment of Prisoners**, represent a comprehensive framework aimed at ensuring the humane treatment of individuals in custody. Adopted unanimously by the United Nations General Assembly in 2015, these rules were named in honor of Nelson Mandela, who spent 27 years as a political prisoner and later became a global symbol of dignity, justice, and reconciliation. The Nelson Mandela Rules serve as a benchmark for prison standards worldwide, emphasizing the principles of dignity, respect, and the prevention of torture and other inhumane treatment.

Background and Historical Context

The original Standard Minimum Rules for the Treatment of Prisoners were adopted in 1955 at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Geneva. Over time, evolving global standards for human rights necessitated their revision. In 2011, the General Assembly initiated a review of the rules, resulting in the updated Nelson Mandela Rules, adopted in 2015. These revised rules reflect advancements in human rights, prison management, and rehabilitation practices while addressing gaps in the original framework.

Fundamental Principles

The Nelson Mandela Rules rest on several core principles that underpin humane prison management. The rules recognize that prisoners retain their inherent dignity and human rights, even when deprived of liberty. They emphasize non-discrimination, ensuring equal treatment irrespective of race, gender, religion, or other characteristics. A critical aspect is the prohibition of torture and cruel, inhuman, or degrading treatment or punishment, aligning with broader international human rights treaties like the **Universal Declaration of Human Rights** and the **Convention Against Torture**.

Key Provisions of the Nelson Mandela Rules

The Nelson Mandela Rules comprise 122 provisions organized into various thematic sections, each addressing specific aspects of prisoner treatment, rights, and prison management.

1. **Basic Principles of Treatment**:

The rules mandate that all prisoners must be treated with respect for their inherent dignity. Discrimination on any grounds is strictly prohibited. Moreover, special consideration is given to vulnerable groups such as women, juveniles, and individuals with disabilities, ensuring their unique needs are met.

2. **Conditions of Confinement**:

The rules establish minimum standards for living conditions, including adequate lighting, ventilation, and hygiene facilities. Prisoners are entitled to access clean drinking water, nutritious food, and essential medical care. Overcrowding, a persistent issue in many prison systems, is addressed by emphasizing the importance of sufficient space and humane living environments.

3. **Healthcare and Medical Services**:

Recognizing health as a fundamental right, the Nelson Mandela Rules require prisons to provide adequate healthcare services, equivalent to those available in the community. Medical professionals in prisons must operate independently and prioritize prisoners' health over administrative concerns. The rules also emphasize mental health care, particularly for prisoners with psychiatric disorders.

4. **Discipline and Sanctions**:

The rules prohibit the use of corporal punishment, prolonged solitary confinement (beyond 15 days), and collective punishment. Disciplinary actions must be proportionate and respect prisoners' dignity. Transparency and due process are essential when imposing sanctions, ensuring fairness in prison administration.

5. **Contact with the Outside World**:

Maintaining family and community ties is considered vital for prisoners' mental well-being and successful reintegration. The rules emphasize the importance of allowing regular communication with families through visits, letters, or electronic means, subject to reasonable security requirements.

6. **Education and Rehabilitation**:

Rehabilitation is a cornerstone of the Nelson Mandela Rules. They advocate for educational, vocational, and recreational programs to prepare prisoners for reintegration into society. By providing access to literacy programs, skills training, and constructive activities, prisons can transform into centers for reformation rather than mere detention facilities.

7. **Special Provisions for Vulnerable Groups**:

The rules outline specific protections for women, juveniles, and other vulnerable groups. For women, special attention is given to their healthcare needs, including pre- and post-natal care. Juveniles are to be treated in accordance with their age and developmental needs, with a focus on education and rehabilitation.

8. **Independent Oversight and Accountability**:

The rules emphasize the importance of independent oversight to ensure compliance with the standards. Regular inspections by qualified external bodies are mandated, ensuring transparency and accountability in prison administration.

9. **Staff Training and Conduct**:

Prison staff play a crucial role in implementing the Nelson Mandela Rules. Comprehensive training programs must cover human rights, non-discrimination, and

techniques for de-escalating conflicts. Staff are expected to demonstrate professionalism, impartiality, and respect in their interactions with prisoners.

Impact and Implementation Challenges

The Nelson Mandela Rules have significantly influenced prison management practices worldwide, setting a global standard for humane treatment. They provide a framework for countries to reform their prison systems and align them with international human rights principles. For example, several nations have adopted policies to reduce overcrowding, improve healthcare access, and enhance rehabilitation programs based on these rules.

However, the implementation of the Nelson Mandela Rules remains challenging in many parts of the world. Overcrowding, inadequate resources, lack of trained personnel, and systemic corruption hinder the realization of these standards. Developing countries, in particular, struggle to allocate sufficient funds for prison reforms while addressing broader socio-economic issues.

Relevance in the Indian Context

India, with one of the largest prison populations globally, faces significant challenges in aligning its prison system with the Nelson Mandela Rules. Issues such as overcrowding, underfunding, and prolonged detention of undertrials are prevalent. According to the **National Crime Records Bureau (NCRB)**, over 70% of Indian prisoners are undertrials, many of whom remain in custody due to delays in the judicial process.

Indian prisons also face criticism for inadequate healthcare services, poor living conditions, and a lack of rehabilitation programs. The Nelson Mandela Rules provide a roadmap for addressing these issues by prioritizing prisoners' rights, promoting non-discrimination, and enhancing transparency in prison administration. Initiatives like the introduction of open prisons, skill development programs, and mental health interventions align with the principles outlined in these rules.

The Way Forward

To effectively implement the Nelson Mandela Rules, nations must invest in prison infrastructure, staff training, and rehabilitation programs. Strengthening independent oversight mechanisms can enhance accountability and ensure compliance with these standards. Collaborative efforts between governments, civil society organizations, and international bodies are essential for addressing systemic issues and promoting best practices.

In the Indian context, addressing judicial delays, enhancing legal aid for undertrials, and improving prison infrastructure are critical steps. Incorporating technology, such as video conferencing for court hearings, can also reduce overcrowding and streamline the justice process.

Conclusion

The Nelson Mandela Rules represent a milestone in global efforts to humanize prison systems and uphold the dignity of incarcerated individuals. They serve as a reminder that prisoners, despite their offenses, remain human beings entitled to respect and humane treatment. By embracing these rules, nations can transform their prisons from institutions of punishment to centers of rehabilitation and reintegration, fostering a more just and compassionate society.

Tokyo Rules: A Global Framework for Non-Custodial Measures

The **United Nations Standard Minimum Rules for Non-Custodial Measures**, popularly known as the **Tokyo Rules**, were adopted by the United Nations General Assembly in 1990. These rules aim to provide comprehensive guidelines for the implementation and promotion of non-custodial measures in criminal justice systems. By offering alternatives to imprisonment, the Tokyo Rules strive to reduce the excessive use of incarceration, address prison overcrowding, and promote the principles of justice, rehabilitation, and reintegration into society. They emphasize the use of community-based sanctions and interventions that respect human dignity and align with the goals of restorative justice.

Background and Need for Tokyo Rules

The Tokyo Rules were developed in response to global concerns over the over-reliance on imprisonment, which often leads to overcrowded prisons, systemic human rights violations, and insufficient rehabilitation efforts. Imprisonment is frequently applied indiscriminately, even for minor offenses, disproportionately impacting marginalized and vulnerable groups. This overuse of incarceration also places a significant financial burden on governments, often with little evidence to suggest that it effectively deters crime or reduces recidivism. Recognizing the need for a more humane and efficient approach to criminal justice, the United Nations introduced the Tokyo Rules to encourage the use of alternative measures that are proportionate, effective, and socially constructive.

Principles of the Tokyo Rules

The Tokyo Rules are guided by several core principles that underpin their approach to criminal justice reform:

1. **Proportionality**: Non-custodial measures must be proportionate to the nature and gravity of the offense, considering the individual circumstances of the offender.
2. **Respect for Human Rights**: The application of non-custodial measures must align with international human rights standards, avoiding discrimination and ensuring fair treatment.
3. **Rehabilitation and Reintegration**: The rules prioritize measures that facilitate the offender's reintegration into society, addressing the root causes of criminal behavior.
4. **Community Participation**: Engaging community-based resources and services is crucial for the effective implementation of non-custodial measures.
5. **Minimal Intervention**: Criminal justice interventions should be the least restrictive necessary to achieve the intended objectives, minimizing disruption to the offender's life.

Key Provisions of the Tokyo Rules

The Tokyo Rules consist of 23 rules divided into nine sections, each addressing different aspects of non-custodial measures, from their implementation to the rights of offenders and the responsibilities of authorities.

1. **Scope and Application**:

The rules emphasize that non-custodial measures can be applied at all stages of the criminal justice process, from pre-trial to post-sentencing. They are intended to serve as a substitute for imprisonment while ensuring accountability and justice for the offense committed.

2. **Legal Safeguards**:

Non-custodial measures must be implemented in a manner that respects the offender's legal rights. Decisions to impose such measures should be transparent, involve due process, and be subject to judicial review.

3. **Alternatives to Pre-Trial Detention**:

To address the excessive use of pre-trial detention, the rules encourage measures such as bail, supervised release, or personal recognizance. These alternatives aim to ensure that individuals are not unnecessarily detained before their guilt or innocence is determined.

4. **Sentencing Options**:

The rules advocate for a wide range of sentencing alternatives to imprisonment, including fines, probation, community service, restitution to victims, and house arrest. Judges are encouraged to consider these options based on the offender's circumstances and the nature of the offense.

5. **Post-Sentencing Measures**:

For offenders who have already been sentenced to imprisonment, the Tokyo Rules support measures such as parole, early release, or suspended sentences, provided they demonstrate rehabilitation and pose no risk to society.

6. **Implementation and Monitoring**:

The effective implementation of non-custodial measures requires robust mechanisms for supervision and monitoring. Authorities must ensure compliance with the conditions of non-custodial sanctions while providing support to offenders through counseling, education, and vocational training.

7. **Community Involvement**:

The rules emphasize the importance of engaging community organizations, social workers, and volunteers in the administration of non-custodial measures. Community-based programs can provide offenders with the resources and support needed for successful rehabilitation.

8. **Special Considerations for Vulnerable Groups**:

The Tokyo Rules recognize the need for special measures to address the unique needs of women, juveniles, and individuals with mental or physical disabilities. Tailored interventions ensure that non-custodial measures are equitable and effective for all offenders.

9. **Training and Development**:

Criminal justice personnel, including judges, probation officers, and law enforcement officials, must receive specialized training on the application of non-custodial measures. This training ensures that decisions are informed, fair, and aligned with the principles of the Tokyo Rules.

Benefits of Non-Custodial Measures

The Tokyo Rules highlight the numerous advantages of non-custodial measures over traditional imprisonment:

- **Reduction of Prison Overcrowding**: By diverting offenders away from incarceration, non-custodial measures help alleviate overcrowded prison conditions,

ensuring better living standards for those who remain incarcerated.

- **Cost-Effectiveness**: Community-based sanctions are significantly less expensive than maintaining individuals in prison, freeing up resources for other social services.
- **Rehabilitation and Reintegration**: Non-custodial measures address the underlying causes of criminal behavior, reducing recidivism and enabling offenders to contribute positively to society.
- **Preservation of Social Ties**: Unlike imprisonment, non-custodial measures allow offenders to maintain family and community connections, which are critical for their reintegration.
- **Restorative Justice**: Many non-custodial measures, such as restitution and community service, emphasize repairing harm to victims and communities, fostering accountability and reconciliation.

Challenges in Implementation

Despite their numerous benefits, the effective implementation of the Tokyo Rules faces several challenges:

- **Resistance to Change**: Many criminal justice systems continue to rely heavily on imprisonment due to entrenched practices, public perceptions, and political pressures.
- **Lack of Resources**: Implementing non-custodial measures requires investment in infrastructure, training, and community programs, which are often lacking in resource-constrained settings.
- **Inconsistent Application**: Disparities in the application of non-custodial measures can result in unequal treatment of offenders based on factors such as socio-economic status or geographic location.
- **Limited Awareness**: Both the public and criminal justice professionals may lack awareness of the benefits and principles of non-custodial measures, hindering their acceptance and utilization.

Relevance in the Indian Context

In India, the Tokyo Rules hold significant relevance as the country grapples with issues like prison overcrowding, prolonged pre-trial detention, and insufficient rehabilitation programs. According to the **National Crime Records Bureau (NCRB)**, over 70% of the prison population in India comprises undertrials. Non-custodial measures such as bail reform, probation, and community service can play a crucial role in addressing these challenges.

The Probation of Offenders Act, 1958, aligns with the Tokyo Rules by promoting probation as an alternative to imprisonment for certain categories of offenders. However, its implementation remains inconsistent, with probation services often underutilized. Expanding community-based programs, strengthening legal aid, and enhancing public awareness are critical steps for aligning India's criminal justice system with the Tokyo Rules.

Conclusion

The Tokyo Rules represent a progressive shift in criminal justice, prioritizing rehabilitation, community involvement, and proportionality over punitive measures. By emphasizing non-custodial alternatives, they challenge traditional notions of justice and promote a more humane and effective approach to crime prevention and offender reintegration. While the implementation of these rules requires overcoming systemic and resource-related challenges, their potential to transform criminal justice systems and create safer, more equitable societies is undeniable. Adopting and implementing the Tokyo Rules comprehensively can ensure a balanced approach to justice, where accountability and humanity coexist.

Suggested Readings:

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Unit IV

CORRECTIONAL INSTITUTIONS

INSTITUTIONALISATION: MEANING AND PURPOSE: INSTITUTIONAL CORRECTIONAL PROGRAMMES

Institutionalisation symbolises a system of punishment also a sort of institutional placement of under trails and suspects during the period of trial. Since there cannot be a society without crime and criminals, the institution of prison is indispensable for every country. The history of institutions in India and elsewhere reflects the changes in society‟s reaction to crime from time to time. The system of imprisonment represents a -curious combination of different objectives of punishment) Thus institution may serve to deter the offender or it may be used as a method of retribution or vengeance by making the life of the offender miserable and difficult. The isolated life in institution and incapacity of inmates to repeat crime while' in the institution fulfils the preventive purpose of punishment. It also helps in keeping crime under control by elimination of criminals from the society.

That apart, prison may also serve as an institution for the reformation and rehabilitation of offenders. It therefore, follows that whatever be the object of punishment, the institution serves to keep offenders under custody and control.

