

CHAPTER VII

CONCLUSION AND SUGGESTIONS

7.1 Concluding Remarks

Penitence is the ultimate goal of criminal justice system in India. All four agencies of criminal justice system *i.e.*

- Investigating Agency.
- Prosecuting Agency.
- Adjudicatory Agency.
- Correctional Agency

work hand in hand, one after the other in order to deduce whether or not the accused is guilty on the basis of evidence proved beyond reasonable doubt. The objective of criminal administration is to bring the culprit to justice. This objective of administering justice has been common and almost similar throughout different eras and across various legal systems. The concept of punishment had been modifying on the basis of changing justification for punishment. At the earliest, punitive action was backed by the idea of vengeance, hence, Retributive theory was in vogue. It was believed that causing a similar harm to the culprit was the only way of justifying the loss borne by the victim. This idea is now primitive so far Indian legal system is concerned.

With the inception of new political thought; the penitentiary jurisprudence started to perceive breach of law as derogation of the command of the state. Hence, the objective of deterrence picked up momentum and became a fundamental element of punishment for all times to come in India. This credence was augmented by inculcation Preventive theory as the response of the state to growing criminality. The combined effect of application of both these dogmas was a great success as it enabled

the state authorities to have direct control over all the contemptors; especially those defying state policy.

The British administrators and law makers seemed to have been greatly influenced by the successful application of these policies in the form of imprisonment. Hence, the researcher gave a brief account of development of modern prisons in America and the England within the introduction part of this work itself. It was on account of Lord Macaulay's drafting of the Indian Penal Code, 1860 that imprisonment became the most popular mode of carrying out punishment on behalf of the state as this was the nature of punishment prescribed for most of the offences.

It was now that the fourth element of the criminal administration of justice gained limelight. In the post- modern era, dominated by British rule in India, the state of prisons was pathetic as they were considered to be those places where the British administration could tighten the noose around those who raised a voice against them

Similar system of hostile treatment to the prisoners continued even after independence. On account of this level of treatment meted out to its own people by the state a wave of resentment rose against the Indian government that demanded humane approach from the apex court. Thus, bringing in the goal of reformation of criminals for making them valuable assets of the nation upon their reintegration into the society.

At the outset, the researcher completely understood the above- stated ideology of punishment. While choosing to work on this subject-matter the researcher kept a very clear perspective about two things *i.e.:*

- That according to the existing Indian legal system, incarceration is itself a punishment and it is not a medium for inflicting any other type of punishment.

And

- That the convict was undergoing a sentence of punishment on account of some crime committed by him/her. So, certain aspects of incarceration should clearly convey the idea of punishment and that prisons should not be equated

with hostels and inmates should be treated as criminals subjected to punishment only.

On the basis of this dichotomy the researcher reviewed the punishments inflicted on women for committing crimes since the ancient period to till date covering major eras throughout. During ancient period, feminine criminality was a question of morality as much as it was a legal concern. Stringent moral boundaries were established for women and harsh punishments were prescribed for those who transgressed them. The criminal law of ancient period was very severe but great importance was given to punishment. According to Manu, it was only *danda* which regulated the human behavior and because of which a man could enjoy social life. Physical punishments such as cutting of nose, ears, limbs, whipping, banishment, drowning in water were imparted to the women offenders. Imprisonment was not a usual form of punishment in ancient India although prisons existed but little information is available about length of prescribed prison sentence.

During the Medieval period, the general code of punishment was very severe. The punishment for men and women was same. Punishment was postponed in case a woman was pregnant and until she recovered from labour. During this period also, imprisonment was not a usual form of punishment. Harrowing treatment was offered to prisoners. Imprisonment was mainly awarded to political offenders and enemy kings etc. The prison conditions were totally unsatisfactory.

It was followed by various types of punishments awarded to both male and female offenders during the beginning of the British period. Two punishments were often used by the British i.e. transportation and imprisonment. Although prisons were in existence, but the physical conditions of the prisons were very unsatisfactory rather inhuman and ghostly. Prisoners were treated atrociously. Males and females were confined together and were employed for labour work on roads and in forests. Numerous committees were appointed by the British government to administer the prisons in a better manner. The *Prisons Act* was enacted in 1894 with the objective to regulate the jail administration in a uniform manner.

Post- independence era was dominated by various committees and commissions constituted by the Government of India from time to time such as, All India Jail Manual Committee, 1957-59; Mullah Committee, 1980-83; National Expert

Committee on Women Prisoners, 1986-87; 135th Report of Law Commission on “Women in Custody,” 1989 and the Parliament Committee on Empowerment of Women, 2001-2002. All these committees analysed the conditions of women confined in various jails in India and found that their condition was pathetic and therefore, made a number of concrete recommendations to be adopted by the Government so that conditions of women prisoners may be improved. Begrudging reality of the present day is that these recommendations still lie on paper and not implemented at all.

After fathoming the system of punishments throughout various eras, the researcher reviewed International standards of protection accorded to women inmates. Before the adoption of the Universal Declaration of Human Rights, 1948 prisoners were not considered to have any rights. It was Universal Declaration of Human Rights which declared that prisoners were also human beings and should be treated with humanity and the main purpose of imprisonment should be the reformation and rehabilitation of prisoners. This was the dawn of a new era in the world of human rights and criminal justice.

The first ever initiative at international level to protect the rights of the prisoners was taken with the adoption of the Standard Minimum Rules for the Treatment of Prisoners in 1955 by the United Nations. These Rules were the guidance to the member states regarding treatment of prisoners. These Standard Minimum Rules, 1955 are not exhaustive and contain few provisions to protect the gender-specific rights of women prisoners, for instance rules require the member states to provide separate accommodation to women prisoners, to provide pre-natal and post-natal care and treatment to pregnant women prisoners, protection against abuse by male prisoners and male officials *etc.* Although, these norms and standards apply equally to male and female offenders but they do not take into account the specific needs of women prisoners. So, in 2010, an important step was taken by the international community regarding the treatment of women prisoners. The United Nations adopted the Standards Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures for the Women Offenders, 2010. These rules has recognised the specific conditions and needs of women prisoners and placed those needs at a level of importance that are equal to those of men. These rules also provide guidance to the prison authorities and the criminal justice agencies including the policy makers, the

legislators, the prosecution services, the judiciary and the probation services providers, as how to deal with women prisoners. States parties are bound to incorporate these rules in their domestic laws.

Further, the Kyiv Declaration on Women's Health Rights in Prison 1995 and WHO Guidelines on HIV Infections and AIDS in Prison, 1996 provide gender-specific health care needs for women prisoners and guidance as how to take care of HIV-positive women prisoners.

These above stated International standards relating to the prisoners can only be beneficial if states incorporate them in domestic laws. The Constitution of India under Article 51 requires the states to foster respect for international law and treaty obligations in dealing with the organized people with each other. Besides this Directive Principle, Articles 253 and 246 of the Constitution of India provides concern for respecting international law and international treaties and conventions. However, barring treaties which require legislation to be made, the international agreements entered by the union in exercise of its executive power under Article 73 which are not contrary to law are required to be recognised by the municipal courts.

