

of Criminal Procedure has ultimately had the effect of sacrificing the values of reformation and rehabilitation of lifers altogether. It is the experience of correctional administrators that the peak point of improvement in the thought processes and patterns of behaviour of a lifer can be achieved in about 5-7 years in a prison set-up. After the peak points have been reached supportive therapy has to be extended to the inmate. Once a lifer has necessarily to stay in a prison for 14 years all the theories of correctional work, operational theories of behaviour, theories of social implantation and re-education completely collapse. Keeping all lifers, irrespective of their social background, circumstances of their crime and their response to corrective treatment in prison for 14 long years is indicative of nothing but a starkly negative and retributive approach.

4.28 The causes of crime are multiple and diverse. Crime is a product of an individual's personality factors and environment. There are short sequences for certain crimes and some crimes have long sequences. Some crimes are committed on the spur of the moment i.e. in the heat of passion of the moment. Even murders are committed in the heat of passion and in a fit of anger and emotion. Correctional administrators testify to the fact that most of the lifers behave normally in the prison. So, to presume that every lifer is a dangerous criminal is symptomatic of a non-scientific outlook. One of the main principles of the scientific approach is the study of the offender's social, family, economic and other backgrounds. Clues regarding the sequence of his criminal behaviour have to be found out and through these clues the process of his involvement in crime has to be understood. On the basis of such an understanding, diagnosis and prognosis about the criminal behaviour of the offender have to be made. Such a scientific individualised approach towards lifers has now become impossible. In fact, under the provisions of section 433A all lifers will be treated en bloc as dangerous criminals who should not be released earlier than 14 years of actual imprisonment. Most regrettably, we state that this section has put the wheels of prison reforms in reverse gear in India at least by a century in so far as lifers are concerned.

4.29 During our visits to various States, hundreds of lifers represented to us that they were not at all interested in going to open prisons. Prisoners who were already in open prisons stated that they did not want to remain in open prisons as the remission awarded to them in the open prisons would have no effect on the date of their release. This is indicative of the extent to which the hope of the lifers has been extinguished due to the retributive content of section 433A of the Code of Criminal Procedure. In the light of the representations made to us by lifers we apprehend that open prisons may have to be closed in the near future. This would mean that in the system of diversified institutions the approach of open prisons which constitutes a very desirable and progressive step in the treatment and reformation of prisoners may have to be discarded and the Indian prison system may have hereafter to reply only on closed prisons.

4.30 Section 428 of the Code of Criminal Procedure lays down that where an accused person has, on conviction, been sentenced to imprisonment for a term, the period of detention, if any, undergone by him during investigation, inquiry or trial of the same case shall be set off against the term of imprisonment imposed on him. In a recent judgement (Criminal Writ Petition No. 3226 of 1981; Kartar Singh and others Vs. the State of Haryana) the Supreme Court have observed that the period spent under detention during investigation, inquiry or trial by a person sentenced to life imprisonment will not be set off and such period will not count as sentence served in case of life imprisonment. Cases of murder are generally decided in two to five years. As the law stands today, a prisoner sentenced to life imprisonment has necessarily to put in 14 years in jail as provided in section 433A of the Code of Criminal Procedure. The ruling of the Supreme Court would mean that generally a lifer would have to undergo 16 to 19 years of actual incarceration. If we really mean to reform prisoners to enable them to be reassimilated in society after release, putting them in prisons for such a long period would be against all canons of correctional approach. We, therefore, feel that section 428 of the Code of Criminal Procedure should be suitably amended so that the period spent by an under-trial in detention during inquiry, investigation or trial could be computed as sentence served in case he is sentenced to life imprisonment.

4.31 The Committee has noted that considerable delay takes place in the consideration and disposal of mercy petitions of prisoners sentenced to death. It is common knowledge that a person sentenced to death by the Sessions Court waits for about 4-5 years before the Supreme Court can finally pronounce upon the sentence. The mercy petitions against the final sentence of death add to the time. This situation has many times been referred to in terms of violation of human rights and indignities, extended miseries of the prisoners and inefficient administration.

4.32 Criminal and non-criminal lunatics are at present kept in prisons. Under the existing set up of prisons there are no facilities for observation and treatment of persons suffering from mental disorders or diseases. The plight of criminal and non-criminal lunatics kept in prisons is extremely pitiable. We have discussed this problem in Chapter VII on 'Medical and Psychiatric Service' of our Report. We reiterate that non-criminal lunatics should not be kept in prisons and necessary amendments should be made in the law for the purpose.

4.33 In Chapter XIV of our Report we have discussed at length the problems of children in prisons. Legislation for dealing with children has not yet been enacted/implemented fully in many States and Union Territories and as a result children below 16 years of age are kept in prisons. We are of the view that Children Acts should be enacted/implemented effectively by all States and Union Territories.

4.34 Our recommendations regarding laws, rules and regulations are as follows :

4.34.1 Directive Principle on National Policy on Prisons should be formulated and embodied in Part IV of the Constitution.*

4.34.2 The subject of prisons and allied institutions should be included in the Concurrent List of the Seventh Schedule of the Constitution of India.*

4.34.3 The most efficacious way of providing a uniform framework for correctional administration is to have a national legislation on prisons. All the Acts pertaining to prison administration should be consolidated and a new uniform and comprehensive legislation enacted by the Parliament for the entire country on the lines of the scheme of chapters given in Annexure B to this chapter.

4.34.4 In case the subject of prisons and allied institutions is not brought under the Concurrent List, the Government of India should prepare a model Bill on the lines recommended by us for being adopted by all the States and Union Territories.

4.34.5 Immediate steps should be taken by the State Government/Union Territory Administrations to frame rules under the prison statute. These rules should be priced publications.

4.34.6 Revision of jail manuals of the States and Union Territories should be given top priority. Recommendations made by us in this Report and the provisions of the Model Prison Manual may form the basis for such revision.

4.34.7 The manual should contain detailed instructions for prison personnel regarding the implementation of the provisions of the Prisons Act and the statutory rules made thereunder. It should also contain detailed instructions about the various procedures to be followed for the efficient management and administration of prisons.

*See note of dissent by Shri Yogendra Sharma, Member.

4.34.8 The State Governments and Union Territory Administrations and the Inspectors General of Prisons may, from time to time, issue standing executive instructions for meeting certain situations or for the efficient running of prisons administration. These instructions should be separately bound in annual volumes as reference material for the prison personnel.

4.34.9 Operations manuals on subjects like scientific classification of prisoners, interviewing of prisoners and case recording, prison industries, prison agriculture, treatment programmes, etc., should be prepared. Such operations manuals should be got printed and distributed amongst staff for their guidance.

4.34.10 In Chapter XV of this Report we have outlined a new approach for the care and treatment of young offenders in the age group of 16—23 years for boys and 18—23 years for girls. A separate legislation for young offenders based on the above approach should be passed to place the present Borstal Schools Acts. A scheme of chapters for the said legislation is at Annexure 3 to this chapter.

4.34.11 Civil prisoners should not be detained in jails meant for convicted and criminal prisoners. A separate legislation and a set of rules and regulations for detention of civil prisoners should be provided.

4.34.12 The Union and State Governments should conduct a qualitative and quantitative analysis of legislations, statutory orders, bye-laws and other forms of executive legislation to examine possibilities of delegating certain areas of human and social behaviour, if necessary, by repeal of such legislation as are either obsolete or are demonstrably unenforceable. In addition, it would be necessary for the Law Reform Commissions at the Union and State levels to consider policies of delegatisation as an aspect of law reform in India.

4.34.13 Serious thought should be given to policies of decriminalisation, depenalisation and deinstitutionalisation at the legislative level, so that attempts at rehabilitative measures in correctional institutions and devising rational policies for sentencing may become a reality.

4.34.14 In the preamble of the Indian Penal Code specific mention about protection of society through the reformation and rehabilitation of offenders as objective of punishment should be made.

4.34.15 The Indian Penal Code should be suitably amended in the light of the contemporary ideology of reformation and rehabilitation of offenders. In addition to providing alternatives to prison sentences there is need to eliminate for example, the distinction between simple and rigorous imprisonment which is neither valid in the light of current penological research, nor justified in the light of the objectives of rehabilitative and correctional treatment and of the need of efficient prison administration.

4.34.16 (a) Section 302 of the Indian Penal Code should be suitably amended so that (i) it is only in cases of murder with highly aggravating circumstances that death is prescribed as one of the punishments, and (ii) in other cases of murder, courts are given discretion to imprisonment for life or imprisonment for a lesser term.

(b) Imprisonment for life should be imprisonment for a fixed term extending over a reasonable period of time which may be determined by the legislature and incorporated in the Indian Penal Code.

4.34.17 Section 303 of the Indian Penal Code should be deleted and its provision brought suitably under the proposed section 302 of the Indian Penal Code.

4.34.18 Undertrial prisoners continue to be detained in prisons for long periods. A review on an all India basis should be undertaken to find out whether the provisions of the Code of Criminal Procedure in this regard have been fully implemented.

4.34.19 The Code of Criminal Procedure should be so amended as to provide that as soon as an undertrial prisoner completes the period of detention equal to half of the maximum sentence awardable to him on conviction, he is released immediately and unconditionally; and such undertrial should, for all purposes in law, be treated as having been discharged by the court of law.

4.34.20 Section 433 A of the Code of Criminal Procedure should be suitably amended so that such lifers as offer good prognosis for reformation and rehabilitation can generally be released after 8 to 10 years of actual imprisonment. Guidelines for the premature release of lifers should be prepared by the Central Government and circulated to all the States and Union Territories.

4.34.21 Preventive sections of the Code of Criminal Procedure, specially section 109, should be reviewed and amended suitably to restrict their use only in very genuine cases.

4.34.22 Section 428 of the Code of Criminal Procedure should be suitably amended so that the period spent by an undertrial in detention during investigation, inquiry or trial could be computed as sentence served in case he is sentenced to life imprisonment.

4.34.23 The Code of Criminal Procedure should be amended so as to provide for pre-sentence investigation involving comprehensive social and psychological study of offenders liable to be sentenced to life imprisonment so that the concerned court may make use of this study while passing the sentence and for making recommendation, if any, to the State Government about the early release of such offenders as might be sentenced to life imprisonment.

4.34.24 The Probation of Offenders Act, 1958 which is a progressive legislation is not being effectively implemented in many States and Union Territories. This Act should be fully implemented in every district of each State and Union Territory and adequate infrastructure for the purpose created.

4.34.25 The Mental Health Bill, which is awaiting to be brought on the statute book, should be passed expeditiously. Pending the passing of the Mental Health Bill, the Indian Lunacy Act, 1912 should be suitably amended to debar detention of non-criminal lunatics in prisons.

