

EXECUTIVE SUMMARY

Prison system is as old as civilization itself. Imprisonment as a mode of dealing with offenders has been in vogue since time immemorial. The system, however, has changed drastically over the years specially since the dawn of independence. Prisons and correctional services are said to be the tail end of criminal justice administration. Prisons in the present day contexts play the role of reformatories also. The new approach towards prison inmates, has changed from retribution to deterrence and from deterrence to reformation, correction and rehabilitation.

Overcrowding is one of the major problems of Indian prisons. Questions like the nature and type of overcrowding, its reasons, factors and impact of overcrowding along with mechanisms and modes of tackling this problem have always been raised at different forums. In this context it is relevant to understand whether the instruments of probation, parole, leave, bail etc. can achieve the objective of reducing the overcrowding of prisons and to what extent. This aspect has not been examined earlier in the pre-independence or post independence period in a specific and detailed manner.

Bureau of Police Research and Development (BPR&D) as part of their basic mandate awards surveys, studies and projects to institutions and individuals to examine and assess various aspects and problems of prisons under their plan and non-plan research schemes. This research project under the plan head was awarded to Dr. Shankar Surolia, IPS former IGP (Rajasthan) in his capacity as visiting professor, Center for Good Governance (CGG), a unit of HCM State Institute of Public Administration, Rajasthan vide their sanction order No. 40/4/2011-Prisons/BPRD dated 11th March 2011. Mr. S.P.Singh Pundir, former Add. DG (Trg. & Dev.) U.P. was appointed as co-ordinator for his research project. The research project is entitled by the BPR&D as, "Status of Probation, Parole, Leave and their Impact on Overcrowding in Prisons". Various activities of the research project have been conducted and are covered under the following three stages :

- (A) Initial Stage
- (B) Development Stage
- (C) Final Stage

Initial Stage:- The initial stage of the project contained the following activities within its overall format.

- i. Initial discussion with the coordinator of the project and BPR&D Officials and decision on the inception date of the project and obtaining guidance on the overall scheme and process to be adopted for conducting this project
- ii. Positioning of the research team
- iii. Collection of background, basic and initial inputs, information and data.
- iv. Preparation of initial and tentative scheme of chapters and research tools for data collection.

- v. Conducting pilot survey
- vi. Preparation of new scheme of chapters
- vii. Preparation of final research tools
- viii. Appointment of nodal officer from prison departments of the sample States
- ix. Drawing of samples.
- x. Circulation and distribution of research tools to the respondents

Development Stage: The development stage of the project consisted of the following actions and activities.

- i. Field visits by the members of the research team
- ii. Interactions with prison and other related officials and respondents
- iii. Administration of research tools on various categories of respondents
- iv. Collection of on the spot data from the officials of prison and probation organizations/cells/units.
- v. Interviews, meetings and interactions with the respondents and other identified and related officials and people.
- vi. Collection of the research tools from the respondents and their assimilation and classification.
- vii. Discussion and guidance from the coordinator of the project and BPR&D officials

Final Stage: The final stage of the project activities comprises the following actions :

- i. Data processing, their interpretation and presentation
- ii. Discussion with the team members on the end results of the data
- iii. Discussion with the coordinator and BPR&D officials for guidance, instruction and approval on the progress and outcome of the project activities
- iv. Preparation of initial draft of the project report.
- v. Suggestions and guidance on the draft project report from the coordinator of the project
- vi. Holding a workshop and presentation at the BPR&D headquarters.
- vii. Inclusion of the suggestions emerged out of the workshop interactions
- viii. Final project reports and its submission to the BPR&D with the culmination and conclusion of the project activities.

Objectives :

Following objectives were identified and approved by the BPR&D with relation to the present project.

- 1. to study the problem of overcrowding in Indian prisons.
- 2. to identify the reasons which are responsible for this overcrowding.
- 3. to work out measures, modes and methods for tackling the problem of overcrowding of prisons in India;

