

CHAPTER XXIX**WOMEN OFFENDERS**

19.1) *“In a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building in such manner as to prevent their seeing, or conversing or hold any intercourse with the male prisoners”.*

(Section 27(1) of J&K Prisons act, 1920 A.D.)

Postponement of Capital sentence on pregnant woman

19.2) *“If a woman sentenced to death is found to be pregnant, the Government shall order the execution of the sentence to be postponed and my, if it thinks fit, commute the sentence to imprisonment for life.”*

(Section 382 of CRPC 1933 A.D.)

19.3) Female prisoners shall be separated from male prisoners and un-convicted female prisoners kept apart from convicted criminal prisoners.

19.4) No female prisoner shall be liable as a punishment to any form of handcuffs or fetters.

19.5) When the number of adult female convicts, confined any any District Jail / Sub-Jail in excess of the accommodation available for such convicts in such jail, the number of such convicts in excess of such accommodation shall, without regard to the length of term of the sentence to be undergone by them, ordinarily be transferred to the Central Jail.

A female under-trial allowed to occupy a cell

19.6) A female under trial prisoner shall, with the permission of the Superintendent, have the choice of occupying a cell instead of the under-trial prisoner’s war: Provided that a cell is available and that arrangements can be made to place on duty a female Warder or a female Convicts functionary at all times, within hearing of the prisoner and that the keys of the cell are always ready at hand.

When a female prisoner is the only occupant of a ward

19.7) If there be but one female prisoner in the jail, arrangements shall b made for a female Warder to remain with her both by day and night. If she be a

eligible for transfer, the Superintendent should, if of opinion that the detention in that jail is inadvisable, take the orders of the Inspector General as to her transfer.

Children of female prisoners

19.8) A child under the age of six years, the offspring of a female prisoner, shall, if it has not been weaned or if it has been weaned and no friend or relative can be found to take charge of it, be admitted to jail with its mother.

19.9) A child born in jail may be permitted to remain with its mother upto the age of six years.

19.10) As soon as any child admitted or born in jail attains the age of six years female prisoner dies leaving a child under that age, the Superintendent shall communicate with the Magistrate of the District of which the mother is or was a resident, with a view to making the child over to the charge of a relative or friend or being placed in an orphanage or being entrusted to some respectable person to be brought up at the expense of Government, if necessary, until it attains an age to earn a livelihood.

19.11) any female prisoner may be allowed to retain her child with her until it is four or with the approval of the Superintendent even up to eight years of age if she so desires. The Superintendent may make arrangements for crèche, play schools for the children of woman prisoners in conjunction with any social welfare agencies or non-Governmental Organizations.

Condition under which male officer may enter female enclosure

19.12) a male officer of the jail may enter the enclosure occupied by females, only if he has a duty to attend to there and is accompanied by the female Warder into every part of the ward or enclosure he may have to go. Should it become necessary to enter the female enclosure at night, the Head Warder on duty shall call the Deputy Superintendent, and the female Warder these three officers together shall enter Warders acting as escorts to Visitors or officials shall remain outside the enclosure.

19.13) Female prisoners shall be searched only by a female Warder.

Females to remain in the female enclosure

19.4) No female prisoner shall, otherwise than under lawful authority, on any pretext, leave or be removed from the female enclosure of the jail.

Supply of food to and conservancy of the female enclosure

19.15) Cooked food shall be brought to the female enclosure by a Convict-Cook accompanied by a Warder and placed outside the enclosure gate from where it shall be taken inside by the female Warder or a female prisoner.

19.16) The menial duties shall, whenever possible be performed by the female prisoners and the refuse, & placed outside the enclosure, to be removed by male convicts. If there are no females of suitable caste for conservancy work, specially selected male Convict-Sweepers shall be taken into the enclosure in charge of a Warder. Convicts so admitted shall not be permitted to go out of the sight of the Warder or to hold any communication by work or gesture with the females.

Female prisoner not to be employed on grinding

19.17) Female convicts shall not be employed on grinding grains except as a punishment awarded by competent authority.

Keys of the female enclosure

19.18) The keys of the various locks in use in the female enclosure shall (other than the out lock of the main entrance), be kept in possession of the female Warder when she is present.

19.19) Before leaving the female enclosure, the female Warder shall lock all the prisoners into their sleeping wards or work-shops and having done so, shall lock the door of the main entrance and make the keys over to the Deputy Superintendent.

Note:- When the female Guard leaves the ward, the main entrance door shall be locked on the outside by double locks. The key of one of these will be handed over, with her other keys, by the female Warder to the Deputy Superintendent. The other keys will be retained by day in the custody of the Head Warder on duty and by night at the main gate.

CHAPTER XX

ADOLESCENT OFFENDERS

Guiding principles

20.1) *“Adolescent offenders should not be kept in institutions meant for adult offenders or for habitual offenders”.*

“Institutions for adolescent offenders should be so classified that diverse training programmes to suit each homogeneous group of offenders can be conveniently organised”.

(Section 399(1)(2) of Criminal Procedure Code, 1933 A.D.)

