

**NATIONAL POLICY
ON
PRISON REFORMS
AND
CORRECTIONAL ADMINISTRATION**

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**National Policy on Prison Reforms and
Correctional Administration**
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INTRODUCTION

It has been repeatedly felt since long that there is an immediate need to have a national policy on prisons. The Ministry of Home Affairs, Government of India had constituted a working Group on Prisons in 1972 which for the first time emphasized the need to have a national policy on Prisons with following salient features:-

- (i) To make effective use of alternatives to imprisonment as a measure of sentencing policy.
- (ii) It emphasized the desirability of proper training of prison personnel and improvement in their service conditions.
- (iii) To classify and treat the offenders scientifically and to lay down principles of follow-up and after-care procedures.
- (iv) It emphasized on the development of prisons and correctional administration which should no longer remain divorced from the national development process and the prison administration should be treated as an integral part of the social defence components of national planning process.
- (v) It identified an order of priority for the development of prison administration.
- (vi) It recommended inclusion of certain aspects of prison administration in the Five Year Plan.
- (vii) It called for an amendment to the Constitution to include the subject of prisons and allied institutions in the Concurrent List, the enactment of suitable legislation by the Centre and the States, and the revision of State Prison Manuals.

Thereafter, the All India Committee on Jail Reforms (1980-83) headed by Justice A.N. Mulla also underlined the need for a national policy on prisons with an objective to endeavour the prison reforms and re-assimilate offenders in their social milieu by giving them appropriate treatment.

In pursuance to the recommendations submitted by the All India committee on Jail Reforms in 1983, the Ministry of Home Affairs vide their O.M. No. 16011/2/2003-PR dated 1st December, 2005 has recently constituted a committee under the Chairmanship of Director General, BPR&D for preparing a draft policy paper on the

strategy relating to prison reforms and correctional administration. The composition of this Committee is appended at Annexure-I. The terms of reference of this committee are as follow:-

- 1) To review the present status of the legal position and suggest amendments if required on the prison related laws enacted by the Centre and States.
- 2) To review the recommendations made by the various Committees & Cull out tangible recommendations which are required to be implemented by the Centre and the States.
- 3) To review the status of implementation of these recommendations with reference to the following:-

(a) Physical conditions of prisons

- (i) Overcrowding and Congestion
- (ii) Hygienic conditions
- (iii) Other Basic amenities

(b) Condition of prisoners

- (i) Undertrials
- (ii) Convicts
- (iii) Detenus

(c) Correctional Administration

- (i) Programme of welfare of convicts/undertrials
- (ii) Rehabilitation after release.
- (iii) Involvement of Community.

(d) Prison Personnel

- (i) Overall development of Prison Personnel
- (ii) Training

(e) Any other issues related to modernization of prisons and correctional administration.

- 4) Suggestions regarding alternative to imprisonment.

The Committee had undertaken a very broad based consultation process to formulate views on individual subjects covered in the Terms of Reference. Recommendations tentatively finalized respecting Terms of Reference have been discussed at various fora in different parts of the country with active participation of all the stakeholders, including NGOs, of the criminal justice system in general and correctional administration in particular. The valuable inputs received from these deliberations

have been used to refine the report in its present form. The committee constituted a core-group (the composition is appended as Annexure-II) to prepare a draft paper on the basis of these items as inputs so received for national policy. In addition to it, a team as inputs so received for national policy. In addition to it, a team of officers comprising of Sh. R.C. Arora, Director (R&D) and Dr. B.V. Trivedi, Assistant Director with their supporting staff members in the Correctional Administration Division of the BPR&D has worked devotedly and painstakingly to gel all the inputs in a most logical and composite form in this vital document.

It is my great pleasure to present this document of BPR&D with potential of profound impact on the prison administration for decades to come, because our collective wisdom and experience have been pooled to evolve a progressive, pragmatic and dynamic national policy on prisons which will stand the test of time.

I also take this opportunity to place my deep appreciation and gratitude for the valuable contributions made by the members of the committee, core-group and the officers of CS Division (PR Cell) of the MHA, and the representatives of the NGOs who not only actively participated in the deliberations but also provided valuable assistance from time to time. But for very rich inputs received from all of them, it would not have been possible for this Bureau to finalize this policy document.

Lastly but not the least, I would also like to place on record my profound appreciation to Sh. R.C. Arora, Director (R&D) and Dr. B.V. Trivedi, Assistant director and their dedicated supporting staff in the Correctional Administration Division of the BPR&D for their outstanding contribution made in preparing this policy document of far reaching importance in the field of Correctional Administration.