A prison today serves three purposes, which may be described as custodial, coercive and correctional. Though the last of these, which concerns the use of imprisonment as a form of‟ legal punishment, now takes the primary place, it is in historical perspective a comparatively new conception, not all the implications of which have yet been worked out. In its origin the prison served only the custodial function; it was a place in which an alleged offender could be kept in lawful custody until he could be tried, and if found guilty punished. In Roman Law, the Digest of Justinian established the custodial principle with the statement that a „prison‟ is for confinement, not for punishment‟ and in countries that followed Roman law, the principle that imprisonment was not a legal punishment was dominant till 1,000 years. In England also the high court judges went out to “deliver the goals” - to clear them- not to fill them. The prisons of the middle Ages were, therefore, concerned only with holding prisoners awaiting trial. Penal institutions were chiefly dungeons or detentions rooms in secure parts of castles or city towers used to detain prisoners awaiting trial or execution of sentence. The punishments imposed were torture, banishment, exile, death, branding, mutilation, but never imprisonment.

The coercive functions means that imprisonment may be used to persuade a person to comply with an order made by the court of law, whether civil or criminal; if he complies, he is released. The first use of the prison in this way was against convicted offenders, mostly for juveniles, „sturdy beggars", vagabonds and prostitutes. This function is still active in England, since those committed for non-payment of fines or debts or for contempt of court may secure release by paying what they owe or purging their contempt.

Finally, imprisonment takes its place as one of the punishments, which a court may impose on those, convicted offences against the criminal law. This is the correctional purpose. Towards the end of the eighteenth century, imprisonment was considered a substitute for virtually all-corporal or capital penalties.

The prison, during the last three centuries or so has evolved to the status of institutions of social control and symbol of legitimate coercion. It is no more a resting ground in the legal process where death penalty, banishment or life transportation may be the verdict. Rather, the institution of prison has imbibed and is influenced by the conventional norms, and assumptions, of humanitarianism, enlightenment, and the welfare state. It not only carries the bearing of the ideals of the period, but is also impregnated with the expediencies of organisational science. .

The prison is not an autonomous body like a church. It is not an independent system of power, but an instrument of the state, shaped by its social milieu and by the society as various struggle to advance their interests. The prison is expected to reform or rehabilitate the criminals. Next, society wants protection from criminals. The prison isolates criminals from general society so that they cannot commit crimes, during certain periods of time. Also, society wants retribution. The prison is expected to make left unpleasant for people who, by their crimes have made other"s lives unpleasant. The prison is expected to reduce crime rates not only by reforming criminals but also by deterring the general 'public form behaviours, which is punishable by imprisonment. Since the prison has been assigned the taste of working towards each of society"s goals, the attainment of the goals may be considered the objective of imprisonment.

Prison system in Medieval India:

During Mughal period sources of law and its character essentially remained Quranic. Crimes were divided into three groups, namely (a) offences against God. (b) Offences against the State, (c) Offences against private persons. The punishments for these offences were of

four classes: (i) hadd, (ii) tazir, (iii) quisas and (iv) tashir. The punishments included are fines and confiscation, forfeiture of rant and title, subjecting to humiliations, banishment, whipping, and mutilation of offending limbs, execution and other corporal punishments. Imprisonment was not resorted to as a form of punishment in the case of ordinary criminals. It was used mostly as a means of detention only. There were fortresses situated in different parts of the country, in which the criminals were detained pending trial and judgement. There used to be three „noble prisons or castles" in Mughal India. One was at Gwalior, second at Ranthambore and the third was at Rohtas. Criminals condemned to death punishment were usually sent to the fort of Ranthambore. They met their death two months after their survival there.

The Gwalior Fort was reserved for the „nobles who offend". Those nobles who were condemned to perpetual imprisonment were-sent to Rohtas, from where „very few return home. Princes of Royal Blood were often sent to this place. Occasionally, the prisoners were transferred from one place to another. According to Muslim law, the quazis were supposed to visit the prisons and inquire into the conditions there, and release those who showed signs of repentance. On the birth of prince Salim, Emperor Akbar ordered that all the prisoners in the imperial dominions that were confined in the fortresses for „great accounts" were to be released. On the occasion of the celebrations of recovery from illness of the favourite princess, Begum Sahib, Shah Jahan ordered the release of prisoners in 1638. When the prisoners were taken to the prison, they were usually loaded with iron fetters on their feet and shackles on their necks.

During Maratha period also, imprisonment as a form of punishment was not very common. Deaths, mutilation, fine were common forms of punishments. The form of punishments, as during Ancient and Mughal period, continued in Maratha period also.

Some rooms in forts popularly known as the Bandhikhanas orAdab-khanas were reserved for prisoners, and the culprits, who had committed serious crimes, were sent to such forts from different places. They were treated according .to their station in life, and the nature of crime they had committed. Persons of the lower castes and especially adulterous women, both of higher and lower castes and especially adulterous women, both of higher and lower castes were compelled to do hard labour on building fortress. The ranks of prisoners determined their quantity and quality of ration. They were .given leave for visiting their homes for attending religious rites like Sradha.

The political prisoners, however, were well treated. Their communications with outside world and even with their own relatives was prohibited. They were supplied with all sorts of comforts and were given first class food.

Neither in Ancient nor in Mediaeval India imprisonment was considered to be a form of punishment. The main features of the prison system as it prevailed in pre-British period may be summarised as follows:

a. There were no prisons in the modern sense.
b. There was no description of the internal administration of prison.
c. No separate prison service existed and courts were not feeding centres for prisons.
d. There were no rules for maintenance of prisons.

Prison System in British India and the Birth of Modern Prison System:

When the advent of the British rules the administrative structure assumed a new form. At first little alternation was made in the existing legal system. The regulating act was passed in 1773 which established the Supreme Court at Calcutta to exercise all civil, criminal, admiralty and ecclesiastical jurisdiction and indicated the intention of the British government to introduce English rules of laws and English superintendence of law came to be applied to Indians. The Indian penal code and the criminal procedure code, which has long been in preparation, were enacted in 1859 and 1860 respectively. The Indian Penal Code defined each and every offence and prescribed punishment for it, while the criminal procedure code laid the procedure for prosecuting the criminals. The imprisonment as a form of punishment (or the modem prison system), which was first applied in India 1773, came to be applied on uniform basis throughout India in 1860.

The jail represents the smallest unit of the prison system. It is the permanent place of detention of those who are condemned to imprisonment by, the courts. The institution of jail, as understood these days, is of British origin and was introduced in India, as a part of British Administration. Before the institution of Jail, the system of punishment did not require and financial burden on the part of the Government. The Directors of East India Company were reluctant to spend money on jails and although jails were modelled on British lines, there was not enough accommodation and there was inadequate food, Clothing and medical attention for the prisoners. Thus, the conditions in jails were extremely bad.

Under East India Company Rule, 143 civil jails, 75 criminal jails and 68 mixed jails, with a total accommodation for 75, 100 had been built in Bengal, North Western Provinces,

Madras and Bombay.

CLASSIFICATION SYSTEM OF PRISONS: MEANING AND SIGNIFICANCE

At the time when reaction to crime was purely punitive, there was no need for classifying prisoners and all of them were flocked together in a single prison. This system of singular treatment of criminals, however, turned the prisons into a living hell on earth with all sorts of vices. The sole object of prisonisation in those days was to subject the inmates to maximum torture and pain and therefore here was no need to classify them. With the evolution of penal science during the late eighteenth and early nineteenth century, the offenders were classified in to different categories according to their sex, age and gravity of offence. Even at this time, objective approach to prisoners was not known. It was towards the end of 19th century that the idea of individualisation of prisoners drew attention of penologists and this principle has since then been firmly established into practice. Evidently, in the changed circumstances the earlier classification of criminals on the basis of their physical differences serves no useful purpose. Therefore, modern penologists have worked out an objective classification of prisoners according to differential treatment. The prisoners are now classified according to the treatment to which they are likely to respond most favourably. In the modern context, social defence, namely, the protection of society from criminals is the prime object of punishment while classification of prisoners for treatment is the method of it.

Austin McCormick says that, the most important work to be done, following the admission of an offender into the prison, shall be the "Scientific Classification and programme planning on the basis of complete case-histories, examinations, tests and studies of the individual prisoners. These will naturally be follow up in terms of Curative treatment through medical and psychiatric services; education and work assignments on the basis of the classification and psychological studies; discipline and preparation for leave on parole and premature release; individual and group therapy under trained social therapists; employment at tasks comparable in variety type and pace to the work of the work outside, especially at tasks with vocation training value and rehabilitation potential, education planned in accordance with individual needs; wholesome recreation so organised as to promote good morale and sound mental and physical health and a religious programme so conducted as to affect helpfully the spiritual life of the individual as well as the prison community as a whole. Such a scientific classification alone can form the basis of all treatment and

rehabilitation programme in prison. The classification committee, which does the job during the initial quarantine period soon after admission, should have among its members a qualified psychologist, social case worker, experts in education and work therapy, besides the medical officer, under the chairmanship of the superintendent of the prison.

This classification will also lead to the building up of the individual case history, on which the progress of treatment will be followed up and reviewed by the committee from time to time.

ADULT INSTITUTIONS:

Central Prisons/Jails:

There are Central jails in the most of the states in India and also special prisons for women. In some states like Tamil Nadu there are two women prisons.

Routine in Central Jails:

All the blocks and cells and barracks shall be unlocked at day break thought out the year for which convict night watchman shall awake the prisoners and keep them ready to go out the cells and blocks shall finish their bathing and breakfast before 7.30 A.M. The prisoners shall be marched to the workshops by 7.30 A.M and the prisoners have the work in the workshops from 7.30 A.M to 11.30 A.M. By 11.30 A.M the workshop shall be dosed.

11.30 A.M to 12.30 P.M. is lunch break for the prisoners. By 12.30 P.M. again the prisoners shall be marched to the workshops where they have to work from 12.30 P.M. to 4.30 P.M. From 4.30 P.M. to 5.30 P.M or up to 6"o clock the prisoners shall be left free to play games to go to the library to take bath and to finish their evening meals by 6,30 P.M Prisoners shall be locked up in their respective cells and blocks and they will be allowed to read books, to hear music, to hear radio news and to see Television etc., By 9.30 P.M. silence horn shall be observed, all the prisoners shall go to the bed by 9.30 P.M. During the night when the prisoners are sleeping, prison officials in various ranks will check up the prisoners and to see them not to violate any prison rules and regulations. Again the next day morning the prisoners shall be unlocked at daybreak.

During the day time prisoners shall be sent to the workshops. Sick prisoners shall be sent to the prison hospital if necessary they shall be sent to General Hospital. Prisoners who are facing trials in the court shall be sent to the respective courts.

Generally, Carpentry, Weaving, Tailoring, Bookbinding, Blacksmithing, Soap making Tag making and etc., are the industries in almost all the central jails. For the security of the

prisons, warden guards are doing duty both day night and convict wardens tale-talk clock system is also used in addition to the warden staff security.

The superintendents at least once in a fortnight shall make a night visit to check up whether guarding is being properly performed and everything is in order, and the Jailer also shall have a night visit at least once in a week.

There are two Asst, surgeons' in each and every Central Jails and they shall give necessary treatments to the prisoners if they are found sick. If necessary the prisoners may be referred the General Hospital.

After the lockup, all the keys shall be kept in the key box kept in the between main gate. For any emergency, the jailor shall open the prison and take necessary action immediately with the notice of the superintendent‟s.

The COFEPOSA Prisoners, Tada Prisoners, Habitual Prisoners, Tamil Nadu Preventive Detention Act (T.P.D.A) Prisoners, A class prisoners, Prisoners involved the smuggling civil debtors, Foreign prisoners are detained only in central Jails. Escapees and prisoners involved in sensitive cases *are* detained only in Central Jails. Both convicted and *under* trail and remand prisoners are also detained in central prisoner separately. Female prisoners are segregated and kept separately in Central Prison. Immoral gang shall be sent to the staff quarters for cleaning and gardening. Parade for the warder staff, shall be conducted once in a week.

In all central jails there are schools up to 5^{th} STD, which is recognized by the State Government. And every school has got its own library where three or four teachers are working according to the strength of the prisoners. The District Educational Officer uses to visit the prison schools and conducts examinations as in the case of other schools situated outside the prison. The inmates who are willing to study for higher studies they are allowed for higher studies. At present some of the inmates are doing B.A., M.A., B.G.L., etc., through correspondence courses.

Inspector General shall conduct the Annual Inspection every year and check the security arrangements of the prisons, discipline of the prisons, action taken towards the rehabilitation and welfare of the prisons.

This is the routine practice, which is being followed in all the Central Jails.

District Jails in India

District jails are an integral part of India’s prison system, playing a critical role in housing individuals awaiting trial, undertrials, and convicts serving short-term sentences.

Managed by state governments, district jails are second in importance only to central jails in terms of hierarchy and capacity. They are often located in the district headquarters or prominent cities of the district and serve as the primary facility for housing prisoners within their jurisdiction.

District jails are equipped to handle a wide array of prisoners, including those involved in petty crimes, individuals awaiting legal proceedings, and those convicted of less severe offenses. They are also tasked with temporarily accommodating prisoners who may later be transferred to central jails based on the nature of their crimes or the duration of their sentences.

Structure and Capacity

The infrastructure of district jails is designed to accommodate the general prison population of a district. Most district jails have wards, cells, and barracks to separate inmates based on gender, crime category, and security needs. However, overcrowding remains a persistent issue due to high arrest rates and the large proportion of undertrials in India's prison system. According to reports by the **National Crime Records Bureau (NCRB)**, district jails often operate over capacity, leading to inadequate living conditions and strained resources.

To address these issues, district jails are expected to maintain basic facilities such as clean drinking water, sanitation, healthcare, and food. However, resource limitations often hinder the effective delivery of these services. Overcrowding exacerbates health concerns, making inmates more vulnerable to communicable diseases.

Role in the Criminal Justice System

District jails serve as the primary point of incarceration for individuals awaiting trial, reflecting the inefficiencies in the judicial process. Many undertrials spend years in district jails due to delays in legal proceedings, often exceeding the maximum sentence for their alleged crimes. This situation not only undermines the principle of "innocent until proven guilty" but also contributes to the challenges of prison administration.

District jails are also important for ensuring access to justice. Their proximity to district courts allows for smoother coordination in the production of inmates for hearings and trials. Moreover, they facilitate family visits, legal consultations, and interactions with probation officers.