Special emphasis

20.2) Special emphasis should be given while training and treating adolescent offenders on factors such as individual study, careful planning of training and treatment programmes to suit the needs of each individual inmate, education, work and vocational training, recreational and cultural activities, discipline, case-work approach, group work activities, group guidance, individual guidance and counselling character training, personal influence of staff members, periodical review, release planning, pre-release preparation, aftercare on a comprehensive basis, follow-up study etc.

Reception centres/reception units

20.3) Adolescent offenders sentenced to period of imprisonment of six months and above should be collected at the reception centres / reception units.

20.4) Programmes in the reception centre / reception unit should consist of:-

- (i) admission – quarantine – orientation as per provisions of Chapter XLII, and
- (ii) Study of the offenders as per Chapter XLII and Part E.

Note:- Inmates admitted in the reception centres should be studied by a team of staff members consisting of Correctional Service, Sociologist, Psychologist, Social Case Worker, et. Where necessary, the inmates may be referred to a Psychiatrist. The duration of an inmate's stay in a reception centre or reception unit should normally be of two weeks.

(iii) initial classification should be made as per provisions of Chapter XVII.

20.5) After initial classification is over, the inmate should be transferred to suitable institution. The Superintendent in charge of the reception centre will only indicate the lines of training and treatment, the discretion as to how to implement the suggestions given by the reception central and also to make necessary modifications therein rests with the Superintendent in charge of the institution where the inmate has been transferred.

Annexe for adolescent offenders

20.6) Each Central / District Prison should have an annexe for adolescent offenders. Adolescent offenders sentenced to period of imprisonment upto three months should be kept in this annexe.

Training institutions

20.7) Adolescent offenders sentenced to more than three months, should be kept in training institutions. The gradation of custody should be medium or minimum. The programmed should be as shown in relevant paras.

Special Institutions

20.8) Adolescent offenders presenting discipline problems and habitual adolescent offenders should be kept in a special institution. Gradation of custody should be medium. Special emphasis should be laid on education, work, vocational training, individual guidance, character training and psychological and psychiatric study in suitable cases.

Note:- Segregation of such offenders in special institutions would lessen the discipline problems in other institutions. Concentrated attention to the improvement of difficult cases can also be given in such institutions.

20.9) Cases of adolescent offenders kept in special institutions should be reviewed at least once in three months. They should be transferred to suitable institutions on the basis of response shown by them.

Sub-Jails

20.10) Adolescent offenders sentenced up to seven days may be kept at the Sub-Jail. As far as possible, they should be kept in a segregated area.

Staff organization

20.11) The staff at the institution for adolescent offenders should consist of Superintendent, Deputy Superintendent, Assistant Superintendent, House Masters and Assistant House Masters, Teachers and Craft Instructors, Medical personnel, P.T. and games Instructors, Supervisors, Cooks, Barber, Plumber, Electrician and Sweepers.

Note:- Only Staff members having the capacity for re-educating adolescent and the required leadership to handle them be posted at these institutions.

House system

(20.12) There should be a House system for institutions for adolescent offenders. Each House should be under the control and supervision of a House Master. Normally each House should comprise not more than 40 inmates.

Note:- Suitable age groups be organized in the Houses. As far as possible each House should have mixed group.

20.13) The House staff should consist of House Master, Assistant House Master and Superintending House Masters. Assistant House Masters can be selected from Work and Craft Instructors or P.T. and Game Instructors.

20.14) Each House should elect three inmate leaders every quarter. These leaders should help the administration in matters like cleanliness, sanitation, distribution of food, organizing games, recreational and cultural activities et.

Note:- The system of leaders should aim at giving the inmate an opportunity to share responsibility:-

20.15) Each House should have a House Committee consisting of House staff members. This Committee should meet once a week. The functions of this Committee should be:-

- (i) to study each inmate individually and understand the various problems presented by him.
- (ii) to assist and advise the Superintendent and the Classification Committees in all matters pertaining to the inmates.
- (iii) to gauge inmates response to training and treatment,
- (iv) to extend help and guidance to inmates at the individual level,
- (v) to look after the inmate leaders with House problems like sanitation, hygiene, welfare, planning of recreational and cultural activities etc.

Admission and quarantine

20.16) Provisions of Chapter XLII should be applied.

Classification

20.17) Provisions of Chapter XVII should be applied.

Housing

20.18) Provisions of Chapter III should be applied.

Segregation

20.19) Provisions of Chapter XVII, should be applied. As far as possible, adolescent convicted for grave crimes involving moral turpitude, sexual offences, rape dacoity and the like should be segregated.

Facilities

20.20) Provisions of Pat (F) should be applied; however, smoking should not be allowed to adolescent offenders.

Education

20.21) Provisions of Chapter XXXV should be so applied that the education needs of adolescent offenders may be adequately met. Special emphasis should be laid on the following aspects of the education of adolescent offenders:-

- (i) physical and health education,
- (ii) social and moral education,
- (iii) literary education,
- (iv) vocational education, and
- (vi) arts and handicrafts education.

20.22) Necessary facilities for the overall educational development of adolescents should be provided in the institution. The educational programmes should be so designed that adolescent of various age groups and intelligence levels can derive benefit there from. For illiterate and educationally backward adolescent, special education classes should be organized.