Besides comprehending international instruments the researcher reviewed various Regional Human Rights instruments as well because that today regional system is a vital part of the international protection human rights, regional sanction can be more effective than international sanctions. There are three major human rights system on the regional basis, that is (i) the European Human Rights System (ii) American Human Rights System, and African Human Rights System. All these three Regional Systems adopted conventions and charter to protect human rights of its citizens at regional level, to implement the human rights provisions contained in basic conventions and charter such as European convention on human rights and fundamental freedom 1953, American convention on Human Rights 1969, African Charter on Human and Peoples Rights 1981 adopted the European Prison Rules 2006. Principles and Best practices for the Protection of Persons Deprived of their Liberty in America 2008, African Charter on prisoners rights 2001. These three specific instruments relating to prisoners also contains few separate provisions, such as, to provide separate accommodation for women prisoners, pre-natal and post-natal care and treatment for pregnant and mother prisoners, sanitary needs of women prisoners,

special needs of women prisoners who faced physical, mental and sexual abuse before or during imprisonment, health rights of women prisoners, personal hygiene of women prisoners, supervision of women prisoners by female staff, body searches of women by women staff etc.

While reviewing regional human rights instruments relating to prisoners, researcher did not find any specific regional convention, rules or guidelines for the treatment of specific needs of the women prisoners like United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, 2010. Researcher also found that Asian countries too have not formed any regional human rights system in general and to protect the rights of women prisoners in particular.

Keeping the International standards in mind, the researcher analysed Indian legal system to gain an insight on how the women prisoners were protected in India. The only central legislation dealing fundamentally with Prisons is The Prisons Act of 1894 that was adopted one hundred and twenty four years ago by the British. It contains a few provisions regarding the treatment of women prisoners. This is a Central Act which provides for the regulations of prisons throughout India. It requires the States to provide separate accommodations to women prisoners under Section 27. It also requires the search and examination of women prisoners told be carried by female staff and restricts the exposition of handcuffs, fetters and whipping on women prisoners. This Act lacks the provisions to protect the gender specific needs of women prisoners. There are no provisions relating to institutional correctional programmes for the rehabilitation of women prisoners. Thus, with respect to the treatment of women prisoners this Act needs to be reframed.

Besides this Central Act, *Punjab Jail Manual, 1996* is the legislative authority applicable in the State of Punjab. It contains few separate provisions to prevent torture or harassment of women prisoners in order to protect their inherent dignity, such as, separate accommodation for women prisoners, protection against exploitation, extra diet for pregnant and nursing mothers, prohibition of imposition of handcuffs and chains on women prisoners, right to medical care and treatment but lacks the gender-specific correctional measures such as educational, vocational and work programmes along with the post-release programs for the rehabilitation and reintegration of women

prisoners. Similarly, other penal acts such as, the Punjab Good Conduct Prisoners' (Temporary Release) Rules, 1963 and Punjab Prisoners' (Attendance in Courts) Rules, 1966 contains few provisions regarding treatment of women prisoners.

The provisions added in the Punjab Police Rules 2011 regarding human rights, to prevent the violation of the women prisoners' rights, to be followed by the police while dealing with the women prisoners is really a praiseworthy step taken by the Punjab Government in this direction. It is submitted that if these rules would be strictly implemented, the abuse of rights of the women prisoners can be prevented to a great extent.

While the legislature and the executive have failed to implement the international rules, convention and norms, the Supreme Court of India has intervened and issued directions for the effective enforcement of these. For instance, in *Prem Shanker Shukla's* case¹ while dealing with the handcuffing of prisoners and other inhumiliation inflicted on persons in custody, the Supreme Court observed that, "while discussing the relevant statutory provisions and constitutional requirements courts and counsel must never forget the core principle found in Article 5 of the Universal Declaration of Human Rights 1948 which states that 'no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.'"

Again in *Sunil Batra's* case² the Supreme Court took note of Article 10 of the International Council of civil and political rights which states that all people deprived of their liberty shall be treated with humanity and with respect for inherent dignity of the human person. The Court also opined that the state shall take steps to keep upto the Standard Minimum Rules for the Treatment of Prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact and correctional strategies.

With regard to judicial approach to protect the rights of prisoners in general and of women prisoners in particular, in recent past, it is observed that the Supreme Court after *Maneka Gandhi's*³ case has recoganised a number of human rights of prisoners available to them beyond liberty under Article 21 of the Constitution. These rights are

¹ *Prem Shankar Shukla v. Delhi Administration*, 1980 SCR (3) 855.

² *Sunil Batra v. Delhi Administration*, 1980 SCR (2) 557.

³ *Maneka Gandhi v. Union Of India*, 1978 SCR (2) 621.

equally applicable to both male and female prisoners. In pursuance of Article 141 of the Constitution, Government of India is obliged to safeguard these rights of the prisoners. With regard to the protection of gender-specific rights of women prisoners, it is only in *Upadyaya's Case*⁴ that the Supreme Court laid down the guidelines for the government to provide pre-natal and post-natal facilities and provisions for children of women prisoners. Except for this judgment, there is no other judgment from Supreme Court which obliges the state to provide compulsory treatment to women prisoners for their rehabilitation and reintegration.

The researcher categorically analysed the Punjab Jail Manual, 1996 with the objectives of understanding the true nature of intention of the legislature regarding the established system of Correctional Management in the State of Punjab at present. She knew that this was a detailed document for Administration and Management of Jails only and there were no provisions for welfare of prisoners let alone anything specific for women inmates. It is drafted essentially to manage day to day administration of the prisons so it need an over-hauling.

On the basis of discussion and analysis in the forgoing chapters regarding position of women prisoners in India and the system of correctional management in the State of Punjab; the researcher has identified the following rights that are available to the women prisoners in the State of Punjab:

1. Right to avail fundamental rights.
2. Right to life and personal liberty.
3. Right to live with human dignity.
4. Right to speedy trial.
5. Right against solitary confinement in absence of judicial order.
6. Right to humane treatment and
7. Right against custodial violence and protection from cruelty and torture.
8. Right to seek compensation.
9. Right to be released on parole and furlough according to law.
10. Right to avail free legal aid according to law.
11. Right to be interviewed.
12. Right to maintain contact with the outside world.

⁴ *R.D. Upadhyaya v. State of A.P. & Ors*, AIR 2006 SC 1946.

13. Right to judicial remedy.
14. Right to seek redressal against grievances.
15. Right to be searched and examined by female staff only.
16. Right to separate accommodation for women.
17. Right against imposition of instruments of physical restraint.
18. Right against exploitation.
19. Right to be conveyed to a Court complex or another prison complex in a separate vehicle and only during the day time.
20. Commutation or postponement of death sentence in case of pregnant women.
21. Right to extra diet for pregnant women nursing mothers.
22. Right to be provided with medical treatment and care preferably by female doctors.
23. Right to be guarded by female staff only.
24. Right to be vaccinated.