4.34.26 The Government of India should undertake special measures to ensure that a progressive social legislation like the Children Act is enacted and implemented effectively in every district of each State and Union Territory without any further delay.

4.34.27 Disposal of mercy petitions should be expeditiously done and in no case should it take more than six months.

4.34.28 In Chapter XLIII of the Model Prison Manual the question of habitual offenders has been dealt with in detail. Habitual Offenders Acts should be amended in the light of these provisions.

POSITION REGARDING REVISION OF JAIL MANUAL

Position as made available to the Committee regarding revision of jail manuals is as under :—

Andhra Pradesh : The provisions contained in the Model Prison Manual have been taken into account while preparing the Andhra Pradesh Prison Rules, 1977.

Assam : Jail Reforms Commission constituted by the State Government has submitted its report and the work of amending the existing Assam Jail Manual in the light of the guidelines in the Model Prison Manual is under consideration.

Bihar : The State Government has set up a Committee to suggest amendments in the existing jail manual.

Gujarat : The State Government has set up a Jail Reforms Committee which is also considering the revision of the jail manual.

Haryana : The Jail Reforms Commission set up by the State Government has made some suggestions in its report for amendments in the existing jail manual and these are under consideration.

Himachal Pradesh : The Punjab Jail Manual is followed in the State. The State has undertaken drafting of its own jail manual.

Jammu and Kashmir : Amendment of the jail manual in the light of the guidelines contained in the Model Prison Manual is under process.

Karnataka : The jail manual has been revised in the light of the provisions contained in the Model Prison Manual. The new manual has come into force in the State with effect from July 15, 1978.

Kerala : The Kerala Prison Rules, 1958 provide for amenities and facilities in line with the recommendations contained in the Model Prison Manual.

Madhya Pradesh : A new jail manual was introduced in 1968. The work of amending this manual further in the light of the recommendations made by the Madhya Pradesh Jail Reforms Commission and the guidelines contained in the Model Prison Manual is under process.

Maharashtra : The jail manual has been revised in the light of the guidelines contained in the Model Prison Manual.

Manipur : The State is following rules and procedures as laid down in the Assam Jail Manual.

Meghalaya : The State follows the Assam Jail Manual. An advisory board has been constituted by the State Government to advise on the framing of a jail manual on the lines of the Model Prison Manual and the recommendations of the Working Group on Prisons.

Nagaland: The State has adopted the Assam Jail Manual. A draft of the Nagaland Jail Manual is being prepared.

Orissa: The revision of the jail manual in the light of the Model Prison Manual is under process.

Punjab: The work relating to revision of the existing jail manual is in the final stage.

Rajasthan: Skeleton Rules have been prepared for the final drafting of prison manual and further work is in progress.

Sikkim: The Bengal Jail Manual has been adopted in the State. The question of framing a new jail manual on the lines of the Model Prison Manual is under examination.

Tripura: The State follows the jail manual of West Bengal. The manual is being amended in the light of the guidelines contained in the Model Prison Manual.

Tamil Nadu: The work of drafting of the Tamil Nadu Prison and Reformatory Manual on the basis of the Model Prison Manual has been completed. The revised draft rules are being further processed.

Uttar Pradesh: Steps are being taken to revise the Uttar Pradesh Jail Manual.

West Bengal: Certain Provisions of the Model Prison Manual were incorporated in the Jail manual while revising the same in 1967. West Bengal Jail Code Revision Committee set up by the State Government on August 10, 1978 has submitted its report and the same is under consideration.

Andaman and Nicobar Islands: The Union Territory follows the Bombay Jail Manual; preparation of a separate manual is under process.

Arunachal Pradesh: The Union Territory has no jail.

Chandigarh: The Union Territory has adopted the Punjab Jail Manual. This manual is being revised by the State Government of Punjab. The revised Punjab Jail Manual will be adopted by the Union Territory.

Dadra and Nagar Haveli: The Union Territory follows the sub-jail manual of Maharashtra.

Delhi: The Union Territory has adopted the Punjab Jail Manual. A Jail Manual Committee had been constituted by the Administration to suggest changes in that jail manual on the lines of the Model Prison Manual. The Committee has submitted its report and the matter is under consideration of the Administration.

Goa, Daman and Diu: The Union Territory has no jail manual of its own. The proposal to formulate a jail manual in the light of the guidelines contained in the Model Prison Manual is under consideration.

Lakshadweep: Draft prison rules have been prepared on the basis of the Model Prison Manual.

Mizoram: A jail manual is being drafted.

Pondicherry: Pondicherry Prison Rules have been framed on the basis of the recommendations contained in the Model Prison Manual.

SCHEME OF CHAPTERS FOR NATIONAL PRISON LEGISLATION

Preamble

The Prisons Act, 1894 has a preamble which makes no attempt to stress the objectives of the Act. The new Act should have a preamble stating the basic principles and objectives in terms of (a) purpose of punishment through imprisonment, and (b) the basic principles for the care and treatment of offenders from the point of view of their ultimate rehabilitation in society.

STATEMENT OF OBJECTS AND REASONS :

The statement of Objects and Reasons should contain a short narration of the reasons for which a new law has become necessary together with the objectives which it seeks to achieve.

The principles which should form the basis of the Preamble and the Statement of Objects and Reasons are given in Appendix X.

Chapter I : Preliminary

This chapter should deal with the title, extent and commencement of the Act. It should also include a section on Definitions keeping in view our observations in succeeding paragraphs.

The Prisons Act, 1894, contemplates the definition of prison as any jail or place used permanently or even temporarily under the general or special orders of the State Government for the detention of prisoners. The Act does not provide sufficient guidelines for exercising discretionary powers to create "temporary" prison e.g. duration of temporary prisons, circumstances in which such temporary prisons should be created, the grounds of satisfaction of creating such temporary prisons, etc. Under the emerging interpretation of Article 21 of the Constitution, the lack of suitable guidelines regarding creation of temporary accommodation might entail legal complications. Accordingly, we suggest formulation of appropriate guidelines regulating the use of discretion in regard to creation of temporary prisons.

The definition of 'Prison' in the Prisons Act, 1894, essentially is that it is a place for the detention of prisoners. Section 3(1) (c) excludes 'Subsidiary Jail' from the definition of prison under the Prisons Act, 1894 whereas according to Section 2(b) of the Prisoners Act, 1900, "Prison" includes any place which has been declared by the State Government, by general or special order, to be a subsidiary jail. Prisoners Attendance in Courts Act, 1955 also provides a similar definition. In order to avoid confusion and conflict in policy and administration a uniform definition pertaining to 'prison' should be brought under the proposed Act.

The list of definitions under section 3 of the existing Prisons Act is not comprehensive and would need to be enlarged in the light of the objectives of punishment and treatment of offenders. Obviously, new terms and principles will get embodied in the proposed Act. A comprehensive list of all these new concepts and terms should be drawn and included in the section dealing with definitions.

Chapter II : Rights and duties of prisoners

Specific provision should be made in the Act to safeguard against exploitation of prisoners. While providing for certain rights of prisoners, some duties of prisoners also need to be laid down. This chapter should include rights and duties of prisoners. Sections dealing with the following topics should be included in this chapter :—

Rights of prisoners :

(A) Right to Human Dignity

- (i) Right to be treated as a human being and as a person; this right has been stressed and recommended by the Supreme Court of India which has categorically declared that prisoners shall not be treated as non-persons;
- (ii) Right to integrity of the body; immunity from use of repression and personal abuse, whether by custodial staff or by prisoners;
- (iii) Right to integrity of the mind; immunity from aggression whether by staff or by prisoners;
- (iv) Right to non-deprivation of fundamental rights guaranteed by the Constitution of India, except in accordance with law prescribing conditions of confinement.

(B) Right to Basic Minimum Needs

Right to fulfilment of basic minimum needs such as adequate diet, health, medical care and treatment, access to clean and adequate drinking water, access to clean and hygienic conditions of living accommodation, sanitation and personal hygiene, adequate clothing, bedding and other equipment.

(C) Right to Communication

- (i) Right to communication with the outside world ;
- (ii) Right to periodic interviews ; and
- (iii) Right to receive information about the outside world through communication media.

(D) Right to Access to Law

- (i) Right of effective access to information and all legal provisions regulating conditions of detention;
- (ii) Right to consult or to be defended by a legal practitioner of prisoner's choice;
- (iii) Right to access to agencies, such as State Legal Aid Boards or similar organisations providing legal services;
- (iv) Right to be informed on admission about legal rights to appeal, revision, review either in respect of conviction or sentence;
- (v) Right to receive all court documents necessary for preferring an appeal or revision or review of sentence or conviction;

- (vi) Right to effective presentation of individual complaints and grievances during confinement in prison to the appropriate authorities;
- (vii) Right to communicate with the prison administration, appropriate Government and judicial authorities, as the case may be, for redressal of violation of any or all of prisoners' rights and for redressal of grievances.

(E) Right Against Arbitrary Prison Punishment

Right to entitlement in case of disciplinary violation (i) to have precise information as to the nature of violation of Prisons Act and Rules, (ii) to be heard in defence, (iii) to communication of the decision of disciplinary proceedings, and (iv) to appeal as provided in rules made under the Act.

(F) Right to Meaningful and Gainful Employment :

- (i) Right to meaningful and gainful employment.

Note 1 : No prisoner shall be required to perform 'begar' and other similar forms of forced labour which are prohibited as a fundamental right against exploitation under Article 23 of the Constitution.

Note 2 : Undertrial prisoners volunteering to do work may be given suitable work wherever practicable. Such prisoners should be paid wages as per rules.

Note 3 : No prisoner shall be put to domestic work with any official in the prison administration. Such work shall not be considered as meaningful or gainful, even if some monetary compensation is offered.

Note 4 : Prisoners shall, in no case, be put to any work which is under the management, control, supervision or direction of any private entrepreneur working for profit of his organisation. This will not apply to open prisons and camps.

- (ii) Right to get wages for the work done in prison.

(G) Right to be released on the due date.

While drafting sections regarding 'Rights of Prisoners', reference should be made to the Standard Minimum Rules for the Treatment of Prisoners, International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights adopted by the U.N. (Appendices XI, XII & XIII respectively), Model Prison Manual and recommendations contained in this Report.

All the above Rights of Prisoners will be subject to the rules made under the Act.

Duties of Prisoners :

It shall be the duty of each prisoner—

- (a) to obey all lawful orders and instructions issued by the competent prison authorities ;
- (b) to abide by all prison rules and regulations and perform obligations imposed by these rules and regulations ;

- (c) to maintain the prescribed standards of cleanliness and hygiene ;
- (d) to respect the dignity and the right to live of every inmate, prison staff and functionary ;
- (e) to abstain from hurting religious feelings, beliefs and faiths of other persons ;
- (f) to use Government property with care and not to damage or destroy the same negligently or wilfully ;
- (g) to help prison officials in the performance of their duties at all times and maintain discipline and order ;
- (h) to preserve and promote congenial correctional environment in the prison.