Rehabilitation and Reformation Programs

Rehabilitation efforts in district jails are often limited compared to central jails due to resource constraints. However, some district jails have initiated programs aimed at skill development, literacy improvement, and psychological counseling to support the reintegration of inmates into society. Collaborations with NGOs and civil society organizations play a vital role in enhancing these efforts.

Sub-Jails in India

Sub-jails are smaller correctional facilities located in rural or semi-urban areas, primarily serving as temporary detention centers. They are intended to house individuals accused of minor offenses, those awaiting trial, or convicts serving short sentences. Sub-jails act as feeder institutions for larger district and central jails by accommodating overflow prisoners or holding individuals before their transfer to larger facilities.

Characteristics and Functions

Sub-jails are typically smaller in size and capacity compared to district or central jails. They are strategically located to ensure that prisoners from remote areas do not have to travel long distances for detention. This proximity to local courts and law enforcement agencies facilitates the swift movement of inmates for legal proceedings.

The primary function of sub-jails is to manage prisoners at the local level, ensuring that the incarceration process is accessible and less burdensome for rural communities. They serve as holding facilities for individuals detained by local police before their formal remand or transfer.

Infrastructure and Resources

The infrastructure of sub-jails often reflects the limited resources allocated to them. Facilities such as barracks, cells, and common areas are usually rudimentary, catering to a smaller population. However, sub-jails frequently face challenges such as overcrowding, especially in regions with high crime rates or prolonged judicial delays. Basic amenities like drinking water, sanitation, and medical facilities are often inadequate, posing significant challenges to the well-being of inmates. Due to their small scale, sub-jails usually lack specialized healthcare services or dedicated rehabilitation programs, relying instead on nearby district or central jails for such resources.

Role in Local Justice Administration

Sub-jails are integral to the local justice administration system, ensuring that individuals arrested in rural areas have immediate access to detention facilities. This reduces

logistical challenges for law enforcement and minimizes the disruption caused to families and communities.

For minor offenses, sub-jails can serve as the primary site of incarceration, allowing individuals to serve their sentences close to their homes. This proximity enables better family contact and community support, which are essential for rehabilitation and reintegration.

Challenges in Sub-Jails

Sub-jails face several challenges that hinder their effective functioning:

1. **Overcrowding**: Despite their intended role as temporary detention centers, many sub-jails operate beyond their capacity, leading to poor living conditions.
2. **Staff Shortages**: Sub-jails often suffer from a lack of trained personnel, affecting the management and security of inmates.
3. **Lack of Rehabilitation Programs**: With limited resources, sub-jails struggle to provide vocational training or educational opportunities for inmates.
4. **Healthcare Deficiencies**: The absence of on-site medical facilities means that inmates must rely on nearby healthcare centers, causing delays in treatment.
5. **Judicial Delays**: Prolonged judicial processes contribute to the overstay of undertrials in sub-jails, compounding overcrowding and resource strain.

Recommendations for Improvement

To enhance the efficiency and effectiveness of sub-jails, several reforms are necessary:

1. **Infrastructure Upgrades**: Investing in better facilities, including sanitation, healthcare, and recreational areas, ensures humane living conditions for inmates.
2. **Staff Training**: Providing training for prison personnel improves inmate management and rehabilitation efforts.
3. **Introduction of Non-Custodial Measures**: Alternatives like probation and community service can reduce reliance on incarceration.
4. **Legal Aid and Speedy Trials**: Ensuring timely access to legal aid and expediting cases involving undertrials can alleviate overcrowding.
5. **Collaboration with NGOs**: Partnering with civil society organizations can bring in additional resources and expertise for inmate welfare.

Conclusion

Sub-jails play a critical role in the Indian criminal justice system by addressing the detention needs of rural and semi-urban areas. While they serve as vital components of

localized justice, their potential is often undermined by inadequate resources and systemic inefficiencies. By addressing the challenges they face and implementing targeted reforms, sub-jails can better serve their purpose as humane and effective detention centers. Their improvement not only enhances the prison system but also contributes to broader goals of justice and rehabilitation.

JUVENILE INSTITUTIONS:

Observation Homes:

The State Government establishes and maintains either by itself or under an agreement with voluntary organisations, observation homes in every district or a group of districts, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them. If the State Government is of opinion that any institution other than a home established or maintained under by the government is fit for the temporary reception of juvenile in conflict with law during the pendency of any inquiry regarding them, it may certify such institution as an observation home.

The State Government may, by rules, provide for the management of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a juvenile, and the circumstances under which, and the manner in which, the certification of an observation home may be granted or withdrawn.

Every juvenile who is not placed under the charge of parent or guardian and is sent to an observation home shall be initially kept in a reception unit of the observation home for preliminary inquiries. Care and classification for juveniles according to his age group, such as seven to twelve years, twelve to sixteen years and sixteen to eighteen years giving due to considerations to physical and mental status and degree of the offence committed, for further induction into observation home.

Juvenile Justice Board:

The state government constitutes for a district or a group of districts, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such boards in relation to juveniles in conflict with law A board normally consist of a Metropolitan Magistrate or a judicial magistrate of the first class, and two social workers of whom at least one will be a woman, forming a Bench and every such Bench have the powers conferred by the Code of criminal procedure, 1973 (2 of 1974), on a metropolitan magistrate Or, as the case may be, a judicial Magistrate of the first class and the magistrate on

the board is designated as the principal magistrate.

No magistrate is appointed as a member of the board unless he lias special knowledge or training in child psychology or child welfare and no social worker is appointed as a member of the Board unless he has been actively involved in health, education, or welfare activities pertaining to children for at least seven years.

The appointment of any member of the board may be terminated after holding inquiry, by the State Government, if-

- He has been found guilty of misuse of power vested under this act
- He has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence
- He fails to attend the proceedings of the board for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

A child in conflict with law will be produced before an individual member of the Board, when the board is not sitting. A board may act notwithstanding the absence of any member of the board, and no order made by the board shall be invalid by reason only of the absence of any member during any stage of proceedings: Provided that there shall be at least two members including the principal magistrate present at the time of final disposal of the case.

In the event of any difference of opinion among the members of the Board in the interim or final disposition, the opinion of the majority would prevail, but where there is no such majority, the opinion of the principal magistrate would prevail.

Powers of Juvenile Justice Board:

1. Where a Board has. been constituted for any district or a group of districts, such board shall, notwithstanding anything contained in any other law for the time being in force, have power to deal exclusively with all proceedings under this Act relating to juvenile in conflict with law.
2. The powers conferred on the board may also be exercised by high court and the Court of Session, when the proceeding comes before them in appeal, revision or otherwise.

Child Welfare Committee:

1. The state government may, constitute for every district or group of districts, specified in the notification, one or more Child Welfare Committee for exercising the powers and discharge the duties conferred on such committees in relation to child in need of care and protection.

2. The committee will consist of Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.
3. The appointment of any member of the committee may be terminated, after holding inquiry, by the State Government, if-
    - He has been found guilty of misuse of power vested under this act.
    - He has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence.
    - He fails to attend the proceedings of the Committee for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.
4. The Committee shall function as a Bench of Magistrates and shall have the powers conferred by the code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class.

Procedures in relation to Committee;

1. The Committee will meet at such times and will observe such rules of procedure in regards to the transaction of business at its meetings, as may be prescribed.
2. A child in need of care and protection may be produced before an individual member for being placed in safe custody or otherwise when the Committee is not in session.
3. In the event of any difference of opinion among the members of the Committee at the time of any interim decision, the opinion of the majority shall prevail but where there is no such majority the opinion of the Chairperson shall prevail.
4. Subject to the provisions, the Committee may act, notwithstanding the absence of any member of the Committee, and no order made by the Committee shall be invalid by reason only of the absence of any member during any stage of the proceeding.

Powers of Committee:

1. The committee will have the final authority to dispose the cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.
2. Where a committee hits been constituted for any area, such committee shall, notwithstanding anything contained in any other law of the time being in force but save as otherwise expressly provided in this Act, have the power to deal exclusively, with all

proceedings under this Act relating the children in need of care and protection.

Production before Committee:

1. Any child in need of care and protection may be produced before the committee by one of the following persons:-
   i. any police officer or special juvenile police unit or a designated police officer;
   ii. any public servant;
   iii. Child line, a registered voluntary organisation or by such other voluntary organisation or any agency as may be recognised by the State Government.
   iv. Any social worker or a public spirited citizen authorised by the State Government or by the child himself.
2. The State Government may make rules consistent with this Act to provide for the manner of making the report of the police and-to the Committee and the manner of sending the entrusting the child to children‟s home pending the inquiry.

Inquiry:

1. On receipt of a report, the Committee or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner and the committee, on its own or on the report from any person or agency, may pass an order to send the child to the children‟s home for speedy inquiry by a social worker or child welfare officer.
2. The inquiry shall be completed within the four months of the receipt of the order or within such shorter period as may be fixed by the Committee:
   - Provided that the time for the submission of the inquiry report may be extended by such period as the Committee may, having regarded to the circumstances and for the reasons recorded in writing, determine.
3. After the completion of the inquiry if the Committee is of the opinion that the said child has no family or ostensible support, ft may allow the child to remain in the children‟s home or shelter home till suitable rehabilitation is found for him or till the attains the age of eighteen years.

Special Homes:

The State Government establishes and maintains either by itself or under an agreement with voluntary organisations, special homes in every district or a group of districts, as may be required for the reception and rehabilitation of any juvenile in conflict

with law. If the State Government is of opinion that any institution other than a home established or maintained under by the government, is fit for the reception of juvenile in conflict with law, it may certify such institution as a special home.

The state government may, by rules, provide for the management of special homes, including the standards and various types of services to be provided by them which are necessary for re-socialisation of a juvenile, and the circumstances under which, and the manner in which, the certification of a special home may be granted or withdrawn.

The rules made under the law may also provide for the classification and separation of juvenile in conflict with law on the basis of age and the nature of offences committed by them and his mental arid physical status.

Children's Homes:

1. The State Government may establish and maintain either by itself or in association with the voluntary organisations, children"s homes, in every district or group of districts, as the case may by, for the reception of child in need of care and • protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.
2. The State Government may, provide for the management of children"s homes ir duding the standards and the nature of services to be provided by them, and the circumstances under which, and the manner in which, the certification of a children"s home or recognition to a voluntary organisation may be granted or withdrawn.

Inspection:

1. The State Government may appoint inspection committees for the children"s homes (hereinafter referred to as the inspection committees) for the State, district and city, as the case may be, for some period.
2. The inspection committee of a State, district or of a city shall consist of such number of representatives from the State Government, local authority, Committee, voluntary organisations and such other medical experts and social workers as may be prescribed.

Social Auditing:

The Central Government- or State Government may monitor and evaluate the functioning of the Children"s homes at such period and through such persons and institutions as may be specified by that Government.

Shelter Homes:

1. The State Government may recognise reputed and capable voluntary organisations and provide them assistance to set up and administer as many shelter homes for juveniles or children as may be required.
2. The shelter homes shall function as drop-in-centres for the children in the need of urgent support who have been brought to such homes.
3. As far as possible, the shelter homes shall have such facilities as may be prescribed by the rules.

Transfer:

1. If during the inquiry it is found that the child hails from the place outside the jurisdiction of the Committee, the Committee shall order the transfer of the child to the competent authority having jurisdiction over the place of residence of the child.
2. Such juvenile or the child shall be escorted by the staff of the home in which he is lodged originally,
3. The State Government may make rules to provide for the travelling allowance to be paid to the child.

Special Juvenile Police Unit:

Special Juvenile Police Unit means a unit of the police force of a state designated for handling of juveniles or children. The DSP/Woman and Child Support Unit shall be the Nodal Officer for all cases involving juveniles. In every Police Station officers with aptitude and appropriate training and orientation may be designated as the „Juvenile or the Child Welfare Officer‟ who will handle the juvenile. Therefore, every Police Station shall have a NGO who shall be designated as Child Welfare Officers. This list would be updated every three months- to ensure changes occasioned, by transfers etc. can be circulated to all concerned. However, Station House officer (SHO) shall be personally responsible for enforcing the provisions of the Act.

Duties imposed on police by the act:

1. As soon as a juvenile in conflict with law is apprehended by Police he shall be placed under the charge of the Special Juvenile Police Unit or the designated Police Officer, who shall immediately report the matter to a member of the Juvenile Justice Board. Till the time, such Board is constituted in the state; the juvenile shall be produced before the concerned Court.
2. Designated Police Officer of the Police Station apart from dealing with the cases of

Juvenile crimes will also be the Nodal Officer for attending the calls from „Woman & Child Help line‟ and for investigating cases relating to Child abuse. „Woman & Child Help line‟ is Building - Telephone No. 1091 (toll free). This telephone number should be displayed on the Notice Board of ail Police Stations and other Units.

3. Station House officers‟ will ensure that the designated officers personally attend cases involving child victims.
4. Juvenile, who is arrested and is not released on bail by Officer in charge of Police Station, shall be kept only in observation home until he can be brought before a Board/Court.
5. Officer/In-charge of Police Station as soon as may be after arrest of a Juvenile shall inform parent or guardian of the Juvenile and direct him to be present at the Board. Officer/In-charge of Police Stations shall inform the Probation Officer of such arrest to enable him to obtain information regarding antecedents and family background of the Juvenile.

WOMEN INSTITUTIONS:

In the olden days, men were expected to earn and feed the family members and the women were expected to administer “Home” and hence the social obligation of women and their involvement with the community participants was limited. Later, consequent to the development of social changes particularly due to impact of mass- media, innovation in Science and Technology, urbanisation, unemployment or under employment and frictional employment in rural areas, women have participated in the income generating process, in order to maintain the equilibrium of demand and supply of the family. Hence, in the process of integration of women into all spheres of community life, the crimes committed by women and the crimes against women have started rising to the meteoric heights.

Custody and Treatment of women offenders:

Custody means “Safe keeping” according to Webster‟s new international dictionary. Guarding defines the protection, care and maintenance. And judicial or penal safe keeping relates to the controlling of thing or person on judicial allegation. So, judicial or penal safe keeping of women and children are mostly related to the protection, cars and maintenance of those who are deviant in nature and act against the state laws.

