11.	**Miscellaneous**	Extramural custody, control and employment of prisoners. **(Section 55)**	A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all. the same incidents as if he were actually in prison.	The Committee agrees to retain the existing provision as such.	The Committee recommends no amendment in the existing provision.
		Confinement in iron. **(Section 56)**	Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the State Government, so confine them.	The Committee agrees with the spirit underlying this provision and feels to retain it with minor modification.	***The Committee recommends insertion of following redrafted Section to replace the existing provision:-*** Whenever the Superintendent considers it necessary (with reference either to the state ***or*** the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined ***in separate cell,*** he may, subject to such rules and instructions as may be laid down by the ***Director / Inspector General of Prison & Correctional Services*** with the sanction of the State Government, so confine them.
		Confinement of	(1)Prisoners under sentence	The Committee feels that the	***The Committee recommends the***

		prisoners under sentence of transportation in irons **(Section 57)**	of transportation may, subject to any rules made under section 1*[59], be confined in fetters for the first three months after admission to prison. (2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector General may sanction such retention accordingly.	sentence of ***transportation*** in irons has primarily very harsh deterrent and retributory value which needs to be given up in the light of the modern correctional philosophy. Further more, the use of fetters for the prisoners has also been considered as harsh and inhumane treatment which is against the directions of the Hon'ble Supreme Court in case of ***Harban Singh Vs. State of UP, AIR 199, SC 531***. Hence, the Committee feels that the existing provision should be deleted, as it has no relevance in the present days context.	***deletion of this provision from this Act.***
		Prisoners not to be ironed by Jailer except under necessity. **(Section 58)**	No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.	The Committee agrees with the spirit underlying the existing provision and recommends to retain it with minor modification.	The Committee recommends that the word ***'jailor'*** may be substituted by the word ***'Deputy Superintendent of Prisons'*** in this section.

		Power to make rules. **(Section 59)**	The State Government may by notification in the official gazette make rules consistent with this Act- (1) defining the acts which shall constitute prison offences; (2) determining the classification of prison-offences into serious and minor offences; (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof ; (4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison offence (45 of 1860); (5) for the award of marks and the shortening of sentences; (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;	Using fetters having not been recommended for retention and transportation as punishment also recommended for deletion. The Committee favours suitable amendment to this section particularly in respect of items (16), (22) and (23).	The Committee recommends amendments as follows:- (i) Item (16)—relating to use of fetters may be deleted. (ii) The word ***'Transportation or'*** mentioned in the item 22 relating to the transfer of prisoners to other State should be deleted. (iii) In item 23, the word ***'criminal lunatics'*** may be substituted by the word ***'mentally sick prisoner'.***

			(7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released; (8) for the classification of prisons, and description and construction of wards, cells and other places of detention; (9) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons; (10) for the government of prisons and for the appointment of all officers appointed under this Act; (11) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost; (12) for the employment, instruction and control of convicts within or without prisons; (13) for defining articles		

			the introduction or removal of which into or out of prisons without due authority is prohibited ; (14) for classifying and prescribing the forms of labour and regulating the periods of rest from labour ; (15) for regulating the disposal of the proceeds of the employment of prisoners ; (16) for regulating the confinement in fetters of prisoners sentenced to transportation ; (17) for the classification and the separation of prisoners (18) for regulating the confinement of convicted criminal prisoners under section 28 ; (19) for the preparation and maintenance of history--tickets. (20) for the selection and appointment of prisoners as officers of prisons ; (21) for rewards for good conduct.		

			(22) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire subject, however, to the consent of the State Government of any other State to which a prisoner is to be transferred ; (23) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons ; (24) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends ; (25) for the appointment and guidance of visitors of prisons (26) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882 (10 of 1882), and to the		

			officers employed, and the prisoners confined, therein ; (27) in regard to the admission, custody, employment, dieting, treatment and release of prisoners ; and (28) generally for carrying into effect the purposes of this Act.		
		Exhibition of copies of Rules rules. **(Section 61)**	Copies of rules, under (section 59) so far as they affect the Government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.	The Committee aggress with the spirit of this provision and favours its retention with minor modification.	***The Committee recommends insertion of following amended section in place of existing provision:-*** Copies of rules, under (section 59) so far as they affect the ***Directorate /Inspectorate of Prisons,*** shall be exhibited, both in English, ***Hindi*** and in the local State language(s), in some place to which all persons employed within a prison have access.
		Exercise of Powers of Superintendent and Medical Officer. **(Section 62)**	All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the State Government may appoint in this behalf either	The Committee agrees to the spirit underlying the existing provision and favours its continued retention as such.	The Committee recommends no amendment to this provision.

			by name or by his official designation.		
12.	**Parole**	(i) Provision for granting Parole	The provision of ***Parole*** is a privilege/concession but not a right of any convicted prisoner which is subjected to cancellation in certain specified circumstances. It is allowed to selective prisoners on the basis of well defined norms of eligibility and propriety in order to enable them to maintain regular and harmonious relationship with their family and to develop their self-confidence, constructive hope and active interest in life by removing evil effects of their prison life. The term ***"Parole"*** is not defined in Prisons Act, 1894. However, under Section 59, this Act empowers the State Government to make rules consistent with this Act. Accordingly, the Prison Manuals of the States provide the provision of Parole as one of the	The Committee feels that the ***Parole*** is an effective tool for reformation of the prisoner. Now when the aim of the entire penal system is to reform and rehabilitate the offender, parole should be used as frequently and liberally as feasible. The Hon'ble Supreme Court has categorically emphasized for its liberal use. The Hon'ble Court directed in a case of ***Jayant Vs. State of Maharashtra,*** 1986 Cr.L.J. 1298, that when there is no appeal pending, the State Government can release convicted prisoner on parole. The various Committees including ***Mulla Committee*** recommended that the ***parole*** should be used with an aim to reforming the convict. Accordingly, the task before the correctional administration is to evolve a proper system of parole, and to put it to frequent use in deserving cases. In this connection, the Committee examined the provision of granting ***parole*** under Section 62 and 63 of the West Bengal Correctional Services Act, 1992 and found it to be very useful and fit for insertion in the Prisons Act as new sections. The committee has also examined the	*The Committee recommends addition of suitably modified following Sections in the Prisons Act, 1894 on the lines of Section 62 and 63 of the West Bengal Correctional Services Act, 1992:-* ***Section—62—Remission, Release and Parole.*** *(1) A prisoner sentenced to imprisonment for a period of two years or more may be released by the Director/Inspector General of Prisons and Correctional Services on such period , not exceeding one month excluding the period required for journeys from and to the correctional home, as may be prescribed on the execution by the prisoner of bond for a sum, not exceeding one thousand rupees, and on giving an undertaking of good behaviour during the period of his release of his release on parole without any surety or with surety for such amount of security as the state Government may determine and no prior permission or approval of the police shall be necessary before such release.*