4. to examine the role played by probation, parole, leave etc. in reducing prisons' congestion;
5. to identify the mismatch between the spirit existing in the concepts of probation, parole and leave meant to reduce congestion, and the practical dimensions and overtones of their implementing methods, which do not allow the original spirit of the above concepts to get translated into reality;
6. to analyze the gaps which exist in various States in the theoretical and practical aspects of probation, parole and leave etc.;
7. to take stock of the impact created by the sincere implementation of the provisions of probation, parole and leave etc. in alleviating the state of overcrowding in Indian prisons;
8. to identify the shortcomings, weaknesses, deficiencies and misuse of the existing systems of probation, parole and leave etc. which inhibit ideal implementation of the above concepts obstructing the way of lessening congestion of Indian prison ;
9. to formulate mechanisms, modes and methods for bringing about uniformity in the implementation of various provisions of probation, parole and leave etc. which may ultimately lead to alleviating the problem of overcrowding in Indian prisons;
10. to evolve short- term v/s long-term and permanent and temporary methods of reducing prisons congestion;
11. to analyze and identify the role played by various categories of prisoners in overcrowding prisons;
12. to assess, examine, review and evaluate the existing state of affairs with regard to overcrowding of prisons vis-à-vis the role played by the instruments like bail, bond, probation, parole, remission, leave, premature release and reducing sentence etc.;
13. to undertake gap-analysis of the efforts and work out the reasons which cause gap between the ideal and actual conditions of alleviation of overcrowding of prisons ;
14. to formulate a time bound Action Plan for the implementation of various recommendations of the present research Project;
15. to workout the financial implications and phase out year wise implementation of the formulated Action Plan;
16. to evolve an effective monitoring mechanism to implement the Action Plan so formulated;
17. Any other matter connected therewith or related to the subject matter and theme of the Project.

Various activities, actions and the steps were concentrated and directed toward fulfilling the above objectives of the projects. It is a matter of happiness that all the identified and prescribed objectives of the project have been duly covered by the activities, actions and steps under taken by the research team.

Conceptual Framework :

The basic premise of the conceptual framework of the Project is based on the presumption that protection of society as an objective of imprisonment has been universally accepted and this can be achieved through reformation and rehabilitation of offenders. A progressive prison system has, therefore, to operate keeping in view the two aspects, viz., the protective aspect and the corrective and rehabilitative aspect.

The role of probation, parole, remission, leave and premature release appear to be quite significant in this context. The conceptual framework of this Project is based on the foundation that a progressive prison system has to maintain due respect for some essential prerequisites like probation, parole, leave and premature release of prisoners for their settlement and rehabilitation in the society on the one hand, and for improving humane conditions in prisons by reducing the quantum of overcrowded prison population, on the other.

The conceptual framework of this Project is inspired from the basic objective of imprisonment that protection of society and reformation and rehabilitation of the offender, as have been emerging during modern times, are not empty slogans. It is therefore, necessary that a regular plan aiming at creating a favorable rehabilitative culture in the society is drawn up and implemented with the help of instruments like probation, parole, leave and premature release. This is high time that research Projects and field studies are conducted for bringing about uniformity and homogeneity in the processes, methods and implementation of various provisions pertaining to remission, parole, leave and premature release.

The ultimate purpose of the conceptual framework of this Project is to establish that probation, parole, leave and premature release of prisoners are closely associated and interwoven with the realities of overcrowded prisons on the one hand, and with the laudable principles of reformation, restoration and rehabilitation of prisoners, on the other. These principles are, of course, the hallmarks of progressive, open, free, fair, liberal, democratic and humanitarian societal order like India.

Methodology :

The research methods and methodologies used for the present research work are comprehensive and composite in nature. The research methodology is a harmonious combination of fundamental, empirical and action research. In this context this study is broadly based on library research and empirical field investigations. These research endeavors have focused their attention on the aims and objectives of the research Project and have also tested the hypotheses, examined the key questions and has also presented the data and the research facts to prepare models and modules for advanced research, while preparing the

basic, fundamental and the needed models for improving the existing state of overcrowding of prisons vis-à-vis the role played by instruments like bail, bond, probation, remission, parole, leave, premature release and reducing sentences with a view to alleviating the problem of overcrowding in Indian prisons. All these efforts, it is hoped, will improve the overall scenario of overcrowded Indian prisons. These efforts are also specifically directed towards identifying the modes, methods, means and mechanisms to make the provisions of probation, parole, leave etc. more effective, task and goal oriented with a view to reducing congestion in Indian prisons.

Tools of data collection :

For each category of the sample, a separate research tool i.e. questionnaire, schedule and interview-guide has been prepared and administered on the respondents. In addition, other methods such as opinion polls, collective interactions and observation were also used to collect relevant information and useful data for the study.

(A) Questionnaire : Five sets of comprehensive questionnaires for the executive sampling are prepared with open and closed ended questions, multiple-choice questions etc. About 40 questions, in each questionnaire have been kept which include the subjects which are commensurate with the objectives, purpose, key questions and hypotheses formulated for the research project.

(B) Schedule : A schedule for the beneficiary i.e. prisoners is prepared which includes all the relevant questions pertaining to the various aspects of the project in the light of the objectives and purpose of the research project.