With Best Wishes,

Dr. Kiran Bedi, IPS,
Director General, BPR&D
&
Chairman of the committee
New Delhi

**NATIONAL POLICY
ON
PRISON REFORM
AND
CORRECTIONAL ADMINISTRATION
PART - I**

Historical Review of Prison Reforms in India

Broadly speaking, the existence of prisons in our society is an ancient phenomenon since vedic period where the anti-social elements were kept in a place identified by the rulers to protect the society against crime. Prisons' were considered as a '**House of Captives**' where prisoners were kept for retributory and deterrent punishment.

John Locke, the great English political theorist of seventeenth century expressed that men were basically good but laws were still needed to keep down '**the few desperate men in society**'. The aim of the society as expressed in its criminal law is to safeguard its own existence to maintain order and to make it possible for all citizens to lead a good life, free from molestation of others. The law enforcement agencies have been given the powers by the society to curtail the freedom of its citizens by taking them into custody in connection with their deviant conduct.

Before the 1700's, governments seldom imprisoned criminals for punishment. Instead, people were imprisoned while awaiting trial or

punishment. Common punishments at that time included branding, imposing fines, whipping, and capital punishment (execution). The authorities punished most offenders in public in order to discourage other people from breaking the law. Some criminals were punished by being made to row the oars on ships called **galleys**.

However, English and French rulers kept their political enemies in such prisons as the Tower of London and the Bastille in Paris. In addition, people who owed money and defaulted on payments were held in **debtors prisons**. In many such cases, offenders' families could stay with them and come and go as they pleased. But the debtors had to stay in prison until their debts were settled.

During the 1700's, many people including British Judge **Sir William Blackstone** criticized use of executions and other harsh punishments. As a result, governments turned more and more to imprisonment as a form of punishment.

Early prisons were dark, dirty and overcrowded. They locked all types of prisoners together, including men, women, children, dangerous criminals, debtors and the insane. During the late 1700's,

the British reformer **John Howard** toured Europe to observe prison conditions. His book ***The State of the Prisons in England and Wales (1777)*** influenced the passage of a law that led to the construction of the

first British prisons designed partly for reform. These prisons attempted to make their inmates feel penitent (sorry for doing wrong) and became known as **penitentiaries**.

In 1787, a group of influential Philadelphians, mostly Quakers, formed the Philadelphia Society for Alleviating the Miseries of Public Prisons (now the ***Pennsylvania Prison Society***). They believed that some criminals could be reformed through hard work and meditation. The Quakers urged that dangerous criminals be held separately from nonviolent offenders and men and women prisoners be kept apart. These ideas became known as the **Pennsylvania System**, and were put into practice in 1790 at ***Philadelphia's Walnut Street Jail***. This prison is considered the first prison in the United States.

The ***Pennsylvania System*** was the first attempt to rehabilitate criminals by classifying and separating them on the basis of their crimes. As a result, the most dangerous inmates spent all their time

alone in their cells. In time, however, the system failed, chiefly because overcrowding made such separation impossible.

During the eighteenth century, New York prison officials developed two major systems of prison organization—the **Auburn System** and the **Elmira System**. The ***Auburn System***, introduced at Auburn (N.Y.)

Prison in 1821, became widely adopted. Under this system, prisoners stayed in solitary confinement at night and worked together during the day. The system emphasized silence. Prisoners could not speak to, or even look at one another. Prison officials hoped that this silence and isolation would cause inmates to think about their crimes and reform. They believed that the prisoners' spirit must be broken before reform could take place. However, the system failed partly because the rigid rules and isolation drove inmates insane.

The contemporary prison administration in India is a legacy of the British Rule. **Lord Macaulay**, while presenting a note to the Legislative Council in India on December 21, 1835, for the first time, pointed out the terrible inhumane conditions prevalent in Indian prisons and he termed it as a ***shocking to humanity***. He

recommended that a committee be appointed to suggest measures to improve discipline in prisons. Consequently, on 2nd January, 1836, a ***Prison Discipline Committee*** was constituted by **Lord William Bantick** for this purpose.

The committee submitted their report in 1838 to **Lord Auckland**, the then Governor General which revealed prevalence of rampant corruption in the subordinate establishments, the laxity in discipline and the system of employing prisoners on extramural labour on public roads.

The committee recommended more rigorous treatment of prisoners and rejected all notions of reforming criminals lodged in the prison through moral and religious teaching, education or any system of rewards for good conduct.