Chapter III : Categories of prisons

Diversification of institutions should be the main content of this chapter which should include a section specifying the different types of institutions as follows :—

- (a) Prisons/annexes/separate yards for undertrial prisoners ;
- (b) Special security prisons for difficult discipline cases, escape risks and dangerous and violent prisoners ;
- (c) Maximum security prisons for habitual criminals ; careerist criminals, professional criminals, organised criminals and other sophisticated criminals ;
- (d) Medium security prisons/yards for non-habitual adult offenders ;
- (e) Prisons/annexes for women offenders ;
- (f) Semi-open prisons, open prisons, and open camps (Sanganer type) ;
- (g) Prison/annexes/separate yards for inmates suffering from infectious diseases like tuberculosis, leprosy, S.T.D., etc. ;
- (h) Prisons/annexes/separate yards for offenders suffering from mental illness ;
- (i) Sub-jails ;
- (j) Prisons for those courting arrest during non-violent socio-political economic agitations for declared public cause ;
- (k) Institutions for young offenders (Kishore/Yuva Sadan) ; and
- (l) Open camps, mobile and permanent, for prisoners sentenced to less than one year.

Another section should deal with separation of prisoners of various categories.

Chapter IV : Administration of prisons and prison administrators

In this chapter sections regarding the following should be included :—

- (1) Headquarters Organisation :
 - (a) Inspector General of Prisons and Director of Correctional Services ;
 - (b) Additional Inspector General of Prisons ;
 - (c) Additional/Joint Director, Correctional Services (Young Offenders) ;
 - (d) Deputy Inspector General of Prisons—Administration, Training and Staff Welfare ;

- (c) to maintain the prescribed standards of cleanliness and hygiene ;
- (d) to respect the dignity and the right to live of every inmate, prison staff and functionary ;
- (e) to abstain from hurting religious feelings, beliefs and faiths of other persons ;
- (f) to use Government property with care and not to damage or destroy the same negligently or wilfully ;
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 - (d) Deputy Inspector General of Prisons—Administration, Training and Staff Welfare ;

- (e) Deputy Inspector General of Prisons—Correctional Programmes and Prisoners' Welfare;
- (f) Joint/Deputy Director of Medical and Psychiatric Services;
- (g) Joint/Deputy Director of Probation and Aftercare Services;
- (h) Joint/Deputy Director, Vocational Training and Prison Industries;
- (i) Joint/Deputy Director, Agriculture;
- (j) Superintending Engineer, Prison Buildings;
- (k) Deputy Director, Educational Programmes;
- (l) Deputy Director, Planning, Statistics, Research and Development;
- (m) Deputy Director, Legal Affairs;
- (n) Chief Psychologist;
- (o) Public Relations Officer;
- (p) Chief Audit and Accounts Officer;
- (q) Assistant Inspector General of Prisons;
- (r) Vigilance Cell; and
- (s) Ministerial, Accounts and other staff as per requirement.

(ii) Regional Organisation

- (a) Deputy Inspector General of Prisons (Range) ;
- (b) Regional Probation and Aftercare Officer;
- (c) Assistant Engineer, Buildings;
- (d) Audit and Accounts Officer;
- (e) An Officer of the rank of Superintendent, District Prison ; and
- (f) Ministerial, accounts and other staff.

(iii) Institutional Organisation

- (a) Superintendent;
- (b) Additional Superintendent;
- (c) Deputy Superintendent;
- (d) Accounts Officer/Asstt. Accounts Officer/Accountant;
- (e) Officer-in-charge of industries with adequate number of trade instructors;
- (f) Medical Officer;
- (g) Psychiatrist;
- (h) Senior Psychologist;
- (i) Psychologist;
- (j) Psychiatric Social Worker;
- (k) Case worker;

- (l) Teachers for educational programmes;
 - (m) Agricultural Officer/Assistant;
 - (n) Law Officer;
 - (o) Assistant Superintendent Grade I;
 - (p) Assistant Superintendent Grade II;
 - (q) Chief Head Warders;
 - (r) Head Warders;
 - (s) Warders; and
 - (t) Ministerial, accounts and other staff.
- (iv) Probation and After Care Organisation

- (a) District Probation Officer;
- (b) Probation Officer Grade I;
- (c) Probation Officer Grade II; and
- (d) Ministerial and other staff.

Sections dealing with duties of various personnel should be incorporated in detail in this chapter. Specially duties of prison personnel in respect of all the rights to which prisoners are entitled should be included.

There should be a section authorising the Inspector General of Prisons, when the number of prisoners in prisons under his jurisdiction exceeds the authorised capacity, except when such excess is created owing to agitations and large number of persons courting arrest, to advise in writing to the State Government or the High Court/District Judge proposing appropriate measures for decongestion of prisons. The section should also empower the Inspector General of Prisons to take appropriate measures for transfer or distribution of prisoners whenever because of agitation of people courting arrest, persons are detained far beyond the authorised capacity of a particular prison or prisons.

There should be a section defining the offences that may be committed by prison personnel, procedure for dealing with them and appropriate penalties for the same.

A section may be added providing for adequate procedures for redressal of grievances of prison personnel and also for prohibition of strikes and agitations by prison personnel. Prison service should be treated as an essential security service. A code of conduct and discipline for prison personnel should be framed.

Chapter V : Maintenance of prisoners

In this chapter there should be sections dealing with the following topics :—

- (i) Basic and essential needs of prisoners compatible with human dignity;
- (ii) Norms regarding accommodation, diet, bedding clothing, equipment, sanitation and hygiene, drinking water, medical care and treatment, etc.;
- (iii) Procedure of taking searches of prisoners and of persons who come to meet them;
- (iv) Ban on the confinement of non-criminal lunatics in prisons;

- (v) Ban on admission of any child below the age of 16 years in case of boys and 18 years in case of girls except children of prisoners who have not attained the age of 5 years;
- (vi) If any child below the age of 16/18 years is sent for admission in a prison, the Superintendent should make immediate reference to the concerned court and a copy of this letter should be sent to the District Judge for transferring the child to a Children's Home.
- (vii) The children of prisoners till they attain the age of 5 years may be kept in prisons if the parent so desires and separate facilities providing for adequate and proper nutritive diet, medical care, creches, nursery schools, etc., should be organised for them outside the prison so that the damaging impacts of prison life during their most impressionable age are eliminated. After the children attain the age of 5 years they should be kept in children's institutions or sent to their own home or relatives as per the desire of the mother/father. If the parent so desires even a child below 5 years of age may be sent to an institution such as SOS children village, Children Home, etc.

Note : While drafting this section, reference should be made to Chapter XIII on 'Women Prisoners' of this Report.

- (viii) Proper segregation of women prisoners and their protection from various likely hazards in prisons.
- (ix) Composition of board of prison visitors specifying its duties, functions and responsibilities.

Chapter VI : Undertrial prisoners

In this chapter there should be sections dealing with the following matters:

- (i) Rights and duties of undertrial prisoners.

Note: While drafting sections pertaining to the rights and duties of undertrial prisoners, reference should be made to Chapter II of this scheme of chapters, Code of Criminal Procedure and the judgements of the Supreme Court about the rights of prisoners.

- (ii) To bring to the notice of the District Judge all cases of undertrial prisoners which have been delayed for more than two months.

Note: A copy of the report of the prison superintendent should be sent to the High Court.

- (iii) Effective production of undertrial prisoners before the court on the due date.
- (iv) Release of the undertrial prisoner, as soon as he completes the period of detention equal to the half of the maximum sentence awardable on conviction.

Note : Decision of the Supreme Court in regard to this matter may be referred to while drafting this section.

- (v) Production of undertrial prisoners in other States and before courts in civil suit proceedings;
- (vi) Procedure regarding police interrogation while the undertrial prisoner is in judicial custody.
- (vii) Escorting of undertrial prisoners to and from the court.

- (viii) Provision for hand-cuffing undertrial prisoners for reasons of security while escorting them to and from courts.
- (ix) Procedures from admission till discharge/conviction of undertrial prisoners.

Note : While drafting these sections relevant provision from Chapter VII of this scheme of chapters may be referred to.

- (x) Facilities to undertrial prisoners.
- (xi) Duty of the District Judge/Magistrate authorised by the District Judge to visit the prison once a month and make a review of all cases of undertrial prisoners who have been detained in prisons for more than two months and take suitable measures to expedite all delayed cases.
- (xii) Duties of prison administration towards undertrial prisoners;
- (xiii) Constitution and procedure of Review Committees to review the cases of all undertrial prisoners detained for more than two months.
- (xiv) Duty of the District Magistrate, Public Prosecutor and Superintendent of Police to be present when such cases are reviewed.
- (xv) Constitution of and procedures regarding State level Review Committee which should be set up for reviewing the cases of undertrial prisoners and taking appropriate action regarding the release of undertrial prisoners or for expediting the trial of their cases.

Note: While drafting the sections pertaining to the constitution, procedures and powers of the Review Committees, reference should be made to Chapter XII on 'Undertrial and Other Unconvicted Prisoners' of this Report and also to the existing procedures regarding such Committees set up in some States.

Chapter VII : Admission, treatment and training of prisoners

In this chapter sections dealing with the following topics should be incorporated:

- (i) Admission
- (ii) Orientation
- (iii) Quarantine
- (iv) Reception Unit

Note: While drafting sections on the above topics reference should be made to Appendices XIV, XV, XVI and XVII respectively.

- (v) Overall and comprehensive study of prisoners sentenced to imprisonment for one year and above.
- (vi) Classification on scientific basis.

While drafting sections regarding classification on scientific basis reference should be made to Chapter IX on 'System of Classification' of this Report.

Socially conditioned Criminals such as careerist criminals, professional criminals, organised criminals, criminals involved in prostitution, gambling, bootlegging, smuggling, etc., pose a special problem both to the society and the prison administration. They have to be effectively segregated both from the point of view of security and treatment. Sections to deal specially with such prisoners may be included in this chapter and while drafting these sections reference to 'Typology of Crime' in Chapter IX on 'System of Classification' of this Report may be made.

(vii) Reclassification.

Note: While drafting this section reference should be made to Chapter IX on 'System of Classification' of this Report.

(viii) Treatment and Training.

The emphasis should be on the individualisation of treatment and training. The components of treatment and training programmes have been spelt out in Chapter X on 'Treatment Programmes' of this Report, which may be referred to while drafting relevant sections.

Chapter VIII : Discipline of prisoners

Sections dealing with the following matters should be incorporated under this chapter:

(i) Conducts constituting prison offences.