			progressive measures of correctional services. It helps the prisoner to maintain social relations with the family and the community. It facilitates his post release rehabilitation The State Government/ the Director/ Inspector General of Prisons reserves the right to debar or withdraw any prisoner or category of prisoners from this privilege	recommendations of the ***2nd Administrative Reforms Commission (Page 209-211—Vth Report)*** regarding institution of a non-partisan and professional mechanism to examine the grant of parole on merit. Therefore, the Committee feels that ***Parole*** must be granted in deserving cases without any constraints from extraneous influences. Therefore, the committee is of view that a ***Board/Committee,*** should be constituted in all States for the consideration of the applications received for grant of ***Parole*** at State/ District level. On the basis of deliberation on the applications as to their merit, the ***Board/Committee*** shall make appropriate recommendation on individual application which would generally be binding on the State.	*Provided that if the prisoner owns immovable property sufficient to cover the amount of security, he shall be released on parole without surety on execution of the bond describing the particulars of the immovable property:* *Provided further that where the immovable property owned by the prisoner is not sufficient to cover the amount of security, the Superintendent may accept a bond executed by a relative of the prisoner possessing immovable property sufficient to cover the amount of security and release the prisoner on parole.* *(2)No prisoner shall be released on parole under sub-section (1) unless, (a) he has served imprisonment for one year, if he has been sentenced to imprisonment for a period of two years but not exceeding five years; or* *(b) he has served imprisonment for two years, if he has been sentenced to imprisonment for a period of more than five years; and no such prisoner shall be released on parole during the remaining period of imprisonment. and no such prisoner shall be released on*

					parole during the remaining period of imprisonment. *(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Director/Inspector General of Prisons and Correctional Services may grant release of any prisoner for a period not exceeding five days in case of any emergency, such as serious illness of his near relative or friend or marriage of his son,* *daughter, brother or sister or funeral of his near relative or friend or son or daughter or brother or sister or any ceremony in which his participation according to the prevalent custom is essential: Provided that if the release of a prisoner is immediately necessary on parole in case of any emergency as aforesaid, the Superintendent, may, subject to ratification by the Director/Inspector General of Prisons and Correctional Services, release such prisoner for a period not exceeding five days as may be considered necessary, and may requisition police escort for the prisoner during the period of such release and in such case, the execution of any bond or the furnishing of any*

					surety shall not be necessary. *(4) No prisoner shall released on parole under sub-section (1) if - (a) he is habitual offender, or (b) his release in the ordinary course is due within six months from the date on which he applies for release on parole, or (c) he has convicted for an offence punishable under chapter XII or chapter XVII (excluding the offence of criminal breach of trust and mischief), or for an offence of forgery punishable under section 465, of the Indian Penal Code or for an offence involving violation of the provisions of the Imports and Exports (Control) Act, 1947, or of any other law Regulating or controlling the essential services and supplies or regulating or prohibiting the adulteration of food and medicine.* *(5) If during his confinement in a correctional home, a prisoner is elected a member of the legislature of a State or a member of Parliament or a member of a local authority and is required to take his oath as such member before any authority under the provisions of any law for the time being in force, Director/Inspector General of Prisons and Correctional Services shall grant*

					him release on parole for such period as may be necessary for the. (6) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may make rules to provide that a prisoner may enjoy the privilege of release on parole for different terms in a year on such conditions as may be specified therein. (7) Except in the case of a prisoner referred to in sub-sections(2) and (3) of section 63, the period for which a prisoner is released on parole together with the period required for journeys from and to the correctional home shall be deemed to be the period for which the prisoner has served the sentenced. (8) (a) When a prisoner is released on parole under sub-section (1) or sub-section (3) or sub-section(5), he shall be furnished with a certificate signed by the Superintendent showing the name of the prisoner, the name of the father of the prisoner, the period of release on parole and the place of staying during the said period . A duplicate copy of the certificate shall be retained by the correctional home. (b) The prisoner shall report to the

					police-station of the place of his staying during the period of release on parole to enable the local police to keep a watch on his activities. (9) After the prisoner has returned to the correctional home on the expiry of the period of parole granted under sub-section (1), the amount of security deposited by him or by any relative or friend of his on his on his behalf shall be refunded. If the prisoner fails to return to the correctional home on the due date, the amount of security shall, unless satisfactory reasons are shown , be forfeited. ***Section—63—Remission, Release and Parole.*** *(1) A prisoner released on* ***parole*** *under section 62 shall, on the expiry of the period of his release excluding the period required for journeys from and to the correctional home, surrender to the correctional home from which he was released. (2) If any prisoner released on parole under section 62 does not* ***surrender*** *to the correctional home from which he was released as required under sub-section (1), he shall on the*

					basis of necessary requisition made by the Superintendent, be arrested by the police without warrant and delivered to the correctional home whereupon he shall be produced for trial before a ***Metropolitan Magistrate*** *if the correctional home is situated in Metropolitan cities or the* ***Chief Judicial Magistrate*** *of the district in which the correctional home is situated, and shall be punished with such further imprisonment for a term not exceeding three years as the court may decide.* *The offence shall be* ***cognizable*** *and* ***non-bailable****. Such prisoner shall be released on his serving such further period of imprisonment as may be imposed on him.* *The Committee further recommends that the privilege of granting* ***parole*** *should be extended to all the prisoners as much as possible within the prescribed conditions under the Rules. However, the following categories of prisoners shall not be eligible for being released on parole:* (i) Prisoners whose presence is considered dangerous or otherwise prejudicial to

					public peace and ordered by the District Magistrate and Superintendent of Police, (ii) Prisoners who are considered dangerous or have been involved in serious prison violence like assault, outbreak, riot, mutiny or escape, or who have been found to be instigating serious violation of prison discipline, (iii) Prisoners convicted for offences such as dacoity, terrorist crimes, kidnapping, smuggling including those convicted under NDPS Act and foreigners (iv) Prisoners committed for failure to give security for maintaining peace or good behaviour (v) Prisoners suffering from mental illness, if not certified by the Medical Officer to have recovered (vi) Prisoners whose work and