The Indian Jails Committee paved way for separation of female prisoners from males, classification and segregation of female prisoners, concentration of female prisoners at

selected centres, Matron or Female warder to be provided to every jail where female prisoners are received, escorting of female prisoners by female staff, when women are remanded to sub jails pending trial, the superintendent of the concerned sub jail should engage some respectable women in the neighbourhood to perform the duties of female warders.

Women Prisons with special reference to Tamil Nadu:

Formerly, there was only one special prison for women in Tamil Nadu, which was constructed in 1930 at Vellore. This is a spacious, neat and strong building and its capacity is 412. All the women prisoners committed by the courts throughout the State of Tamil Nadu were being committed to this Prison. The Prison Reforms Commission, which went into various aspects of Prison Administration, recommended that another women prison might be established to cater to the needs of the courts situated in the southern districts of this state. Accordingly, special prison or women was constructed adjacent to central prison; Madurai and it started functioning in the year 1987. Exclusively women staff manages these Institutions. Besides Lady Superintendent, there are Female Warders, Head Warders, Chief Head Warders, Matron, Lady Welfare officer and Women medical officer in each of these institutions.

Prison facilities:

School and Industry:

There is a school and a library attached to the Women Prison to impart formal and informal education to the woman prisoners.

Training:

Women Prisoners are trained in vocational trades such as tape making, twisted thread making etc for their future rehabilitation. Twenty women prisoners in special prison for women, Vellore are given training in tailoring every year by the instructors of Nehru Yuva Kendra, Vellore. Those who attain proficiency in the said training will be sent for the Government Industrial Technical Institute Examination.

Hospital:

This prison has a full-fledged Hospital with lady doctors and nurses, etc. The hospital is fully equipped to meet any emergencies. Immediate medical attention is given to the sick prisoners. Women prisoners requiring specialised treatment are referred to government hospitals outside the prison on the advice of the prison medical officer.

Nursery and Crèche:

There is also a Nursery and Crèche accommodating the children of the female prisoners in the age group of six and below. Only children of the female prisoners who cannot be taken care of by the relatives of the prisoners or any other agency are allowed to be with their mother in Crèche. The children of female prisoners are also provided with Coconut oil, Gingelly oil, Toilet Powder, soap nut powder, towel and comb. They are also allowed such diet and clothing as recommended by the prison medical officer.

Diet:

In the olden days, prison life generally meant suffering and hardships with substandard food like Ragi, Rice and-hard labour like crushing of stones etc., now things are totally different. The women prisoners are given good food on a weekly timetable.

Nursing women prisoners are given the privileges of special diet and are used half a litre of milk and children who are less than one year accompanying women prisoners are given food like Glaxo or Amul based on the recommendations of the prison medical officer.

Clothing:

At present, instead of two sets of clothing with two towels, three sets of clothing with two towels and three sets of customary under-garments are issued to the female convicted prisoners.

Interview facilities:

The women prisoners are allowed to interview their relatives and friends in the prison just like the male prisoners. Facilities are made available to them to communicate with their kith and kin through letters also.

Recreational facilities:

Female prisoners are allowed to read Newspapers and Magazines are provided at Government cost. They are also permitted to play indoor and outdoor games during their leisure times. Films of moral and educative value are screened for them through a 35 mm Cine projector installed in the prison. Cultural programmers are also arranged for their entertainment during festival and other occasions of National rejoicing.

Women's Institutions: Protective Homes and Vigilance Homes in India

In India, the protection and welfare of women have been central to various legislative and social initiatives. Among these, women's institutions like protective homes and vigilance homes serve as crucial mechanisms for safeguarding women in distress, especially those who have been victims of abuse, exploitation, or neglect. These institutions offer women a space

for rehabilitation, counseling, and protection, helping them recover from traumatic experiences and reintegrate into society. While protective homes focus on the welfare and care of women in vulnerable situations, vigilance homes play a role in assisting women involved in criminal activities or those who are at risk of being exploited. Together, these institutions are pivotal in the broader context of women's rights and empowerment in India.

Protective Homes for Women in India

Protective homes are specialized institutions established under various laws in India to provide shelter and care to women who are at risk of exploitation, trafficking, or abuse. These homes are a part of India's efforts to address the complex issues of women's safety, including domestic violence, sexual assault, and trafficking for commercial sexual exploitation. They serve as temporary shelters, offering a safe environment for women who need to escape from dangerous situations and access services such as counseling, legal aid, healthcare, and skill development programs.

Legal Framework

The concept of protective homes in India is grounded in several laws and policies aimed at addressing women's issues. The **Immoral Traffic (Prevention) Act (ITPA), 1956**, is one of the key legal provisions under which protective homes operate. According to the ITPA, women rescued from situations of trafficking and commercial sexual exploitation are to be housed in protective homes for their rehabilitation and reintegration into society.

The **Juvenile Justice (Care and Protection of Children) Act, 2015** also recognizes the need for protective homes for women and children. The Act outlines the responsibilities of the state in ensuring the welfare of children, including the establishment of homes and institutions to provide care and rehabilitation to those in need.

Further, the **National Policy for Women (2016)** emphasizes the creation of mechanisms to protect women from violence, exploitation, and abuse, ensuring that women in distress are given the support they need for rehabilitation and reintegration into society.

Role and Functions of Protective Homes

Protective homes play a multifaceted role in the lives of women who seek refuge. The following are some of the critical functions of these institutions:

1. **Shelter and Safety**: The primary function of protective homes is to offer women a safe and secure environment away from situations of abuse, exploitation, or neglect. This is especially important for women who may not have a place to stay after fleeing from abusive relationships or unsafe environments.

2. **Rehabilitation and Counseling**: Many women who enter protective homes have experienced severe trauma, including sexual violence, domestic abuse, or exploitation. These women are provided with counseling and therapy to help them process their trauma and begin the healing process. Trained counselors, psychologists, and social workers work with the women to help them overcome emotional and psychological challenges.
3. **Legal Aid and Support**: Protective homes often provide access to legal assistance, helping women navigate the complex legal systems related to their cases. Women may be provided with support for filing police complaints, securing protective orders, or pursuing legal action against perpetrators of abuse or trafficking.
4. **Skill Development and Vocational Training**: In addition to offering shelter and emotional support, many protective homes also focus on empowering women by providing them with opportunities for education and skill development. This may include vocational training programs, such as tailoring, computer literacy, or beauty services, which can help women regain financial independence and self-sufficiency.
5. **Social Reintegration**: After a period of rehabilitation, women housed in protective homes are supported in their efforts to reintegrate into society. This may involve finding a job, reuniting with their families, or being placed in foster care. The goal is to ensure that women leave protective homes with the tools and support systems needed to rebuild their lives.
6. **Monitoring and Accountability**: Protective homes are monitored by government authorities, including social welfare departments, to ensure that they are functioning properly and providing adequate care. Regular inspections and audits are conducted to assess the quality of services provided and to prevent any form of mistreatment or neglect.

Challenges Faced by Protective Homes

Despite their importance, protective homes face several challenges in their implementation and functioning:

1. **Overcrowding**: Many protective homes are overwhelmed with the number of women seeking shelter. This often leads to overcrowded conditions, where adequate care and attention cannot be provided to each resident.
2. **Lack of Resources**: Insufficient funding and resources affect the ability of protective homes to provide high-quality services. This impacts the quality of care, including

counseling, vocational training, and medical services, all of which are crucial for the rehabilitation process.

3. **Stigmatization**: Women who are housed in protective homes, particularly those who have been victims of trafficking or commercial sexual exploitation, often face social stigmatization. This stigma can affect their reintegration into society, making it difficult for them to find employment or gain social acceptance.
4. **Inadequate Training**: There is a shortage of well-trained professionals who can provide adequate psychological, medical, and legal support to women in distress. The lack of skilled personnel affects the overall effectiveness of protective homes.
5. **Security Concerns**: In some cases, protective homes are not sufficiently equipped to handle security threats, especially when women are at risk from traffickers, abusers, or other violent perpetrators.

Vigilance Homes for Women in India

Vigilance homes are institutions designed to house women who are at risk of being exploited or involved in criminal activities. They serve as protective shelters for women who may be vulnerable due to their association with crime or their being part of a marginalized group. While these homes do not focus on the rehabilitation of women who have been victims of exploitation, they provide an environment where women who have committed minor offenses or are at risk of committing crimes can be monitored, counseled, and supported to prevent further criminal behavior.

Legal Framework for Vigilance Homes

Vigilance homes operate under the broader framework of juvenile and women's protection laws in India. The **Juvenile Justice (Care and Protection of Children) Act, 2015**, includes provisions for the establishment of vigilance homes for women and children in need of care and protection. Similarly, the **Immoral Traffic (Prevention) Act, 1956**, which deals with trafficking and prostitution, also facilitates the creation of vigilance homes for women at risk.

These institutions are also governed by the **National Commission for Women (NCW)**, which works to ensure that women are protected from violence and exploitation, and that they are given access to necessary rehabilitation services.

Role and Functions of Vigilance Homes

Vigilance homes have a specific function, focusing on preventing the criminalization of vulnerable women and supporting those who are already involved in minor offenses. Their key roles include:

1. **Prevention of Crime**: Vigilance homes aim to intervene before women become involved in serious criminal activity. Women who are at risk due to their social circumstances or past behaviors are provided with a safe environment where they can receive counseling and guidance to make better life choices.
2. **Rehabilitation of Offenders**: Women who have committed minor offenses or are part of a criminal network are housed in vigilance homes for rehabilitation. These homes offer vocational training, life skills, and legal education to help women reintegrate into society as law-abiding citizens.
3. **Social Reintegration**: Similar to protective homes, vigilance homes aim to assist women in reintegrating into society. This may include helping them find employment, re-establish relationships with family members, or engage in community-based activities.
4. **Monitoring and Surveillance**: Women in vigilance homes are subject to continuous monitoring to ensure they are not at risk of becoming involved in criminal activities again. Regular assessments of their behavior and progress are carried out to guide their rehabilitation process.

Challenges Faced by Vigilance Homes

Vigilance homes also face several challenges in India:

1. **Lack of Adequate Facilities**: Many vigilance homes are under-resourced, with limited access to training programs, counseling services, or medical care. This affects the ability of the institution to offer comprehensive rehabilitation.
2. **Limited Social Acceptance**: Women in vigilance homes often face social rejection due to the stigma associated with their past behavior. This makes it difficult for them to reintegrate into their communities after being released.
3. **Overcrowding**: As with protective homes, vigilance homes often face issues related to overcrowding. The lack of space and resources can limit the effectiveness of rehabilitation programs.
4. **Institutionalization**: Long-term stays in vigilance homes can sometimes lead to institutionalization, where women become dependent on the system rather than gaining the skills needed for independent living.

Conclusion

Protective homes and vigilance homes play an essential role in India's broader effort to protect and empower women. While protective homes primarily focus on providing shelter, rehabilitation, and reintegration for women victims of abuse and exploitation, vigilance homes serve as preventive and rehabilitative institutions for women at risk of criminal behavior. Together, they contribute to the creation of a safer, more supportive environment for women, particularly those who have experienced trauma, violence, or exploitation.

Despite their importance, these institutions face several challenges, including resource constraints, overcrowding, and social stigmatization. To enhance their effectiveness, there is a need for greater investment in infrastructure, training for personnel, and better integration of rehabilitation programs that address the psychological, social, and economic needs of women. Through these efforts, protective homes and vigilance homes can truly help women regain their dignity, freedom, and potential for a better future.

OPEN PRISONS:

Definition of Open Prison:

Criminologists have expressed different views about the definition of open prison. Some scholars have preferred to call these institutions as open-air camps, Open Jail or parole-camps. The United Nations Congress on Prevention of Crime and treatment of Offenders held in Geneva in 1-955, made an attempt to define as open prison thus:

"An open institution is characterised by the absence of material and physical precaution against escape such as walls, locks, bars and armed-guards etc., and by a system based on .self-discipline and innate sense of responsibility towards the group in which he lives".

Thus open prisons are „minimum security" devices for inmates to rehabilitate them in society after final release. In India, they are popularly called as open Jails.

Origin of Open Prisons:

The emergence of „open prisons" marks the beginning of a new phase in the history of prisons. In the closing years of nineteenth century, a semi-open prison institution called the Witzwill establishment was set up in Switzerland. Open-prisons in modern sense were, however, established, in U.K. in 1930"s and in United States around 1940"s. Sir Alexander Palerson, the member secretary of the Prison Commission of U.K. from 1922 to 1927 made

significant contribution to the development of open prison in England. The philosophy underlying those „minimum security" institutions is based on the following basic assumptions:

1. A person is sent to prison as a punishment and not for punishment.
2. A person" cannot be trained for freedom unless conditions of his captivity and restraints are considerably relaxed.
3. The gap between the institutional life and free life outside the prison should be minimised so as to ensure the return of inmate as a law-abiding member of society.
4. The dictums „trust begets trust" hold well in case of prisoners as well. Therefore, if the prisoners were allowed certain degree of freedom and liberty, they would respond favourably and would not betray the confidence reposed in them.

The Success of open prisons later on led to establishment of „hostel system" for prisoners in U.K. and inspired by the English experience, other countries including India adopted the scheme for reformation of offenders.

Main Characteristics of Open Prisons:

The main features of an open institution may be summarized as follows:

1. Informal and institutional living in small groups with minimum measure of custody.
2. Efforts to promote consciousness among inmates about their social responsibilities.
3. Adequate facilities for training inmates in agriculture and other related occupations.
4. Greater opportunities for inmates to meet their relatives and friends so that they can solve their domestic problems by mutual discussion.
5. Liberal remissions to the extent of fifteen days in a month.
6. Proper attention towards the health and recreational facilities for inmates.
7. Management of open Jail institutions by especially qualified and well-trained personnel.
8. Improved diet with arrangement for special diet for weak and sick inmates.
9. Payment of wages in part to the inmates and sending part of it to his family.
10. Financial assistance to inmates through liberal bank loans.
11. Free and intimate contact between staff and the inmates and among the inmates themselves.
12. Regular and paid work for inmates under expert supervision as a method of reformation; and

13. Avoidance of unduly long detention.

Advantages of Open Prisons:

The utilisation of open prisons during post-independence era has been most spectacular, and elicited most interest among penologists because of the realisation that a substantial proportion of prison inmates do not need retention in guarded prison enclosures. Instead, those who are carefully selected can be placed in open-air camps, farm colonies or other outside work with a reasonable degree of safety. The obvious advantages of the open prisons as compared with the conventional prisons may be briefly stated as follows:

1. They help in reducing overcrowding in jails.
2. Construction cost is fairly reduced.
3. Operation cost of open prisons is far less than the enclosed prisons.
4. Engaging inmates of open-air prisons in productive work reduces idleness and thus keeps them physically and mentally fit.
5. Removal of prisoners from general prison to an open prison helps in conservation of natural resources and widens the scope of rehabilitative process.

