

Chapter-4

Classification of Prisoners.

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CHAPTER – 4

Classification of Prisoners

4.1. Introduction:

One of the important aspects of prison administration is the population that authorities have to handle in the prisons. The justification of an administration rests primarily on its success in achieving its fundamental object, the fundamental object being to wean the offender away from doing wrong in future thereby making his return to society safe and useful. This will also prove to be helpful for the rehabilitation of prisoners after their release. In order to achieve these ends, the classification of prisoners is of utmost importance without which individualized treatment by which prisoners now seek to attain their basic objects is impossible.

In India, the question of the classification of prisoners was first prominently brought forward by the Jail Conference of 1877¹. The classification of prisoners is a statutory requirement under section 27 and 28 of the Prisons Act of 1894. It is a key to their efficient and purposeful administration. The Classification Committee recommended that following principles should be observed for the classification of prisoners:

- i. Men and women shall, as far as possible, be detained in separate institutions. In an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;
- ii. Untried prisoners shall be kept separate from convicted prisoners;
- iii. Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by the reason of criminal offence;
- iv. Young prisoners shall be kept separate from adults².

The classification of prisoners involves essentially the study of their deviant behaviour and causation with a view to starting appropriate correctional programmes in prisons. This requires very sound background in human psychology and behavioral sciences. Therefore, it is necessary that the experts in this field may be associated with the classification process. Ideally, classification should be handled by a committee with members drawn from prison administration/corrections and experts in behavioral/social

sciences³. However, with a view to start appropriate correctional programmes in prisons, the classification of prisoners shall not only help to protect the first offender and offenders involved in minor offences from adverse effect of association with hardened criminals but shall also facilitate in formulating specific programmes to facilitate their treatment for their social reformation and integration⁴.

Classification is a method of handling prisoners on the basis of the physical, intellectual, vocational, attitudinal and other characteristics embodied in each individual. It recognizes that the important element in prison management is the individual prisoner. If his incarceration is to benefit him and society as well, he must be handled in such a way that when he serves his term, he will come out as a better man physically, mentally and morally than when he entered. Classification implies, first, an intensive analysis of the offender and second, his placement in a work or school program suitable for the exercise of his talents to the end that himself and others concerned will profit from the program⁵.

One of the greatest advantages of classification is that it prevents the evil effects of contamination of prisoners having varying degrees of criminality. Classification would also enable the prison administration to provide different types of treatment to different categories of prisoners according to their individual capacities and needs for reform and rehabilitation. The principle objectives of classification as laid down in the Model Prison Manual are:

- i. to study the offender as an individual; to understand sequence of his criminal behaviour and the problems presented by him;
- ii. to segregate inmates into homogenous groups for the purpose of treatment;
- iii. to organize an over-all, balanced, integrated and individualized training and treatment programme;
- iv. to review the inmates' response to institutional regime and treatment and to adjust the programme to suit his needs;
- v. to coordinate and integrate all institutional activities and to develop a system of constructive institutional discipline; to maintain a uniform continuity in various phases of institutional management;
- vi. to ensure maximum utilization of resources and treatment facilities available in the institution as well as in the community⁶.

Scientific classification is a beneficent development in the correctional work with prisoners. It is an elaborate process of studying each prisoner and subsequently

developing an individualizing programme concerning his custodial care, medical, psychiatric, psychological and correctional social work treatment and educational, vocational training and work programme, etc. appropriate to his needs. Classification permits a planned approach to the problems of prisoner as a whole and it follows up the actual progress of the prisoner at suitable intervals. Classification enables excellent coordination between prison and after-care by organizing the prisoners' programmes in such a way as to affect his release at a point when he has derived the maximum benefit from his stay in prison⁷.