(C) Interview : Focused interviews were conducted on the basis of nature and need of the study on the basis of interview guide. Interview guide includes a set of questions which touch upon all aspects of the research project in keeping with the purpose, aims and objectives of the research study. The questions and problems to be discussed with the GOs, jurists, lawyers, and members of judiciary, prosecutors, police officers, academicians, press people, politicians and general public are commensurate with the nature of research study. However, they all concentrate on the problems of overcrowding of prisons and the modes and methods for brining about improvement in the existing state of affairs with relation to provisions of probation, parole, leave etc. The interviews have been conducted both in face to face situations and in the telephonic mode.

(D) Observation : Participant and quasi-participant observation as tool of data collection for the present research study has been freely used. The units to be observed are the jails, prisoners and the social organizations responsible for rehabilitation. Observation as a tool of data collection is used in addition to the other tools like questionnaire, schedule and interview.

- iii. To what extent the provisions of probation can help in reducing the problem of overcrowding of prisons ?
- iv. Why the provisions of Probation of Offenders Act are not being implemented in the light of their role being played in reducing congestion of Indian prisons?
- v. Are the existing provisions of parole, leave and premature release sufficient and satisfactory to achieve the objectives of alleviating overcrowding of Indian prisons ? What changes are required to be brought about in the existing provisions to achieve the objective of reducing prison congestion, humanizing prison atmosphere and ensuring reformation and rehabilitation of prisoners?
- vi. What changes are required to be brought about in provisions of remission for making the provisions of parole, leave and premature release provisions more effective, democratic and humane with special reference to alleviating overcrowding of Indian prisons and ensuring reformation and rehabilitation of prisoners ?
- vii. What institutional and procedural changes are required to be made for making the instruments of probation, parole, leave and premature release to have better impact in reducing the congestion of Indian prisons ?
- viii. What roles are required to be played by the apex organizations and premiere institutions like BPR&D, Prison Directorates, MHA and State Governments in dealing with the problem of overcrowding of Indian prisons ?

Answer to all the above key questions were obtained during various project activities. The responses, replies and answers to these questions are available at the relevant portions of the report under relevant subject heads

(B) Following hypotheses are tested as part of the present research Project's endeavors :

- i. It is commensurate with the democratic and welfare body polity of India to make systematic and sincere endeavours from time to time to revise, update and reform various provisions pertaining to probation, parole, leave, premature release etc. for reducing prison congestion and converting them into ideal reformatories for bringing about effective and efficient transformation of prisoners to convert them as normal citizens of society.
- ii. A harmonious and balanced blend of various components like bail, bond, probation, remission, parole, leave, premature release and reducing sentence etc. can go a long way towards alleviating overcrowding of Indian prisons and humanizing their atmosphere, these components some how are not coordinated and implemented as per the desired norms and expectations

- iii. The impact and effect of various provisions pertaining to probation, parole, leave etc. are unable to achieve their basic objectives because there are various paradoxes and anomalies in the ideal and actual behaviors of various components of criminal justice administration.
- iv. Any neglect, apathy and indifference shown to the significance and importance of humanitarian approach and democratic values attached to prison administration are bound to deteriorate the national image and image of justice system of any country.
- v. Jail administration in India and the prison management systems have not been given the requisite priority and importance which it deserves. Because of this the Indian prison system suffers with various inadequacies and shortcomings.

All the above hypotheses are proved right on the basis of survey findings, data and the replies given by the respondents

Purpose Benefit and deliverables of the project

The benefits and the deliverables of the present Research Project are following :

1. It will break the ice and would bring about a break through in the state of increase in prison population and overcrowding of Indian prisons.
2. It has taken stock of the existing arrangements and mechanisms for reducing prison population and has provided an overview on the existing state of affairs
3. After an adequate and scientific assessment of the existing problems pertaining to overcrowding of prisons, it has proposed various modules for bringing about improvements in the overall jail atmosphere and jail conditions by alleviating the problem of overcrowded Indian prisons.
4. It has worked out parameters for formulation of various mechanisms to improve upon the existing provisions of probation, parole and leave etc. which may be useful in reducing prison population and congestion of jails.
5. It has evolved parameters, standards and norms for various components of criminal justice administration with reference to probation, parole, leave etc. along with their efficient implementation aiming at bringing about reduction in prisons population.
6. It has laid down norms and principles which will dove-tail various provisions of probation, parole, leave etc. with the overcrowding of prisons which ultimately will go a long way towards alleviating the problem of overcrowding of Indian prisons.
7. The various norms, values, standards and parameters evolved by the efforts of this Research Project would make the jail system a dynamic and ongoing reality wherein the components of probation, parole and leave will play an effective and efficient role in reducing the prison population, on the one hand, and by improving prison atmosphere and living conditions of the prisoners, on the other.