Note : It should not be left to the executive authorities to define prison offences and punishments. Offences should be described which are done with intention i.e. mensrea. As far as possible prison offences done without intention should be excluded and should not be punished.

(ii) Punishments for prison offences.

(iii) Procedure for holding enquiries by the prison superintendent regarding prison offences alleged to have been committed by prisoners.

(iv) Communication of the decision of the enquiry to the prisoners.

(v) Provision of appeal/revision against certain punishments awarded to the prisoners by the prison superintendent.

While drafting section dealing with the above item, reference may be made to Chapter VIII on 'Security and Discipline' of this Report.

(vi) Section 73 of the Indian Penal Code, providing for a sentence of solitary confinement, has been rarely used by the courts since Independence, and has, therefore, virtually fallen into disuse. The Joint Committee on the Indian Penal Code (Amendment) Bill, 1972, has recommended the abolition of the sentence of solitary confinement. In view of this, section 29 of the Prisons Act regarding solitary confinement should be deleted.

(vii) Section 30 of the Prisons Act, 1894 should be reformulated in the light of recommendations contained in Chapter XVII on 'Prisoners Sentenced to Death' of this Report.

(viii) Use of Irons.

Note : While drafting this section directives of the Supreme Court on this subject should be taken into consideration. A reference to pages 243—245 of the 'Indian Supreme Court and Politics' by Dr. Upendra Baxi may also be made.

Chapter IX : Transfer, removal and attendance in courts of prisoners

Transfer and removal of prisoners :

Under this heading sections dealing with the following topics should be included :

(i) Medical examination of a prisoner immediately after his admission to prison from police custody or on transfer.

- (ii) Transfer of prisoners for medical treatment to prison wards in Government hospitals/hospital prisons.
- (iii) Transfer of prisoners from one prison to another in the State.

Note 1: As far as possible and practicable convicted prisoners should be kept in prisons near their home towns either at the district level or at the regional level.

Note 2: The requirements of treatment and training, as contained in chapter VII of this scheme of chapters should be kept in view while effecting transfer of prisoners from one prison to another.

- (iv) Transfer of prisoners from one State to another.

Note : A prisoner convicted in another State should, as far as possible, be transferred to the State of his domicile.

- (v) Repatriation of prisoners to other countries under bilateral agreement that may be executed by the Government of India.

Attendance of prisoners in courts.

Under this heading following topics should be incorporated :

- (i) Powers of the court requiring appearance of prisoners to give evidence or stand trial.

Note : Provisions for appearance in courts are sometimes misused by some prisoners for extending their stay at a particular prison. It should be provided that in no case the period for giving evidence, etc., should be more than 15 days.

- (ii) Exemption from operation of this section in case of certain prisoners.

Note : The provisions of the Transfer of Prisoners Act, 1950 and those of Prisoners (Attendance in Courts) Act, 1955 should be included in this chapter.

Chapter X : Leave, special leave and remission

Sections dealing with the following topics should be included in this chapter :

- (a) Release on leave.
 - (i) Eligibility for release on leave.
 - (ii) Inspector General of Prisons to be vested with the authority of releasing prisoners on leave ; reference to District authorities at the time of first release on leave.
 - (iii) Period of leave to count towards sentence.
 - (iv) Conditions on which a Prisoner can be released on leave.
 - (v) Revocation of the order of release in the event of breach of conditions of the release on leave order.
 - (vi) Punishment to be awarded for such breach by the Inspector General of Prisons.

(b) Release on special leave.

- (i) Eligibility for release on special leave.
- (ii) Inspector General of Prisons and Prison Superintendent to be vested with the authority of releasing prisoners on special leave.
- (iii) Period of special leave not to count towards sentence.
- (iv) Condition on which the prisoner can be released on special leave.
- (v) Maximum period of special leave.
- (vi) Revocation of the order of release on special leave in the event of breach of conditions of the release order.
- (vii) Punishment to be awarded for such breach by the Inspector General of Prisons.

(c) Remission

- (i) Remission for good behaviour and discipline.
- (ii) Remission for work.
- (iii) Annual good conduct remission.
- (iv) Special remission that can be awarded by the prison superintendent and the Inspector General of Prisons.
- (v) State remission as per guidelines that may be laid down by the Government of India in this regard.
- (vi) Total remission granted to a prisoner not to exceed one half of his substantive sentence.
- (vii) Forfeiture of remission for prison offences.

Note: While drafting sections of this chapter, reference should be made to Chapter XX on 'System of Remission, Leave and Premature Release' of this Report and to the provisions of Chapters XXIX and XXX of the Model Prison Manual.

Chapter XI : Premature release of prisoners.

Sections dealing with the following topics should be included in this Chapter:

- (i) Composition of Boards for reviewing sentences of prisoners for premature release.
- (ii) Eligibility of prisoners for review of sentences for the purpose of premature release.
- (iii) Procedure for reviewing the cases of prisoners eligible for premature release.
- (iv) Conditions to be included in the premature release order.
- (v) Cancellation of the premature release order upon breach of conditions of release.

Note: While drafting this chapter reference should be made to Chapter XX on 'System of Remission, Leave and Premature Release' of this Report and also to Chapter XXXVI of the Model Prison Manual.

Chapter XII : Release and aftercare of prisoners

(a) Release of prisoners

The present provisions in the Prisons Act, 1894 regarding release of prisoners are totally inadequate. It is generally acknowledged that there is a scope for considerable arbitrary exercise of discretionary powers for release in the present prison procedures. To obviate this, the following provisions should find expression in the Act:

- (i) The concerned prison official must be under duty to release the prisoner on the very day on which his release becomes due under the law.
- (ii) Every prisoner must have a reasonable notice of the due date of his release to be determined by the rules made under the Act.
- (iii) Pre-release preparation by the concerned prison official before the date of the prisoner's release.
- (iv) There should be periodic audit of releases.

(b) After-care of prisoners.

Sections dealing with the following topics should be included:

- (i) Planning for after-care while the prisoner is under institutional care and treatment.
- (ii) Help and aid to be extended to the prisoner immediately on release from the institution.
- (iii) Help and aid during the post-release period and follow-up.
- (iv) Coordination between the correctional administration and the voluntary organisations in the field of after-care.

Note: While drafting these sections reference should be made to chapter XXII on 'After-care, Rehabilitation and Follow-up' of this Report and to Chapter XXXVIII on 'After-care and Rehabilitation' of the Model Prison Manual.

Chapter XIII : Miscellaneous

Under this chapter there should be a section under which the State Government can formulate statutory rules. Topics on which such rules can be framed should be specifically mentioned in this section.

Note: Statutory rules should be printed separately and should be priced publication. Prisoners should have access to these rules.

SCHEME OF CHAPTERS FOR NATIONAL LEGISLATION FOR YOUNG OFFENDERS

Preamble

Young offenders between the age of 16 to 23 years constitute an impressionable group. They have better prospects of being reclaimed as useful citizens. They can be re-educated to a socially accepted day of life. On the other hand if proper care is not taken and timely help not offered, a young offender of today can become a hardened recidivist of tomorrow. Investment in the re-education and rehabilitation of young offenders must, therefore, be treated as 'investment in man'.

Statement of objects and reasons

Borstal Schools Acts have limited coverage. These Acts have not been quite efficacious. Only 11 Borstal schools are operating throughout the country under these Acts. They cater to a very small number of young offenders; all other young offenders are kept in juvenile jails/reformatories or in sections earmarked for young offenders in prisons where adult offenders are kept. These young offenders must necessarily be segregated from adult, hardened and habitual offenders. In view of their impressionable age, young offenders require an approach different from that for adult offenders in their treatment, training and rehabilitation. This has to be a scientific and progressive approach keeping in view their growth continuum. This can be achieved only through a separate comprehensive legislation.

Note: While drafting the statement of objects and reasons Chapter XV on 'Young Offenders' of this Report should be referred to.

Chapter I : Preliminary.

This chapter should deal with the title, extent and commencement of the Act. It should also include a section on definitions.

In Chapter XV of this Report a new approach towards the treatment of young offenders has been discussed in detail. New concepts and terms have been used while outlining this new approach. All these concepts and terms may be defined under this section.

Chapter II : Rights and duties.

In Chapter II of the Scheme of Chapters for the National Prison Legislation **Annexure IV-B)** rights and duties of prisoners have been incorporated. While drafting sections under this chapter the above referred material should be incorporated with suitable modifications.

Chapter III : Courts for young offenders

Under this chapter there should be sections dealing with the following topics:—

- (i) Constitution of courts for young offenders and their jurisdiction.
(See Chapter XV para 15.8.5 of this Report)

- (ii) Courts empowered to pass order of detention.
(See sections 6 and 8 of the Bombay Borstal Schools Act, 1929).
- (iii) Procedure when a Magistrate is not empowered to pass orders under this Act.
(See section 9 of the Bombay Borstal Schools Act, 1929).
- (iv) Limitation on powers.
(See section 10 of the Bombay Borstal Schools Act, 1929).
- (v) Detention of young offenders during investigation and trial.
(See Chapter XV, paragraphs 15.8.7 to 15.8.12 of this Report).
- (vi) Duties of the Probation Officer attached to the court.
- (vii) Pre-sentence investigation report to be prepared by the Probation Officer.
(See Chapter XV para 15.8.6 of this Report).
- (viii) Disposition of cases:
 - (a) Non-institutional measures.
(See Chapter XV para 15.8.13 of this Report)
 - (b) Commitment of Reception Centre.
(See Chapter XV para 15.8.17 of this Report)

Chapter IV : Institutions for young offenders

Under this chapter sections dealing with different types of institutions should be included as follows:

- (i) Reception Centre.
- (ii) Approved Kishore/Yuva Sadan. (Hostel run by Government/voluntary organisation/educational institution/industrial training institute/agricultural school, etc.)
- (iii) Semi-open Kishore/Yuva Sadan.
- (iv) Open Kishore/Yuva Sadan.
- (v) Special Kishore/Yuva Sadan.
(medium security institution).

Note : While drafting these sections reference should be made to Chapter XV paras 15.8.14, 15.8.15, 15.8.16, 15.8.17, 15.8.18.

Chapter V : Admission, treatment and training

In Chapter VII of the Scheme of Chapter on National Prisons Legislation (**Annexure IV-B**) procedures regarding admission, treatment and training of prisoners have been included. These provisions with necessary changes may be included in this chapter.

This chapter may also have sections dealing with ingredients of treatment of young offenders as given below:—

Individual study, initial scientific classification; careful planning of a balanced training and treatment programme to suit the needs of the inmate; diversified education; work and vocational training; recreational and cultural activities; physical training and active games; firm yet positive and constructive

discipline ; case work ; group work activities; group guidance ; individual guidance and counselling; psychotherapy where necessary ; character training; personal positive influence of staff members; periodical review and reclassification, etc.