The scheme of open jails for prisoners is essentially based on the twin system of probation and parole, which have gained enough popularity as correctional techniques of reformation in modem penology.

The State of Uttar Pradesh was first in point of time to set up an open-air camp attached to model prison at Lucknow in 1949. Andhra Pradesh followed the suit and started Mauli All Agricultural colony for convicts in 1954, a year later; Maharashtra started an open-air prison at Yarvada as a part of its correctional programme. The success of open prisons in these States encouraged other states to set up open air camps for the rehabilitation of their offenders toy ;providing them employment on agricultural farms, industrial establishments and construction sites. At present there are many open prisons operating in the country, the more important among them are as follows:

Name of State	Name of the Open Prison(s)	Year of Establishment
Andhra Pradesh	Mauli Ali Colony	*1954*
	Prisoner‟s Agricultural Colony, Anantpur.	1965
Assam	Open Air Agricultural-cum-Industrial	
	Colony, Bagbheta, Jorhat.	1964
Gujarat	Open Prison, Amreli.	1968
Himachal Pradesh	Open Air Jail Bilaspur (Himachal Pradesh)	1962
Kerala	Open Prison, Netivketheri	1962
Madhya Pradesh	Nav Jiwan Shivir (Open Jail) Mungaoli, (Dist. Guna)	1973
	Nav Jiwan Shivir, Lakhimpur (Dist.Panna)	1975
Maharastra	Open Prison, Yarvada	1955
	Open Prison, Paithan	1968
Mysore	Open Air Jail, Soundatti	19.68
Punjab	Open Air Agricultural Prison, Nabha	1970
Rajasthan	Prisoner‟s Open Air Camp at Agricultural	1955
	Research Farm, Durgapur (Rajasthan)	
	Shri Sampumanand Bandi Shivir, Sanganer (Jaipur)	1963
	Prisoner’s Open Air Camp, Central	1964
	Mechanised Farm, Suratgarh	
Tamil Nadu	Open Air Prison, Singanallur	1956
	Open Prison attached to Central Prison, Salem.	1966
Uttar Pradesh	Sampumanand Open Air Camp at Chakia in Varanasi District	1952
	Sampumanand Agricultural cum Industrial Camp, Sitarganj (Dist.Nainital)	1960
	Sampumanand Camp, Ghurma (Dist.Mirzapur)	1956
	Open Prison attached to model Prison, Lucknow	1949

There has been some confusion about the exact nature and scope of open prisons. Some people treat these open institutions as places of employment to prisoners while others

characterise them as an integral part of pre-release programme. Some scholars are of the opinion that such open institutions are places where convicts who were victims of circumstances could be given greater freedom and responsibility as near normal living conditions of society as possible so that they may reform themselves and become fit to lead a normal life in society after their release.

Be that as it may, there is no denying the fact that open prisons differ from conventional prisons in at least two fundamental aspects, namely:-

- Absence of maximum security arrangements, such as, walls, barbed wire fencing, locks, bars, hand-cuffs and special armed guards; and
- Greater contact of inmates with the outside world so as to develop among them a sense of responsibility towards the community.

BOARDING, LODGING AND MEDICAL CARE:

In recent years, considerable improvements in the quality, quantity and manner of service of food have been affected in the prisons of many of the States. In Tamil Nadu the nutrition and diet specialist of the Madras Medial College has prescribed the nutrition and calorific value of the diet that should be given to the prisoners and this scale is being adopted in some of the prisons of Tamil Nadu. The same scale of diet, in quality and quantity, will be before long be prescribed in all prisons. What is more important, therefore, is the need to ensure that there is no pilferage in the channel before and after cooking. The question of introducing non-vegetarian diet on two days in the week was canvassed some time ago and nothing seems to have come of it. In the mean time the neighbouring states of Tamil Nadu, Kerala, Karnataka and Andhra have gone ahead and adopted it. And-the final pattern-of feeding -adopted for central prisons could be made applicable also to all other correctional and custodial institutions including sub-jails. The old checked clothing of prison wear has long since been given up. Some Pyjama and shirt of a sober colour will serve the purpose as convenient utility wear. It is also necessary to prescribe minimum articles of bedding and ensure that all these are kept clean.

The prison medical facilities have always been good, from the old British days, with one or more full time qualified medical officers and adequate hospital staff. Visiting medical officers like dentists and psychiatrists look after special cases and what cannot be handled satisfactorily in the prison hospital are sent to the General hospital. Steps are, however, necessary to improve the standard of medical care in sub-jails. Recreational activities by way

of games and sports out-door games and Reading as well as cultural activities should become part of a regular system. These programmes should be so organised as to promote the mental and physical health of the prisoners systematically within the weeks programme itself, instead of being taken on as an occasional or festive activity, which of course will have their place in a special way in the prison schedule, like the inter-prison sports held at Coimbatore or the Borstal school sports held regularly every year.

WORKS PROGRAMME:

1. Consequent to establishment of Prisons, confinement of various types Of human beings for varying periods resulted. With the punitive concept in mind, they were kept in lockup day in and day out excepting for the absolute necessities like bathing, food etc. This lead to conflicts among the prisoners, needing use of force by the custodians. As the saying goes "Idle mind is devils' workshop", these prisoners with nothing to do in their enclosures were planning for escape, mutiny, etc. Thus a system of hard labour was considered necessary to tire the prisoners. It was ensured that these works are of monotonous nature thereby killing the initiative of the prisoners. Because such initiative will cause imagination and such imagination and the consequent initiative can be used against the administration also. Further the joy of working and the job satisfaction aspects are curtailed so that it becomes monotonous and tiring. Works like stone breaking, country mortars etc, were the only works that were in vogue in the Prisons.
2. At one stage utilising such a vast human resource of manpower for the growing demands of the Government Institutions, which also have considerably increased, was considered and utilising this force for manufacturing various articles needed for Government Institutions was thought of. The cheap labour, no extra cost towards various overhead, profit etc, resulting in low cost of articles was also another contributing factor for this consideration. These industries like phenyl making, making, tag making, manufacturing gunny bags, hand-made paper, flat flies, covers, book binding, wooden furniture manufacturing, cloth or various Government needs as well as stitching of uniforms, waving bandage and gauze cloth, aluminium articles, leather items like shoes, boots were started in the Prisons. A Branch of the Government Press was started in Central Prison, Madras where all the Technical work were done in the Government Central Press and printing and binding works alone were done in the Prison Press.

3. With the concept of reformation and rehabilitation of the prisoners setting in, these industries were given a face-lift and private orders also were entertained. This lead to the prisoner's learning the manufacturing of articles that are currently needed in the outside world. To train the prisoners in the use of machinery and as well as technical aspects of various industries, the after care Home was provided with very much machinery and various trades. The Prisoners discharged from the Prisons were permitted to stay in this After Care Home for the Period of not exceeding 2 years and acquire skills. They were paid wages pocket allowance apart from boarding, lodging and clothing.
4. However, at present the After Care Home is not functioning sir.ee the prisoners on their discharge were wanting to go home rather than staying in the After Care Home. The strength of the After Care Home deeply fell down and warranted its closures.
5. Even though the Prisoner were trained in various industries as stated earlier, in practice it was found that it was hard for them to practice these trades on their release and earn a livelihood. For example each village has a hereditary carpenter. He was paid in kind during harvest times. A released prisoner would find it hard to compete with him. Further in the urban area such trade requires an establishment with buildings, labour overheads etc. Again the stigma of "Jain Bird" was haunting the released prisoners. Thus they were neither able to eke a livelihood in urban nor in rural areas. Hence training in simple trades, which needed less capital, with almost nil establishments, overheads etc, was contemplated. Trades like electrical wiring, motor winding masonry, plumbing, bricklaying, painting, cycle/umbrella repairs etc. were taught to the prisoners. In course of time it was found that the demand for such training was very low.
6. For the rehabilitation of the prisoners who want financial assistance, the Government has provided a chore fund and loans are given to the prisoners on their release.
7. The discharged prisoner‟s aid society (DPAS) helps the prisoners with the assistance of the prison probation officers to obtain loans repayable in easy instalments from banks and other NGOs to set up small businesses.

EDUCATIONAL PROGRAMMES:

ADULT EDUCATION: CONCEPTS, MEANING AND FUNCTIONS

Introduction:

Education is a learning process whereby the learner acquires knowledge, skills and values. Education is a social necessity and the top most human right also. Only through

education the individual attempts to communicate his ideas to others and become a social being.

Greek Philosophers considered schools to be a "place where people exchanged their views during the leisure time".

According to ancient Greek history, the Greeks assembled in schools during their leisure time, forgot there, day-to-day worries and discussed matters relating to their lives, their aims and the meaning of their lives.

Education is a continuous process with specific aims. They are changing with changing needs of the society. Education is purposeful. It is concerned with certain outcomes. The outcomes are usually expressed at three levels, aims, goals and objectives.

Meaning of Adult Literacy

Adult literacy refers to Reading, writing and arithmetic (Calculating) skills, which are necessary for learners to functions effectively in their everyday. Systematic and planned education based on learning experiences organised to fulfil the needs of adults is known as "Adult Education". In this programme one learns Reading, writing and arithmetic and acquires knowledge and skills to participate in social, economic and cultural development. Adult education is useful for the drop out and the illiterates.

Definition of Adult Education

Adult education refers to the organised and sequential learning experiences designed to meet the needs of adults. Adult education is a process whereby persons (regarded as adults) who have terminated their initial education or who have not at all gone for schools, acquire new information, knowledge, understanding, skills, appreciations and attitudes and participate in social, economic and cultural development.

Adult education does not provide mere general learning but it is a planned, international preparation for development. Adult education helps the adults develop their abilities, stretch their knowledge, improve their technical or professional qualifications and turn them in a new direction. Adult education, in short, is a developmental education.

Importance of Adult Education:

Adult education is an instrument for one's development and gives economic development and cultural development. Adult education raises the professional skill of rural people- raises the standard of living, involves them in the social development activities.

Adult education is necessary in-India for the following reasons. They are:

1. To wipe out illiteracy of the mass in India.
2. To strengthen the democracy of India.
3. To nurture National Integration among the people
4. To bring about the integrated development in the villages
5. To control the population explosion in India.
6. To remove the poverty and ignorance that abounds among Indians.
7. To develop self-employment skills of rural people.
8. To abolish the unemployment problem among the rural people.
9. Adult education is essential to teach skill and knowledge for individual development like controlling the environment of India, Social development and national development.

Tasks of Adult Education

Adult education includes three components,

1. Literacy learning
2. Occupational skills development
3. Social Consciousness raising

Adult education tries to bring about three freedoms to the poor.

1. Freedom from ignorance
2. Freedom front low-wage employment
3. Freedom from inequality and injustice Adult education attacks three evil
4. Mass ignorance
5. Mass illiteracy
6. Mass poverty

Adult Education Programme in Independent India:

When India became independent in 1947 the literacy rate was only 14%. It was felt that participation and role of educated people was essential for the development of democracy and economy of India.

The existing formal education system has failed in eradicating illiteracy in our country. This has created a new system known as Non-Formal Adult Education systems. It is an out-of-school educational programme and it exposes its participated to a process of continuous life-long learning and makes them functionally capable of solving their problems.

Non-formal education shall be compulsory for all prisoners. It shall aim to enhance

their functional capability. The non-formal education programme will focus on legal and human rights, health and family welfare, and socio-economic status of women and skill training for making women self-reliant. For interested prisoners, appropriate facilities for formal and advance education shall be provided.

Need for Adult Education

Adult education is seen both as an instrument for solving problems of development and as an instrument for involving individuals in economic and cultural life. Adult education promotes:

1. Vocational activity
2. The quality of rural living
3. Increased participation in public life.

In India, adult education is needed for the following reasons:

- To remove illiteracy
- To strengthen democracy
- To promote national Integration
- To improve economic development
- To promotes rural development
- To control population growth
- To remove poverty and mass ignorance
- To provide occupational skills
- To remove rural unemployment
- To protect the environment

Adult Education in 2000 A.D

1. Survival
2. Justice
3. Economic development
4. Ability of life
5. Environment

Meaning of Functional Literacy:

Education given to an illiterate, relating to his day-to-day activities and works is known as functional literacy. Education given for ones' advancement and this development of his profession, based on the basic knowledge Reading, writing and arithmetic is known as functional literacy. Knowing the alphabets or to read and write a new words is not education.

There is not any developmental utilisation. Therefore educationists advocate functional literacy. Education that is helpful for life-oriented activities is called functional literacy.

DISTANCE EDUCATION

Introduction

The method of 'Learning without the presence of a teacher is known as distance education. Even though the term 'distance education‟ seems to be a new idea, it has come out from the term "Correspondence Education" which has been known and is in practice ever since the 19th Century. In 1982 the name of the institution known as "International Council for Correspondence Education" was changed into 'International Council for Distance Education‟. Since then the term 'distance education‟ has been accepted and is in practice.

Why do we need distance education?

It is evident from the enrolment of the students in the distance education centres that the need for the 'distance education‟ has increased during the past ten years. It is necessary to manage the increasing need of the higher education and to minimise the over crowd in the regular universities.

Meaning of distance education:

Among many of the definitions for the 'distance education' the definitions of Holmoerg, Moore and Peters are noteworthy to mention. According to their opinion, distance education has five important features. They are,

1. Student’s arid teachers cannot meet in a place and they will be separate from one another.
2. The educational institutions alone (without the interference of others) will plan for the education of the students.
3. Students and teacher meet only for certain educational activities.
4. Technical media are utilised for teaching.
5. There is the possibility for two-way communications between the teachers and the students.

Education through Correspondence:

In 1952, University of Delhi started "School of Correspondence Course and Continuing Education". Today more than fifty universities are engaged in distance education. Indira Gandhi National Open University (IGNQU) is a pioneer in the novel method of taking education to the house of learners. Almost all the universities in Tamil Nadu are engaged in

distance education. Thousands of students join the Universities such as Manonmaniam Sundaranar University, Madurai Kamaraj University, University of Madras and Annamalai University for higher education.