Keeping these legal provisions and judicial directions in mind the researcher had drafted the interview schedule meticulously in order to examine the actual position of women inmates across the state of Punjab keeping in mind the hypothesis of the present study. Blueprint of the interview schedule is as follows:

Blueprint of the Interview Schedule

- A. Introductory or Socio Economic profile
- B. Criminal Profile
- C. Living Conditions
 - Accommodation
 - Toilets, Bathing, Washing Facilities
 - Preparation
 - Food
 - Diet and quality
 - Drinking water and Water for Other uses
 - Sanitary Conditions in the jails
 - Overall cleanliness
 - Drainage
 - Garbage Disposal
- D. Health and Hygiene
- E. Inmate – Staff Interface
- F. Children of inmates
- G. Labour and Wages
- H. Meetings and Interviews (along with pay-phone facilities)

- I. Legal Aid
- J. Inspections and Visits
- K. Parole
- L. Security within prison
 - General security arrangements
 - Dominance and bullying in prison culture
 - Abuse by
 - Co-inmates
 - Prison Staff
- M. Grievance Redressal Mechanism
- N. General Observation of prisoners

Thereafter, the researcher examined the factual position based on the results obtained after interviewing 604 respondents in various prisons (See chapter 6). After an in-depth analysis of the results of the same, the researcher made the following concluding remarks and also identified the following problem areas.

7.1.1 Important findings of Data Analysis

A. Socio- Economic and Educational Background

Concluding Remarks: As unfortunate as it may be, the factual situation was startling with the maximum number of respondents being:

- ❖ 21 to 50 years old.
- ❖ 388 respondents being married.
- ❖ 178 respondents being widowed.
- ❖ 373 respondents belonging to poor families.
- ❖ 156 respondents belonging to lower- middle class families.
- ❖ 314 respondents being illiterates.
- ❖ 254 respondents being educated only up to class tenth.
- ❖ 311 respondents being housewives.
- ❖ 211 respondents being house-helps or domestic workers.
- ❖ Only 29 respondents being self- employed as beauticians, tailors etc.

- ❖ 202 respondents belonging to families where the dominant male member was a daily wager.
- ❖ 103 respondents belonging to families where the dominant male member was a co- convict.
- ❖ 169 respondents belonging to families where the dominant male member was either deceased or missing.
- ❖ 52 respondents belonging to families where the dominant male member was doing nothing at all.

Thus, the researcher identified that most of the women languishing in prisons at the time of this study belonged to poor sections of the society where they did not have much support from the dominant male member of the family as well. They were mostly housewives or domestic workers, so it is obvious that they were not at all skilled. Belonging to the above- mentioned age group, most of them were mothers to young children and unfortunately in some cases the researcher was informed that since both the parents were in the prison and with no one else was there to take responsibility of these young children they were in the custody of children's home run by the state.

Issues identified:

- ❖ Poverty.
- ❖ Illiteracy.
- ❖ Young dependent children.

B. Criminal Profile:

Concluding Remarks:

- ❖ 383 respondents *i.e.* 63.4% were under-trials.
- ❖ 247 respondents belonging to poor families were under-trials.
- ❖ 243 under-trials were married women with children.
- ❖ 116 under-trials were widows.
- ❖ 6 respondents belonging to rich families were under-trials.
- ❖ 201 under-trials were illiterates.

Issues identified:

- ❖ Pending trials.
- ❖ Poverty.
- ❖ Illiteracy.

C. Living Conditions:

I. Accommodation:

Concluding Remarks:

- ❖ Although inmates remarked that the barracks were spacious enough but as per the observation of the researcher they were over- crowded.
- ❖ Sleeping facilities were not up to the mark.
- ❖ There was extremely less space for keeping the belongings of the inmates.
- ❖ The barracks were fairly clean and visibly mopped.
- ❖ Lights and fans were working well.
- ❖ Even televisions were installed.
- ❖ Only two meals a day seems to be insufficient.
- ❖ Daily meals include only *chapatis* and *dal* along with sweet dish once in a while.
- ❖ Quality of food can be improved to a great extent.
- ❖ Supply of items in canteen should be improved keeping in mind the need of women inmates owing to biological necessities.
- ❖ Number of toilets were also insufficient.
- ❖ Toilets needed repair immediately.
- ❖ Drinking water was not purified in a number of jails all of which fall in the region where ground water is highly toxic.
- ❖ Otherwise there was regular supply of water.
- ❖ Bathing soap and soap for washing was distributed unevenly among different jails.
- ❖ Besides soap, tooth paste, tooth brush and body oil are also supplied by the government.

- ❖ Sanitary conditions and garbage management are spot on.

Issues identified:

- ❖ Lowest level of desired standards of living from the end of inmates owing to their poverty and lack of exposure.
- ❖ Callous approach of prison authorities regarding installation of water purification systems.
- ❖ Dissimilar system of distribution of sanctioned items of daily usage amongst various jails.
- ❖ Continuation of old pattern of jail diet.

D. Health and Hygiene

Concluding Remarks:

- ❖ Only four prisons have health centers for inmates *i.e.* Central Jail, Ferozpur; Central Jail, Faridkot; Central Jail, Kapurthala and Women's Jail, Ludhiana.
- ❖ 100% respondents were put through basic medical check-up at the time of their entry to the prison complex.
- ❖ 100% respondents were not kept in isolation for a reasonable period in order to check for any symptoms of various diseases.
- ❖ Vaccinations were not administered on 99% respondents at all.
- ❖ There was an appointed counselor for 55% respondents only.
- ❖ There was a gynaecologist visiting 100% respondents but it was not always a woman.
- ❖ A child- specialist was also visiting 86.3% respondents only.
- ❖ Only one special bed had been identified for exclusive use in case of an ill inmate that too for only 8.3% inmates.
- ❖ Almost all the inmates believed that no specific arrangements were in place for pre- natal and post- natal needs. It is so because during this time period such women in need of special care are admitted in the nearest general hospital.

- ❖ Only 57.9% respondents were supplied with sanitary napkins that too at irregular intervals.
- ❖ Lectures regarding importance of personal hygiene by the prison authorities were delivered to 8.6% respondents only.
- ❖ 100 % respondents were not made to undergo a compulsory exercise regime by the jail authorities.
- ❖ 57.1% respondents were suffering from some ailment.
- ❖ All the doctors who were deputed for the jail visited the premises regularly on the days they were directed to do so.
- ❖ 100% respondents were not made to undergo timely basic medical check-up to ascertain their over-all health.
- ❖ There was no difference between the medical services offered to the convicts and the under-trial respectively.
- ❖ 100% respondents had not seen any inmates smoking cigarettes or any alike substance within the prison compound.
- ❖ 100% respondents had not seen any member of the prison staff smoking cigarettes or any alike substance within the prison compound during their duty hours.
- ❖ No medical officer inspected and advised on sanitation to ensure hygiene or not.
- ❖ No medical officer inspected toilets and kitchens from time to time.

Issues identified:

- ❖ No preventive action for health hazards.
- ❖ Complete absence of mental health care for prisoners.
- ❖ No plan of action for training of prison staff to deal with the inmates psychologically and mentally.
- ❖ Lack of fundamental health care inside the prison complex.
- ❖ Non-intervention in the day to day conduct of business inside the jail.
- ❖ Propagation of idealism.
- ❖ Lack of humanly concern towards specific biological needs of women inmates and management thereof.