Chapter VI : Organisation

In this chapter sections dealing with the following topics should be included :

- (i) Custody, care and treatment of young offenders shall be the responsibility of the Department of Prisons and Correctional Services.
- (ii) The staff structure of institutions for young offenders shall be as given in paragraph 15.8.30 of Chapter XV on 'Young Offenders' of this Report.
- (iii) Duties, responsibilities and functions of the personnel.

Chapter VII : Facilities and amenities

Sections dealing with the following topics should be included under this chapter: -

- (i) Grade system : Grade III, Grade II, Grade I, marks system;
- (ii) Remission leave and special leave;
- (iii) Wages;
- (iv) Canteen facilities;
- (v) Letters, interviews and other facilities and amenities;
- (vi) Equipment.

While drafting these sections our recommendations regarding facilities and amenities for adult offenders should be taken into account.

Chapter VIII : Discipline of young offenders

Under this chapter sections dealing with the following topics should be included:

- (i) Standards of behaviour.
- (ii) Violations of standards of behaviour.
- (iii) Procedure for enquiring into violations; the young offender should be given an opportunity to defend himself.
- (iv) Punishments:—
 - (a) Warning;
 - (b) Cut in remission;
 - (c) Cut in marks;
 - (d) Reduction in grade for a specified period;
 - (e) Award of penal grade ; withdrawal of facilities like canteen and other privileges;
 - (f) Segregation for a period not exceeding 10 days at one time;
 - (g) Postponement of release on leave;

- (v) Security measures:
- (a) Use of mechanical restraints only or security reasons and not as punishment; and
 - (b) segregation for security reasons.
- (vi) Powers of the Principal regarding (a) award of punishments; (b) use of mechanical restraints; and (c) segregation for security reasons.

Chapter IX : Transfer

Under this chapter sections dealing with following topics should be included:

- (i) Transfer from prison to Kishore/Yuva Sadan and Vice-versa.
(See section 11 of the Bombay Borstal Schools Act, 1929).
- (ii) Transfer of the incorrigible, etc., to prison.
(See section 12 of the Bombay Borstal Schools Act, 1929).
- (iii) Transfer from one institution to another within the State and transfer to other State on reciprocal basis; powers to be exercised by the Inspector General of Prisons and Director of Correctional Services.
- (iv) Removal to a civil hospital for medical treatment.
(See section 13-B of the Bombay Borstal Schools Act, 1929)

Chapter X : Release on licence, release and aftercare

Sections dealing with the following topics should be included under this chapter:

- (i) Review and reclassification.
- (ii) Review Board, its composition and powers.
(See chapter XV paras 15-8-25 and 15-8-26, of this Report).
- (iii) Eligibility or review.
- (iv) Power to release on licence.
(See section 14 of the Bombay Borstal Schools Act, 1929).
- (v) Suspension or revocation of licence.
(See section 15 of the Bombay Borstal Schools Act, 1929).
- (vi) Subsequent supervision.
(See section 15 of the Bombay Borstal Schools Act, 1929).
- (vii) Period of detention in a Kishore/Yuva Sadan.
(See section 17 of the Bombay Borstal Schools Act, 1929).
- (viii) Discharge from Kishore/Yuva Sadan.
(See section 17-A^{*} of the Bombay Borstal Schools Act, 1929).
- (ix) Arrest of a young offender escaping from Kishore/Yuva Sadan or escaping from supervision.
(See section 18 of the Bombay Borstal Schools Act, 1929).
- (x) Preparation for release, and release.
(See Chapter XII of the Scheme of Chapters for National Prison Legislation—**Annexure IV—B**).

Chapter XI: Miscellaneous

Sections dealing with the following topics should be included under this chapter :

- (i) Enabling provisions for applicability of certain provisions of Prison Legislation mutatis mutandis to young offenders,
- (ii) Removal of disqualifications,
(See section 20 of the Bombay Borstal Schools Act, 1929)
- (iii) Appeal or revision,
(See section 21 of the Bombay Borstal Schools Act, 1929)
- (iv) Rules.
(See section 19 of the Bombay Borstal Schools Act, 1929)

Rules should be framed for the implementation of the provisions of the Act with specific reference to the following:

- (1) Definition;
- (2) Certain offenders not to be detained in Kishore/Yuva Sadan;
- (3) Appointment, transfer, etc. of personnel;
- (4) Detailed duties of personnel;
- (5) Detailed duties and powers of the Review Board;
- (6) Terms of office of non-official members of the Review Board;
- (7) Travelling allowance to non-official visitors;
- (8) Meetings of the Review Board;
- (9) Holidays;
- (10) House system;
- (11) Daily routine and programme for inmates;
- (12) Programme for Sundays and holidays;
- (13) Searches of inmates;
- (14) Medical examination of newly admitted inmates;
- (15) Nominal roll to be submitted to the Director of Correctional Services;
- (16) Grade system and marks system;
 - (a) Facilities in Grade-III;
 - (b) Record to be maintained in Grade-III;
 - (c) Facilities in Grade-III
Promotion to Grade-II
Record to be maintained in Grade-II;
 - (d) Facilities in Grade-I
Promotion to Grade-I
Record to be maintained in Grade-I;
 - (e) Penal Grade;
- (17) Wages;
- (18) Savings and expenditure;

- (19) Hours of work;
- (20) Clothing, bedding and equipment;
- (21) Diet;
- (22) Education and vocational training;
- (23) Recreational and cultural activities;
- (24) Canteen;
- (25) Annual sports;
- (26) Discipline;
- (27) Details regarding offences and punishments;
- (28) Medical care;
- (29) Release on licence;
- (30) Form of licence;
- (31) Temporary detention;
- (32) Maintenance of record;
- (33) Aftercare and follow-up.

Note: While drafting statutory rules under the Act, our recommendations contained in Chapter XV on 'Young Offenders' of this Report, Maharashtra Borstal Schools Rules, 1965, and rules made by other States should be referred to.

CHAPTER V

PRISON BUILDINGS

5.1 One of the shocking realizations of the Committee during its visit to prisons and institutions associated with prisons in different States and Union Territories was the deplorable condition of the barracks, dormitories and cells in which inmates are generally housed.

5.2 Prisons in the country, in general, are housed in old and dilapidated buildings. In spite of casual repairs and occasional white wash done to make them somewhat presentable to important prison visitors, the cracks and crevices, the crustings and dinginess, betray the chronic neglect to which they have been subjected over the years. The actual living places of prisoners, even in the few prisons which otherwise appear clean from outside, bear a forlorn, dismal and depressing look. The standards and norms prescribed under the existing rules regarding accommodation for prisoners are generally not followed. Inspecting officers as also official and non-official visitors to prisons, looking at the apparently clean exterior are often too much in a hurry to see the filth and stink, dirt and darkness, and the crowdedness of dormitories, where inmates have to spend almost 12 to 15 hours of confinement each day. Looked more carefully, the inadequate and badly made lavatories, over-flowing drains, open sewage, water-loggings, basket type dry latrines and insufficient overhead water tanks are a common sight in our jails. A natural corollary to such unhygienic conditions is the breeding of pests and vermin resulting in infectious and communicable diseases which adversely affect the health of the prisoners.

5.3 The most important factor determining not only the general living conditions of prison inmates but also the operational efficacy of prison programmes is the plan and architectural design of prison buildings. It is now a generally accepted sociological fact that housing patterns of a given mass of human-beings can appreciably influence not only their health and hygiene, social relationship and collective development, but also their mental attitude towards their fellow-beings. If this be taken as a criterion of judgement for the appropriateness of our prison buildings, we have no hesitation in saying that our prison buildings are functionally most inappropriate and inadequate. Most of the buildings, having been constructed (or even improvised) during the British colonial regime, are oriented basically to custodial and security requirements. Facilities for proper classification, individualised care, education, training, and reformation are generally lacking. By and large, all types of casual and habitual offenders are lodged in the same buildings and institutional setting. What is most depressing is that in many jails juvenile and young offenders, mentally sick and diseased prisoners are also not effectively segregated.

5.4 According to the statistics collected by the Committee, 23 prison buildings in the country are more than 125 years old while 187 are about a hundred years old. It appears that financial constraints have always restricted the work of renovation of existing prisons and setting up of new buildings. Consequently, the prisons of almost every State suffer from periodic and functional overcrowding. The problem of overcrowding has assumed chronic dimensions in some of the prisons in the States of Andhra Pradesh, Bihar, Maharashtra, Tamil Nadu, Uttar Pradesh and the Union Territory of Delhi. If in the near future the existing prison buildings are not renovated and new ones not set up the problem of overcrowding is likely to get worse.

5.5 The Committee also found that the existing arrangements with the Public Works Departments for the maintenance of prison buildings were insufficient and unsatisfactory. Some of the general complaints made by prison administration were that the Public Works Department did not pay sufficient attention to the day to day repairs in prisons; that annual repairs were not properly undertaken by them; that the funds provided in the budget for annual repairs of prison buildings were generally inadequate and that even this insufficient amount was usually diverted to buildings other than the prison buildings. This neglect by the Public Works Department is one of the main reasons for the continuing deterioration of prison buildings over the years. Poor maintenance of living barracks, prison hospitals, factory enclosures, worksheds, offices, guard rooms, interview-sheds, waiting rooms, watch towers, bathing places, urinals, etc., leaves one convinced of this general neglect.

5.6 It appears that there is no expertise available to States and Union Territories to guide and help them in designing right type of prison buildings. Even the new prison buildings coming up in some States do not meet the requirements of security, correctional programmes or even basic minimum needs of collective living in prisons.

5.7 One of the major factors adversely affecting morale of prison staff, we believe, is the lack of sufficient and properly maintained residential quarters for them. Because of the lack of accommodation for staff, the low paid prison guards are often constrained to live in those areas of the city which are infested with anti-social elements close to the underworld of crime. It has been found that by their association with this element of the society, the prison guards start developing vested interests in prison inmates either for small material advantages or for averting physical threat to themselves and their families. An effective way of tackling this problem is to provide residential accommodation to all prison personnel. This will also ensure the ready availability of force within the prison campus round-the clock to meet any emergent situation. Otherwise also proper residential accommodation for the staff is an essential ingredient of better institutional management.