					conduct have not been found good during the preceding 12 months (vii) Prisoners convicted of an offence against any law relating to matters to which the executive power of the Union Government extends, unless approved by the Union Government (viii) Prisoners whose release on leave is likely to have repercussions elsewhere in the country Alternatively, the State Government may adopt the recommendations of the ***Second Administrative Reforms Commission (Page 209-211—Vth Report)*** for grant of parole by a non-partisan and professional Board. The constitution of this Board at State level and District level is suggested as under:- ***<u>Board for Grant of Parole at the State Level.</u>*** A Board for granting parole should be constituted at the

					state level for consideration of applications for the grant of parole for the period over five days. It will be headed by a sitting /Retd. Judge of High Court with DGP/ADGP, Secretary dealing with the Prison Department, Legal Remembrance to the Government and a member from an NGO working in the field of correctional administration. DG/IG Prisons and Correctional Services shall be the Member Secretary of this Board. This Board will meet once in a month. The recommendations of the Board will generally be binding on the State Govt. However, where the State Govt. decides to disagree to recommendations of the Board, specific grounds in support of disagreement shall be recorded in writing by the State Government. ***District Level Committee on Parole-*** In each district, a Committee shall be constituted by the State Govt. to be chaired by the

					District and Sessions Judge with District Magistrate, and Superintendent of Police and Chief Medical Officer as members, Superintendent/Deputy Superintendents of the Central /District Jail is to act as Member Secretary to the Committee. This Committee will consider and decide applications for grant of ***parole*** up to ***five days*** on emergency. Such recommendations of the Committee shall be final. The Committee should meet as frequently as possible to decide emergency related applications. However, if due to some reasons it is not possible to meet urgently, then decision to grant parole on ***emergency*** related applications shall be taken by the Superintendent of Prison. However, his decision shall be put up before the District Level Committee at the earliest for ex-post facto approval.

13.	**Commutation/ Remission**	Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases. **(Article 72 of the Constitution of India)** Power of Governor to grant pardons, etc., and to suspend, remit or commute sentences in certain cases. **(Article 161 of the Constitution of India)**	Grant of commutation/ remission is governed by Article 72 or 161 and Section 432—435 of the Cr.P.C., 1973.	The Committee has examined this issue with reference to the legal provisions and reports available on this subject. The ***Second Administrative Reforms Commission*** in its ***5th Report (page 209—211)*** has expressed their views on this subject which are reproduced as under:- ***7.10.10. In addition, the issue of misuse of the provisions for parole and for remission of sentences has significant implications for public order because indiscriminate and reckless grant of parole or remission of sentence can impact public order adversely. There is an urgent need to put in place a non-partisan and professional mechanism for taking decisions on these issues rather than leaving it to the discretion of individual functionaries.*** ***7.10.11. This is of particular relevance given the recent allegations of abuse of these powers on partisan and political lines in State like, Kerala, Andhra Pradesh and Haryana and also the recent case of an Orissa Police Officer, whose son, a convicted rapist,***	The Committee recommends setting up of a State Level Board to review all applications for remission/commutation of sentence. It shall be headed by Retired/Serving Judge of the High Court with DGP/ADGP, Secretary dealing with the Prison Department, Legal Remembrance to the State Government, Director of Prosecution and a Member from one of the NGOs working in the field of correctional administration as members. DG/IG Prisons and Correctional Services shall be the Member Secretary of this Board. This Board will meet once in a month. The recommendations of the Board will generally be binding on the State Government. However, in case of any disagreement from the State Government to the recommendations of the Board, specific grounds in support of this agreement shall be clearly recorded by the State Government.

				jumped parole in Rajasthan and has been untraced for over several months now. In Kerala State, a Division Bench of the High Court is currently examining the power of the Home Minister and the Cabinet to grant parole to life-term convicts and has reportedly observed that the relevant provisions in Kerala Prison Rules to grant parole to convicts is beyond the legislative competence of the State Governments on the ground that there is no such provision in the parent Prison Act. The case itself centres on certain cases of murder convicts who happened to be workers of particular political party and who were allegedly granted parole without justification on partisan considerations. ***7.10.12. Such cases have adverse ramifications for public orders as well as the citizens' respect for the rule of law because they create an impression that influential segments of society can obtain preferential treatment before the law.***	

				7.10.13. In order to ensure impartiality and uniformity in decision-making, it is felt that an Advisory Board to be chaired by a retired judge of the High Court with the State DGP and the IG (Prisons) as members should be set up to make recommendations to the State Government on grant of parole to convicts. The recommendations of the Board should normally be accepted by the State Government. If the State Government differs with the Board, it should express its difference of opinion in writing and obtain fresh advice of the Board before taking a final decision in the matter. Similarly, for grant of remission of sentences, States should constitute Sentence Remission Boards as advisory bodies so that the decisions on this issue can be taken in a impartial and judicious manner. The Committee agrees to the recommendations of the 2nd Administrative Reforms Commission for creating a non-partisan and professional mechanism for taking decision on merit for granting parole/ remission ,rather than leaving to	

				the decision on the individual functionaries.	
14.	**Probation of Offenders Act, 1958**	Release on Probation		The Probation Services in India are being regulated by ***Probation of Offenders Act, 1958*** and Section 360 of Code of Criminal Procedure, 1973 which allows release of the convict on probation on fulfilling certain conditions in lieu of his stay in prison on conviction. The option of probation has great potential to promote reformation and rehabilitation of prisoners, as it avoids incarceration and its consequent ill effects on the incarcerated prisoners besides adding to congestion in prisons. The Committee observes that the probation services in India are not uniformly under the administrative control of the Prison Departments. In certain States, it comes under the Social Welfare Department which creates a lot of operational problems due to lack of proper coordination and cooperation	The Committee recommends the extensive use of probation services in deserving cases by adequately strengthening the infrastructure of probation service. The Committee further recommends that the Judicial Officers, Prosecution Officers and Police Officers should be sensitized about these statutory provisions regularly.