E. Inmate-Staff Interface.

Conclusive Remarks:

- ❖ Genuine conduct of prison staff.
- ❖ Safeguarding women prisoners through female staff only.
- ❖ Complete absence of male members from the women complex.

Issues identified:

- ❖ No shortcoming observed.

F. Children of Inmates

Conclusive Remarks:

- ❖ Inter- mingling of children with all the inmates whether convicted or under-trials.
- ❖ Additional and sufficient diet to these children suitable for their age.
- ❖ Separate play areas established for children except in the Dist. Jail Sangrur.
- ❖ Establishment and management of educative infrastructure and programmes for these children.

Issues identified:

- ❖ Non- separation of inmates with and without children leading to probable ill effects of seemingly bad company for extremely young children and infants.
- ❖ Educative infrastructure is only an eye wash leading to loss of exercise of right to education available to other children in India.
- ❖ Insufficient infrastructure is not conducive for over-all growth and development of children.

G. Labour and Wages

Conclusive Remarks:

- ❖ Only routine task available for inmates is the cleaning of barracks and toilets by turn.
- ❖ Inmates could cook food only where there were separate kitchens in the women's ward of the jail.
- ❖ No other scope of employment within the jail whereas such avenues were available for their men counterparts.
- ❖ Since most of the women were not awarded rigorous imprisonment they were not subjected to labour that could lead to income.
- ❖ Despite of the fact that;
 - 373 respondents belonging to poor families;
 - 156 respondents belonging to lower-middle class families;
 - 314 respondents being illiterates;
 - 254 respondents being educated only up to class tenth;
 - 311 respondents being housewives;
 - 211 respondents being house-helps or domestic workers;
 - Only 29 respondents being self-employed as beauticians, tailors etc;
 - 202 respondents belonging to families where the dominant male member was a daily wager;
 - 103 respondents belonging to families where the dominant male member was a co-convict;

And

- 383 respondents *i.e.* 63.4% were under-trials;
- 247 respondents belonging to poor families were under-trials;
- 243 under-trials were married women with children;
- 116 under-trials were widows;
- 6 respondents belonging to rich families were under-trials;
- 201 under-trials were illiterates.

the position of women inmates inside was nowhere close to improvement as from the above- stated data it is clear that despite of being an under-trial and poor with family responsibilities so many inmates were kept without any employment of a future scope for the same.

Issues identified:

- ❖ Lack of state policy towards employability of inmates defeating the idea of rehabilitation of prisoners.
- ❖ Lack of state policy towards skill development and enhancement defeating the idea of rehabilitation of prisoners.
- ❖ Compulsive unemployment leading to breach of right to work.
- ❖ Availability of occupational avenues for men inmates and absence of the same for women leading to breach of right to equality and equal treatment.

H. Meetings, Interviews and Communications

Conclusive Remarks:

- ❖ Although meetings with family members were being held as per law but practically they were not useful as at the same time so many inmates were interacting at the same place where there was wide gap between the inmate and the visitor and they were separated by two installments of grill- gauze to prevent handing over of any prohibited items..
- ❖ Phone facility was fully functional.
- ❖ There was no privacy in making the phone calls.

Issues identified:

- ❖ Lack of privacy in interaction with family members over the phone.

I. Legal Aid

Conclusive Remarks:

- ❖ Complete awareness amongst inmates regarding the right to seek legal aid.
- ❖ Active involvement of prison staff in disseminating this information and bridging the communications with advocates appointed for the inmates.
- ❖ Reluctance on the part of inmates to avail this facility.
- ❖ No noticeable information regarding demand for fulfillment of unlawful gratification by the appointed counsels.
- ❖ 87% respondents said that these services were satisfactory.

Issues identified:

- ❖ Reluctance on the part of inmates to avail this services being provided by the state.

J. Inspections And Visits

Conclusive Remarks:

- ❖ Inspections by designated authorities were conducted from time to time.
- ❖ All the components of the prison complex like the common room, the kitchen and the toilet were inspected.

Issues identified:

- ❖ Lack of any involvement of NGOs or similar bodies in welfare of inmates.

K. Parole

Conclusive Remarks:

- ❖ 100% respondents said that they were aware of system of parole/ furlough.
- ❖ It took reasonable time to process their request.

Issues identified:

- ❖ Although no problematic areas were identified but this question was not applicable to under-trial inmates because this facility is not available for them. So, gross violation of their right to lead a life of freedom and dignity when they are compelled to be within the jail during pendency of trial.

L. Security Within The Prison

Conclusive Remarks:

- ❖ Tight security of the women's compound throughout the day and the night.
- ❖ No visits by any male member of the staff other than senior officer for official visits and or to address any contingency.
- ❖ Verbal bullying was rampant within the complex. It could be attributed to frustration on account of idealism.
- ❖ Average involvement of the respondents in solving disputes of fellow inmates.
- ❖ No information regarding any type of abuse reported. The researcher observed that the environment inside all these complexes seemed to be safe for over all safety of the inmates.
- ❖ Almost all the inmates said that they felt extremely safe inside. Most of them expressed their relief to be safe in here as compared them being outside and staying with the people who were a danger to their safety.

Issues identified:

- ❖ Lack of involvement of inmates in constructive activities is the root cause of bickering and verbal duels.

M. Grievance Redressal Mechanism

Conclusive Remarks:

- ❖ 100% respondents said that they were aware of grievance redressal mechanism in their prison complex.
- ❖ They could approach the warden or the deputy superintendent of prison.
- ❖ 91.7% respondents said that the prison staff is always cordial with them while 8.3% respondents said that the prison staff is often cordial with them.
- ❖ Respondents said that the prison staff did not for favours to sort out their problems.

Issues identified:

- ❖ No problematic issues identified.

7.2 Suggestions:

Upon perusal of all the details listed in the forgoing segment of this chapter and on the basis of critically examined observations of the empirical study, the researcher makes the following suggestions:

1. Regarding problem of under-trials.

The objective of detaining the accused in a prison during pendency of trial is that he/she may be produced before the Court as and when required. So, in order to satisfy this necessity of hurdle-free conduct of criminal trial accused persons are detained in the prisons during the pendency of trial. So, it is for the convenience of administration of criminal justice system that lives of the accused persons are held at ransom. As noted above, more than half of the respondents were under-trial prisoners and out of them also maximum number belonged to poor families. These women were awaiting trials for serious offences like those under NDPS Act, 1985 or Section 302, IPC. The researcher has maintained that proportionate punishment should be inflicted upon convicts to achieve the objective of deterrence but keeping women captive for years; that too in the company of convicts; when there is equal probability of them being declared innocent at the culmination of trial is the grossest form of violation of human rights. The golden thread running common through Parts III and IV of the Constitution of India is the vision of its makers to protect the inherent rights of any individual and to ensure that they are able to live with human dignity. Similar view has been expounded by the honourable Supreme Court of India and has been generously discussed by the researcher in Chapter 4 of this work as well but the reality is devastating as it was noticed that some inmates had been undergoing trial for 7 or 8 years altogether. Women being under-trial prisoners for a long time has multi-faceted issues that may be expressed as follows:

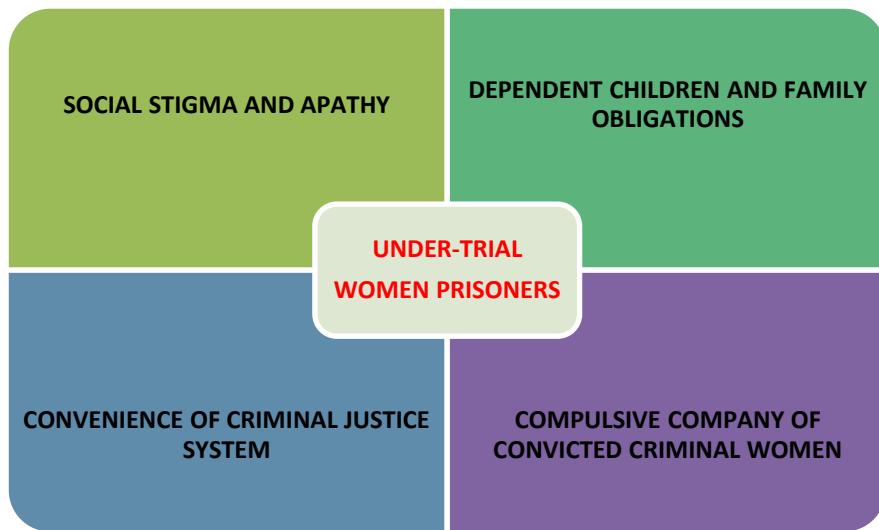


Figure No. 7.1

Following disturbing facts may be noticed:

- ❖ Under- trial prisoners are those people who are forced to lead the life of a convict despite of the fact that their guilt has not yet been proved beyond reasonable doubt and no verdict of the Court exists to justify their detention. In this scenario it is nothing but most gruesome violation of their fundamental right to life, to live with dignity and enjoy freedoms within reasonable limitations as prescribed by law.
- ❖ This detention effects them in a variety of manners. Most importantly their personal/ married life is shattered. Most women belonging to Indian society become mothers at a young age and are completely dependent on the support of their husband and or other family members. So, post- release, they mostly find the doors to their matrimonial homes shut as the prime of their age is lost behind bars. This scenario is worsened in case they had to waste their life only to be declared as innocent at the end of the trial.
- ❖ Women being primary care-takers of their children, in case of under-trial women, their dependent children also face ordeals daily for no fault of theirs. A socially harmonious environment in the household is lost forever. Their education, health and welfare suffers as nothing can substitute the care and affection of a mother; whether poor or rich. Although law permits to keep children up to 6 years of age in the jail with their mothers but what about other younger children or the same children who have not seen a life outside this

complex and without their mothers. They are the most innocent victims of state apathy.

- ❖ These women lose scope of employment and find it extremely difficult to get jobs later on as well.
- ❖ Why are they detained during pendency of trial is the fundamental question. It is done for the convenience of the state machinery that is an integral part of the criminal justice system of our country *i.e.* the investigating agency. Ordinarily, remand in police custody can be extended to a maximum of 14 days, thereafter the presentation of chalan is awaited for a term of 60 or 90 days depending upon the nature of the offence. In case this chalan is not presented then the detenu can avail statutory bail after fulfilling all other formalities but in case the chalan is presented within this time-frame then this detenu stays inside the prison. She may or may not be granted bail by the trial court.
- ❖ In seeking bail also there is a problem of sureties. The poor respondents said that they could not manage the surety amount and that bail on personal bond was not given easily.

Solutions:

2. Making Bail a rule rather than an exception: Section 436 of CrPC 1973 provides for bail in *bailable cases* and that in case a person is not able to furnish bail within seven days of arrest then he may be treated as an indigent and he may be let off on bail on personal bond only without sureties but Section 437 of CrPC, 1973 provides that

“...(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of session, he may be released on bail, but—

(2) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of 2 [a cognizable offence punishable with imprisonment for three years or more but not less than seven years:]

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm: ...”

Moreover, Section 436A was inserted by Act 25 of 2005, w.e.f. 23-6-2006, which is as follows:

“436A. Maximum period for which an under-trial prisoner can be detained.—

Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.”

A combined reading of the above-mentioned provisions make it clear that even if it is a case of non- bailable offence even then if the accused is a woman then her application for bail should be considered. Despite of this provision, there were so many inmates languishing in the prisons because of their bail applications being rejected.

- a) So, the researcher suggests that an under-trial women should be released on bail as a matter of rule and in order to avoid any type of inconvenience in the conduct of trial they should be directed to present themselves before the station house officer of the police station in the area of their residence two times in a week during the pendency of trial.
- b) In pursuance of the above- stated suggestion co-relevant changes in Cr.PC should be made so that it becomes the applicable law governing under-trial women.
- c) Only in case of women accused of terrorist or similar activities should they be directed to be detained in order to maintain safety of public at large.
- d) If in any situation, under-trial women are still detained in prisons, then the state must ensure that they are detained in a complex maintained exclusively for the custody of these inmates. The objective of researcher’s suggestion in this regard is this that the under-trial prisoners should not be compulsorily kept in the company of the convicted individuals as this leads to the issue of breeding criminality behind bars.

e) Until the above- mentioned changes are made in the existing law, the following system of classifying under-trial inmates is suggested:

- Under-trial prisoners should be classified only on the basis of discipline, security and institutional programme.
- No classification on the basis of social status should be allowed.
- Mentally sick women under protective custody may not be lodged with under-trial prisoners although classified as under trial.

2. Fast- track trials: Long and cumbersome process and multiple stages of trial in India is the root-cause of tarnished image of justice delivery system of the country. Despite of sound legislative policies that are in sync with the fundamental principles of criminal justice the day to day conduct of trial proceedings in the courts is a cause of concern. As noted above, the accused persons are detained in prisons during the pendency of trials, so reducing the length of trial would reduce the problems of under-trial individuals. The consequence of Section 437, CrPC, 1973 is that women accused of heinous and serious crimes are not granted bail although the explanation appended with the section clearly states that they should be let out on bail. In this regard the researcher proposes following suggestions:

a) Plea Bargaining: CHAPTER XXIA on PLEA BARGAINING was inserted by the Act 2 of 2006, *w.e.f. 5-7-2006* in the CrPC, 1973 with the objective of reducing the time consumed in trial of the case by providing with a new window to the accused persons that they may apply for sentence bargain by swearing in an affidavit and pleading for a mutually satisfactory disposition with the victim. In this way a lot of time of the Court would be saved and the accused would also know as to for how long he/ she may have to stay behind bars. Relevant provisions are as follows:

“...265E. Disposal of the case.—Where a satisfactory disposition of the case has been worked out under section 265D, the Court shall dispose of the case in the following manner, namely:—

(2) the Court shall award the compensation to the victim in accordance with the disposition under section 265D and hear the parties on the quantum of the punishment, releasing of the accused on probation of good conduct or after admonition under section 360 or for dealing with the accused under the provisions of the Probation of Offenders Act, 1958 (20 of 1958) or any other law for the time being in force and follow the procedure specified in the succeeding clauses for imposing the punishment on the accused;

(b) after hearing the parties under clause (a), if the Court is of the view that section 360 or the provisions of the Probation of Offenders Act, 1958 (20 of 1958) or any other law for the time being in force are attracted in the case of the accused, it may release the accused on probation or provide the benefit of any such law, as the case may be;

I after hearing the parties under clause (b), if the Court finds that minimum punishment has been provided under the law for the offence committed by the accused, it may sentence the accused to half of such minimum punishment;

(d) in case after hearing the parties under clause (b), the Court finds that the offence committed by the accused is not covered under clause (b) or clause (c), then, it may sentence the accused to one-fourth of the punishment provided or extendable, as the case may be, for such offence.