GENERAL DISCIPLINE AND DAILY ROUTINE

Education

1. Educational facilities shall be provided in prisons for such convicted prisoners as are capable of being benefited by them.
2. The ratio between a teacher and prisoner in a prison shall be 1,300
3. The Superintendent shall make full use of the teachers available in a prison and allow maximum number of prisoners possible to attend classes in suitable batches at prescribed hours relieving each other from workshops. Ail the prisoners irrespective of age of sentence shall be divided into literates, semi-literates and illiterates and suitable syllabus drawn for each category.
4. Any prisoner in a prison shall get full benefit of education as a rehabilitation measure.
5. Prisoners who desire education beyond the elementary stage shall be given the necessary books and ail available assistance in the school.
6. The principle of co-ordination between the general education and industrial training shall be kept steadily in view, having regard to the need of reforming prisoners and preparing them to regain their proper place in society on release.
7. The Inspector-General may, in deserving cases, permit teaching personnel of educational institutions and research students to teach the prisoners appearing for Government or University Examinations on working-days and on Sundays and Prison holidays, provided the hours devoted to education shall be so arranged as not to interfere with prison labour.
8. The District Educational Officers and their assistants shall inspects the prison schools situated in their respective circles during the year under the rules in force in the Education Department, and they shall advise as to the scope of the teaching to be given and the qualification required of the teachers.
9. They shall furnish periodical reports on the results of their inspections to the superintendent of the prison, who shall forward them with any remarks that may be necessary to the Inspector-General,
10. The Superintendent shall test the progress of the prisoners and the efficiency of the

teaching once a quarter. The teacher shall be instructed to pay special attention to such of chose pupils as are showing insufficient industry and progress. If the superintendent considers any teachers at fault, he shall take disciplinary action against him.

11. A certificate of conduct in Prison and proficiency in any craft learnt or practised in prison shall be given to every prisoner on release in Form No.35 to assist him in finding suitable employment. If a prisoner has some trade on which he has not been engaged in prison, the Superintendent can accept no responsibility and shall not give certificate in regard to it.
12. The Inspector-General may grant permission to prisoners of all classes who wish to appear for any Government examination. If the permission is granted, the permitted prisoners in civilian clothes to the examination centre for writing the examinations, under police escort which shall be arranged by the local Superintendent of Police on requisition from the Superintendent of the prison concerned. The Police escort accompanying prisoners to examination centres shall be in mufti. The cost of examination fees, books and other connected expenditure in the case of all classes of prisoners shall be borne by Government irrespective of their classification in the prison.
13. i) The Inspector-General may grant permission to the prisoners who have failed in Government examinations conducted by the Directorate of Technical Examination and in the University Examination like P.U.C., B.A., B.Sc., and the like conducted by various universities in Tamil Nadu to appear for these examinations for the second and third time at Government cost.

    ii) The number of chances allowed for any one examination shall not exceed three.

Tasks for females, adolescent and convicts attending schools

Female prisoners hail ordinarily to employ in cooking or in the preparation of articles of food, such as pounding husking or shifting grain and the like, but shall not be employed in grinding grain except as a punishment. Whenever possible they shall be given instruction in needle-work such as knitting and the like and such other domestic industries as will be useful to them after release. The task to be imposed of any female or adolescent convict shall not exceed three-fourths of the tasks for hard labour prescribed in respect of adult male convict. In estimating the tasks for adolescent and for other prisoners attending school, the time

occupied in instruction and physical training shall be deemed to be occupied in labour for the purpose of sub-section (1) or section 35 of the prison Act, 1894, (Central Act IX of 1894).

Conclusion:

Adult education is not mere adult literacy. Adult literacy is always linked with some occupational skills, which enable the adults to eke out their livelihood. Adult education is now seen as an integral part of lifelong education-be it formal or informal. It provides all persons to learn new knowledge and skills at all stages of life. It promotes the possibility of constant personal and social development.

Finally, providing adult .education to the illiterates is not out of charity, nor out of sympathy, but out of national responsibility to bring about a socio-economic revolution in the country.

SELF GOVERNMENT AND OTHER ACTIVITIES:

In the late 70s on the recommendation of Jails Reforms Commission it was decided to allow the prisoners to partake in the administration of the prison. As for as Tamil Nadu is concerned this concept is not new, as we are having a similarly system called Inmates Committee in Borstal School. Kerala was the First State to introduce a system of Prisoners Panchayat. This system was introduced in our State during 1979. It was started as a trial in Central Prison Madurai and later in 1983 was extended to all Central Prisons excepting habitual Prisons. The object of the Prisoner‟s Panchayat Board is "to induce a spirit of good neighbourliness among prisoners to encourage them to be civic minded and to create a sense of responsibility and self-reliance among prisoners".

These prisoners are required to elect their representatives, normally up to 12. These 12 form 3 groups of an each. One group is required to look after the dietary, the other cultural and recreational activities and the third cleanliness and sanitation of Prison. Their tenure is for a period of six months and elections are held again. The dietary wing is responsible for receiving the rations from the ration stores, supervise the cooking and distribution, ensuring no pilferage, Cultural/Recreation Wing looks after the various Cultural activities like music/oratorical/athletics/Games competitions, conducting various religious functions, Prisoners' welfare day celebrations etc. Sanitation Wing looks after the sanitary condition of the prisons and brings to the notice of the Officers concerned any deficiencies noticed. This panchayat meets once in a fortnight minimum and often if needed and its proceedings are minute. The Superintendent presides over the meeting. The powers and functions of the Panchayat shall be advisory and limited to suggestions and discussions on matters relating to

the welfare of the prisoners. The Panchayat is also empowered to enquire into minor complaints against individual prisoners and to suggest suitable punishment under relevant rules. The Panchayat Prisoners are not permitted to represent individual grievances as it is for the individual. Common grievances are allowed to be represented in the Panchayat meeting,

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UNIT - V

COMMUNITY EASED CORRECTIONS

PROBATION:

Probation involvement, as the following discussions will illustrate, often occurs prior to sentencing and may continue for several years instead of prison or, in some jurisdictions, after the offender has completed their prison sentence (and any parole) as part of a split sentence.

Concept and Scope:

Probation is:

- An alternative to imprisonment and
- A is used primarily for minor offences and first-time or youthful offender
- A behavioural contract between the judge and the offender (a set of conditions with which the offender must comply or return to court)
- Often based on the information provided to the court by a Probation Officer in a Pre-Sentence Report
- An opportunity for the offender to change their behaviour in the community

Origins of Probation in the United States

- Although reforms -were being taken in reducing the number of offences where capital punishment was used during the early 1800s, the penitentiary often remained the only other option to being executed or released.
- Boston blacksmith John Augustus believed that persons sent to the penitentiary actually came out worse than they went in, i.e., hardened criminals or insane.
- Augustus began going to the courts and petitioning the judges to release younger men into his custody rather than Sending them to prison.
- He believed that he could supervise them and teach them the blacksmith trade thus helping them to reform and earn a living.

Extensive use of Probation:

- Probation is one of the 3 subsystems of the corrections system (Probation, Prison,
- In terms of the number of people it serves, it is the largest subsystem of the corrections system

- Probation and its use is much more than imprisonment in the U.S.A. (three million people were on probation)
- It is cost effective Probation costs about 1/10th of prison '

Types of Probation:

1. Supervised Probation
    - The probationer must see a probation officer
    - The probationer must also fulfil certain other conditions as set by the judge or instructions issued by the probation officer usually include the conditions specified by the probation officer and the court.

2. Unsupervised Probation

- The probationer is not required to see a probation officer
- The probationer is believed to have learned their lesson and is capable of correcting their own behaviour

Mandatory Conditions of Probation:

- Attend court as and when directed to so
- Keep the peace and be of good, behaviour
- Any other condition which the judge believes to be reasonable and will assist the offender in changing their behaviour, examples:
- Fulfil all social and legal obligations
- Abstain from alcohol or drugs
- Find employment within a specified period of time
- Avoid contact or involvement with certain persons (usually named)

Criticisms of probation:

- Members of the community or the public generally view probation as a “let off
- As a result some probation officers have taken these views seriously and introduced intensive supervision
- In developed countries like the USA a new type of monitoring by electronic monitoring offender must wear a special electronic "bracelet" attached to their wrist or ankle bracelet is linked by telephone to a central computer system operated by the probation agency and/or a monitoring probation officer randomly calls the probationer to check on them and their location. This forces the offender to stay at home or at a site equipped with a telephone monitor

- In India sometime the probation officers order a house arrest to deal with this criticism. The problem with this is home becomes the place of incarceration offering an alternative to a regular prison.
- Based on the notion that many offenders just put on a show for the probation officer in their office or prepare for scheduled visits to the offender's home unannounced and irregular visits to the probationers home, place of work, school, etc.

Role of a Probation Officer:

- To enforce the orders of the court
- To help the inmate to help him/herself.
- To correct, when needed, inappropriate behaviour on the part of the offender to protect society
- Probation officers will switch from "helper" to "enforcer" as required based on the offender's behaviour and the risk they pose to both the community and themselves

Investigation and Surveillance:

This is necessary for the purpose of securing information about the delinquent failures or successes in meeting the obligations of his legal status. Proper investigation and surveillance will enable further imposition of restriction on the liberty of the delinquent in case he does not respond favourably to the treatment process.

Use of the professional control to modify offender's behaviour:

This again is a part of the commonly recognised process of professional control based on the force of the state. The control administered by the probation official over the correctional delinquents may include

i. Making decision to request revocation of probation
ii. Reporting to the appropriate judicial or administrative authorities the behaviour which constitutes violation by law
iii. Recommending penalties which follow disobedience to rules
iv. Making schedules and unscheduled visits to the place of delinquents and
v. Assisting the authorities in making an arrest of the delinquent who has proved to be a failure case in probation process.

Acting as a legal authority in delinquent's life with responsibility for value change:

This task has important implications for the treatment relationship. The probation officials have to associate themselves closely with the delinquent and make use of their legal authority to ensure treatment of delinquent through correctional methods. They should proceed with the basic-assumption that delinquent is not one who is to be changed but one whose values are to be changed.

Decision Making:

This is one of the most important functions that should to be performed by the probation authorities in dealing with probationers. While taking decisions the probation service staff should bear in mind that they are of major importance to delinquent and to community, affecting both, the freedom of the offender and the safety of the community. These decisions usually involve calculated risks and must therefore be exercised with utmost caution.

Merits and Demerits of Probation:

Merits:

1. Prison sentence is associated with shame. In probation system the matter of shame or stigma if not completely removed are reduced to a certain extent.
2. As the probationer is, left in the society, his family could put some reasonable restriction.
3. The community will have the benefit of manpower.
4. Probation is less costly and as such the Community is financially profited.
5. Probation in fact is an opportunity to an offender to struggle to recapture self- respect.

Demerits:

1. The system devotes too much attention on the offender and in the zeal of his reformation the interests of the person injured by the offender‟s delinquent act are completely lost sight of this obviously is against the accepted norms of justice.
2. Admitting all young offenders and first offenders to probation regardless of their antecedents, personality and mental attitude might lead to recidivism because may of them might not favourably respond to this reformatory mode of treatment.
3. In many cases it is difficult ascertain whether the delinquent is first offender or a habitual one. Therefore, there is there are more chances that an offender who is a recidivist might be admitted to probation.
4. Lack of interest for social work among the probation officers presents real difficulty

in selecting right persons for this mode of treatment. Ghute attributes lack of qualification, lack of proper supervision and excessive burden of casework as the three causes of inefficiency among the probation staff. Particularly in India, probation is reduced to mere farce. This laborious correctional task is handled by persons who are mostly inexperienced and inadequately trained for this job.

HISTORICAL DEVELOPMENT OF PROBATION IN INDIA:

In India, probation received statutory recognition for the first time in 1898 through Section 562 of the Code of Criminal Procedure 1898. Under the provision of this section, the first offender convicted of theft, dishonest misappropriation or any other offence under the Indian Penal Code punishable with not more than two years of imprisonment could be released on probation of good conduct at the discretion of the Court. Later, the Children Act, 1908, also empowered the court to release certain offenders on probation of good conduct. Similar provisions existed in the Children Act, 1960, which now stands, repealed consequent to passing of the Juvenile Justice (Care and protection) Act, 2000.

The scope of the probation law was extended further by the legislation in 1923. Consequent to Indian Jail Reforms Committee‟s Report (1919-1920), the first offenders were to be treated more liberally and could even be released unconditionally after admonition. The first offenders were now classified under two categories namely:

- Male adult offenders over twenty-one years of age; and
- Young male adult offenders under twenty-one years of age and female offenders of any age.

The release of offenders on probation could now be extended not only to offences under the Indian Penal Code but also to offences falling under Special enactments. To cope with the extended probation, a number of Remand homes, Rescue homes, certified schools and Industrial Schools are established in Bombay, Madras and Calcutta.

The Government of India in 1931 prepared a draft of Probation of offenders‟ bill and circulated it to the then Provincial Governments for their views. The Bill could not, however, be proceeded due to pre-occupation of the Provincial Governments. Later, the Government of India in 1934 informed the local governments that there were no prospects of central legislation being enacted on probation and they were free to enact suitable laws on the lines of the draft bill. Consequently some of the Provinces enacted probation laws, which assumed considerable importance because they introduced for the first time provisions regarding pre-

sentence enquiry report of probation officer, supervision by paid and voluntary probation officer and compensation for injury caused to a person by the offender‟s delinquent act. The probation laws enacted by Provinces, however, lacked uniformity.

After the Indian independence, certain concrete steps were initiated to popularise probation as a correctional measure of treatment of offenders. A Probation Conference was held in Bombay in 1952 on the advice of Walter Reckless, the United Nations Technical Expert on Correctional Services. Walter Reckless addressed the conference and gave valuable suggestions on Prison Administration in India. Consequently, All India Jail Manual Committee was formed to review the working of Indian Jails and suggest measures for reform in the system. Consequent to the Report of the Jail Manual Committee the Government of India decided to have a comprehensive legislation on probation of offenders. Then the Probation of offenders came in to force in 1958.