5.8 Housing is a basic and essential requirement of human beings, be they prisoners or free citizens. The quality of housing along with other necessary facilities considerably influences the quality of human life and work. This, in the restricted environment of prisons, assume special significance. In this background we make the following recommendations :

5.8.1 The State Governments and Union Territory Administration should undertake an immediate survey, to be completed within a year, of prison building with regard to minimum needs in respect of :—

- (i) regular supply of water for drinking and for other purposes in terms of overhead tanks, tubewells, water pipe lines, etc.;
- (ii) flush/septic type latrines ;
- (iii) proper drainage and sewer system;
- (iv) renovation of existing living barracks/cells/work-shed for protection against direct sun, cold winds, rain, etc.;
- (v) constructional devices to check flies, mosquitoes, pests and rodents;
- (vi) electrification of prison buildings;
- (vii) general repairs to floors and sleeping berths in living barracks and cells;
- (viii) covered verandahs or sheds to be used as dining places; and
- (ix) Any other work essential to maintain minimum standards of living and cleanliness in consonance with human dignity.

5.8.2 The State Governments and Union Territory Administrations should execute this minimum essential work plan within two years after survey.

5.8.3 Each State and Union Territory should prepare a comprehensive plan for remodelling and renovating existing prison buildings, where necessary and feasible, so that they not only become functional but also habitable in consonance with human dignity. This will involve heavy expenditure and, therefore, funds for the purpose should be made available by the Central Government to the State Governments as recommended by us in Chapter XXV on 'Planning, Research and Development'.

5.8.4 The State Governments and Union Territory Administrations should draw within one year a Master Plan for the construction of new buildings on the principles laid down hereunder:—

- (i) Separate jails for undertrial prisoners;
- (ii) Separate institutions for women offenders;
- (iii) Separate institutions for young offenders;
- (iv) Arrangements for mentally sick prisoners;
- (v) Open Camps, mobile and permanent, for prisoners sentenced to less than one year;
- (vi) Semi-open and open prisons for prisoners sentenced to one year or more;
- (vii) Camps for those courting arrest during non-violent socio-political economic agitations for declared public cause;
- (viii) Buildings for training institutions for prison staff at the State level and at the Regional level ; and
- (ix) Staff quarters.

5.8.5 Based on the statistical data available with the Committee, an estimate of the requirements together with financial outlays of buildings of different categories has been made which is attached as Annexure 'A' to this Chapter. The total estimated financial outlay comes to about Rs.376 crores. The estimates do not include the cost of land. The Central Government should make available this amount to State Governments as recommended by us in Chapter XXV on 'Planning Research and Development'.

5.8.6 The proposed National Commission on Prisons, the National Buildings Organisation and the National Institute of Social Defence should coordinate to evolve standards and norms keeping in view the functional needs of the buildings of different categories of prisons. The National Commission on Prisons should keep itself informed through regular monitoring that these norms and standards are observed by States and Union Territories while renovating and constructing prison spacing buildings.

5.8.7 The National Buildings Organisation should design model plans of buildings for different categories of prisons. A special cell with necessary staff and expertise from prison department at proper levels should be established at the National Buildings Organisation for this purpose.

5.8.8 While preparing model plans for prison buildings special attention should be paid to the patterns and designs of common facilities like prison hospitals, kitchens, association barracks, common lavatories and bathrooms, community halls, factory sheds, interview-sheds, classification centres and quarantine wards, to combine security with human dignity and simplicity with reasonable comfort. There should be inbuilt system

of hygiene and sanitation to suit the type of restrictive mass living which prisons are constrained to provide.

5.8.9 There should be a properly designed administrative block for each category of prisons. According to the needs of the institution the administrative block should have office rooms, record room, conference rooms, common rooms, enquiry cabins and control rooms for efficient functioning of administration. Fire fighting equipments, telephones, wireless sets, electric alarms, close-circuit TV, metal detectors, etc., should be provided at appropriate places.

5.8.10 There should be four types of living accommodation (a) association barracks with accommodation for twenty inmates; (b) a row of dormitories, each dormitory providing an accommodation for four to six prisoners; (c) single seated room accommodation for prisoners needing/desiring privacy for pursuing studies, etc., and (d) cells for segregation of inmates for purposes of security and punishment.

5.8.11 In the association barracks and dormitories each berth should normally be $6\frac{1}{2}' \times 2\frac{1}{2}'$ and 1 foot in height.

5.8.12 A fixed or in-built shelf should be provided for each inmate so that he may keep permissible personal belongings there.

5.8.13 Cells for maximum security should be fitted with flush type latrines, and existing cells should not be used till this facility is provided in them.

5.8.14 There should be a separate fly proof, well ventilated kitchen for every 200 inmates. Existing buildings should be renovated to provide this facility.

5.8.15 Each prison should have an independent stand-by arrangement for water supply in the form of adequate tube-wells or hand pumps.

5.8.16 Adequate funds for annual repairs/renovation of prison buildings should be earmarked in the budget and placed at the disposal of the Prison Department. These works would be executed by the Prison Department.

5.8.17 New constructions costing upto Rs. 2 lakhs should also be executed by the Prison Department; other new works should be executed by the Public Works Department.

5.8.18 A special cell with adequate staff functioning under a Superintending Engineer deputed from the Public Works Department should be set up at the prison headquarters of each State to plan, monitor and supervise all construction and repair works in the department.

5.8.19 All constructions in Prison Department should adhere to ISI standards.

5.8.20 New prison buildings should be constructed close to cities but away from crowded areas. The location of buildings should not give an impression of isolation of prisons and prison staff from the community.

5.8.21 No building other than prison buildings should be constructed within 100 meters of the prison campus.

5.8.22 Old prison buildings surrounded by crowded localities should not be abandoned even if new ones are constructed to replace them. These should be remodelled to house undertrial prisoners to give them the facility of proximity to the courts and their families.

5.8.23 All additional institutions to accommodate any future increase in convict population should be open institutions or semi-open institutions which will involve comparatively less capital investment on buildings and security. This would also be a positive step towards rehabilitation of offenders.

5.8.24 The existing condition of buildings and management of sub-jails has attracted our special attention and our recommendations with regard to them are contained in Chapter XVIII on 'Sub-Jails' of this Report.

5.8.25 Housing for prison staff should be included in the National Plan and residential accommodation for all prison personnel should be provided in a phased manner. Staff housing should be developed on modern lines with adequate community facilities.

5.8.26 We generally agree with the recommendations regarding details of construction of prison buildings as contained in Chapter IV— 'Architecture and Buildings'— of the Model Prison Manual.

ESTIMATED COST OF ADDITIONAL PRISON BUILDINGS AND OTHER INSTITUTIONS

(i) **Separate jails for undertrials prisoners**

There are, at present, 76 Central Prisons, 250 District Prisons and 822 Sub-jails in the country. Satisfactory arrangements for housing undertrials away from convicts do not, however, exist and they are huddled together with convicts. In order to provide separate prisons for undertrial prisoners, 50 additional units, each with a capacity of 400, need to be set up. An expenditure of Rs. 100 crores would be necessary for this purpose taking the cost to be Rs. 50,000 per prisoner.

(ii) **Separate institutions for women offenders**

Each Central Prison, District Prison and Sub-jail should have a separate annexe for women prisoners. Wherever possible, separate institutions for convicted women prisoners should be constructed. As on 31-12-1980 they were 4073 women offenders in Indian prisons. At present, there are 6 prisons for women with a capacity of 975. Additional accommodation would, therefore, be needed. On the basis of an expenditure of Rs. 50,000 per prison, a sum of Rs. 15.50 crores would be required.

(iii) At present, there are 11 Borstal schools and 8 juvenile jails in the country spread over 10 States with a capacity for about 4,000 inmates. The total number of young offenders in prisons, Borstal schools and juvenile jails as on 31-12-1980 was about 17,000. Therefore, additional institutions are needed for young offenders. The inadequacies of the present approach towards the treatment of young offenders and the need for a new approach have been spelt out in Chapter XV on 'Young Offenders'. As according to that approach nearly 50% of the young offenders will be kept in Semi-open/Open Kishore Sadans/Yuva Sadans, additional institutional facilities with medium security, will be needed for 4,500 young offenders. On the basis of an expenditure of Rs. 35,000 for each young offender the cost would come to Rs. 15.75 crores. In addition, a sum of Rs. 1.90 crores would be required for providing necessary facilities in the existing 19 institutions so that they may function effectively as Kishore Sadans/Yuva Sadans.

The expenditure of keeping a young offender in Semi-open/Open Kishore Sadan/Yuva Sadan is estimated to be Rs. 20,000 per inmate and thus the cost of establishing Semi-open/Open institutions for 8,500 young offenders would be Rs. 17 crores.

The total cost of providing buildings for separate institutional facilities for young offenders would, thus, be Rs. 34.65 crores.

(iv) **Arrangements for mentally sick prisoners**

There should be separate wards for mentally sick prisoners in the prison hospitals. In addition, each big State should have a separate hospital/annexe for treatment of prisoners suffering from very serious mental illness. The capacity of each such hospital/annexe may be 100. The cost of providing building for 15 such hospitals/annexes would be Rs. 7.50 crores on the basis of an estimated expenditure of Rs. 50,000 per inmate.

(v) **Open camps, mobile and permanent, for prisoners sentenced to less than one year**

Prisoners sentenced to less than one year should be kept in open camps, mobile or permanent. As on 31-12-1980, the number of such prisoners was about 23,000. The cost of establishing open camps for them would be Rs. 46 crores on the basis of an estimated expenditure of Rs. 20,000 per prisoner.

(vi) **Semi-open and Open prisons for prisoners sentenced to one year or more**

Of those sentenced to a term of imprisonment for one year and above, about 20 per cent may be kept in semi-open/open prisons. As on 31-12-1980, there were about 41,000 convicted prisoners with a sentence of rigorous imprisonment of one year or above in Indian prisons. Therefore, about 8,200 such prisoners would be kept in semi-open/open prisons. At present, the available capacity of semi-open/open prisons in the country is 4,626. Additional provision would accordingly be needed for about 3,600 prisoners. The estimated expenditure for this purpose per prisoner would be Rs. 20,000. Therefore, the total cost of setting up semi-open/open institutions would be around Rs. 7.20 crores.

(vii) **Camps for those courting arrest during non-violent, socio-political economic agitations for declared public cause**

Such prisoners should be kept in separate camps each having a capacity of 500. These camps should be located in the sensitive areas where such agitations are likely to take place. The total cost of providing 50 such camps with minimum security would be Rs. 50 crores taking the cost per prisoner to be Rs. 20,000.

With the construction of new buildings and setting up of new institutions as suggested above, some capacity in existing institutions may appear to become surplus. However, many prison buildings are old, some being 100 years old and some even more than 125 years old. The buildings which have outlived their utility and are beyond repairs should be demolished.