265G. Finality of the judgment.—The judgment delivered by the Court under section 265G shall be final and no appeal (except the special leave petition under article 136 and writ

petition under articles 226 and 227 of the Constitution) shall lie in any Court against such judgment.

265H. Power of the Court in plea bargaining.—A Court shall have, for the purposes of discharging its functions under this Chapter, all the powers vested in respect of bail, trial of offences and other matters relating to the disposal of a case in such Court under this Code.

265-I. Period of detention undergone by the accused to be set off against the sentence of imprisonment.— The provisions of section 428 shall apply, for setting off the period of detention undergone by the accused against the sentence of imprisonment imposed under this Chapter, in the same manner as they apply in respect of the imprisonment under other provisions of this Code..."

The concept of Plea- Bargaining in this chapter is different from that popular in the legal system of USA *i.e.* charge bargain. In India, the concept of sentence bargain has been introduced and a very simple follow up procedure is provided for the same. Unfortunately, this new approach is not picking up the pace as it was desired while making this amendment. The researcher strongly feels that this approach should be 577 uthorize 577 577 by the state functionaries and population should be 577 uthorize 577 regarding the availability of the same. This arrangement is mutually beneficial to the accused as well as the state.

- b) Accountability for Investigation: Although Section 167, Cr.PC, 1973 provides for procedure when investigation cannot be completed within twenty four hours but clutches the otherwise excellent noose around the neck of the state by making furnishing of bail a mandatory requirement. The relevant provision is as follows:

“167. Procedure when investigation cannot be completed in twenty-four hours.—

(2) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is wellfounded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has no jurisdiction to try the case, from time to time, 578uthorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that—

(2) the Magistrate may 578 uthorize the detention of the accused person, otherwise than in custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall 578uthorize the detention of the accused person in custody under this paragraph for a total period exceeding—

(2) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;

2) no Magistrate shall authorize detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage;]

I no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorize detention in the custody of the police.

Explanation I.—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail.”

The objective of having this provision is to time bound the process of investigation so that a strong case can be presented in the Court. But the reality is sadly different. It is mostly found that the prosecution is not able to present strong evidence. So, the

researcher strongly proposes that changes should be made in legal provisions so that liability may be fixed on the investigating agency especially in cases of falsely accusing the individuals.

2) Augmenting reports of forensic examinations: The judicial officers have been voicing their concern over shortage of forensic labs in the country and long time consumed in delivery forensic reports. It is suggested that a huge number of such labs should be established in order to increase the pace of trial.

3. Separate accommodation for under- trials: In order to curb the menace of breeding criminality in the prisons and for honouring the dignity of under- trials it is strongly suggested that they should be kept separately so that the daily regime can be tailored to satiate their specific requirements. As they are not convicted yet so the terms and conditions of their detention should liberal as compared to the convicted prisoners.

4. More liberal system of mulakat: As mentioned earlier, being under-trials they should be treated differently so, the researcher strongly suggests that there should be a more liberal system of *mulakat* available to under- trial women.

- They should be allowed to meet their visitors in the visitors' room instead of the grill- gauze set-up.
- They should also be allowed to consume food items from their home after being properly checked by the prison authorities.
- They should be allowed to meet for a longer duration especially if their children are visiting them.
- They should also be permitted to meet their lawyers in person through the process of *mulakat* to augment the process of trial.

2. Regarding problem of poverty, illiteracy and unemployment:

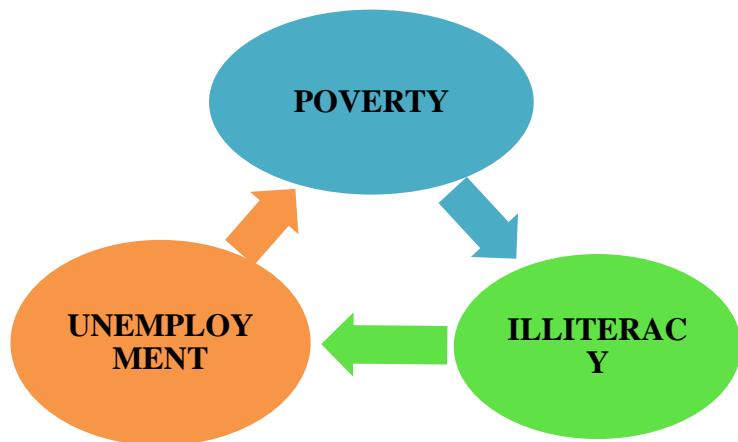


Figure No. 7.2

The issues of poverty, illiteracy and unemployment are a vicious circle.

Following disturbing facts may be noticed:

- ❖ Only routine task available for inmates is the cleaning of barracks and toilets by turn.
- ❖ Inmates could cook food only where there were separate kitchens in the women's ward of the jail.
- ❖ No other scope of employment within the jail whereas such avenues were available for their men counterparts.
- ❖ Since most of the women were not awarded rigorous imprisonment they were not subjected to labour that could lead to income.
- ❖ Despite of the fact that;
 - 373 respondents belonging to poor families;
 - 156 respondents belonging to lower- middle class families;
 - 314 respondents being illiterates;
 - 254 respondents being educated only up to class tenth;
 - 311 respondents being housewives;
 - 211 respondents being house-helps or domestic workers;
 - Only 29 respondents being self- employed as beauticians, tailors etc;
 - 202 respondents belonging to families where the dominant male member was a daily wager;

- 103 respondents belonging to families where the dominant male member was a co- convict;

And

- 383 respondents *i.e.* 63.4% were under-trials;
- 247 respondents belonging to poor families were under-trials;
- 243 under-trials were married women with children;
- 116 under-trials were widows;
- 6 respondents belonging to rich families were under-trials;
- 201 under-trials were illiterates.

the position of women inmates inside was nowhere close to improvement as from the above- stated data it is clear that despite of being an under-trial and poor with family responsibilities so many inmates were kept without any employment of a future scope for the same.

Solutions:

1. Education: A comprehensive educational programme in a prison should aim at:

- ❖ providing opportunities to the illiterate inmates to achieve at least a certain minimum level of education,
- ❖ extending facilities to literate inmates to advance their educational standards,
- ❖ developing a better understanding of the duties and obligations of a citizen,

So, education should be organised at three levels:

- ❖ For the beginners and illiterate inmates.
- ❖ For the intermediates.
- ❖ For advanced education.