Sir John Lawrence, a renowned jurist, again examined the conditions of Indian prisons in 1864. Consequently **Second Commission of Enquiry** to look into prison management and discipline was appointed by **Lord Dalhousie**. The commission in their report did not dwell upon, the concept of reformation and welfare of prisoners. It, instead, laid down a system of prison regimentation occasioned with physical torture in the name of prison discipline.

However, the commission made some specific recommendations in respect of accommodation, diet, clothing, bedding, medical care of prisoners only to the extent that these were incidental to discipline and management of prisons and prisoners.

A **Conference of Experts** was held in 1877 to inquire into the prison administration in detail. The conference resolved that a Prison Law should be enacted which could secure uniformity of system and to address such basic issues which were to be reckoned for deciding term of sentence. In pursuance to the resolution passed in this conference, a

draft Prison Bill was actually prepared but finally postponed due to unfavourable circumstances.

The **Fourth Jail Commission** was appointed by **Lord Dufferin** in 1888 to inquire into the prison administration. This commission reiterated that the uniformity could not be achieved without the enactment of a single Prisons Act. Again, a consolidated Prisons Bill was prepared providing some rigorous prison punishments such as gunny clothings, imposition of irons on hands and feet, penal diet, solitary confinement and whipping. This Bill was circulated to all local Governments by the Home Secretary to the Government of India on

25th March, 1893 with a view to obtaining their views. It was later presented to the Governor General in Council and ultimately Prisons Act of 1894 came into existence which is the current law governing management and administration of prisons. It has remained into force for over 112 years including 58 years after our independence. It has hardly undergone any substantial change during all these years despite lot of new thinking having emerged respecting objectives, management and administration of prisons.

The process of review of prison problems in the country, continued even after the enactment of Prisons Act, 1894. The first ever comprehensive study was launched on this subject with the appointment

of **All India Jail Committee (1919-1920)**. It is indeed a major landmark in the history of prison reforms in India and is appropriately called the corner stone of modern prison reforms in the country. For the first time, in the history of prison administration, reformation and rehabilitation of offenders were identified as one of the objectives of prison administration.

The committee made following recommendations: -

- (i) The care of prisoners should be entrusted to the adequately trained staff drawing sufficient salary to render faithful service.
- (ii) The separation of executive/custodial, ministerial and technical staff in prison service.
- (iii) The diversification of the prison institutions i.e. separate jail for various categories of prisoners and a minimum area of 675 Sq. Feet (75 Sq. Yards) per prisoner was prescribed within the enclosed walls of the prison.

It is ironical that the recommendations made by this Committee could not be implemented due to unconducive political environment.

The constitutional changes brought about by the Government of India Act of 1935, which resulted in the transfer of the subject of prisons in the control of provincial governments, further reduced the possibilities of uniform implementation of the recommendations of the **Indian Jails**

Committee 1919-1920 in the country. However, the period from 1937 to 1947 was important in the history of Indian prisons because it aroused public consciousness and general awareness for prison reforms at least in some progressive States like, West Bengal, Tamil Nadu, Maharashtra etc. Efforts of some of the

eminent freedom fighters who had known first hand the conditions in prisons succeeded in persuading the governments of these progressive States to appoint committees to further enquire into prison conditions and suggest improvements in consonance with their local conditions.

Some of the Committees appointed during the period were

- (i) ***The Mysore Committee on Prison Reforms, 1940-41;***
- (II) ***The U.P. Jail Reforms Committee, 1946;*** and
- (III) ***The Bombay Jail Reforms Committee, 1946-48.***

It was around this period that such progressive legislations as

- (i) ***The Bombay Probation of Offenders Act, 1936;***
- (ii) ***The C.P. and Berar Conditional Release of Prisoners Act, 1936;***
and
- (iii) ***The U.P. First Offenders Probation Act, 1938,*** were passed.

In the late thirties, the U.P. Government appointed a ***Jail Enquiry Committee*** and in pursuance of its recommendations, the ***first Jail Training School*** in India was established ***at Lucknow*** in 1940 for the

training of jail officers and warders. When India gained independence in 1947, the memories of horrible conditions in prisons

were still fresh in the minds of political leaders and they, on assumption of power, embarked upon effecting prison reforms. However, the Constitution of India which came into force in 1950 retained the position of the Government of India Act, 1935 in the matter of prisons and kept '**Prisons**' as a State subject by including it in **List II—State List**, of the Seventh Schedule (Entry 4).