PROBATION IN INDIA

PROBATION OF OFFENDERS ACT (1956):

The word “Probation” derived from the Latin word. “Probo" meaning “I will prove”. In the revolution of prison system at one stage, a school of thought arose which felt that sending a-person to prison for an offence committed by him may not gain the desired effect of correcting him but may lead to his coming into contact with other criminals and become a criminal. Particularly it was felt that a first offender should be given a chance to reform himself. Hence a system of awarding a sentence and suspending it for a particular period and if such person commits and offence during the sentence suspended period, the suspension of sentence revoked the person sent to jail was conceived:

The probation of offenders act is an act providing for release of first offenders by suspending the sentence and placing under supervision was enacted in 1936 - 37. It was called the Madras Probation of Offenders Act. Later the Probation of Offenders Act was enacted in 1958.Tamil Nadu is one of the first few states that enacted this act. While the act of 1936 restricted the application of this act to first offenders and for an offence punishable with not more than 2 years of imprisonment and no previous conviction, later these restrictions were removed. Also the earlier restriction with regard to the age and duration of sentences was later dispensed with. Now for airy offence this act can be applied. A court can order release of the person under this act may direct him to be related on his entering into a bond with or without sureties to appear and receive sentence when called upon during such

period.

In the event of a person released under this act violating any of the conditions of the bond executed by him, he can be apprehended and awarded the original sentence. The court is also empowered to allow the continuance of the bond and impose fine. In the event of his not paying the fine, the court may sentence him for the original offence. For the implementation of this act probation officers are appointed. Regional probation officers and the chief probation superintendent supervise the probation officers.

The probation officer shall visit the offender at reasonable intervals and receive visits from the offender, see that offender observes the conditions of the bond executed by him, report to the court of the behaviour of the offender and advise, assist and be friend the offender and if needed endeavour to find suitable employment. The offender is required to keep the probation officer informed of his place of stay, means of livelihood etc. A person dealt under the provisions of this act shall not suffer any disqualification attached to a convict.

PROBATION PROCEDURES:

PRE-SENTENCE INVESTIGATION REPORT:

Considered among the most important documents in the criminal justice field, the Pre-sentence Investigation Report (PSI) has been the central source of information to sentencing judges since the 1920s. Its original purpose was to provide information to the valuable suggestions on Prison Administration in India. Consequently, All India Jail Manual Committee was formed to review the working of Indian Jails and suggest measures for reform in the system. Consequent to the Report of the Jail Manual Committee the Government of India decided to have a comprehensive legislation on probation of offenders. Then the Probation of offenders came in to force in 1958. Its original purpose was to provide information to the court on the defendant's personal history and criminal conduct in order to promote individualised sentencing. With the advent of more punitive sentencing policies in recent years, the PSI has become more offence focused and less individualised. Despite current trends, the PSI will likely remain a critical component of the criminal justice system.

Origins of the PSI:

The origins of the modem pre-sentence investigation began in the 1840s with the crusading efforts of Boston shoemaker John Augustus (1841-1859). It was Augustus' belief that the "object of the law is to reform criminals and to prevent crime, and not to punish

maliciously or from a spirit of revenge." In his efforts to redeem selected offenders, Augustus gathered background information about the offender's life and criminal history. If he determined that the person was worthy, Augustus provided bail money out of his own pocket. If he succeeded in winning the person's release, he helped them find employment and housing. Later he appeared at the sentencing hearing and provided the judge with a detailed report of the person's performance. Augustus would then recommend that the judge suspends the sentence and releases the person to his custody.

Considered the father of modem probation, Augustus's leadership led the Massachusetts legislature to establish the nation's first probation law in 1878. By authorising the Mayor of Boston to appoint a member of the police department to serve as a paid probation officer, this statute formalised the practice of extending probation to "such persons as may be reasonably be expected to be reformed without punishment." The law was expanded in 1891 with the creation of an independent state wide probation system. By the time that the National Probation Act was passed in 1925 creating a Federal probation service, the majority of states had probation statutes.

The evolution of the presentence investigation was given further impetus by the reformatory movement of the 1870s. Since reformatory movement proponents advocated an individualised approach towards the redemption of the criminal, indeterminate sentencing became a popular sentencing reform throughout the later, half of the 19th century and became the standard form of sentencing throughout the United States until the 1980s.

Simultaneous to the development of probation and the indeterminate sentence, the evolution of the social sciences gave rise to the medical model of corrections during the 1920s and 1930s. The medical model was founded on the belief that crime was the result of individual pathology that could be diagnosed and treated like a disease. Judges simply needed to know the problem in order to prescribe treatment.

As these systems and approaches evolved, the need for more information about the defendant became critical. By the 1930s, one of the primary tasks of probation officers throughout the country was the preparation of the presentence investigation report.

Content of the PSI:

The traditional PSI was intended to provide the judge with comprehensive background information about the offender. Under this model, the PSI was intended to promote individualised sentencing by giving information specific to the offender's potential for rehabilitation and community reintegration and allow judges to tailor their sentence

accordingly.

The elements of an offender-based report includes a summary of the offence, the offender's role, prior criminal, justice involvement, and a social history with an emphasis on family history, employment, education, physical and mental health, financial condition and future prospects. Based on this thorough background analysis, a probation officer renders a sentencing recommendation. In a 1978 publication by the Administrative Office of the United States Courts described the essential elements of a typical offender-based PSI:

It specifies what the presentence report shall contain, i.c., "any prior criminal record of the defendant and such information about his characteristics affecting his behaviour as may be helpful in imposing sentence... and such other information as may be required by the court.

The information contained in the PSI is critical in assisting judges in rendering sentencing decisions and providing vital information to correctic.ial officials in determining classifications and release decisions. While its content and emphasis has changed in recent years, the PSI remains the most influential document in the sentencing of criminal defendants.

SUPERVISION:

Probation supervision is a sentencing option in which offenders are required to comply with specific court-ordered conditions of supervision while residing in the community. Through guidance, surveillance and referrals to service providers, probation officers assist offenders to comply with their sentences. When offenders fail to comply, they are either subject to administrative sanctions imposed by the probation officer or they are brought back to court for a violation of probation hearing. Standard probation involves different levels of supervision and utilises numerous conditions and intermediate sanctions to hold offenders accountable and to provide them with opportunities to make positive changes in their lives.

Basic conditions of standard probation include the following:

- Reporting to a probation officer;
- Allowing a probation officer to make home visits;
- Refraining from further criminal activity?
- Not possessing a weapon;
- Not leaving the state without permission from the judge; and
- Refraining from the use, possession and sale of illegal drugs.

In addition to these basic conditions, most probationers are subject to a combination of special conditions tailored to the offender's unique circumstances. Commonly used special conditions include the following:

- Victim restitution;
- Community service; a costs;
- Fines;
- Fees; o drug testing;
- Drug treatment;
- Home confinement/curfews;
- Mental health counselling; and
- Educational/programs.

Proper assessment of the particular risks and needs of each probationer is key to developing an effective supervision strategy. After an offender has been placed on probation, an officer conducts an intake interview to gather information regarding the probationer's economic and social background. This information is used to complete the risks and needs assessment tool which evaluates several areas including academic skills, employment history, financial stability, criminal record, attitude, drug and alcohol use, peer and family relations and mental and physical health. With the guidance of this tool, the officer determines the probationer's strengths and weaknesses and develops a plan that will adequately address them. The plan specifies a reporting schedule and may involve referrals for treatment, job placement, educational development or any other type of service that would be beneficial to the probationer.

Following the completion of the supervision plan, the officer works with the probationer to ensure successful completion of the probation sentence. In addition to office and field visits with the probationer, the officer contacts family members, service agencies and employers to assist in case management. Officers reassess cases every six months from the sentencing date. At this time, they revise the supervision plan and use a risk and needs reassessment tool to determine reporting frequency for the next six-month supervision period. Upon the satisfactory fulfilment of the conditions of probation, the court, with the recommendation of probation officer, will terminate the probationer or supervised prisoner from supervision.

REVOCATION OF PROBATION:

Probation along with other alternative sanctions is increasingly being used, to alleviate the strain on correctional institutions. As more correctional facilities are filled to capacity, more and more offenders are receiving sentences of probation, and hence serving their sentence in the community. However, the effect of probation violations negates the idea that beds are' freed up by the use of alternative sanctions. Several issues have been raised about probation per se, and specifically about increasing probation populations. Foremost is revocation of probation. This is important because it has implications both to public safety and to the effectiveness of probation itself as an alternative sanction. Probation revocation occurs due to violation of probation order, or a new conviction.

Several factors associated with probation revocation, most notably, past problem behaviour. In particular, offenders with previous military disciplinary problems or a juvenile or adult record were more likely to have their probation revoked. Also noted was the more likely revocation of the socially disadvantaged, specifically probationers with lower education and lower socio-economic status. Instability in marriage and jobs was also reported as associated with probation revocation, and property offenders were noted to be more likely to have their probation revoked. Furthermore, it is reported that the imposition of special conditions and longer sentences increase the likelihood of probation revocation. Sims and Jones (1997) reported that unstable employment, marital status, and number of past convictions were significant predictors of probation success or failure.

Repeatedly reported are some socio-demographic characteristics and crime attributes of probationers that made them more likely to become recidivist. Among these, though reported at varying degrees of importance are characteristics such as age, sex, ethnicity, prior records, and type of offence, educational level, and drug and alcohol use.

PAROLE:

Meaning, Scope, organisation and Significance:

Gillin defines parole as “the release from a penal or a reformative institution, of an offender who remains under the control of correctional authorities, in an attempt to find out whether he is fit to live in the free society without supervision. It is thus the last stage of the penal or correctional scheme of which probation may probably be the first. Since the life in prison is loo rigid and restrictive, it offers no opportunity for the offender to rehabilitate himself. It is therefore necessary that in suitable cases, the inmates be released under proper supervision from the prison institution after serving a part of their sentence. This will serve a

useful purpose for their rehabilitation in free society. This object is accomplished by the - system of parole, which seems to restore the inmate to society as a normal law abiding citizen.

In other words parole may be said as conditional release, a ticket of leave, an administrative pardon, a permission to spend the part of the sentence outside the prison or a premature release.

The significance of parole:

Parole enables the prisoner a free social life yet retaining some effective control over him. It is an individualised method of treatment of offenders. It envisages a final stage of adjustment of the incarcerated prisoner to the community. Sutherland considers parole as the liberation of an inmate from prison or a correctional institution on condition that his original penalty will be restored if those conditions are violated.

The object of parole:

The system of parole aims at meeting the ends of justice in two ways:

1. It serves as an effective punishment itself in as much as the parole is deterred from repeatable crime due to threat of his return to prison or a similar institution if he violated the parole conditions.
2. It serves as an efficient measure of safety and treatment reaction to crime by affording a series of opportunities to the paroles to prepare him for an upright life in normal society.

The Origin of Parole:

In the United States, the origin of parole can be traced back to the earlier system of indenturing prisoners which meant the removal of prisoners and handing them over to the employers for work and supervision on condition of being returned back to prison it they did -not behave property. Soon after, some state officials were associated with prisons for supervising and guiding the prisoners in their rehabilitation. By the end of eighteenth century many prison aid societies were formed to assist and help the ex - convicts in their rehabilitation to the normal society. By 1S40 similar function were assumed by the federal states. Experience, however, showed that the commutation of the period of good time allowance should entail the prisoners only a release from the institution and not from the custody and supervision. This idea gained strength through successful working of the system of parole in England. The Elmira reformatory in New York State was the first to adopt the

system of parole in 1869. This system was subsequently adopted by other states in America.

Parole Provisions, Rules and Supervision:

Parole Boards and their Functions:

The parole board consists of parole authorities who are from among the respectable members of the society. In India and elsewhere, since the police are looked with bias and distrust, the police opinion about an inmate is not considered to be a valid ground for allowing a particular offender on parole. The members of the parole board are assigned the function of discharging the inmates on parole after careful scrutiny. Thus the parole board takes administrative decision on paroling but inmates and while acting as such they are performing a quasi-judicial function.

Another important work assigned to the parole staff is to prepare a case history of the parolees and help and advise them in the process of their rehabilitation.

Besides parole board, there is also a set of field staff working outside the prisons. These field personnel keep a close supervision over the parolees and report cases of parole violations to the parole authorities.

Thus the parole system, by and large, consists of three agencies, vis., the parole board, the case investigators and the parole supervisors; and all of them work in close liaison with each other.

In United States the expert psychologists and psychiatrists who subject an inmate to a psychological test to determine his suitability for being paroled out handle the task of granting parole. We do not, however have such systems in India and are content with giving every prospective parolee a hearing in the prison itself. The Indian law provides for parole only in cases of serious offenders who are committed to long-term sentence. It has now generally been agreed that if at all the prisoners are to release prior to their final discharge, they must be released on parole so that they could be kept under proper supervision and guidance.

Suitability of Parole:

The success or failure of parole however depends upon the suitability of persons who are given parole. The following guidelines may be observed while granting parole.

1. Offenders committed for crime against person are more suited for parole than those committing crime relating to property. The latter, often resort to recidivism and do not respond favourably to the conditions of release on parole.
2. Inmates with family responsibilities are not more suited than those who are without

family liabilities.

3. The first offenders are more suited than the recidivists.
4. Offenders who belong to higher socio-economic status or those who are educated respond favourably well to the system of parole. The obvious reason being that such persons are committed to prison for an act, which they commit due to sudden impulse on emotional disturbance in them for which they generally repent.
5. Persons who are committed to long term sentences and their final discharge if far off prefer parole.
6. Finally parole should be administered only to those‟ inmates who display an inclination for good behaviour and respect for law and justice. The adaptability of the inmate can be accessed through a method of careful diagnosis by trained and qualified parole staff. '

Parole Violations:

The release of an inmate of parole though meant for his own rehabilitation may not necessarily always be a success. At times the paroles may derogate from the conditions on which he was released. This will mean parole violation and he was released. This will mean parole violation, and he is liable to be returned to the prison or the institution from which he was paroled out. At first warrant of arrest is issued and served to the parole violator and he is finally arrested and brought back to the prison or the institution by the parole authorities-without the necessity of a fresh court trial in his case. He is however given a parole violation hearing and offered the fullest opportunity to defend his case in person or through a counsel. If he is unable to justify his act, he is made to complete the unexpired term of his sentence. If he has violated parole conditions by committing a .new crime then in that case he shall be tried for the new offence and sentenced. But he shall not be committed to parole the second time i.e. while undergoing a term of sentence for his subsequent offence.

Difference between Parole and Probation:

1. Probation originated earlier than parole.
2. An inmate can be released on parole only after he has already completed a part of his sentence in prison or a similar institution. But in case of probation no sentence is imposed on if imposed it is not executed.
3. As right by contented by Sutherland, a probationer is considered as undergoing treatment while he is under the treat of being punished if he violates the conditions of

the probation, a parolee is considered to be in custody and undergoing both punishment and treatment while under threat of more severe punishment i.e. return to the institution for which he has been released.