				between the Prison Department and Social Welfare Department. The probation services have not achieved the desired goal and for want of proper infrastructure and dual control over this subject. Hence, the Committee is of the view that the provision of probation is not being used in deserving cases. This is partly attributed to inadequacy of Probation Officers in the States and partly to the indifferent attitude of Courts and Prosecution. Keeping in view the salutary effect of Probation Services in deserving cases as listed in Probation of Offenders Act, 1958, as also under Section 360 of the Cr.P.C., 1973. The instrument of probation should be used as widely as feasible.	
15.	**Aftercare Services and Rehabilitation**		The incarceration of convict in prison not only leads to his stigmatization but also causes his social disorientation owing to his having remained practically cut off from social intercourse with the rest of the society. Loss of job, if employed and loss of means of livelihood are also the other ill consequences of the incarceration. The most important single factor which can facilitate his reintegration with the society and prevent his reversion to the unlawful activities after release from prison is his economic rehabilitation. In the organized sector, there is pronounced hesitation to the employment of convicts. However, as self-	The Committee recommends the constitution of following new provision to introduce aftercare and rehabilitation service for the prisoners. The State Government may provide for such industrial undertakings in correctional homes as may be considered necessary in imparting training to prisoner in general and female prisoners in particular, in

			employed entities, they can reach to the status of economic rehabilitation as well. This will require grooming him with such productive skills and knowledge as shall enhance his employability either as self employed or for employment with another employer. At present, the ***Prisons Act, 1894*** does not have statutory provision to give effect to the aforesaid philosophy of promoting the reformation and rehabilitation of prisoners. In a number of prisons in the country, however, many prison industries are run under State specific rules. Keeping in view the grave importance of this subject and its role in the rehabilitation and reintegration of prisoners in the society, the Committee is of the view that statutory provisions should be constituted to give an institutional basis to these services. Prisons Directorate/Inspectorate which has been proposed to be redesignated as the ***Directorate of Prisons and Correctional Services*** should be vested with this responsibility. The Committee has also studied the provisions available in the West Bengal Correctional Services Act, 1992 on this subject and is in agreement with the adoption of the same in our Prisons Act, 1894.	bread-earning avocations such as handicrafts and works. having aesthetic value as may help them in after-release life ,and may ,for that purpose, appoint such number of trainers or instructors as it may deem. The State Government shall, with a view to securing the rehabilitation of a released prisoner in the society as a good citizen, grant to him such financial and other rehabilitation assistance in such manner as may be prescribed. Without prejudice to the generality of the provisions of section 85, the following categories of released prisoners shall be entitled to rehabilitation assistance: (a) released prisoners who have attained the age of sixty years ; (b) released prisoners who are infirm and have been suffering from permanent physical disability; (c) released prisoner who lost their employment by virtue of imprisonment. (d) released prisoners who, during their imprisonment, showed efficiency in any sort of work or handicraft or art and aesthetics or attained praiseworthy educational qualifications; (e) unemployed

				released prisoners, aged not above thirty years, who have passed the Madhyamik or its equivalent examination. There shall be an ***Advisory Committee*** consisting of twelve members, to be called the State Level Advisory Committee for After-Care Services to aid and advise the State Government in the matter of after -care services to, and rehabilitation of, the released prisoners. The State Government shall appoint a person, who has dedication to care and rehabilitation services, as the Chairman of the State Advisory Committee and the ***Director/Inspector General of Prisons and Correctional Services*** shall be its Member-Secretary. The half of the remaining members shall be nominated by the Home (Jails) Department, Relief and Welfare Department and the remaining members shall be nominated by the State Government from amongst the persons engaged in humanitarian and social services. The Advisory Committee shall

				hold at least three meetings a year. Five members shall be a quorum for a meeting of the advisory committee. The Advisory Committee shall scrutinize the activities of Probation-cum-After-Care Officers and render such guidance as may be necessary.
16.	**Payment of Wages to the Prisoners**		Sections 35 & 36 of the ***Prisons Act, 1894,*** provides for the employment of criminal prisoners which are given as under:- ***Section 35*** (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day. (2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed.. and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time. (3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him. ***Section 36***	The Committee recommends that following new provisions may be inserted to the Cr.P.C., 1973 as Section 357A which is given as under:- ***357-A: Payment of Compensation to the Victims of Crime through sharing of wages of the convicts.*** ***(i) The convicts who are earning wages during incarceration by involving in the prison industries, one third of wages payable to the convict shall be deducted for the victim or his family in accordance with rules to be framed for this purpose by the State Government.*** ***(ii) The quantum of fine shall be so enhanced as to provide for its sharing up to 75% with the victims of crime.***

			Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner. The Hon'ble Supreme Court in a case of Gurdev Singh Vs. State of Himachal Pradesh, 1993 (1) directed that prisoners are entitled to wages which should not be less than the wages provided under the Minimum Wages Act. The Committee observed that over the years there has been a demand for the compensation to the victims of crime to be paid by the prisoner. Under Section 357 of the Cr.P.C. 1973, there is a provision for making an order by the trial Magistrate/Judge to pay compensation. The experience so far shows that this section has not been used substantially to award handsome compensation to the victims of crime. This is partly due to the fact that a large majority of convicts are not really in a position to afford significant amount for the compensation to the victims. The Committee has studied the directions of the Hon'ble Supreme Court in a case State of ***Gujarat Vs. Hon'ble High Court of Gujarat, 1998, 7SCC 392*** under which following directions were given:- (i) It is lawful to employ the prisoners sentenced to rigorous imprisonment to do hard labour whether he consents to do it or not. (ii) It is open to the jail officials to permit other prisoners also to do any work which they choose to do provided such prisoners make a request for that purpose. (iii) It is imperative that the prisoners should be paid equitable	***(iii) In case of convict release on probation, 50% of his wages earned during the period of probation shall be paid to the victims of crime.*** ***(iv) State Government shall provide a suitable mechanism for realization of fine for the convicts and its payment to the victims of crime as per the laid down norms.*** ***(v) The above provisions for the payment of compensation mutatis-mutandis shall also be applicable to the convicts released on probation or convicts punished with fine only.***

			wages for the work done by them. In order to determine the quantum of equitable wages payable to prisoners, the State concerned shall constitute a wage-fixation body for making recommendations. We direct each State to do so as early as possible. (iv) Until the State Government takes any decision on such recommendations, every prisoner must be paid wages for the work done by him at such rates or revised rates as the Government concern fixes in the light of the observations made above. For this purpose, we direct all the State Governments to fix the rate of such interim wages within six weeks from today and report to this Court of compliance of this direction. (v) We recommend to the State concerned to make law for setting apart a portion of the wages earned by the prisoners to be paid as compensation to deserving victims of the offences, the commission of which entailed the sentence of imprisonment to the prisoner, either directly or thought a common fund to be created for this purpose or in any other feasible mode. The Committee strongly favours that apart from the convicts in prison, the convicts who have been released with the ***punishment of fine*** or on ***probation*** should also be held liable to pay compensation to the victims of crime.	
17.	**Representation of People's Act, 1951**	Voting Rights to the Prisoners	Section 62(5) of the ***Representation of People's Act, 1951***, disqualifies a prisoner from being a voter in election due to his being in prison.	The accused who are on ***bail*** have the right under the ***Representation of People's Act, 1951*** to exercise their franchise in any election. However, those accused who be involved in a same crime but are denied ***bail,*** are not entitled to exercise this right and vote in any election held under the provision of	The Committee recommends for suitable amendment to Section 62(5) of the ***Representation of Peoples Act, 1951,*** to provide right of franchise to all prisoners.