The first decade after independence was marked by strenuous efforts for improvements in living conditions in prisons. A number of Jail Reforms Committees were appointed by the State Governments, to achieve a certain measure of humanization of prison conditions and to put the treatment of offenders on a scientific footing. Some of the committees which made notable recommendations on these lines were:-

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

While local Committees were being appointed by State Governments to suggest prison reforms, the Government of India invited technical assistance in this field from the United Nations. **Dr. W. C. Reckless**, a U.N. Expert on Correctional Work, visited India during the years 1951-52 to study prison administration in the country and to suggest ways and means of improving it. His report '**Jail Administration in India**' is another landmark document in the history of prison reforms. He made a plea for transforming prisons into reformation centres and advocated establishment of new prisons.

Some of the salient recommendations made by **Dr. W. C. Reckless** are as under :-

- (i) **Juvenile delinquents** should not be handed over by the courts to the prisons which are meant for adult offenders.
- (ii) A cadre of properly **trained personnel** was essential to man prison services.
- (iii) Specialized training of **correctional** personnel should be introduced.
- (iv) Outdated **Prison Manuals** be revised suitably and legal **substitutes be introduced for short sentences.**
- (v) Full time **Probation and Revising Boards** be set up for the after-care services and also the establishment of such boards for selection of prisoners for **premature release.**

- (vi) An integrated Department of Correctional Administration be set up in each State comprising of Prisons, Borstals, Children institutions, probation services and after-care services.
- (vii) An Advisory Board for Correctional Administration be set up at the Central Government level to help the State Governments in development of correctional programmes.
- (viii) A national forum be created for exchange of professional expertise and experience in the field of correctional administration.
- (ix) A conference of senior staff of correctional departments be held periodically at regular intervals.

The year 1952 witnessed a significant break-through in national coordination on correctional work as in that year the ***Eighth Conference of the Inspectors General of Prisons*** was held after a lapse of 17 years.

In pursuance to the recommendations made by the Eighth Conference of the Inspectors General of Prisons and also by Dr. W. C. Reckless, the Government of India appointed the ***All India Jail***

Manual Committee in 1957 to prepare a ***Model Prison Manual***. The ***All India Jail Manual Committee*** was also asked to examine the

problems of prison administration and to make suitable suggestions for improvements to be adopted uniformly throughout the country.

In pursuance to the recommendations made by Dr. W. C. Reckless and also by the All India Jail Manual Committee, the **Central Bureau of Correctional Services** was set up under the Ministry of Home Affairs in 1961 to formulate a uniform policy and to advise the State Governments on the latest methods relating to jail administration, probation, after-care, juvenile and remand homes, certified and reformatory schools, Borstals and protective homes, suppression of immoral traffic, etc.;

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

In 1972, the Ministry of Home Affairs, Government of India, appointed a **Working Group on Prisons** which presented its report in 1973. This Working Group brought out in its report the need for a **National Policy on Prisons**. Its salient features are as under: -

- (I) To make effective use of **alternatives to imprisonment** as a measure of sentencing policy.

- (II) Emphasized the desirability of proper **training** of prison personnel and improvement in their service conditions.
- (iii) To **classify** and treat the offenders **scientifically** and laid down principles of follow-up and after-care procedures.
- (iv) That the development of prisons and the correctional administration should no longer remain divorced from the national development process and the prison administration should be treated as an integral part of the social defence components of national planning process.
- (v) Identified an order of priority for the development of prison administration.
- (vi) The certain aspects of prison administration be included in the **Five Year Plans**.
- (vii) An amendment to the Constitution be brought to include the subject of prisons and allied institutions in the Concurrent List, the enactment of suitable prison legislation by the Centre and the States, and the revision of State Prison Manuals be undertaken.

In 1964, the **Central Bureau of Correctional Services** was transferred from the Ministry of Home Affairs to the newly created Department of Social Security, now known as Department of Social Justice and Empowerment under the Ministry of Human Resource Development. However, the Bureau continued to be attached to the Ministry of Home Affairs for various matters concerning prison administration and reforms. Its Director was latter designated as Ex-officio **Prison Advisor**.

In 1971, the Bureau was re-organized into the ***National Institute of Social Defence*** to review policies and programmes in the field of ***Social Defence***.