20.21) Necessary opportunity for the self-education of the adolescent offenders should be provided into institution. Those who have the requisite capacity and desire to raise their educational level should encouraged to undertake further studies. They should be permitted to appear at examinations conducted by the State Board of Secondary Education or by the University or by recognized institutions.

Work and employment

20.24) Provisions of Chapter XXXVI should be applied.

20.25) Adolescent offenders should be taught such trades, craft and vocations as would be useful to them after release. Features that should specially be kept in view while organizing projects include spinning and weaving, carpet making, shawl making embroidery, needle work, paper machie, carpentry, smithy, tinsmithy, cottage industries, tailoring, foundry work, sheet metal work, leather work, soap making, printing book binding, brush and mat making, small-scale industries and agriculture and allied vocations.

20.26) Adolescent offenders may be employed by rotation as assistants in institutional essential services, like sanitation and hygiene, culinary, laundry and plumbing services. Some of these services should be utilized for imparting vocational training.

Vocational training

20.27) Provisions of Chapter XXXVII shall apply.

20.28) Special emphasis should be laid on the vocational training of adolescent offenders. The feature that should be kept in view while organizing vocational and handcraft training projects included wood turning, wood carving, fret work, brick laying and masonry, plastering, painting and decorating, concrete moulding, electric work, plumbing, furniture making, pottery, cane and bamboo work, raffle work, fibre work plastics, lacquer work, paper craft, paper machie, metal craft inlay works, marquetry and veneers, toy making artificial flower making, horn-craft, painting and drawing, stencilling, clay modelling, lamp-shade making, drug making handmade paper etc.,

Cultural activities:

20.29) Special emphasis should be given on the cultural development of adolescent offenders. Programmes of recreational and cultural activities should be so planned as to suit the needs of various groups of adolescent offenders. Features that should be

kept in view, while organizing recreational and cultural programmes, include indoor games outdoor games, gymnastics, athletics, films, music community and folk dances, dramatics, arts and crafts reading. Debating, sports-meets and prize distribution, participation in local tournaments and matches, excursions and camps, scouting, pets.

20.31) Adolescent being the age of growth and development, proper attention should be given to balanced diet as well as recreational facilities.

Discipline

20.32) Provisions of Chapter XLIX should be applied, special emphasis should be given on the discipline of adolescent offenders.

Note:- As far as possible minor offences should be dealt with by withdrawal of concessions. When this approach fails, recourse should be taken to other forms of punishment.

Review

20.33) Review of cases of adolescent offenders should be governed as per provisions of Chapter LV.

Transfer

20.34) Provisions of Chapter L should be applied for the transfer of adolescent offenders also.

20.35) Such inmates as have been found unsuitable to be continued in the Borstal institution may be transferred to institutions for adolescent habitual offenders;

20.36) adolescent habitual offenders in whose case the Superintendent thinks that Borstal training will be more fitting should be transferred to Borstal institution.

20.37) While in transit, adolescent offenders should, as far as possible, be separated from adult offenders.

Pre-release and release

20.38) Provisions of chapter LV should be applied for pre-release preparations and release of adolescent offenders.

(20.39) At least a fortnight before an adolescent offender is due for release, a letter shall be sent to his relatives / friends intimating the date of his release and asking them to be present at the prison to receive him after release. As far as possible, adolescent offender may be sent to his home or aftercare agency under the care of a Prison Guard or a Supervisor.

Aftercare and rehabilitation

20.40) Aftercare facilities should be executed as per provisions of Chapter XXXVIII Special attention should be given to the aspects of aftercare of adolescent offenders.

Programme and daily routine

20.41) Provisions of Chapter XLIV should apply

20.42) Programme and daily routine should consist of the following:-

(i) Early morning:

Toilet
Meditation / prayers
Preparation for opening
Unlocking according to conditions of visibility
Counting
Search
Leaving the barrack or cell

(ii) Morning:

Toilet
Prayers in group
P.T. drill, individual and group exercises, light Yogasanas, etc.
Morning light meal
Educational classes
Vocational training
Bath
Meal and rest

(iii) Afternoon:

Work
Toilet
Outdoor games
Gymnastics

(iv) Early evening:

Wash
 Evening meal
 Social education

(v) Evening:

Newspapers – books – radio
 Spinning handicrafts, group music dramatics educational films and other cultural activities according to weekly programme for each group
 Group prayers
 Preparation for loc-up
 Searching and counting
 Lock-up
 Meditation/prayers
 To bed

Note:- Agricultural work should preferably be done in the morning. Inmates working in agriculture should attend the educational and vocational training classes in the afternoon. Details of work and education schedule should be fixed by each institution in accordance with available facilities.