				Representation of Peoples Act, 1951. It is a prima facie case of discrimination. The Committee is of the view that the prisoners should be allowed to use their right of franchise so that they feel themselves dignified while participating in the democratic process. Hence, the Committee recommends that suitable change may be inserted in the ***Representation of Peoples Act, 1951,*** [Section 62(5)].	
18.	**Juvenile Justice (Care & Protection) Act, 2000**	Detention of Juvenile in the Prisons.		The Committee has noted that ***Juvenile Justice (Care and Protection) Act, 2000*** mandates that no juvenile who comes in conflict with law and juvenile who needs care and protection should be sent to prison or correctional home. The U.N. Guidelines and various Supreme Court rulings on this subject have also suggested the same which needs to be complied with.	The Committee recommends that the ***young offenders between 18 to 21 years*** of age should be sent to the prison only as a last resort. If sent to the prison, they should be kept in a separate ***borstal institution*** with special care and treatment. Preference should be given to such offenders for their non-custodial and non-institutional treatment like, release on probation under the ***Probation of Offenders Act, 1958,*** especially when they are punished or likely to be punished with imprisonment not exceeding one year. Special emphasis should be given on a studied evaluation of individual offender's personality and

					careful planning of training and treatment programmes to suit their needs.
19.	**Mental Health Act, 1987**	Bar against Detention of Mentally ill Persons in Prison		The Committee has observed that the ***mentally sick persons*** are not supposed to be confined in prisons under the ***Mental Health Act, 1987*** and they are required to be treated in mental hospital. Rulings of Hon'ble Supreme Court and various other international instruments also support this position. According to the ***UN Standard Minimum Rules, 1955,*** mentally sick persons can only be kept for a short period in the prisons and thereafter arrangements are to be made to shift them to ***Psychiatric Nursing Home*** (whether called asylum or any other name) as early as possible.	The Committee recommends that the mentally sick persons should not be detained in a prison. But whenever the mentally sick person are required to be kept for a short period, they should be kept separately with the other prisoners with due care and treatment.
20.	**Suggestions for Amendment to Cr.P.C., 1973**	Plea Bargaining **Section 265 A to 265 L**	The ***Code of Criminal Procedure, 1973,*** contains extensive provisions to regulate all aspects of procedure relating to investigation, inquiry and trial into criminal cases. Any bottleneck to expeditious trial of the accused in custody prolongs his/her stay in prison and contributes to congestion. This enactment has been revised from time to time to remove such bottlenecks. Latest provision incorporated in the vide ***Code of Criminal Procedure (Amendment) Bill, 2005*** are as under:- It has been notified on 11th January, 2006 under which a new chapter **XXIA** has been inserted on **Plea Bargaining** (Section 265 A to 265 L) to reduce pendency of cases in Courts as a new concept. The salient features of this new provision are given as	***The Committee recommends following suggestions/amendments:-*** ***(i)*** That disposal of mercy petition should be speedily done and in no case should it take more than six months. ***(ii)*** The Code of Criminal Procedure 1973 may be amended so as to declare more offences as

			under:- *(i)* It is applicable to an accused person who is facing trial in an offence which is ***not punishable with death and life imprisonment or imprisonment for more than seven years*** under the law. *(ii)* It does not apply to an offence, which affects the ***socio-economic conditions*** of the country or any ***crime against woman*** or a ***child*** below the age of fourteen years. (iii) An ***application*** for plea bargaining can be made by an accused to the court if he is covered by the eligibility criteria mentioned at serial number (i) & (ii). *(iii)* ***Views of Public Prosecutors*** or ***complainant,*** as the case may be, shall be taken by the court on this application. (v) On acceptance of the application of the accused made **voluntarily** and after taking into account ***views*** of Public Prosecutor / Complainant satisfactorily disposition shall be worked out in a meeting participated by the Public Prosecutor /Investigating Officer of the case / accused and the victim. (vi) On arriving at satisfactory disposition it shall lead to following consequences: - (a) 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 or any other law for the time being in force; (b) After hearing the parties under clause (a) above, if the Court is of the view that section 360 or the provisions of the ***Probation of Offenders Act, 1958***, or any other law for the time being in force are attracted in the case of the accused, it may release	compoundable in the table attached to Section 320 (1) Cr.P.C. Malimath Committee has also suggested for incorporation of more offences in the list of compoundable offences. A separate exercise needs to be undertaken by an interdisciplinary group to identify all such offences which may be made compoundable.

			the accused on probation or provide the benefit of any such law, as the case may be; (c) 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. (vii) In the scheme of ***plea bargaining*** it has also been specifically provided that the statements or facts stated by an accused in an application for ***plea-bargaining*** shall not be used for any other purposes. Therefore, it will encourage the accused especially those involved in less serious cases to avail of this provision in order to get relatively lighter punishment. Consequently, it will contribute to the ***faster disposal*** of under trial cases.	
	Section 436 A Cr.P.C., 1973	Maximum Period for which an undertrial prisoner can be detained.	2. Another important legislative intervention related to ***bail,*** as described below, has been made by passing ***the Code of Criminal Procedure (Amendment) Bill, 2005*** by the Parliament which will reduce the number of under trial prisoners. A new ***Section 436A*** has been inserted in the Cr.P.C. as under:- "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*** the 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	***The Committee recommends that State Governments and Registrars of High Courts should issue appropriate directions for the ground level implementation of the newly enacted liberal bail provision in the specified cases.***

			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 proceedings caused by the accused shall be excluded."*** These two newly added provisions have strong potential to make impact on the ***decongestion*** in prisons by expediting the disposal of undertrial cases in courts. It is seen that awareness about these provisions has not yet percolated down to the field level functionaries of all the wings of the criminal justice system. Therefore, it is imperative that these provisions of salutary value are brought to the notice of our field level functionaries. In all cases of undertrials and in cases of accused in custody in particular, the Superintendents of Prisons, Public Prosecutors and Trial Magistrates/ Judges should be obliged to bring these provisions to the notice of accused persons in order to ensure that the objective of this new provision are achieved at the earliest.	
	Section 167 (2)(b) Cr.P.C., 1973	Procedure when investigation cannot be completed in twenty four hours.	Section 167 of Cr.P.C. provides that no Magistrate shall authorize detention in any custody, of the accused person, under this section unless, the accused is produced before him.	The composition of prison population shows that 65.5% of prisoners are ***undertrial.*** As per the existing provision of 167 Cr.P.C., they are to be produced before the Magistrate for the extension of their detention period at an interval of 14 days or	The Committee recommends amendments in Section 167 of Cr.P.C. on the line of State Amendment made ***by Andhra Pradesh*** and ***Maharashtra*** States which are extracted below for ready reference:-