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

The ***Seventh Finance Commission*** in its Report of 1978, on an analysis of the material received from the Ministry of Home Affairs and the Department of Social Welfare in the Government of India and that obtained by it from State Governments, recognized that prisons had been neglected for far too long and that there had been practically no

improvement in their physical environments or in the method of handling inmates. Although the Commission did not regard itself competent to lay down the requirements of modernization of prisons and correctional services, it did identify certain basic areas needing urgent attention.

The ***Seventh Finance Commission*** took a view that priority should be given:-

- (a) To ensure that adequate direct expenditure was incurred on the prisoners;
- (b) To bring improvements in amenities in respect of water supply, sanitary facilities, electrification, etc. and,
- (c) To provide the construction of additional prison capacities in States where these were found short of the minimum requirements.

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

The Government of India convened a **Conference of Chief Secretaries of all the States and Union Territories** on April 9, 1979, in order to assess the gaps in the existing prison management system and to lay down guidelines for standardization of prison conditions throughout the country. This Conference made a detailed examination of the **issues** pertaining to prison administration and on the basis of the consensus arrived at the Conference, the

Government of India requested the State Governments and Union Territory Administrations:-

- (i) *to revise their prison manuals on the lines of the Model Prison Manual by the end of the year;*
- (ii) *to appoint Review Committees for the undertrial prisoners at the district and state levels;*
- (iii) *to provide legal aid to indigent prisoners and to appoint whole-time or part-time law officers in prisons;*
- (iii) *to enforce existing provisions with respect to grant of bail and to liberalize bail system after considering all its aspects ;*
- (iv) *to strictly adhere to the provisions of the Code of Criminal Procedure, 1973, with regard to the limitations on time for investigation and inquiry;*

- (v) *to ensure that no child in conflict with law be sent to the prison for want of specialized services under the Central Children Act, 1960.*
- (vii) *to have at least one Borstal School set up under the Borstal Schools Act, 1929 for youthful offenders in each State;*

- (viii) *to create separate facilities for the care, treatment and rehabilitation of women offenders;*
- (ix) *to arrange for the treatment of lunatics in specialized institutions;*
- (x) *to provide special camp accommodation under conditions of minimum security to political agitators coming to prisons;*
- (xi) *to prepare a time bound programme for improvement in the living conditions of prisoners with priority attention to sanitary facilities, water supply, electrification and to send it to the Ministry of Home Affairs for approval;*
- (xii) *To develop systematically the programmes of education, training and work in prisons;*
- (xiii) *To strengthen the machinery for inspection, supervision and monitoring of prison development programme and to ensure that the financial provisions made for upgradation of prison administration by the Seventh Finance Commission are properly utilized;*

- (xiv) *To organize a systematic programme of prison personnel training on State and Regional level;*
- (xv) *To abolish the system of convict officers in a phased manner;*
- (xvi) *To mobilize additional resources for modernization of prisons and development of correctional services in prison;*
- (xvii) *To set up a State Board of Visitors to visit prisons at regular periodicity and to report on conditions prevailing in the prisons for consideration of the State Government;*
- (xviii) *To examine and furnish views to Government of India on proposal for setting up of the National Board of Visitors.*

The Government of India has constituted an **All India Committee on Jail Reforms** under the chairmanship of **Mr Justice A. N. Mulla** in 1980 the committee submitted their report in 1983. This committee examined all aspects of prison administration and made suitable recommendation respecting various issues involved. A total of 658 recommendations made by this committee on various issues on prison management were circulated to all States and UTs for its implementation, because the responsibility of managing the prisons is that of the State Governments as '**Prisons**' is a '**State**' subject under the List II—**State List of the Seventh Schedule (Entry 4)** of the Constitution of India. The Committee has also suggested that there is an immediate need to have a national policy

on prisons and proposed a draft **National Policy on Prisons** as per the brief details given as under:-

GOALS AND OBJECTIVES

Prisons in the country shall endeavour to reform and reassimilate offenders in the social milieu by giving them appropriate correctional treatment.

MODALITIES

- (i) Incorporation of the principles of management of prisons and treatment of offenders in the **Directive Principles** of the State Policy embodied in Part IV of the Constitution of India;
- (ii) Inclusion of the subject of prisons and allied institutions in the **Concurrent List** of the Seventh Schedule to the Constitution of India; and
- (iii) Enactment of uniform and comprehensive legislation embodying modern principles and procedures regarding reformation and rehabilitation of offenders.
- (iv) There shall be in each State and Union Territory a **Department of Prisons and Correctional Services** dealing with adult and young offenders – their institutional care, treatment, aftercare, probation and other non-institutional services.