20.43) Programme on Sundays and holidays will include the following:-

(vi) Early morning:

Toilet
 Meditation / prayers
 Preparation for opening
 Unlocking according to conditions of visibility
 Counting
 Search
 Leaving the barrack or cell

(vii) Morning:

Toilet Prayers in group
 Morning light meal
 General cleaning of barracks, cells, open spaces
 Cleaning of equipment
 Washing clothes
 Bath
 Inspection of equipment
 Meal and rest

- (viii) Afternoon:**
 - Educational films, Group
 - Music, folk dances
 - Dramatics
 - Newspapers – book – radio
 - Toilet
 - Games

- (ix) Early evening:**
 - Wash, Evening meal
 - Preparation for lock-up
 - Search
 - Counting
 - Lock-up at dusk

- (x) Evening:**
 - Newspapers – books – radio, etc.
 - Group prayers
 - Meditation / prayers
 - To bed

Note:- Subject to the approval of the Inspector General, the Superintendent is authorised to make necessary changes in the daily routine programme to suit the needs of the institution.

CHAPTER XXI

LIFE CONVICTS

General

21.1) *Government may appoint places to which persons under sentence of imprisonment for life shall be sent and the Government or some officer authorised in his behalf by the Government shall order the removal of such persons to the places so appointed.*

(See Section 32 of J&K Prisoners Act, 1920 A.D.)

21.2) *For the purpose of execution, a sentence of “imprisonment for life” shall mean a sentence for 20 years.*

(See Section 3 (Explanation) of J&K Prisoners Act, 1920 A.D.)

21.3) The provisions of this chapter should apply to life convicts and also to convicts with sentence of more than 14 years.

21.4) Prisoners sentenced to undergo life imprisonment should be admitted in Central Prisons. During admission – quarantine period, a comprehensive social and psychological study of the inmate should be undertaken, Based on such study, the training and treatment should be planned. The treatment programme should generally consist or diversified education, work, vocational training, recreational and cultural activities, training in self-discipline and training in responsible community living. Such a programme should be balanced according to the needs of each individual inmates.

21.5) While allotting work or planning vocational training, the possibility of imparting multiple skills according to the abilities of each inmate should be kept in view.

Note:- Acquisition of skills will help the inmates in maintaining interest in prison work and his future prospects for employment will improve.

21.6) Education programmes should be so planned as to suit the individual needs of the inmates. These programmes should be diversified so that the inmate’s cultural level will be raised. Emphasis should be laid on the education of a life convict.

21.7) The inmate should be encouraged to take an active and continued interest in his family. The Superintendent may, in his discretion, extend more facilities like interviews and letter to a life convict.

21.8) The case of every life convict shall be reviewed once in every six months or more often, if necessary. Through such review, the institutional programme can be adjusted to the inmate's problems and needs.

21.9) On completion of five years of actual imprisonment, the classification Committee shall examine in detail the case of every life convict in respect of the following:-

- (i) Progress achieved in education vocational training, discipline, cultural activities, etc.,
- (ii) Possibility of imparting further education and vocational skills,
- (iii) Whether the inmates has reached peak points of institutional impacts,
- (iv) Measures to maintain the progress made by the inmate in various fields,
- (v) Measures to maintain the inmate's hopes and interest in life,
- (vi) Measures to save him from getting institutionalized,
- (vii) Protection from getting soaked in criminal culture, and
- (viii) Extending necessary opportunities and facilities for social reduction and overall cultural development,

Transferred to a Semi-open Institution

21.10) If the Classification Committee is of opinion that inmate is fit for being transferred to a Semi-open Institution, a report in the prescribed form should be submitted to the Inspector General. On receipt of sanction from the Inspector General, the inmates should be oriented to his new responsibilities in a semi-open environment.

21.11) On admission at a Semi-open Institution, the inmate should be kept in the reception yard for at least a period of one month. During this period, he should be acquainted with the requirement of living and standard behaviour under semi-open conditions.

21.12) A programme suitable for the institution, should be organized at the Semi-open Institution. The inmate should be given necessary facilities to further improve his educational and cultural level and vocational skills. Skilled work should be given to him so that he further improves his work, habits and skills.

Transfer to Open Institution

21.13) On completion of two years' stay in a Semi-open Institution, the Classification Committee should study the inmate's case to find out whether he is fit for being transferred to Open Institution. If the Classification Committee is convinced that the inmate is fit for treatment in the open, a report in the prescribed form, should be sent to the Inspector General for transferring the inmate to an Open Institution. On receipt of sanction from the Inspector General, the inmate should be oriented for his life in the Open Institution. He should be prepared for his new responsibilities. He should be given to understand that failure to satisfactorily behave in the Open Institution will entail his retransfer to Semi-Open or Closed Institution.

21.14) On admission at the Open Institution, the inmate should be kept in the reception yard of the institution for at least a period of three months. During this period he should be further educated to the requirements of living under open conditions and especially for a regime based on self-discipline.

21.15) A programme suitable for the inmate's needs should be organized at the open institution. The inmate should be given necessary facilities to further improve his educational and cultural level and vocational skills. Suitable work should be given to him so that he further improves his work-habits and skills.

Evaluation of progress

21.16) During the inmate's stay in the Semi-open or Open Institution, his case should be reviewed once in every three months. Such review should aim at finding out his response, individual problems and needs. Based on such review, the inmates should be given guidance and counselling for his adjustments and also for his rehabilitation. Personal attention should be devoted to the problems of each individual inmate.

Facilities

21.17) During the inmate's stay in the Semi-open or Open Institution, he should be encouraged to maintain his ties with his family. The Superintendent should give all reasonable facilities by way of grant of more frequent interview with family members, the relatives and friends and more liberal facilities for writing letter, et. Such facilities should aim at bringing the inmate closer to his family group.