Taking into account the factor of increase in the general population it would not be unrealistic to expect that the incidence of crime will also go up, and there will be an increase in the total prison population, in terms of daily average population, as well as yearly turn-over of prisoners. In this context, it would be realistic to provide for additional accommodation for prisoners. The accommodation that will be available in the present central and district prisons through the adoption of the above suggested measures, may be utilised first for diversification of prison programmes at the institutional level and secondly for keeping some spare accommodation for likely increase in the prison population.

(viii) **Buildings for training institutions for prison staff at the State level and at the Regional level**

The facilities for training of staff are inadequate though training schools for warders, ministerial staff, etc., do exist in some of the States. Even where such schools exist, physical facilities available there are not up to the required standard. All States except smaller States and some Union Territories, which can be served by schools in the neighbouring States, should each have a training school. According to the information made available to us, 12 States already have training schools. We think that at least 8 new training schools will be required to be set up. The State of Karnataka has already constructed a building for a new training school and the State of Rajasthan has worked out details of such a school. On the basis of their estimates, capital cost for 8 training schools would come to Rs. 4 crores.

The existing training schools also need to be provided additional buildings and other facilities. On the basis of average expenditure of Rs. 10 lakhs per such school, a sum of Rs. 1.20 crores will have to be provided.

For the training of officers of higher level, in Chapter XXIV on 'Development of Prison Personnel', we have recommended setting up of four new regional training institutes in addition to the one such regional institute already functioning at Vellore for the four southern States. This institute does not have a building of its own and is housed in improvised buildings. The building for a regional institute is estimated to cost Rs. 2 crores. Thus, the cost of buildings of 5 regional institutes would be Rs. 10 crores.

The total estimated expenditure on buildings for training schools/institutes will thus come to about Rs. 15.20 crores.

(ix) **Staff quarters**

According to information as on January 1, 1981, there were about 32,000 prison personnel in the country. However, residential accommodation exists only for about 45 per cent of them. The remaining 55 per cent need to be provided with family quarters. Thus, about 17,500 new housing units would be required to be constructed. Of these, 7 per cent would be for higher level staff and the remaining for other staff. This would involve an estimated expenditure of about Rs. 100 crores, assuming that pattern of housing would be the same as that for other Government servants.

CHAPTER VI

LIVING CONDITIONS IN PRISONS

6.1 Of all the aspects of prison administration living conditions of inmates have been subjected to the strongest criticism by courts, prisoners and others interested in the maintenance of basic minimum standards of human dignity in places of human confinement like prisons. The criticism has been levelled on account of insufficient accommodation, indiscriminate huddling of all categories of offenders, unhygienic conditions, sub-standard food, insufficient water supply, use of drugs and narcotics by inmates, atrocities on children and women, maltreatment of prisoners and corruption in prisons.

6.2 During our visits to various States and Union Territories, we found that the criticism generally levelled against prisons on account of inhuman living conditions was not unfounded. In certain States, inmates were huddled together in insufficient spaces. The standard of hygiene, sanitation, medical care, clothing, bedding and even diet in most of the prisons was not compatible with human dignity. The routine of prison life is monotonous and irritating. The policy of running prisons in as cheap a manner as possible is still continuing in utter disregard of the fact that prisoners are also human beings and have to be provided with basic needs of human life. Unless adequate funds are provided, appreciable improvement in the living conditions would not be possible.

6.3 We are strengthened in our views by the observation of the Seventh Finance Commission that "facts show that jails have been neglected for too long and that there has been practically no improvement in the environment, or in the methods of handling inmates." "The Commission was convinced that "a certain minimum standard of upkeep of prisoners, improvements in diet and amenities and, to a certain extent, additions to jail capacity are urgently called for".² On analysing expenditure incurred on prisons the Commission was "perturbed to find that, with rare exceptions, the level of expenditure on prisoners has been extremely low."³ We believe that it is not only the financial constraints that have led to deplorable conditions in prisons; there has also been a general apathy on the part of prison personnel towards improvement of living conditions in prisons. Even senior prison administrators at the supervisory level pay little attention to this important aspect of prison management. Their inspections have become occasional and perfunctory. Many of them do not even know the real meaning and significance of inspections. This has also resulted in poor living conditions.

6.4 It would not be out of place to mention that some sections of the society maintain that conditions of living in prisons should not be improved lest they lose their deterrent value for the common man. They are of the view that improvement in living conditions will reduce the fear of prisons and criminals would walk in and out of them without feeling the pinch of incarceration. We do not subscribe to this view. A criminal is not written off from the society for ever. And if he has to be reformed and rehabilitated, all efforts will have to be made to eliminate the dehumanizing effects of prison life. We are of the view that prisons should neither be made so comfortable as to be treated as 'holiday homes' nor should they become 'penal colonies' where the objective of imprisonment is reduced to retribution. Living conditions in prisons should be compatible with human dignity.

6.5 There is hardly any aspect of prison administration, whether it is the condition of prison buildings or the attitude of prison personnel, that does not effect directly or indirectly living conditions of inmates in the prison setting. We have given our views on aspects having an indirect bearing on living conditions such as prison buildings; medical and psychiatric services; classification of prisoners; diversification of institutions; treatment programmes including work programmes; educational programmes; recreational and cultural activities; decongestion of prisons; complaints and grievances of prisoners; prison discipline; procedures for awarding punishment for prison offences; rights and duties of prisoners; system of remission, leave and premature release; institution of convict officers; staff attitude; etc., in relevant chapters of this Report. In this chapter we have concentrated only on such matters as have a direct bearing on the living conditions in prisons.

DIET

6.6 Monotony of prison diet has ever been an additional ingredient of punishment. Half-baked or over-burnt rotis, maggots and worms in cooked food, bad quality of vegetables and less issue of diet than that prescribed in rules, are the common complaints about prison diet. The origin of many disturbances in prisons can be traced to bad quality of food issued to prisoners. Prisoners take resort to hunger strikes and demonstrations to protest against the quality and quantity of food issued to them.

6.7 During our visits to prisons we observed that arrangements regarding preparation of food, management of kitchens, distribution of food, supervision over distribution of food, eating places, etc., were not at all satisfactory. In most of the central and district prisons food is cooked in one kitchen for the entire prison population, even if it runs into thousands. Cooking on such mass scale affects the quality of food. In some States iron vessels are still used for cooking vegetables and dal. Diet scales have not been improved or rationalised to make food palatable and to break the monotony of prison diet. Prisoners are served food in open dusty places with scant regard for cleanliness. Plates and pots are not issued to prisoners as per the regulations laid down in prison manuals. The distribution of food is entirely left to prisoners without any effective supervision by the prison staff. The practice of presence of the prison superintendent and the medical officers at the time of distribution of food, which was in vogue in old times, has now been discarded. Distribution of food to inmates has gone in the hands of prisoners who more often than not are the favourites of prison personnel. In very few States, prison panchayats are associated with receiving of rations, cooking of food and distribution of cooked food. We received many complaints about the quality and under-issue of food and also about the prevalence of corrupt practices in the entire system of prison diet, right from purchase of food articles to distribution of food. We are constrained to remark that in an era when careful attention is paid to the feeding of even dairy cattle, prison kitchens and diet systems have remained in such utter neglect.

6.8 In the restricted environment of the prison set up where prisoners cannot exercise their choice of having food according to their taste and liking, food assumes special significance. We are of the firm opinion that priority attention should be paid to the immediate improvement of the entire diet system in prisons. Our recommendations in this regard are given below:

6.8.1 The system of purchasing food articles through contract system should be discontinued. Food articles should be purchased from Government distribution agencies or cooperative societies. Fuel should be purchased from the forest department.

6.8.2 Food articles should be of good medium quality. The system of purchasing cereals/pulses of the cheapest rate wherever in vogue should be discontinued.

6.8.3 There should be two types of diet for labouring and non-labouring prisoners.

6.8.4 Adequate and nutritious diet should be given to nursing women and to children accompanying women prisoners.

6.8.5 Norms of prison diet in terms of calorific and nutritional value, quality and quantity should be laid down. Adequate check should be provided to ensure that prisoners get diet as per rules.

6.8.6 Brass/aluminium utensils of thick gauge should be used for cooking food in prison kitchens. Pressure cookers may also be used wherever possible. Serving utensils should also be of these metals. Bread containers should be of zinc. Iron utensils should be discarded forthwith.

6.8.7 Management of kitchens or cooking food on caste or religious basis should be totally banned in prisons.

6.8.8 Prisoners should get special diet on religious, festival and national days as may be specified in rules.

6.8.9 Prison kitchens should be decentralised. Each kitchen should cater for not more than 200 prisoners.

6.8.10 There should be two shifts of workers in the kitchen. Paid cooks should be employed wherever necessary.

6.8.11 Scale of fuel should be sufficient for proper cooking of food. Prison kitchens should be modernised in terms of substitutes of fuel by the introduction of new and modern devices. Pattern of 'chulhas' in vogue in the army kitchens should be adopted and introduced in prison kitchens.

6.8.12 To break the monotony of prison diet menus should be prepared in advance, under the guidance of nutrition experts.

6.8.13 In some States Prisoners' Panchayats are associated with the management of prison kitchens such as receipt of daily rations, preparation of menus, preparation and distribution of food, etc. The system has, however, not been an unqualified success. We feel that if this system functions under proper supervision of the prison staff, it will help not only in improving the quality of food but would also provide training to prisoners in self-management and would generate in them a sense of self-confidence. The system, to begin with, may be restricted to open, semi-open and medium security prisons. If successful, it may be introduced in other prison institutions also. We should, however, like to emphasise that the introduction of this system should not absolve the prison staff of their responsibilities in this regard.

6.8.14 Some prison officials should be given special training in dietary and management of kitchens and such officials should be put incharge of supervising kitchens.

6.8.15 Prison officers including superintendent must supervise every aspect of the prison diet system, i.e. issue of rations, management of kitchens, distribution of food, immediate redressal of complaints about food, etc. The Deputy Inspector General of Prisons and the Inspector General of Prisons should pay special attention to this aspect during their inspections.

6.8.16 Medical officer should ensure that food is cooked under hygienic conditions and is nutritious.

6.8.17 Prisoners should be given food which is normally eaten by people in that area. However, prisoners coming from other areas with different food habits should be given as far as possible a diet they are accustomed to. Prisoners who are accustomed to non-vegetarian food should be given such food at least once a week and those who are vegetarian should be given some sweet dish in lieu thereof. Dal and vegetable should generally be served for both the principal meals along with roti or rice as the case may be. Morning tea should form part of prisoners' daily diet.

6.8.18 Clean drinking water should be supplied to prisoners and it should be tested periodically.

6.8.19 Prisoners should be served food in clean, hygienic and covered places. The officer in charge of the yard/area must necessarily be present when meals are served to prisoners.