- (v) The State shall endeavour to evolve proper mechanism to ensure that no **undertrial prisoner** is unnecessarily detained. This shall be achieved by speeding up trials, simplification of bail procedures and periodic review of cases of undertrial prisoners. Undertrial prisoners shall, as far as possible, be confined in separate institutions.
- (vi) Since it is recognized that imprisonment is not always the best way to meet the objectives of punishments the government shall endeavour to provide in law new **alternatives to imprisonment** such as community service, forfeiture of property, payment of compensation to victims, public censure, etc., in addition to the ones already existing and shall specially ensure that the **Probation of Offenders Act, 1958**, is effectively implemented throughout the country.
- (vii) Living conditions in every prison and allied institution meant for the custody, care, treatment and rehabilitation of offenders shall be compatible with **human dignity** in all aspects such as accommodation, hygiene, sanitation, food, clothing, medical facilities, etc. All factors responsible for vitiating the atmosphere of these institutions shall be identified and dealt with effectively.
- (viii) In consonance with the goals and objectives of prisons, the State shall provide appropriate facilities and professional personnel for the classification of prisoners on a scientific basis. Diversified institutions shall be provided for the segregation of different categories of inmates for proper treatment.

- (ix) The State shall endeavour to develop the field of **criminology** and **penology** and promote **research** on the typology of crime in the context of emerging patterns of crime in the country. This will help in proper classification of offenders and in devising appropriate treatment for them.
- (x) A system of **graded custody** ranging from special security institutions to open institutions shall be provided to offer proper opportunities for the reformation of offenders according to the progress made by them.
- (xi) Programmes for the **treatment** of offenders shall be individualized and shall aim at providing them with opportunities for diversified education, development of work habits and skills, change in attitude, modification of behaviour and implantation of social and moral values.
- (xii) The State shall endeavour to develop **vocational training** and **work programmes** in prisons for all inmates eligible to work. The aim of such training and work programmes shall be to equip inmates with better skills and work habits for their rehabilitation.
- (xiii) Payment of **fair wages** and other **incentives** shall be associated with work programmes to encourage inmate participation in such programmes. The incentives of leave, remission and premature release to convicts shall also be utilized for improvement of their behaviour,
strengthening, of family ties and their early return to society.
- (xiv) Custody being the basic function of prisons, appropriate **security arrangements** shall be made in accordance with the need for graded custody in different types of institutions.

The management of prisons shall be characterized by firm and positive discipline, with due regard, however, to the maintenance of **human rights** of prisoners. The State recognizes that a prisoner loses his right to liberty but maintains his **residuary rights**. It shall be the endeavour of the State to protect these residuary rights of the prisoners.

- (xv) The State shall provide **free legal aid** to all needy prisoners.
- (xvi) Prisons are not the places for confinement of children. **Children** (under 18 years of age) shall in no case be sent to prisons. All children confined in prisons at present shall be transferred forthwith to appropriate institutions, meant exclusively for children with facilities for their care, education, training and rehabilitation. Benefit of **non-institutional** facilities shall, whenever possible, be extended to such children.
- (xvii) **Young offenders** (between 18 to 21 years) shall not be confined in prisons meant for adult offenders. There shall be separate institutions for them where, in view of their young and impressionable age, they shall be given

treatment and training suited to their special needs of **rehabilitation**.
- (xviii) **Women offenders** shall, as far as possible, be confined in separate institutions specially meant for them. Wherever such arrangements are not possible they shall be kept in **separate annexes** of prisons with proper arrangements. The staff for these institutions and annexes shall comprise of women employees only. Women prisoners shall be protected against all exploitation. Work and treatment

programmes shall be devised for them in consonance with their special needs.

(xix) **Mentally ill prisoners** shall not be confined in prisons. Proper arrangements shall be made for the care and treatment of mentally ill prisoners.

(xx) Persons courting arrest during non-violent **socio-political-economic agitations** for declared public cause shall not be confined in prisons along with other prisoners. **Separate prison camps** with proper and adequate facilities shall be provided for such non-violent agitators.

(xxi) Most of the persons sentenced to life imprisonment at present have to undergo at least 14 years of actual imprisonment. Prolonged incarceration has a degenerating effect on such persons and is not necessary either from the point of view of individual's reformation or from that of the protection of society. The term of **sentence for life** in such cases shall be made flexible in

terms of actual confinement so that such a person may not have necessarily to spend 14 years in prison and may be released when his incarceration is no longer necessary.