21.18) During the inmate's stay in the semi-open or open institution, he may be allowed to live with his family members for one week once every six months.

Discipline

21.9) If it is found that the inmate is not responding to the regime in the Semi-open or Open Institution, he should be cautioned about the consequences. Great stress shall be laid on a high standard of self-discipline and also on determined effort for self improvement.

Transfer to Open Colony

21.20) On completion of two years' stay at the Open Institution, the Classification Committee should be examine the inmate's case for being transferred to an Open Colony. If the Classification Committed is satisfied that the inmate is fit for being transferred to an Open Colony, a report in the prescribed form, along with the inmate's case file should be forwarded to the Inspector General of receipt of sanction from the Inspector General, the inmate's should be transferred to the Open Colony.

Review

21.21) The case of lifer convict may be placed before the Review Board for being considered as per provisions of Chapter LIV.

21.22) Shortly before the completion of 14 years of imprisonment, inclusive of remission, the case of every life convict shall be reviewed by the Review Board and their recommendation with that of the Inspector General regarding his release shall be submitted to Government together with the following documents:-

- (i) Nominal roll,
- (ii) Opinion of District Superintendent of Police and District Magistrate,
- (iii) Review file,
- (iv) Summary sheet,
- (v) Case file,
- (vi) Information regarding co-accused, if any.

21.23) The Government may order the release of the life convict or indicate when his case is to be sent to Government again.

21.24) If no date for further submission has been specified by the Government, the prisoner's case should be periodically reviewed and submitted to Government again when the Review Board considers it necessary to recommend his case for release, or after every year.

Release

21.25) The inmate's release plan should be prepared sufficiently in advance of his actual date of his release. This plan should cover all the post-release requirements of the inmate.

21.26) the inmate should be prepared for his post-release adjustment. Special attention should be devoted to the after-care and follow-up study of a released life convict.

21.27) Irrespective of the remissions granted to a life convict he shall be replaced only after the State Government has issued specific orders about his release.

Habitual offender with life imprisonment

21.28) The provisions of this Chapter and of Chapter XXII shall apply to habitual offenders with sentence of imprisonment for life.

CHAPTER XXII
HABITUAL OFFENDERS

Definitions

22.1) “Habitual offender means a person:-

“(1) *who during any continuous period of five years, whether before or after the commencement of this Act, has been convicted and sentenced to imprisonment more than twice on account of the following offences:-*

(i) *All offences mentioned in Chapter XII of the Ranbir Penal Code, (Act, XII of 1989)*

(ii) *All offences punishable under the following section of the Ranbir Penal Code (Act, XII of 1989):-*

302	303	304	307	326	328	329	363	364	365
366	366-A	366-B	367	368	369	376	377	379	380
381	382	384	385	386	387	392	393	394	395
396	397	398	399	400	402	409	411	412	413
414	420	449	450	454	455	456	457	458	459
and	460.								

(iii) *An offence under section 3 of the Public Gambling act, 1920 A.D. (XVIII of 1920 A.D)*

(iv) *Any offence under Essential Supplies (Temporary Powers) Ordinance No: 1 of 2003 and orders issued there-under committed on different occasions and not constituting parts of same transaction; and*

“(2) *who has, as a result of such convictions, suffered imprisonments at least for a total period of twelve months”.*

[Section 1 of J&K Habitual Offenders Control and Reform Act, 1956]

Classification

Classification of a convicted person as a habitual criminal shall be made convicting court. In case the convicting court omits to do so, the Superintendent Jail shall on the basis of information at his disposal send a

report about the prisoner's social background, circumstances of the crime, known previous convictions, if any etc., to the Inspector General. The Superintendent Jail shall also approach the Police authorities to forward all available information from police records to the Inspector General. On receipt of the information, necessary orders regarding the classification of the prisoner shall be issued".

[Section 2(i) of J&K Habitual Offenders Control and Report Act, 1956]

22.3) *"The Superintendent Jail shall refer to the Inspector General all cases, where he is doubtful about the classification of the prisoners".*

[Section 2(ii) of J&K Habitual Offenders Control and Reform Act, 1956]

Registration of habitual offenders

22.4) *The Government may direct the district Magistrate to make or cause to be made a register of habitual offenders within his district.*

[See Section 3 of J&K Habitual Offenders Control and Reform Act, 1956]

Restriction on registration

22.5) *No person shall be registered if more than six months have elapsed since the expiration of the sentence of imprisonment relating to his last conviction.*

[See Section 4 of J&K Habitual Offenders Control and Reform Act, 1956]

Power to take finger impressions, photographs and footprints at any time

22.6) The District Magistrate or any officer appointed by him in this behalf may at any time order the finger impressions, photographs and foot-prints of any registered person to be taken.