- Educational personnel should be oriented, through special training courses, to correctional policies, programmes and methods as far as practicable and non-

Governmental Organizations should be extensively involved in the educational programmes.

- The educational programme should consist of physical and health education, academic, social and vocational education.
- The initial classification of prisoners should be done upon admission to the prison on the basis of their educational background, their social background, their aptitude to follow further studies and vocational education.
- If a prisoner expresses her intention to continue her studies and appear for an examination of any Board/University or institution then she should be allowed to receive books and writing material from outside and purchase books.

2. *Vocational Training:* Vocational training programmes in self-employed trades and occupations should be organised in every central and district prison for employable convicts. The help of local Industrial Training Institutes may be obtained in training the prisoners.

- Such programmes be open to under-trial prisoners who volunteer to undergo such training.
- They should be designed to suit the needs of prisoners sentenced to short, medium and long term imprisonment.
- On the completion of vocational training courses, inmates should be examined by the Department of Technical Education of the State/Union Territory concerned and on passing the examination they should be awarded a regular Certificate/Diploma by that department.
- The prison industry should be given preferential treatment in the matter of granting permission to run various industrial/production units by the State Government and Government departments, semi-government departments, cooperatives and public undertakings should purchase articles produced in prison industries as per requirements from the Department of Prisons and Correctional Services.

3. *Employment of Prisoners:*

- a) *Training for employment:* Apart from convicts, under-trial prisoners, who volunteer to work, should also be employed on work programmes and be

given vocational training. The under-trial prisoners employed in prison industry, or agriculture, should be given fair and equitable remuneration on the same scale as prescribed for convicts. They should also be given labouring diet and other facilities.

- b) Employment for a term: Prisoners sentenced to medium and long terms of imprisonment should be given training in multiple skills so that they are able to compete with the conditions in the labour market outside the prisons.
- c) Organisation work programmes: The following factors should be taken into consideration while organising work programmes:
 - Mental and physical health
 - Requirements of security, custody and discipline
 - Age
 - Length of sentence
 - Inmates' skills and abilities and also potential for acquiring skills
 - Urban and rural background of the inmate.
- d) Prison Industries and Work Programmes: Prison industries should be organised on business-cumcommercial basis. Preference to prison products, while purchasing articles for office use, should be given by the various government departments.
 - The work programmes should also include essential institutional maintenance services like culinary, sanitary and hygienic services, prison hospital, other prison services, repairs and maintenance services.
- e) Work to be generated from under-trial prisoners: Under-trial prisoners may clean the yards, barracks and cells where they are kept. They should be detailed for this work.
 - If under-trial prisoner volunteer to work, suitable work, if possible, be given to them. Wages may be paid to them according to schedules of standard tasks and wages, as fixed by the State Government.

3. Regarding after-care and rehabilitation of offenders: The process of after-care and rehabilitation of offenders is an integral part of institutional care and treatment. These two should never be de-linked. Sadly, the fact is that there is no programme for after-care of inmates anywhere in India.

- The after-care of a prisoner is an extension of the institutional treatment programme; hence the administrative machinery for carrying out these programmes should be effectively integrated with the department of prisons as soon as possible.
- After-care, and follow-up service may not required for each and every inmate leaving the prison. There would be some prisoners who could resist follow-up action as they might consider it a kind of surveillance on them. But majority of the inmates would welcome such programmes which help them settle in the society after their release, and get themselves rehabilitated beyond the possibility of reverting to crime. So, the objectives of the after-care services should be:
 - Extending help, guidance, counselling, support and protection to all released prisoners, whenever necessary.
 - Helping a released person to overcome her mental, social and economic difficulties.
 - Helping in the removal of any social stigma that may have been attached to the inmate or her family because of her incarceration etc.

b) Process of after-care: After-care services should be extended to all needy persons released from prisons, conditionally or unconditionally or on license. A minimum of five years of imprisonment should be necessary to enable a prisoner to avail after-care services.

- After-care work should broadly be phased as follows:
 - (i) While the individual is under institutional care and treatment
 - (ii) Immediately after release from the institution

(iii) Post-release period.

- There should be full coordination between the Correctional Services and the after-care services.

c) Planning of after-care: Planning for after-care should be initiated immediately after an inmate's admission in the institution.

- After-care should be in the interest of the individual, and based on her needs.
- While planning post-release assistance, factors like the inmate's personality, his weaknesses and strengths, limitations and capabilities, and her rehabilitation needs should be taken into consideration. The inmate's desires for post-release help should be considered on a practical and realistic basis.
- The inmate should be told what type of assistance would best suit her needs. She should be encouraged to plan her post-release life, as this would be helpful in her willing acceptance of the after-care plan. She should be prepared for her post-release life.

d) Active role of N.G.Os:

- The participation of N.G.Os. in the rehabilitation programmes should be extensively encouraged. Voluntary organisations, which wish to help the government in rehabilitation projects, should be given necessary financial and other help. Their services should be given due appreciation by the Inspector General of Prisons.

e) Scope of after-care assistance:

The following matters should be kept in view while planning after-care assistance or help to released prisoners:

- ❖ Subsistence money to cover initial expenditure after release, till such time as the released person reaches her family or obtains employment.
- ❖ Provision of food.
- ❖ Temporary accommodations till housing arrangements are made.
- ❖ Stay in a District Shelter/After-care Hostel/State Home, wherever available.
- ❖ Assistance in getting employment etc.

4. Regarding welfare of prisoners:

The starting point of all welfare programmes shall be the initial classification of the prisoner and the study of individual inmates. The welfare programme should include periodical review of progress and re-classification of prisoners, review of sentence and pre-mature release, planning for release, pre-release preparation and after-care.

- ❖ Counselling: Counselling facilities should be extended to the prisoners while keeping in mind the mental status of a prisoner.
- ❖ Psychotherapy: Psychotherapy should be used in prisons as it has been recognised as an effective measure for the treatment of prisoners suffering from some degree of mental disorder and defects.
- ❖ Recreation, Sports, Cultural Activities, Films, Library: Cultural and recreational activities should be organised in all institutions for maintaining the mental and physical health of prisoners. These activities are the basic elements of rehabilitation programmes for prisoners. These should form the integral part of an institutional regime.
- ❖ Every prison and allied institution should have an annual sports/cultural meet. Inter-Institution and Inter-State sports meets of inmates should also be organised. The sports groups from outside

could be invited into the prison for playing various games with the prisoners.

- ❖ *Yoga and meditation:* They should be practiced daily for which the hours should be fixed.