(xxii) **Prison services** shall be developed as a professional career service. The State shall endeavour to develop a well-organized **prison cadre** based on appropriate job requirements, sound training and proper promotional avenues. The efficient functioning of prisons depends undoubtedly upon the personal qualities, educational qualifications, professional competence and character of prison personnel. The status, emoluments and other service conditions of prison personnel should be

commensurate with their job requirements and responsibilities. An **All India Service** namely the **Indian Prisons and Correctional Service** shall be constituted to induct better qualified and talented persons at higher echelons. Proper **training** for prison personnel shall be developed at the national, regional and state levels.

(xxiii) The State shall endeavour to secure and encourage **voluntary participation** of the **community** in prison programmes and in **non-institutional** treatment of offenders on an extensive and systematic basis. Such participation is necessary in view of the objective of ultimate rehabilitation of the offenders in the community. The government shall open avenues for such participation and shall extend financial and other assistance to

voluntary organizations and individuals willing to extend help to prisoners and ex-prisoners.

(xxiv) Prisons are hitherto a closed world. It is necessary to open them to some kind of positive and constructive public discernment. Selected **eminent public-men** shall be authorised to visit prisons and give independent report on them to appropriate authorities.

(xxv) In order to provide a forum in the community for continuous thinking on problems of prisons, for promoting professional knowledge and for generating public interest in the reformation of offender, it is necessary that a **professional non-official** registered body is established at the national level. It may have its branches in the States and Union Territories. The Government of India, the State Governments and the Union Territory Administrations shall

encourage setting up of such a body and its branches, and shall provide necessary financial and other assistance for their proper functioning.

(xxvi) Probation, aftercare, rehabilitation and follow-up of offenders shall form an integral part of the functions of the Department of Prisons and Correctional Services.

(xxvii) The development of prisons shall be planned in a systematic manner keeping in view the objectives and goals to be achieved. The progress of the implementation of such plans shall be continuously monitored and periodically evaluated.

(xxviii) The governments at the Centre and in the States / Union Territories shall endeavour to provide **adequate resources** for the development of prisons and other allied services.

(xxix) Government recognizes that the process of reformation and rehabilitation of offenders is an integral part of the total process of social reconstruction, and, therefore, the development of prisons shall find a place in the **national development plans**.

(xxx) In view of the importance of uniform development of prisons in the country the Government of India has to play an effective role in this field. For this purpose the Central Government shall set up a high status **National Commission on Prisons** on a permanent basis. This shall be a specialized body to advise the Government of India, the State Governments and the Union Territory Administrations on all matters relating to prisons and allied services. Adequate funds shall be placed at the disposal of this

Commission for enabling it to play an effective role in the development of prisons and other welfare programmes. The Commission shall prepare an annual national report on the administration of prisons and allied services, which shall be placed before the Parliament for discussion.

(xxx) As prisons form part of the criminal justice system and the functioning of other branches of the system – the police,

the prosecution and the judiciary have a bearing on the working of prisons, it is necessary to effect proper coordination among these branches. The government shall ensure such **coordination** at various levels.

(xxxii) The State shall promote **research** in the correctional field to make prison programmes more effective.

The draft of the proposed **National Policy on Prisons**, quoted above, would require some changes in view of the developments that have taken place in the intervening period. For instance, the present committee is of the opinion that the enactment of a uniform and comprehensive legislation on prisons would be possible within the existing provisions of the Constitution of India, as India is a party to the International Covenant on Civil and Political Rights, 1966.

The question of inducting alternatives to imprisonment such as community service, forfeiture of property, payment of compensation to victims, public censure, etc involves certain amendments in the substantive law. The enactment of the Juvenile Justice (care and protection of children) Act, 2000, has raised the upper age limit of children to be kept away from prisons up to the 18 years in case of boys as well, so as to bring parity with girls.

The suggestion for making sentence for life, even for those covered under section 433- A Cr.P.C., flexible in terms of actual confinement also requires amendment to the Code of Criminal Procedure, 1973. Similarly, the issues relating to the establishment

of an All India Service, namely the Indian Prisons and Correctional Service, bringing Probation, Aftercare, Rehabilitation and follow-up of offenders within the functions of the Department of Prisons and Correctional Services and the setting-up of a high level National Commission on Prisons on a permanent basis requires a thorough review of the existing policy.

Thereafter, Government of India has constituted another committee on 26th May, 1986, namely, **National Expert Committee on Women Prisoners** under the chairmanship of **Justice Krishna Iyer** who has submitted its report on 18th May, 1987. This report has also been circulated to all States for taking necessary follow-up action.