				earlier. This places tremendous burden on the infrastructure of both police and prisons for their safe transportation and production before the Magistrate for authorizing continued detention. Similarly, the accused in custody is required to be produced before the trial Magistrate/ Judge for every ***date of hearing*** in his/her trial. This also burdens the infrastructure of Prisons and Police unmanageably. The escape of accused during transit and certain other undesirable activities are also noticed during transit of prisoners to court and back. To obviate such problems in the prison administration and to relieve police and prison administration from this unmanageable burden, the system of ***video-conferencing*** has been introduced in some States wherein the mandatory necessity of producing the accused held in judicial custody physically producing before the Magistrate/Judge has been dispensed with under certain conditions by amending the existing provision of the Cr.P.C. This provision once implemented properly, will help in a big way in	***Andhra Pradesh—***In Section 167, in sub-section (2),— (i) In clause (b), the following shall be added at the end, namely— (ii) In the Explanation II thereunder for the words "an accused person was produced", the words "an accused person was produced ***in person or as the case may be through the medium of electronic video linkage"***.—A.P. Act No. 31 of 2001, Sec.2 (w.e.f. 6.12.2000). ***Maharashtra—(1)*** Amended by Maharashtra Act No. 8 of 2005, published in Maharashtra Government Gazette on 19.1.2005. It shall be deemed to have come into force from 25th November, 2004. In Section 167 of the Principal Act, in its application to the State of Maharashtra,— (a) In sub-section (2), in the proviso, for paragraph (b), the following paragraph shall be substituted, namely:- "(b) No Magistrate shall

				the expeditious disposal of undertrial cases in courts and result in significant decongestion in our prisons. The Committee recommends that the existing provision of Cr.P.C. be amended by introducing ***Video-Conferencing Facilities*** for remand prisoners for extension of their remand as well as for expediting their trials which is very cost effective and time saving device.	authorize detention in any custody, of the accused person under this section unless, the accused person is produced before him in person, and for any extension of custody otherwise than the extension in the police custody, the accused person may be produced ***either in person or through the medium of electronic video linkage".*** (b) In Explanation II, for the words "an accused person was produced" the words "an accused person was produced in person, or as the case may be, through the medium of electronic video linkage" shall be substituted.
	Section 305A	Day to day trial in cases where accused in custody.	As on 1.1.2005 there were 3,31,391prisoners in 1,147 prisons in country. This amount to 41% overcrowding against the authorized capacity. The composition of prison population shows that 65.5% of prisoners are undertrial. As against this, 41 % of overcrowding. It is seen that in our country 61,09,446 persons are arrested out of which total number of 2,17,130 prisoners are in custody in the category of undertrial. The number of persons who are unable to get bail and have to remain in prison are 65.5%. ***Bail not Jail*** is the rule in India which has resulted into one of the lowest imprisonment rate (30 persons per one hundred thousand of population), as compared to other countries like, USA (738); Russia (610); Singapore (350); Thailand (257); U.K. (148) etc.		The Committee recommends insertion of following new Section to expedite disposal of cases of undertrial prisoners in custody:- ***Section 305A-<u>Procedure for trial while accused is in custody</u>:-*** ***Trial in all cases, where accused is in custody, shall be conducted, as far as possible, on day to day basis.***

			The ***delay*** in disposal of undertrial cases works as double hardship for the undertrials detained in prisons because they are neither getting benefit of bail due to various reasons nor they are able to get prompt disposal of their cases in courts. Therefore, the Committee feels that under the ***principle of equity*** undertrial prisoners should get ***priority*** over their counterparts on bail in the matter of their trial. The Committee is of the view that a new section may be added to the Code of Criminal Procedure, 1973 to provide speedy trial to the accused in custody on day to day basis.	
	Section 305B	Lesser punishment in uncontested Cases	*The Indian Criminal Jurisprudence places the burden of proving the guilt of the accused on prosecution. Therefore, prosecution has to discharge this burden in consistence with the doctrine of presumption of innocence till it is proved otherwise. This involves very time and cost consuming efforts for the police and prosecution agencies to build up the case against the accused through pains taking investigation and then proving it in the court against him/her by adducing adequate and cogent evidence in the court to the satisfaction of trial Magistrate/Judge before he records conviction on the basis of evidence so adduced by the prosecution. Although, Sections 229, 241, 252, 253 of the Cr.P.C. provide for pleading guilty by the accused, yet it is seen that in a very rare cases these provisions are availed of by the accused. Therefore, in general all the cases filed in the court are contested by the defence to the best of their ability and resources. The more the accused is resourceful, the more vehemently he contests the case against him. In case of the accused on bail, this phenomenon is all the more pronounced.*	***The Committee recommends the insertion of new sub-section 305B Cr.P.C. as under:-*** ***Section 305-B—Quantum of Punishment*** The ***quantum of punishment*** to be awarded on conviction of an offence after the conclusion of a trial duly ***contested*** by the defence, shall be as far as possible, not less than maximum punishment provided for that offence.

			The process of contesting cases ultimately leads to acquittal in around 60% of cases filed in the court and in 40% of cases the prosecution is able to secure conviction. *The Committee feels that in **contested cases,** the accused has derived maximum advantage by trying to exploit the weaknesses of the case successfully or unsuccessfully leading to his acquittal or conviction. In all such cases, State has to incur maximum expenses. Therefore, the accused at the end of his **contested case** should be placed at different level as compared to the accused who has shown the courage to confess his crime by making free and frank admission of his criminal act.* *The Committee is of the view that the accused in **contested cases** should be liable to undergo **maximum punishment** provided for that crime, while accused who has made free and frank admission of his guilt should be treated leniently with the award of minimum punishment.* *The benefit of the **probation** should also be limited to such cases as per the provision laid down under Section 360 of the Cr.P.C. for the **release of person on <u>probation</u> of good conduct or after admonition.***	
		Minimizing Arrests	At present, 403 offences are punishable under IPC out of which 217 are ***bailable*** and 186 are ***non-bailable***. Even in non-bailable cases there is no obligation to arrest necessarily. However, as a practice in the country, the police effects arrest for various	The Committee recommends that the directions of Hon'ble Supreme Court in case of