5. Regarding improvement in infrastructure: Right to live with human dignity has been acknowledged by the honourable Supreme Court in case of prisoners as well. So it is an onus upon the state to ensure that the living conditions are of optimum standards for use by the inmates. The following suggestions are strongly proposed on the basis of the observations of the researcher as mentioned earlier:

- a) *Utilisation of more barracks:* To address the issue of over-crowding or a situation getting close to over-crowding, it is suggested that more barracks should be utilised. The prison complexes in the State of Punjab are fairly large and the researcher had noticed that in almost all the complexes visited by her, except for the Central Jail, Hoshiarpur, had a number of barracks that were not occupied. The easiest solution to this problem would be to keep less number of inmates in one barrack or at least keep them segregated.
- b) *Sleeping facilities should be improved:* In almost all the jails the inmates slept on the floor, it is suggested that platforms of such a dimension should be constructed so as to adjust two inmates on one and their height being convenient for use by the ladies.
- c) *More bathrooms:* Keeping in mind the number of inmates in each jail, the number of bathrooms should definitely be increased. Not only this, the basic fittings should be repaired from time to time and more attention towards their cleanliness should be given.
- d) *Development of library and or reading room:* Although maximum number of respondents were illiterate but the state cannot presume that always this level of inmates would continue. In order to create an environment of learning and awareness a basic library equipped with non-objectionable literature and

newspaper in vernaculars must be maintained. This area can also be utilised for inmates undergoing any continuing education programme under the existing law as well.

- e) Separate room or enclosure for making phone calls: As noted by the researcher that there was no privacy in making phone calls so, it is suggested that a small enclosure should be set- up where inmates can interact with their close ones and feel a little connected as well.
- f) Installation of water purification systems: This should be done at the earliest. Consumption of clean drinking water is a basic necessity of any human being and the state should not deprive the inmates of this facility unscrupulously.

6. Regarding health care facilities:

- a) Primary health care centers: Primary health care centers must be established in all the prison complexes at the disposal of women inmates. These should be equipped with at least five beds, two stretchers, glucose stand, basic medicines, one medical attendant and one staff nurse to be present in the complex at all times. For this, two attendants and two staff nurses may be appointed and they may be asked to be present on duty by way of shifts for the same.
- b) Vaccinations: All the inmates must be administered vaccinations depending on their age and suitable to their life style, for instance vaccinations to prevent breast cancer, cervical cancer etc.
- c) Lady gynaecologist: Although doctors are appointed and they are visiting these barracks regularly but most of the inmates said that they were not comfortable with male doctors as they found it difficult to express their problems. So, it is suggested that for visiting the women's section of the jail preferably all the doctors should be females.

d) Awareness about health and family planning: It is suggested that the state must have sound policies in place that should target on spreading awareness about maintaining good health, keeping and living in clean surroundings. Also, awareness about family planning must be spread and all the inmates should be encouraged to share the same with all other female relatives and friends. This should be based on lectures to be delivered and active participation of state social welfare department as well as NGOs must be taken.

e) Arrangements for pre- natal care and post- natal care of inmates: At present, inmates are let on special leave for delivery of the child. This is carried out in a govt. hospital only. Thereafter, the inmate returns alongwith her newborn to the prison complex. Keeping this in mind the researcher strongly suggests that:

- Pregnant inmates must be provided with comfortable sleeping facilities besides extra diet that they are already being provided with.
- They should be allowed to have liberal meetings with their family members.
- All endeavours should be made to provide them with congenial atmosphere inside the prison keeping in mind the betterment of the child to be born.

7. Regarding Mental Health Programmes: As it has been highlighted by the researcher in the forgoing chapters that almost all the international instruments concerning rights of prisoners lay great amount of stress on maintaining sound mental health so that these individuals can be prepared to be fruitful members of the society upon their release. The researcher observed that there were no such arrangements in the State of Punjab, neither for the inmates nor for the staff to be trained to deal with them more humanly. Even the Model Jail Manual, 2003 is silent on this point. Keeping this in mind the following suggestions are proposed:

a) Appointment of Counsellor: A Counsellor should be appointed to meet the inmates twice a week. His duty should not only be about detecting cases of

depression but he/ she should have interactive sessions on better mental health.

Inmates should be encouraged to share issues of bullying and abuse if any.

- b) *Inculcating psychological training in training for prison staff:* The prison staff did not seem to be equipped with the knowledge to deal with the daily pressure and sadness on account of their dealing with a very sensitive section of the society. So it is suggested that they should also have access to the counsellors appointed in the prison in order to maintain the day to day balance in their life. They should also be trained to tackle the inmates psychologically from time to time.

8. Regarding Equitable distribution of items of sanitary use: As noted above, the researcher found out that although there was distribution of sanitary napkins in the prisons but this facility was not available in all those prison complexes where women inmates were detained. So, it is suggested that this facility should be provided to all the inmates equally and liberally. For following up the progress in this regard registers should also be maintained.

It was also observed that there was no programme for sensitisation of inmates regarding their menstrual health and hygiene. So, it also suggested that such programmes should be a part of the daily regime of the inmates and at least twice in a month lectures regarding the same should be delivered by the visiting doctors.

9. Regarding Women Inmates with Children: As noted above, the inmates who had children with them were also living in the same barracks as those without any children. Not only this they were also in the same complex as everyone else.

Problem areas identified:

- As a result of this these children were mingling with all the inmates freely and at all the time. Thus, it may be said that the state was keeping these young children in the company of criminals.

- Although playrooms were established but there was not much active involvement in imparting elementary education to these children.
- The items for playing were enough but none of them had any element of educative value.

Solutions:

- a) Separate accommodation for women with children: Women inmates who have their children with them in the prison should be detained in a totally different area identified for them so that these children can be saved from being in the company of other criminals all the time.
- b) Education and Recreation of children: The children of women prisoners living in the prison shall be given proper education and recreational opportunities. While their mothers work in prison, the children shall be kept in crèches/nursery schools under the charge of a matron/female warder. These facilities will also be extended to the children of warders and other female prison staff.
- c) Provision of a crèche and a nursery school:
 - There shall be a crèche and a nursery school attached to a prison for women where the children of women prisoners shall be looked after.
 - Children below three years of age shall be allowed in the crèche and those between three and six years shall be looked after in the nursery school.
 - The crèche and nursery school shall be run by the prison administration preferably outside the prison.
- d) Children in protective custody of the State: Children kept under protective custody in a home of the Department of Social Welfare shall be allowed to meet their mothers at least once a week. The Director, Social Welfare

Department should ensure that such children are brought to the prison on the dates fixed for this purpose by the Superintendent of Prison.

- e) *Medical examination of Children:* Children shall be regularly examined by a Lady Medical Officer to monitor their physical growth who shall also be vaccinated for various diseases including polio and small-pox at the appropriate time.

On the basis of the foregoing information contained in all the previous chapters, it may be concluded that since, in most of the prisons in the State of Punjab where women are detained, the existing policies are implemented nicely but there is a difference in certain basic amenities. So, the hypothesis of this study stands partially true.

The foregoing suggestions by the researcher are a genuine effort on her part to contribute towards a much desired and awaited changes in prison management in the State of Punjab. The motto of Punjab Prison Services is Custody, Care and Correction. Undoubtedly, there is custody of prisoners. Regarding their care, the Punjab Prison Department is following all the directions regarding the same as are existing today. What is missing is the policy of the State regarding correction of inmates on modern lines. This makes the State accountable for lack of necessary action. It is high time that utopian ideas formulated in various international instruments to which India is a signatory are made a reality in our country. Very sound policy for correctional management is contained in the Model Jail Manual, 2003. It is suggested that it should be adopted by the State of Punjab at the earliest.