Study of habitual offenders

22.7) While studying the background of habitual offenders, the following facts should be specially kept in view:-

- (i) Repetition in crimes of gain against property,
- (ii) Repetition in crimes of aggression against person,
- (iii) Involvement in vices like alcoholism, drug addiction, gambling, etc.,

- (iv) Involvement in repetition of organized crime; traffic in drugs, narcotics liquor and women; brothels; commercialized and organized gambling; illicit distillation, distribution and sale of liquor or of prohibited tincture; organised under-world vulgar marketing; swindling; groupsterism, etc.’
- (v) Repetition of anti-social activities connected with occupations, professions and service, black marketing, corruption, illegal trade practices, etc.
- (vi) Repetition and continuation in crimes owing to situational and environmental pressures.
- (vii) Repetition of crime owing to mental and emotional factors (criminal psychopathy, criminal psychoneurotic symptom, sex offences etc.)
- (viii) Symptoms of professional criminality.
- (ix) Specialization in certain criminal activities.
- (x) Connection with agencies of moral risk like gambling dens, drinking places, brothels shops discipline in stolen property etc.
- (xi) Extent of repetition of continuity in crimes,
- (xii) Age on initial and subsequent arrest,
- (xiii) Gap in convictions,
- (xiv) Previous stay in a correctional institution,
- (xv) The manner and mode in which the offences are committed,
- (xvi) Offender’s criminal connections
- (xvii) Offender’s attitude towards crime,
- (xviii) Place of criminal activity in the total employment and the scheme of life of the offender.

22.8) On a comprehensive study of each individual habitual offenders, the Classification Committee should decide as to which of the following categories the habitual offenders should be place in :-

- (i) Habitual offenders who have still not gone deep in to a life of vice and criminality and who show some hopes of being re-aligned to a socially adjusted way of life, and
- (ii) Habitual offenders who show signs of deep involvement in criminal activity and who have become hardened and persistent offenders;

Settlement and schools

22.9) “The Government may establish Industrial, Agricultural or Reformatory settlements and schools and may order to be place in such settlement or school any registered prisoner”.

[Section 14 of J&K Habitual Offenders Control & Reform Act, 1956].

22.10) “*No registered person shall be kept in settlement or school for a period exceeding five years*”.

[Section 14 of J&K Habitual Offenders Control & Reform Act, 1956].

22.11) The Government may authorise any officer to discharge any registered person or transfer him to some other settlement or school in the State.

Programme

22.12) While designing programmes at the institutions emphasis should be laid on the following factors:-

- (i) Comprehensive and continuous study of each individual offender,
- (ii) Careful planning of welfare and training and treatment programme to suit the needs of each individual inmates,
- (iii) Special emphasis should be laid on social and moral education and on character training,
- (iv) Special emphasis should be laid on attitudes towards work, concentration in work, steadiness in work etc.,
- (v) Special emphasis should be given on raising cultural level and on healthy recreational activities,
- (vi) Proper use of leisure time through arts, crafts, hobbies etc.,
- (vii) Weaning away from associates, friends and companions in crime,
- (viii) Demoralized and depraved persons, agencies of moral risks, etc.,
- (ix) Emphasis on self discipline,
- (x) Individual guidance and counselling,
- (xi) Group work activities,
- (xii) Saving from getting institutionalized,

- (xiii) Personal attention to the problems of each individual inmates,
- (xiv) Personal influence of staff members,
- (xv) Realignment with family,
- (xvi) Psychological and psychotherapeutics treatment where necessary possible,
- (xvii) A thorough release plan,
- (xviii) Special attention to pre-release preparation,
- (xix) Intensive aftercare, and
- (xx) Follow-up study.

Response to treatment

22.13) Inmates who do not respond to the training and treatment in these institutions should be transferred to institutions meant for hardened and persistent habitual offenders, provided the Classification Committee is of the opinion that such transfer is in the interest of the inmates as well as of the institution.

Stage system

22.14) On admission, all habitual offenders will be admitted to stage I which comprises the following:-

- (i) *Accommodation* – cellular accommodation at night, if such accommodation is available,
- (ii) *Work-work* in small groups, if the institution has got facilities for organizing such work,
- (iii) *Canteen facilities* – only smokes, tea and essential toilet articles should be issued.
- (iv) *Remission* – remission should not be granted.

22.15) At the end of six months, the case of each habitual offenders shall be reviewed by the Classification Committee. If the offender has maintained good institutional discipline and has made efforts for self improvement, he should be promoted to stage-II which will comprise:-

- (i) *Accommodation* – cellular accommodation at night, if such accommodation is available,

- (ii) Work – work in association and in larger groups,
- (iii) Remission – two days per month,
- (iv) Canteen facilities – more liberal than in stage-I

22.16) At the end of one year, the case of each habitual offender shall be reviewed by the Classification Committee again. If the offender has maintained good institutional discipline and has made efforts for self improvement, he should be promoted to stage-III which consists of:-

- (i) *Accommodation* – in dormitories,
- (ii) *Work* – work in association,
- (iii) *Remission* – three days per month,
- (iv) *Canteen facilities* – all canteen facilities.

22.17) Identification badges should be issued to indicate each state

22.18) The remission for prisoners promoted to stages II and III shall be counted from the date of promotion, subject to provisions laid in Chapter LI.

Demotion

22.19) Failure to keep up efforts at self improvement or on marked deterioration in character or habits or on violation of prison discipline will result in demotion from stage II or III to stage I.