			reasons. Many of such arrests could be avoided. The Hon'ble Supreme Court of India has already laid clear guidelines on the power/needs of the arrest in a judgement in the case of ***Joginder Kumar Vs. State of UP*** Following ***guidelines*** have been given by the Hon'ble Supreme Court in respect of the need to effect arrest:- ***(a) Where it is necessary to arrest the accused to bring his movements under restraint to infuse confidence among the terror-stricken victims or where the accused is likely to abscond and evade the process of law;*** ***(b) Where the accused is given to violent behaviour and is likely to commit further offences unless his movements are brought under restraint or the accused is a habitual offender and unless kept in custody is likely to commit similar offences again;*** ***(c) Where the arrest of the persons is necessary to protect the arrested person himself; or*** ***(d) Where such arrest is necessary to secure or preserve evidence of or relating to the offence; or*** ***(e) Where such arrest is necessary to obtain evidence from the person concerned in an offence punishable with seven years or more, by questioning him.***	***Joginder Kumar Vs. State of UP*** may be incorporated by inserting following new Sections in the Code of Criminal Procedure:- ***Section 44-A: Minimizing the Arrests*** Notwithstanding anything contained in this chapter, the arrest of persons shall be guided by following considerations:- The arrest shall be effected :- (a) Where it is necessary to arrest the accused to bring his movements under restraint to infuse confidence among the terror-stricken victims or where the accused is likely to abscond and evade the process of law; (b) Where the accused is given to violent behaviour and is likely to commit further offences unless his movements are brought under restraint or the accused is a habitual offender and unless kept in custody is likely to commit similar offences again; (c) Where the arrest of the

				persons is necessary to protect the arrested person himself; or (d) Where such arrest is necessary to secure or preserve evidence of or relating to the offence; or (e) Where such arrest is necessary to obtain evidence from the person concerned in an offence punishable with seven years or more, by questioning him.
21.	**Suggestions under IPC, 1860**	Decriminalization of Certain Offences	The Principal Act governing punishment of offences is IPC, 1860 which has 511 Sections. Out of these 511 Sections, Sections 35 and 40 define the specific acts/omissions which constitute offences. Out of the 50,26,337 total crimes committed during the year 2005, 18,22,602 were under IPC and 41,96,766 were under SLL. Similarly, out of 403 offences punishable in the IPC, 217 are ***bailable*** and 186 are ***non-bailable***. As per the ***Crime in India, 2005,*** the number of cases which were registered under IPC and SLL and number of arrests in these cases are as under:- **Arrests:** Total incidence of cognizable crime under IPC : 18,22,602 Total number of arrest under IPC offences 26,21,547 (Indian Penal Code) Total incidence of crime registered under SLL : 32,03,735	The Committee recommends that an ***Inter-Disciplinary Committee*** should be set up by the Government to review all offences constituted in various penal statutes. On the basis of review, offences which are of grave nature and involve ***moral turpitude*** should be retained in the list of criminal offences and the remaining offences should be converted into ***Actionable Civil Wrongs*** which will be settled by the disputants on their own in the courts.

			Total number of arrest under SLL offences 34,87,899 (Special and Local Laws) Total incidence of crime registered in 2005 : 50,26,337 Total persons arrested : 61,09,446 The percentage of imprisoned undertrials 217130 (3.6%) *To the total arrests* The strength of police in the country (142.69 per one hundred thousand of population as on 1.1.2006) is the lowest in the world due to serious constraints of resources in the States. Any significant increase in the police in near future is not possible. *It is felt that far too many acts/omissions have been covered under the definition of crime under the Indian Penal Code, 1860, and rest of others Special/Local Laws without any regard to the availability of infrastructure to ensure their proper enforcement. In this Indian context the following observations of* ***Ms. Ayn Rand****, an American Philosopher can very aptly be quoted:-* *"Do you think that we want those laws to be observed? We want them broken. There's no way to rule innocent men. The only power the Government has is the power to crack down on criminals. Well, when there aren't enough criminals one makes them. One declares so many things to be a crime that it becomes impossible for men to live without breaking laws. Who wants a nation of law-abiding citizens? What's there in that for anyone? But just pass the kind of laws that can neither be observed nor enforced nor objectively interpreted and you create a nation of law-breakers'*	

			The perusal of offences also shows a number of such offences can be deleted from the list of criminal offences. The remaining offences, then, can get focused attention with the limited resources of police departments leading to improvement in the lawful action against the offenders involved in such serious offences. It will act as an effective deterrent against recurrence of such offences besides acting as a strong positive measure from the point of view of sparing a large number of citizens involved in petty offences from protracted and time/money consuming criminal proceedings. In our view, offences falling in the grave crime category should broadly be kept in the criminal list and remaining offences can be de-criminalized by converting them into ***Actionable Civil Wrongs*** which will be settled by the disputing parties between themselves in the court. *An inter-disciplinary committee can be appointed to identify such crimes which need to be retained in the category of criminal acts and omissions and* *which are the crimes to be declared as* ***Actionable Civil Wrongs.***	
		Enlarging the list of compoundable offences	At present, 403 offences are punishable under IPC out of which 217 are bailable and 186 are non-bailable. Besides many other offences under various statute. First Schedule of Code of Criminal Procedure, 1973 provides the classification of offences where compounding of offences is permitted with or without the permission of the court. The Committee feels that the list has not been revised for a long period. Therefore, the Committee is of the view that all the offences covered by the IPC and other penal statutes may be reviewed in order to revising the list of offences where compounding can be permitted. This will help to reduce overcrowding in prisons and quicken the disposal of undertrial cases in courts as well.		The Committee recommends that a ***inter-disciplinary committee*** proposed for review of offence in order to decriminalize certain offences should also review the first schedule of Code of Criminal Procedure, 1973 to prepare a revise list of cases fit for compounding.
		Punishment **(Section 53)**	The punishments to which offenders are liable under the provisions of this Code	The phenomenon of incarceration not only stigmatizes the individual concerned and renders his re-assimilation in the	***The Committee recommends following amendment in the existing provision:-***

			are- First-Death; Secondly-Imprisonment for life;] [2][***] Fourthly-Imprisonment, which is of two descriptions, namely: - (1) Rigorous, that is ,with hard labour; (2) Simple; Fifthly:-Forfeiture of property; Sixthly-Fine.	mainstream of society more difficult but also burdens the limited infrastructure of prison department for his care, custody and upkeep. There are various type of offences constituted by the IPC and various other special and local laws which vary in their gravity and adverse impact on the society in general and victims of crime in particular. At present, imprisonment and fine or both are awarded as punishment except in type of cases covered under Section 360 Cr.P.C. permitting probation on good conduct or after admonition. The less grave cases especially those with no or little moral turpitude. The accused on conviction can be sentenced to a punishment other than imprisonment or fine. A beginning has been made under Juvenile Justice (Care & Protection of Children) Act, 2000, wherein juvenile come in conflict with law up to the age of 18 years are treated as special category of offenders. They are not sent to prisons and are also tried by specially constituted Board with a view to treating them and retrieving them back to the society lest they should degenerate into the career of	The punishments to which offenders are liable under the provisions of this Code are- First-Death; Secondly-Imprisonment for life;] ***Thirdly—Community Service*** Fourthly-Imprisonment, which is of two descriptions, namely: - (1) Rigorous, that is ,with hard labour; (2) Simple; Fifthly:-Forfeiture of property; Sixthly-Fine.