The Government of India has shown serious concern over the growing threats to the security and discipline in prisons posing a challenge as how to make prisons a safe place. Consequently, the Ministry of Home Affairs, Government of India has constituted a **All India Group on Prison Administration-Security and discipline** on 28th July, 1986 under the chairmanship of **Shri R.K. Kapoor** who submitted their report on 29th July, 1987.

In pursuance to the recommendations made by the All India Committee on Jails Reforms, the Government of India identified **Bureau of Police Research & Development (BPR&D)** as a nodal agency at the national level in the field of Correctional Administration on November 16, 1995 with specific charter of duties as given under:-

- (i) Analysis and study of Prison statistics and problems of general nature affecting Prison Administration.
- (ii) Assimilation and dissemination of relevant information to the States in the field of Correctional Administration.
- (iii) Coordination of Research Studies conducted by Regional Institutes of Correctional Administration (RICAs) and other Academic/Research Institutes in Correctional Administration and to frame guidelines for conducting research studies/surveys in consultation with State Governments.
- (iv) To review Training Programmes keeping in view the changing social conditions, introduction of new scientific techniques and other related aspects in the field of correction administration.
- (v) To prepare uniform Training Modules, including courses, syllabi, curriculum etc. for providing training at various levels to the Prison Staff in the field of Correctional Administration.
- (vi) Publication of reports, newsletters, bulletins and preparation of Audio Visual aids etc. in the field of Correctional Administration.
- (vii) To set up an Advisory Committee to guide the work relating to Correctional Administration.

In pursuance to the directions given by the Hon'ble Supreme Court in a case of **Ramamurthy Vs. State of Karnataka**, 1996, the Government of India has constituted **All India Model Prison Manual Committee** in November, 2000 under the chairmanship of Director General of BPR&D to prepare a **Model Prison Manual** for the Superintendence and Management of Prisons in India in order to

maintain uniformity in the working of prisons throughout the country. This manual has been circulated to all States/UTs for adoption after the acceptance by Government of India in January, 2004. It would not be out of place to mention here that the draft national policy on prisons as proposed by the All India Committee on Jail Reforms which is enumerated in the preceding account was given due consideration by this committee while preparing the Model Prison Manual under reference.

Government of India has constituted a high powered committee under the chairmanship of Director General, BPR&D for drafting a ***national policy paper on Prison Reforms and Correctional Administration*** on 1st December, 2005 with following terms of reference

:-

- (I) To review the present status of the legal position and suggest amendments if required on the prison related laws enacted by the Centre and States.
- (II) To review the recommendations made by various Committees & cull out tangible recommendations which are required to be implemented by the Centre and the States.
- (III) To review the status of implementation of these recommendations with reference to the following: -
 - (a) Physical conditions of prisons
 - (i) Overcrowding and Congestion
 - (ii) Hygienic conditions
 - (iii) Other Basic amenities
 - (b) Condition of prisoners

- (i) Undertrials
 - (ii) Convicts
 - (iii) Detenues
 - (c) Correctional Administration
 - (i) Programme for welfare of convicts/undertrials
 - (ii) Rehabilitation after release
 - (iii) Involvement of Community
 - (d) Prison Personnel
 - (i) Overall development of Prison Personnel
 - (ii) Training
 - (e) Any other issues related to modernization of prisons and correctional administration.
- (IV) Suggestions regarding alternatives to imprisonment.

The subject covered under term of reference I & II of the committee as enumerated in the preceding account have been especially looked into by the West Bengal National University of Juridical Sciences, Kolkata. The salient features of their findings and recommendations have been included in this document under the heads of respective term of reference of the committee.

The Committee has deliberated upon these identified terms of reference in its various meetings and workshops held in the BPR&D Headquarters and also in various regional workshops. The draft recommendations on these terms of reference have been circulated among all the States/UTs and a copy of the same was sent to the

MHA with a view to obtaining their views and suggestions to finalize this draft policy paper in order to evolve national consensus by involving NGOs and other concerned social organizations who are actively

involved in prison management issues. In addition to it, BPR&D has also placed this draft policy paper in the meeting of Advisory Committee on Prison Reforms held on 3rd November, 2006 for discussion to make this document more viable. Finally, BPR&D has finalized this draft national policy on prison reforms in the light of views/suggestions received from the States and the Advisory Committee on Prison Reforms of the BPR&D which is being presented in detail in respective chapters of this draft national policy paper on prison reforms and correctional administration.