Review

22.20) The case of each habitual offender shall be examined by the Classification Committee once in six months to evaluate his progress. After such examination changes in the training and treatment should be effected, if necessary.

CHAPTER XXII**SIMPLE IMPRISONMENT PRISONERS****Statutory provision**

23.1) The imprisonment of a criminal prisoner may be either rigorous, that is, with hard labour, or simple.

[See Section 53 of Ranbir Panel Code, 1932 A.D.]

23.2) Superintendent shall provide for employment (so long as they so desire) of prisoners sentenced to simple imprisonment, but no such prisoners shall be punished for neglect of work except by such alteration in the scale of his diet as may be prescribed by rule.

[See Section 36 of the J&K Prisons Act 1920 A.D.]

Disciplinary restriction

23.3) Prisoners sentenced to simple imprisonment shall clean their own wards and wash their own clothes and shall keep their clothing and bedding neatly arranged and folded. They shall be supplied with the same blankets, bedding, pots and plates as labouring prisoners. They may be compelled to cook their own food or the food of other prisoners sentenced to simple imprisonment, provided they belong to a class accustomed in their own houses to perform such duties.

23.4) They shall not however, be compelled to perform menial duties for other, nor shall they be compelled to perform any duties of a degrading character.

23.5) They shall remain during the day in the part of the prison assigned to them and shall not wander about the prison, nor enter the labour yards or work-sheds.

Exercise

23.6) Prisoners sentenced to simple imprisonment may be compelled to take waling exercise for not more than an hour in the morning and an hour in the evening if the Medical Officer considers it advisable.

Hair cutting and clothing

23.7) Prisoners sentenced to simple imprisonment shall be permitted to retain their hair as they were having on admission and it shall not be cut closer than is necessary for the purposes of health and cleanliness. They shall be allowed to wear their own clothing which if not sufficient may be supplemented by prison clothing.

23.8) Military prisoners sentenced to simple imprisonment shall on no account be permitted to wear military uniform while in prison. If such a prisoner has no clothing in his possession other than uniform, he shall be provided at prison expense with the clothing provided for his class.

23.9) A simple imprisonment prisoner who elects to work and after some time if he expresses his desire to discontinue to work he will continue to be treated as a simple imprisonment prisoner.

23.10) A simple imprisonment prisoner shall be required to participate in all correctional and cultural activities of the prison, such as education, vocational training, moral instructions, games, entertainment etc, according to their needs and aptitudes, as determined by the authorities of the prison.

23.11) A simple imprisonment prisoner shall be allowed to have such books and periodicals of their own as were approved by the Superintendent, in addition to those available in the prison library.

23.12) A simple imprisonment prisoner shall be allowed canteen facilities at the discretion of the Superintendent.

Application of other rules

23.13) In other respects the rules contained in this Manual shall apply to prisoner of this class, but they should, as far as possible, be kept separate from other convicted prisoners.

CHAPTER XXIV

MILITARY PRISONERS

24.1) A military prisoner sentenced by Court Martial for violations pertaining to good order and discipline or other purely military offences, that is for acts not amounting to an offence under the ordinary criminal law, shall not be ordinarily admitted in the prisons. If such prisoners have to be admitted in prison, they shall be segregated from prisoners convicted for criminal offences.

Powers of Court Martial

24.2) “Any trial by a Court Martial under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of RPC and the Court Martial shall be deemed to be a Court within the meaning of sections 480 and 489 of the Code of Criminal Procedure 1898”.

[Section 152 of the Army Act, 1950]

Confirmation and revision

24.3) No finding or sentence of a general or summary General Court Martial shall be valid except so far as may be confirmed as provided by the Army Act, 1950.

[See Section 153 of Indian Army act, 1950]

Execution of sentence of Imprisonment

24.4) Whenever any sentence of imprisonment is passed under the Army Act by a Court Martial or whenever any sentence of death or transportation is commuted to imprisonment, the confirming officer or in case of summary Court Martial the Officer holding the Court, will direct either that the sentence shall be carried out by confinement in a military prison or that it shall be carried out by confinement in a civil prison.

[See Section 169 of the Army Act, 1950]

24.5) When a direction has been made under para 24.4 the Commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer incharge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

[See Section 169 of the Army Act, 1950]

24.6) In awarding a sentence of death, a Court Martial shall in its discretion, direct that offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

[See Section 166 of the Army Act, 1950].

Commencement of sentence of transportation or imprisonment

24.7) Whenever any person is sentenced by a Court Martial, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer.

[See Section 167 of the Army Act, 1950]

Remedy against order, fining or sentence of Court Martial

24.8) Any person who considers himself aggrieved by the order may present a petition to the Officer of the authority empowered to confirm any finings or sentence of such Court Martial may take such steps necessary to satisfy itself as to the correctness, legality of the order.

[Section 164 of the Army act, 1950]

24.9) Any person who considers himself aggrieved by a finding or sentence of any court Martial which has been confirmed, may present a petition to the Chief of the Army Staff or any prescribed officer superior in command to the one who confirmed such finding or other officer as the case may be, and he may pass such order thereon as it or he thinks fit.