6.8.20 At present prisoners get their evening meal at about 5 p.m. They get something to eat again at 7.30 the next morning. This leaves a gap of 14 to 15 hours without food which is too long. In Chapter X on 'Treatment Programmes', we have suggested that the time of lock up should be shifted further by 2 to 3 hours. In view of this, the time for evening meals should be 7.30 p.m. To such prisoners as are locked up at sun set for security reasons, evening meals should be served inside their barrack, dormitory or cell.

6.8.21 Bartering of food article for other items such as gur, oil, etc., should be totally banned in prisons.

6.8.22 Prisoners should not be allowed to have their own mini kitchens inside the prison/barrack.

SANITATION AND HYGIENE

6.9 The standards of sanitation and hygiene in most of the prisons are extremely unsatisfactory. Even the open spaces inside the main prison wall are not maintained in a clean manner. Open gutters and sewer are a common feature in many prisons. Flush latrines are available in a very few prisons. In most of the prisons open basket-type latrines are still in use. Proper ratio of latrines to prisoners is not being maintained. Latrine and urinal facilities in barracks/dormitories for use at night are very inadequate. As a result, they overflow during the night. In most of the prisons latrines have not been provided in cells; only pots are kept there for answering calls of nature. A perpetual stinking smell pervades the atmosphere of most of the prisons.

6.10 Adequate water is not available in a large number of prisons. Prisoners cannot take bath and wash their clothes for days together. Properly equipped laundries for washing the clothes of prisoners at regular intervals have also not been set up. There are no arrangements for disinfection and fumigation of bedding and clothing of prisoners.

6.11 Overcrowding, sudden influx of prisoners during agitations, etc., old and dilapidated buildings, aggravate the already abysmal insanitary and unhygienic conditions in prisons. It appears that bad standards of sanitation and hygiene have become part of prison culture to which the prison personnel have got accustomed; they have developed a sort of callousness to this aspect. This state of affairs also reflects adversely on the quality of inspection of prisons by senior prison administrators. With a little imagination and by proper use of available resources prison personnel could bring about desirable improvement in environmental sanitation which is an important aspect of public health.

6.12 Our recommendations with regard to sanitation and hygiene are as below

6.12.1 Open space and roads inside the main wall of the prison should be asphalted leaving enough space for flower beds.

6.12.2 Open gutters and sewers should be covered. Wherever possible prisons should be connected to the public drainage and sewer systems.

6.12.3 The ratio of latrines to prisoners should be 1:6.

6.12.4 The system of open basket-type latrines should be discontinued. The system of carrying night soil as headloads should be stopped forthwith.

6.12.5 Flush/septic latrines should be provided in every barrack and cell.

6.12.6 Adequate number of separate urinals should also be provided.

6.12.7 Every prison should have arrangements for storing enough water for at least a week.

6.12.8 Every prison should provide cubicles for bathing at the rate of 1 for 10 prisoners with proper arrangements to ensure privacy.

6.12.9 Separate platforms for washing clothes should be constructed.

6.12.10 Properly equipped laundries for periodic washing, disinfecting and fumigating clothing and bedding should be set up at each central and district prison.

6.12.11 Medical officers of the prison must look after all aspects of prison sanitation and hygiene.

6.12.12 Every prison should be got thoroughly inspected by the local public health officer periodically.

CLOTHING, BEDDING AND EQUIPMENT

6.13 Clothing, bedding and equipment are basic needs of life. They assume a special significance in the restricted and closed world of a prison.

6.14 It has been a long standing prison practice that convicted prisoners should be issued such clothing as can distinguish them from free citizens. They were, therefore, issued clothings with checks, stripes, etc. This practice still continues in some form or the other in many States and Union Territories. In some States even undertrial prisoners accused of offence punishable under section 302 of the Indian Penal Code are issued clothing meant for convicted prisoners. In fact, one of the severe shocks—in the series of many shocks—which a prisoner receives after his first admission in a prison is when he is required to wear prison clothing. In the present day context distinguishing clothing for prisoners is not necessary.

6.15 Prisoners' clothing is stitched on a mass basis. It is not stitched as per the body measurements of prisoners. Obviously clothing stitched on such a mass basis is either too tight or too loose.

6.16 During our visits to prisons we received many complaints from prisoners regarding clothing, bedding and other equipment. In many prisons we saw prisoners in very unclean and shabby clothing. They had not been issued adequate quantities of

soap and soda. Some prisoners were wearing worn and tattered clothing. In one prison we saw undertrial prisoners wearing only a lion cloth. Many prisoners had not been given clothing, bedding and other equipment as per the provisions of the jail manual.

6.17 Our recommendations regarding clothing, bedding and equipment are as follows :

6.17.1 Prisoners sentenced to six months and below should be issued two sets of apparel and customary under-garments, two towels and one set of working clothes.

6.17.2 Prisoners sentenced to more than six months should be issued three sets of apparel and customary under-garments, two towels and one set of working clothes.

6.17.3 Women prisoners should be issued 3 coloured sarees or three sets of coloured apparel and two towels.

6.17.4 Three sets of customary undergarment (petticoats, choli/bra, etc.) should also be issued to all the women prisoners.

6.17.5 Sterilized sanitary pads should be issued to women prisoners as per their requirement.

6.17.6 Adequate warm clothing, water-proof caps and hoods should be issued according to local conditions and seasonal changes.

6.17.7 Children allowed to stay with women prisoners should be given suitable clothing similar to that normally used by children in the free community.

6.17.8 Prisoners' clothing should have no horizontal or vertical lines. It should, however, have a uniform weave. Prisoners attending educational institutions outside the prison should be allowed to use private simple clothing.

6.17.9 Prisoners' clothing should be marked with indelible ink on the back inside of the apparel. The identification marks should not be conspicuous.

6.17.10 The period of life of each article of clothing should be fixed in accordance with the type of cloth used and the wear and tear involved.

6.17.11 Worn out, torn and tattered clothing should not be issued to any prisoner. Unserviceable clothing, garments and bedding must be written off and disposed off as per fixed schedules.

6.17.12 Every prison should maintain a repair unit where prisoners' clothing can be repaired.

6.17.13 Clothing of prisoners sentenced to more than six months should be stitched/fitted as per the body measurements of prisoners.

6.17.14 Prisoners' clothing should be sterilized at Government cost once in two months. Prisoners should be allowed to get their clothes washed through prison laundries at their own cost.

6.17.15 The following bedding and other articles should be issued to every prisoner :

- (i) One thick cotton durrie and jute mat ;

- (ii) Two cotton chudders ;
- (iii) One pillow with pillow cover ;
- (iv) Woollen blankets according to climatic requirements ;
- (v) One plate ;
- (vi) One mug ;
- (vii) One bowl ;
- (viii) One thick cloth satchel ;
- (ix) Foot-wear to prisoners working in prison farms and in open prisons.

6.17.16 Prisoners should be allowed to purchase foot-wear at their own cost from prison canteens.

6.17.17 Articles of prisoners' clothing, bedding and other equipment should be sterilized, disinfected or fumigated before issue and at regular intervals.

6.17.18 Each housing unit should have :

- (i) a shelf for each prisoner where he can keep his personal belongings, books, etc ;
- (ii) fixed mirrors ;
- (iii) adequate lighting facility for reading ;
- (iv) electric fans in places where such fans are a necessity ;
- (v) adequate number of water pots with taps ;
- (vi) mugs for drinking water.

6.17.19 All articles of prisoners bedding, clothing and other equipment should be inspected by the Superintendent at least once a week to ensure that proper standards are maintained.

LETTERS

6.18 Letters play an important role in maintaining continuity of contact between the prisoner and his family and the outside community. However, arrangements regarding receipt and despatch of letters of prisoners are far from satisfactory. There were general complaints that letters were neither delivered nor despatched in time. In fact, an efficient system of dealing with letters of prisoners has not been set up as yet. Our recommendations in this regard are as follows :

6.18.1 Each prison should have a section under the control and supervision of an experienced assistant superintendent to deal with all matters pertaining to the mail of inmates.

6.18.2 On initial admission or on admission on transfer from another prison, a printed card should be sent to the family of the prisoner. This card should contain information regarding the prisoner's full name, register number and summary of rules regarding interviews, letters and other facilities.

6.18.3 Whenever a prisoner is transferred from a prison intimation of such transfer should be sent to the family of the prisoner.

6.18.4 Spouse/family member/close relative of a prisoner should be telegraphically informed about the prisoner's serious illness, serious injury, removal to a hospital for medial treatment or for treatment of mental illness.

6.18.5 On admission each prisoner should be asked to give a list of persons with whom he wants to correspond.

6.18.6 There should be no limit on incoming letters for prisoners.

6.18.7 There should be no restriction on the number of letters prisoners may send at their own cost. However, at Government cost an undertrial should be allowed to write two letters per week whereas a convict should be allowed to write one letter per week.

6.18.8 Illiterate or semi-literate prisoners should be provided help in writing letters.

6.18.9 Guidelines for censorship of letters should be formulated so that censorship of letters is done on the basis of human considerations.

INTERVIEWS

6.19 One of the important and effective ingredients of the rehabilitative process is the maintenance of continuity of contact of the prisoner with the family and the community and interviews play an important role in this regard. During our visits to prisons we found that arrangements and facilities for interviews of prisoners were far from satisfactory. Properly constructed interview sheds and waiting rooms have been provided only at a few prisons. Generally prisoners are made to talk to their visitors in crowded rooms with barriers in between. Such barriers are usually made of grill, gratings or wire-mesh. The time allowed for interview is so short that neither the prisoners nor the visitors are able to properly convey their messages. The whole system of grant of interview is such as breeds corruption. The systems of interviews needs to be improved. Our recommendations in this regard are:

6.19.1 Convicts should be granted six interviews in a calendar month. The scale of interviews for undertrial prisoners has been recommended in Chapter XII on 'Undertrial prisoners and other Unconvicted Prisoners' of this Report.

6.19.2 Properly designed tables and benches should be provided in the interview rooms. There should be no barrier between the prisoners and the interviewers. This facility should be given to well behaved prisoners. In the case of dangerous prisoners and those involving risk of security, discipline and escape, measures should be taken to prevent smuggling and similar other activities.

6.19.3 The duration of an interview should at least be of one hour. To facilitate this, the time of grant of interviews should be from 9 A.M. to 5 P.M. Depending upon the work load of interviews in each prison, necessary staff should be sanctioned for this purpose. Interviews should also be granted to prisoners on Sundays and prison holidays.

6.19.4 A waiting room for visitors should be provided at each prison.

6.19.5 Family members, close relatives and close friends of a prisoner, who is seriously ill and is admitted in a hospital, should be allowed to visit the sick prisoner daily.

6.19.6 On receipt of information of the serious illness of spouse/family member/close relative, the prisoner should either be released on special leave or allowed to go to the ailing person's bed-side under escort.