				crime and anti-social activities. The type of punishment that can be awarded by the Section 53 of IPC which needs to be expanded to allow for the award of any punishment other than imprisonment and fine which according to trial judge, shall meet the ends of justice and the larger social and public interest of social defence which is primarily aimed at while sentencing a offender to punishment. The Committee feels that the existing Section 53 of the Indian Penal Code should be amended to add ***community service*** and certain other ***alternatives to imprisonment*** as punishments to which offenders may be sentenced as one of the punishments.	
		Solitary confinement **(Section 73)**	Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is	The Committee feels that the existing provisions under Sections 73 & 74 of the ***Indian Penal Code*** lay provision for solitary confinement and its limitations. But the punishment of solitary confinement as a judicial punishment has become obsolete after the Supreme Court of India has made adverse remarks against it in a case of	The Committee recommends following amendments in this provision:- Whenever any person is convicted of any offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order ***in a very exceptional case*** that the offender

			sentenced, not exceeding three months in the whole, according to the following scale, that is to say- A time not exceeding one month if the term of imprisonment shall not exceed six months: A time not exceeding two months if the term of imprisonment shall exceed six months and [shall not exceed one] year: A time not exceeding three months if the term of imprisonment shall exceed one year.	***Sunil Batra Vs. Delhi Administration*** under which Justice Krishna Iyer mentioned that ***there be no solitary confinement or punitive cells or hard labour or dietary change as punishment, no transfers as punishment without judicial appraisal, or in the case of emergencies, without information being given to be appropriate Judicial Officer within two days.*** In view of this, the Committee feels that ***solitary confinement*** should be done away except in well deserved exceptions as per the Supreme Court rulings as it is regarded as inhumane and degrading treatment of the prisoners.	shall be kept in ***solitary confinement*** for any portion or portions of the imprisonment to which he is sentenced, not exceeding ***for one month under the close supervision of Medical Officer or the Officer Incharge of security and discipline in prison.***
		Limit of Solitary confinement **(Section 74)**	In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods: and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month	-Ditto-	***The Committee recommends that this section may be retained in the light of the above comments. It shall, however, be used in exceptional circumstances.***

			of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.		
22.	**Other Suggestions**		It is noticed by the Committee that following areas have not received adequate attention in the management of prisons and prisoners:- (i) The preamble of the Prisons Act, 1894 needs to be specified in the light of the modern correctional philosophy; (ii) The Prisons Act, 1894 has become outdated in the changing scenario which needs to be replaced by the New Central Law on Prisons in order to maintain uniformity in the working of prisons throughout the country. (iii) The State Governments should accord priority in revising their Prison Manuals on the lines of the Model Prison Manual prepared and circulated by the BPR&D. (iv) Legal-Aid and Legal Counseling to the prisoners in custody needs to be provided. (v) To provide conducive conditions to the prisoners for their reformation and rehabilitation. (vi) To promote public participation in prison programmes as a national policy. (vii) Aftercare institutions for the released prisoners should be established by the Prison Department of the States only. (viii) Life Insurance Policies should be made available to the prisoners and their family members either individually or in group in the interest of their family welfare especially for children. (ix) Establishment of R&D Wing in the Directorate of Prisons and Correctional Services of all States to undertake research and analysis on all such subjects and issues which may not only help to meet the new challenges but also lead to	***The Committee recommends following suggestions/amendments in the existing legal and administrative set up for the management of prisons in the country:-*** (i) A specific mention should be made in the preamble to the legislations relating to administration of correctional services that correction, reformation and rehabilitation are objectives of punishment awarded to offenders. (ii) That all the Acts pertaining to prison administration should be consolidated and a new uniform and comprehensive legislation should be enacted by Parliament for the entire country. (iii) Revision of Prison Manuals of all States/UTs on the lines of the Model Prison Manual prepared and circulated by

			improvement in the standards of prison functioning and performance. The R&D Wing shall also be responsible for monitoring of compliance by Prison Department in respect of directions issued by the Hon'ble Supreme Court; High Courts; National Human Rights Commission; State Human Rights Commission and Central Government and also the follow-up action on the recommendations of various commissions/committees appointed by the Central and State Governments on prison related issues. This R&D Cell shall be manned by well qualified and experienced officers in the field of correctional administration, law enforcement, industry, science and technology, social/behavioural sciences besides other streams which may be relevant to the correctional administration.	the BPR&D should be given top priority. (iv) Effective mechanism should be built up for legal aid. The prisoners should have easy access to such legal aid. In this respect some officers should be identified at each correctional home who will be responsible for providing legal counseling to the prisoners as well as to inform the prisoners about their rights and the procedures for ventilation of grievances. (v) The atmosphere of prisons should be surcharged with positive values and the inmates should be exposed to a wholesome environment with opportunities to reform themselves. (vi) Public participation in prevention of crime and treatment of offenders must be made a part of the national policy on prisons. (vii) After-care-institutions for prisoners discharged from prisons and allied institutions should be established and maintained by the department of prisons. (viii) The Insurance Manual, Vol.

					II debars life insurance on the ground of social status, income and moral hazards. Convicts are, therefore, not entitled to be insured on the above ground. The Insurance Manual under Insurance Act should, therefore, be amended so that Central/State Govt./NGOs working for welfare of the prisoners' families or the convict themselves can fund single or group insurance schemes for the convicts. After all, such policies are made for the welfare of the families particularly children who cannot be accused of any moral hazards.
				(ix)	The State Government may establish a Research & Development Wing in the Directorate of Prisons and Correctional Services of all States / UTs with a provision of adequate staff, funds and other resources to undertake research and analysis on all such subjects and issues which may not only help to meet the new challenges but also lead to improvement in the standards of prison

				functioning and performance. The State Government may also sponsor advanced studies and research in collaboration with reputed organization and institutions on the subjects having relevance to the prison management. The State Government should also take appropriate measures to develop technology for scientific and technical assistance in the management of prison to maintain the security and discipline in prisons.