4. Another notable distinction between probation and parole is that the former is a judicial function while the latter is essentially quasi judicial in nature. Probation implies a procedure under which the court releases a person found guilty of a crime, without imprisonment, subject to supervision of the probation service. In case of parole, a prisoner is released from prison to free community prior to the expiration of his term, subject to conditions imposed by the paroling authority and to its supervision.
5. Parole is the last step in a correctional scheme of which probation may be the first step.

A parole system cannot operate by itself but presupposes a prison or reformatory. Parole is hot a method of relieving pressure of the prison population. It is the final step in adjustment of the incarcerated offender to free society. It is part and parcel of a method of treatment, which begins with incarceration in an institution. It is based upon careful examination of the prisoner. It is preceded in the institution by successful steps in education for a trade and for free social life, with discipline gradually relaxed as the prisoner shows correction of his behaviour.

HALFWAY HOUSES:

Halfway houses aim to provide discharged inmates / prisoners with facilities for their gradual transition from incarceration to community life.

Organisation and Significance:

Halfway houses are extension of the rehabilitative efforts carried out within the penal institutions. Needy supervisees,' e.g. those with accommodation difficulties or requiring close monitoring upon discharge, will be arranged to take up residence in an appropriate halfway house from which they go out to-work or study during daytime and to which they return at night. The halfway houses seek to cultivate a sense of self- discipline and positive work habit within a structured and supportive environment. The period of residence depends on individual needs and progress. Leave of absence is generally granted on weekends and holidays to facilitate their social reintegration. Visits by family members and friends are encouraged so as to foster and strengthen support conducive to their rehabilitation,

The important role that halfway houses play in the criminal justice system should be noted. Most of them house recently released prisoners on parole or probation status for a temporary period of time before they are fully integrated back into society. Both the individual and the community at large are far better served by this sort of gradual, supervised integration into society, with the appropriate counselling, rather than by simply releasing prisoners directly into the community with no supervision, after time served in prison. Alternatively, a minority of residents of halfway houses are pre-trial inmates, that is, individuals suspected of crimes and awaiting trial who have been deemed not dangerous enough or not enough of a risk of flight to be held in prison, and too dangerous or too much of a risk of flight to be released into the community unsupervised pending trial.

Probation:

Probation is considered as the most promising process of all non-institutional treatment methods. The fact that more than 50% of the offenders sentenced to correctional treatment in United States of America and Japan are placed on Probation will indicate the extent to which probation could be used in non-institutional treatment of offenders.

Parole:

The basic philosophy, of parole is that a prisoner shall not be held any longer than necessary, as it is detrimental to his reformation and also an unnecessary expense to the State. Parole is a procedure whereby a prisoner is released from an institution at a time considered appropriate by Parole Board, prior to the completion of his full sentence so that he may serve the balance of the sentence at large in Society. The offender is also subject to the condition that he will be returned to prison if he fails to comply with the conditions governing his release.

Community Service Order:

As an alternative to a prison sentence courts may order an offender who has been convicted of an offence punishable with imprisonment to carry out a community task for a number of hours stipulated by the Court within a certain period of time. If the offender fails to carry out his work commitment, the Court will deal him with, by imposing any other appropriate punishment. Community Service by order of the Court is currently practiced in several countries.

AFTER CARE AND REHABILITATION: NEED, IMPORTANCE AND SERVICES IN INDIA:

The ultimate objective of the correctional administration is the rehabilitation of offenders in the main stream of social life. Aftercare as the harbinger of any rehabilitative endeavour and as a vital link in the correctional cycle, has been conceived as an approach and as a service designed to reduce the offender's social isolation and dependence; to help him to get over his social handicaps; to remove the stigma that darkens his present and future life and finally to accelerate the process of his rehabilitation as a socially useful and productive citizen of the country. The person in a prison is often a victim of circumstances and his detention period needs to be utilised for giving him training and equipping him with skills, which would help him to rehabilitate himself in the society.

Aftercare programmes for the released prisoners need to be viewed as necessary steps in the complete rehabilitation of the individual. Aftercare is not a kind of benevolent activity intended to rescue neither a fallen individual nor a sort of patronage extended by superior persons. Aftercare is rather based on the understanding of the needs and outlook of the person who is going out of a correctional institution to face an unkind and inhospitable world outside. The released prisoners start with a trauma, a psychological damage to his personality and he is conscious of having been rejected. Aftercare services have to heal this rejection trauma by way of restoring his lost self-confidence and rehabilitate him back in the community as a productive and useful citizen. The All India Jail Manual Committee, 1957 had rightly remarked, "Aftercare is the released prisoners' convalescence. It is the process which carries him from artificial and restrictive environment of institutional custody to satisfaction citizenship, re-settlement and to ultimate rehabilitation in the free community."

Origin and development

The importance and efficacy of aftercare of released prisoners had been appreciated in the country since long. The Indian Jail Conference of 1877 for the first time discussed the question of helping ex-convicts but did not take any positive step to implement it. However, a Discharged Prisoners Aid Society was organised as a non-official agency in U.P. in 1894. Similar societies were organised in Bengal in 1907 and in Bombay in 1914, but these societies could not continue to function for want of government support and public sympathy. In few states, some committees were established in order to help the prisoners on their release. Simultaneously, steps were taken by the provincial governments to help the discharged prisoners, and the Discharged Prisoners' Aid Societies were formed in many

provinces in the country. The object of such societies was mainly to help the released prisoners in their social and economic rehabilitation in the community.

As a land-mark development in this field, an Advisory Committee on After-care programmes was appointed by the Central Social Welfare Board in 1954 under the Chairmanship of Professor M.S. Gore to study, among other things, the nature and size of the problem of those adults and juveniles who have been discharged from correctional institutions, to determine the scope of after-care programmes for these individuals, to assess the extent to which the existing aftercare services meet the needs of the situation and specify the manner in which they need to be developed and modified. The Committee recommended for a very solid and a practical base for the aftercare infrastructure and programmes in this country.

In pursuance of the Gore Committee‟s report, a comprehensive aftercare programme was started during the second and Third Five-Year Plans at the instance of the Central Social Welfare Board and a few aftercare homes and shelters were set up in some states. The Government of India also constituted a Working Group (1972-1973) which defined correctional aftercare as a very essential step in the criminal justice system. The Action Plan was brought up by the All India Committee on jail Reforms (1980-83) which also emphasised on establishment of Aftercare Homes to meet the immediate needs of released prisoners for their proper readjustment in the society.

A well-rounded scheme for the welfare of prisoners in terms of their aftercare and rehabilitation, as formulated under the Seventh Five Year Plan, was circulated among all the States and Union Territories for consideration. The Government of India continued to extend financial assistance to voluntary welfare organisations for providing community- based care, welfare and rehabilitative services for released offenders. Many States and Union Territories also made remarkable achievement in areas qf rehabilitation of released inmates from Juvenile Correctional Institutions, drug addicts, and a few categories of released adult offenders.

Despite all these efforts, rehabilitation prospects of released offenders unfortunately have not improved at the desired level because of many factors, some of prominent ones are paucity of funds, lack of interest on the part of State governments and mis-management by local staff. Many of these aftercare and rehabilitation institutions were closed down or were converted into other kinds of institution under the Social Welfare Departments. Only a few States are left with some very weak institutions, which are not able to cope up with the real

dimensions of the aftercare and follow up works. Ground level constraints in rehabilitation programmes

There is no continuity of institutional treatment programmes with after care services for the released inmates. Prison officers consider that they had any responsibility for the after care and rehabilitation of released inmates. The existing vocational training imparted to the inmates does not match with the competitive employment market, which an offender had, to face after his/her release. The tools and equipment for training of the inmates as well as the trainers needed to be upgraded to make the inmates capable to earn their livelihood in the open market. One of the significant hurdles is the lack of meaningful workable communication between the institutional authorities and the governmental and non-governmental agencies working in the field of aftercare and rehabilitation services for the released offenders.

The existing communication channel between the released offenders and the aftercare institution has been found to be inadequate to bridge the gap between what an institution can offer and what a released inmate can really avail himself/herself. In most of the cases, it was observed that correctional institutions and aftercare and rehabilitative agencies were working in isolation and not as a complimentary with each other. In fact, neither correctional institutions nor the rehabilitation agencies were found to be taking as a personal responsibility to see that a particular release 1 offender was really rehabilitated in the society, Rehabilitative facilities were found to be very meagre in proportion to the necessity. Whatever facilities were available, most of the prisoners were found to be totally unaware and ignorant. Common people are least concerned about the rehabilitative needs of the released prisoners. They were equally unaware about the prison treatment programmes and their impact on prisoners.

Ways and means for enhancing aftercare and rehabilitation services:

In Indian context, it is urgently necessary that an officially recognised system should be evolved to pursue and ensure that the follow up action for the rehabilitation of offenders must start from the day a prisoner enters into the prison and end with his proper rehabilitation in the society. This job may not be very difficult in India because majority of prisoners hails from the agricultural community and they may be easily absorbed into their original system with little bit of counselling and social assistance. These services will be necessary only for those who have lost their socio-economic roots in the process of incarceration.

In India, the necessity for the proper rehabilitation of offenders has been stressed time and again, since the All India Jails Committee, 1919. In fact, all the Prison Reform Committees since have made plethora of recommendations for evolving an effective rehabilitation system for the released offenders. But unfortunately, implementation status of those recommendations had not been up to the mark. It is the urgent need of the day that some machinery is created at the Government level to pursue the follow up action of these recommendations. In order to give a fillip to rehabilitation of released offenders, the government has to play a dominant role. Some organisation like Rehabilitation Bureau which functions under the direct control of Ministry of Justice, Govt, of Japan, needs to be created in the country for continuous review and monitoring of the rehabilitation work, since the day they enter into the prison, till they are settled in the normal life. There is an urgent need of involving community in the treatment programmes in correctional institutions in a big way. It 'is a well-established fact that rehabilitation of a prisoner becomes easy if the community support is enlisted in the greatest proportion. Since the ex-offender has to be rehabilitated in the society only, the society has to come half the way in this regard.

For bringing the community closer, a three pronged approach needs to be adopted. Firstly, maximum possible efforts should be initiated to associate people from different walks of life in different treatment programmes of the inmates in the institution itself. Secondly, mass media has to be brought closer to the prison programmes, so that people at large can be enlightened what good work is being carried out in prisons for the reformation of prisoners. Thirdly, voluntary organisations should be encouraged and strengthened to work in partnership with the government agencies to facilitate rehabilitation of released prisoners.

Community based treatment programmes have great potentiality in enhancing rehabilitation of released prisoners. Among different community based treatment programmes, probation services have immense potentiality, which has not so far fully harnessed in the country. Probation as a method of treatment, not only, helps in decongesting prison population but also creates an opportunity for the offenders to correct himself in-the community itself. Although, there is Central Act on Probation, enacted in 1958, unfortunately, the probation services so, far, have not been able to make any significant dent in the correctional field in the country. The main reason of this state of affairs may be attributed to common ignorance among public and general apathy of the law enforcement agencies. There is an urgent need to make the Probation services more popular among public as well as to criminal justice system. This will definitely provide a boost to the rehabilitation

of released offenders. At present, there is no legal support by which a released prisoner can automatically be benefited by government or from other sources. Some law like the 'Law for Offenders Rehabilitation Services (1995)' of Japan or some similar acts as prevalent in other advanced countries may go a long way in the augmentation of rehabilitation programmes.

The All India Committee on Jail Reforms 1983 also strongly recommended that aftercare of prisoners discharged from prisons and allied institutions should be the statutory function of the Department of Prisons and Correctional Services. Prison officers should be trained as to how; they can help the prisoners for their rehabilitation from the initial days of their imprisonment. They should be equipped with guidance and counselling skill to facilitate legal assistance to indigenous prisoners, help them to keep contacts with their families, pursue communities to accept them back and maintain liaison with voluntary organisations who will, in turn, help the prisoners for their rehabilitation Police officers, particularly at the grass root level, should also be trained as to how they should deal with released prisoners to facilitate their resettlement in social life. The rehabilitation services for the juvenile can be enhanced considerably if the aftercare of offenders discharged from the institutions becomes the statutory function of the correctional services.

A team of well-trained officers should be installed in the headquarters of every state, which will evaluate, monitor and co-ordinate rehabilitative activities of different correctional institutions in the country. They will maintain continuous liaison with voluntary organisations working in the field of aftercare and rehabilitation of juveniles released from the correctional institutions. Planning for aftercare should begin soon after the inmate enters the institution. At the same time, the number of aftercare institutions and organisations should also be raised to meet the rehabilitative requirements of all the released Juveniles from the correctional institutions in the country. Both voluntary and governmental organisations for aftercare and follow up work should be adequately equipped both infrastructurally and technically to make them discharge their duties. Voluntary workers engaged in aftercare should be provided with necessary training, encouragement, help, guidance and incentives, so that they can perform their job properly and can sustain their interest,

Despite lot of thinking and ideas which have been generated during the last century regarding the development of aftercare and rehabilitative services for the released offenders in this country, the present status of the existing aftercare services needs lots of improvement. The services in this respect have remained restricted mainly to giving temporary shelter and financial assistance to a very limited number of discharged prisoners. Although, a good

number of after care organisations are operative in the country, excepting a few, most of them are suffering from acute financial crisis and lack of public co-operation and governmental support. The recommendations made by the Advisory Committee on Aftercare in 1955 have not been properly implemented.

The Model Prison Manual, the Mullah Committee on Prison Reforms has strongly recommended for evolving a structured network of aftercare services for different categories of offenders on the basis of their rehabilitation needs. The Juvenile Justice Act, 1986 has kept a clear-cut provision for a sound aftercare base for the institutional juvenile offenders. In spite of all these, neither adequate infrastructural facilities for the aftercare services in the States have not been properly developed nor have stabilised organisational mechanisms been evolved. As a result, not only the basic objective of correctional administration js constrained but also the entire efforts involving massive manpower and huge expenditure towards the correctional endeavour are not being properly utilised. It is, therefore, felt to be necessary to take up this issue with real seriousness and to translate the recommendations of the earlier committees into realities. A systematic approach needs to be adopted to sensitise the community as well the government regarding the importance of aftercare services in the field of prevention and control of crime.

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