[See Section 164 of the Army Act, 1950]

Annulment of proceedings

24.10) The Central Government, the Chief of the Army Staff or any prescribed officer may annul the proceedings of the Court Martial on the ground that they are illegal or unjust.

[See Section 165 of the Army Act, 1950]

Remission, pardons and suspensions

24.11) When any person subject to the Army Act has been convicted by a Court Martial of any offence, the Central Government or (the Chief of the Army Staff) or in the case

of a sentence which he could have confirmed or which did not require confirmation, the Officer commanding the Army corps, Division or independent Brigade in which such persons at the time of conviction was serving, or any other prescribed officer may:-

- (i) Either, with or without conditions which the person sentenced accepts, pardon the person or remit the whole any part of punishment or punishments awarded; or
- (ii) Mitigate the punishment awarded; or
- (iii) Commute such punishment for any less punishment or punishments mentioned in the Act: provided that a sentence of transportation shall not be commuted for sentence of imprisonment for a term exceeding the term of transportation awarded by the Court; or
- (iv) With or without condition which the person sentenced accepts, release the person on parole.

24.12) *Military prisoners sentenced to period of imprisonment not exceeding three months shall not be admitted in prisons.*

[See Army Act, 1950]

Transfer

24.13) All military prisoners sentenced by the Court Martial shall be transferred to the jails located in their native home districts.

24.14) *No special remission shall be granted to any military prisoner except the ordinary remission earned under relevant provisions of the Jail Manual.*

[See Dy. Secretary GOI, MHA letter No. 3/62/76-GPA-IV dated 15th Nov. 1976]

24.15) Prisoners (ex-military and others) convicted by Civil Courts of criminal jurisdiction shall be transferred to the State of their origin with the prior sanction of the Inspector General to enable them to be as near as possible to their homes so that they may have a more congenial atmosphere from the point of view of food, climate, interviews and visits or relatives and friends, associations, reformatory treatment etc. The transferring State will bear the cost of transfer and the State of their origin, the cost of their maintenance from the date on which they are received in the jails in the State of origin.

24.16) Ex-military prisoners convicted by Court Martial held outside India and repatriated to his country for custody shall be transferred, unless there are security (or other) reasons against such transfer, to jails in the State of their origin. The cost of their transfer from the post of landing in India to the State jail will be borne by the Defence Department. Escort shall be provided by the transferring State Government according to the procedure laid down in the Police Manual. The maintenance charges of the prisoners will be a charge on the State of their origin with effect from the actual date of transfer of that State.

24.17) Ex-military prisoners convicted by Court Martial in India shall be committed to jails in the State of their origin, escort being provided by the State Government according to the procedure laid down in the Police Manual. If escort is not readily available, the prisoners shall be committed to the nearest jail where they shall have been committed by the custody of such State Governments shall be met by those State Governments. The State of origin will be responsible for such charge only with effect from the date of their actual transfer, the transfer charges of such prisoners will, however, be borne by the Defence Department.

24.18) Short term ex-military prisoners convicted by Court Martial sentenced to 3 months or less excepting P.R.T prisoners shall not be transferred to the State of their origin.

24.19) P.R.T prisoners even though sentenced for less than 3 months shall be transferred, at any time not exceeding 2 months prior to their release, to a jail in or nearest to their home State, where their antecedents are known and where a close watch could be kept upon their movements after release than would otherwise be possible. The transferring State will bear the cost of transfer and the State of origin the cost of maintenance. The transfer of P.R.T prisoner sentenced to a longer term than 3 months will be governed by to his Home State, he may not be transferred until 2 months prior to release unless there are adequate reasons for his transfer earlier. The question of the unwillingness of PRT prisoners to this transfer 2 months before release need not be considered.

24.20) The residential and other particulars of the prisoners proposed to be transferred shall be verified by the Inspector General of the receiving State before accepting the transfer.

24.21) The criterion for determining the place of transfer shall not merely be the place of birth of the prisoner; other circumstances such as his domicile, the place where his relations live etc. shall also be taken into consideration. In the case of a prisoner who had ceased to have any link with the State of his birth and is domiciled in the State where he is imprisoned and/or where his relative might have also settled down, his transfer to the State of his birth shall be prejudicial to the essential object of such transfer.

24.22) Every military prisoner along with his guards shall be despatched in reserved railway compartment or special conveyance.

24.23) With the exception of expenditure incurred by the Police escort, all the expenses connected with the transfer of prisoners shall be borne by the despatching jail and railway warrant issued by Army authorities.

24.24) With the exceptions in Section 21 of the Army Act, 1950, every party of guards and prisoners when the number of prisoners (guard included) does not exceed five shall travel in ordinary carriages.

24.25) Prisoners and guards, shall be paid TA/DA as provided in the TA rules.

24.26) When for any reason prisoners are conveyed by mail train, the higher rates chargeable for journeys by such train must be paid.

24.27) The Police will pay for their tickets in cash, and pass for the balance of the tickets required shall be issued by the Superintendent.

24.28) An endeavour shall be made to transfer prisoners in such numbers at a time that the Jail Department may not be put to loss owing to vacant seats.

24.29) Where there is a night journey, double accommodation shall, if possible, be provided.