8. The Research Project has prepared various **Long Range, Medium Range, Short Range** modules and Plans to improve overall prison atmosphere and living conditions of prisoners more humane so as to ensure their assimilation, absorption and rehabilitation in society as per the democratic norms and humanitarian standards.
9. The findings, recommendations, proposals, plans, schemes and modules of the proposed Research Project would give definite guidelines and provide inspiration and impetus to the State Jail Administrations and Organizations for bringing about the requisite changes, modifications and improvements in their structures, functions and operations with regard to alleviation of the problem of overcrowding of prisons in the context of the role played by the provisions of probation, parole, leave etc.

Findings and Recommendations

All the issues pertaining to the research project have been examined from all angles. Basic institutional data and empirical realities were gathered by the members of the research team. The findings revealed on each subject and the recommendations purposed are contained in the concerned chapters. However, a consolidated description of the findings and the recommendations on various issues has been made separately in chapter viii titled as, ‘ Findings and Recommendations’.

In a nutshell, the research endeavors have revealed that the mechanisms like probation, parole, leave and other related matters have great impact and bearing on decongestion of prisons. These mechanisms, collectively and individually enjoy commendable status in terms of their legislative, legal and constitutional support. Independent enactments and rules have also been formulated to provide these mechanisms support of law and legislature. Governments, both the Central and States have recognized their validity and honor them by providing requisite institutional support for their execution. At the theoretical, academic and philosophical levels the status of these mechanisms thus enjoy great respect and honor. All these mechanisms also have great potentials in reducing overcrowding of prisons, both in permanent and temporarily forms.

In-spite of the honorable status of the above mechanisms and their respect and recognition at all level, the anomalous situation is that these mechanisms are not used and utilized optimally in an effective and efficient manner. They, therefore, are not able to demonstrate their positive impact on reducing the overcrowding of prisons. This is primarily so because of the bottlenecks created by the procedural aspects of their implementation, un-satisfactory co-ordination among the various units and components responsible for their implementation. Improper attitudes, inappropriate approach and low level of awareness about these mechanisms among most of the stake holders and various components of the system are also responsible for their poor implementation. It is because of these factors and many more like them which obstruct the proper

implementation of these mechanisms. Because of these obstructions and obstacles, these potential mechanisms to reduce the overcrowding of prisons, are not able to have their expected impact on decongestion of prisons in spite of their legal, juristic and overall honorable status.

Various aspects of probation, parole and leave have not been examined at the micro level. It is expedient that more and more studies to examine all facets and aspects of these mechanisms are undertaken at the level of respective States. The BPR&D is doing a commendable job through their research and correctional wing to look into various aspects of prison administration for bringing improvement thereof. This research project has identified the areas which require special attention at the Central and State levels. The States will have to evince interest in bringing about improvement in their prison systems because prison is a State subject under the Constitution of India. The Central Government with the help of its various units like BPR&D, NCRB, NISD etc. can only play a secondary role in this matter and can provide financial and other supports, as is being done presently.

The Research Team:

The research team of this project consists of capable, experienced and well-known scholars, researchers and professionals. The team is headed by Dr. Shankar Surolia, IPS(Retd.), former inspector general of Rajasthan police, a well qualified, highly experienced and a well known police officer of the State. He is presently working as a visiting professor (Administrative reforms), CGG, a unit of the apex State level training school known as HCM RIPA. Dr Surolia is a highly rewarded and distinguished police officer of the State with highest number of rewards, awards, prizes and medals for his outstanding contribution in the field of police work, police training and police research.

Mr. S.P. Singh Pundhir former Add. DG Prison and a rewarded professional of the country played significant role as coordinator of the project.

Mr. R.K. Saxena, former inspector general of prisons is a distinguished prison professional. He has worked as consultant for this project. Mr. Saxena has a wide spectrum of capability, competence, attainments and experience in the area of prison administration, prison reforms and correctional services including his prestigious assignment as Director in the Mulla Committee on prison reforms.

Dr. Meena Mathur, M.A., M.Phil., Ph.D who is a known social scientist and a freelance researcher has worked as research officer for this project. Other members of the research team who worked as research associates for this project are: Mr. A.K. Ojha, RAS (Retd.), Mr. Mukut Bihari Purohit, former Deputy Inspector General of prisons(Rajasthan), Dr. Naresh Yadav, M.A. M.Phil, Ph.D., Mrs. Rohini Menon, MBA and Mr. V.N.S. Bhatnagar.