Scientific classification of prisoners has been accepted as an essential element of modern prison system and there is no reason why it should not be adopted in the administration of jails in India. It is often argued that scientific classification of prisoners involves a huge expenditure as it requires a large number of professional personnel in prison administration. However, according to American Correctional Association's Handbook⁸, "a classification programme is not entirely dependent upon a full staff of professional personnel, well-trained management people and extensive treatment facilities, although the programme can be more effective to the extent that these conditions exist. The correctional system with little by way of professional staff or facilities, if it still attempts to apply the principles of classification, may achieve thereby a more effective use of its resources in individualized treatment".

Classification decisions are often based on the institution's needs rather than on those of the inmates⁹. Further certain programs may remain limited, even though the demand for them is great. Thus, inmates may find that the few places in, for example, a computer course, are filled and that there is a long waiting list. Prisoners often become angered and frustrated by the classification process and the limited availability of programs.

The existing jail codes of various States and Union Territories provide for the segregation of prisoners more or less on the basis of their age, sex, criminal antecedents, nature and terms of imprisonment, physical and mental conditions, etc. These minimum statutory requirements, though not enough for the purpose of scientific classification, are more in breach than in observance. As the latest All India Committee on Jail Reforms (1980-83), during its visit to various States and Union Territories observed, "under-trial prisoners, prisoners sentenced to short, medium and long terms of imprisonment, prisoners sentenced to simple imprisonment, habitual offenders, lifers, hardened and dangerous prisoners, children, young offenders, women offenders, civil prisoners,

prisoners sentenced by court martial, criminal and non-criminal lunatics, detenues under the National Security Act, persons detained under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, smugglers, etc. were all kept in the same institutions and the arrangements for their segregation even in different wards were not effective¹⁰.

There is yet another basis for the classification of prisoners i.e. classification on the basis of security. The security measures to which prisoners are subject should be the minimum necessity to achieve their secure custody. There are at-least three valid reasons for their approval:

- i. Staffs are likely to be more aware of those prisoners who do require a high level of security if their members are restricted;
- ii. The lower the level of security, the more humane the treatment is likely to be;
- iii. The third reason is a pragmatic one; security is expensive and the higher the level, the greater is the cost; it makes financial sense not to have prisoners in a higher security category than is necessary¹¹.

On first admission, each prisoner should be assessed to determine the risk that prisoner might present to the community if he or she were to escape. It will also determine the likelihood that the person will try to escape either on his or her own or with external assistance. The prisoner should then be held in security conditions appropriate to that level of risks. The security classification should be kept under constant review throughout the length of the sentence¹². In recent years, a number of jurisdictions have invested significant resources in the development of maximum security facilities. It is always inappropriate to allocate prisoners to these facilities simply on the basis that the recommendation needs to be occupied.

Security level for individual prisoners should be reviewed at regular intervals as the sentence is served. It is generally the case that a person becomes less of a security risk as his or her sentence progresses. The prospect of progressing to a lower security category during the sentence can also act as an incentive for good behavior. At the same time, there are various aspects of physical security which include prison buildings, the strength of the walls of these buildings, the bars on the windows, the doors of the accommodation units, the firmness of walls and fences, watch-towers and so on. It also includes the provision of physical aids to security such as locks, cameras, alarm systems, radios and so on¹³.

In designing the physical aspects of security, a balance needs to be found between the best ways of achieving the required security level with the need to respect the dignity of the individual. Physical aids to security such as cameras, monitoring and alarm systems by definition intrude on personal privacy. In making decisions about where they have to be placed, there needs to be a balance between legitimate security requirements and the obligation to respect individual privacy. The safety of individual prisoners must be borne in mind. The design of many prisons leads to the creation of places in which prisoners may congregate unobserved. This may be a source of potential threat both to the security of the prison and to the safety of the individual prisoners¹⁴. Prison administrations should develop procedures for identifying and managing these areas.

Usually, the Superintendent of the Institution serves as the Chairman of the Classification Committee. Its members include the Deputy Superintendent, the Officers in-charge of Education, Vocational Training and Work Programme, the Medical Officer and the Correctional Social Worker. Experts like psychiatrists and psychologists, etc. should be associated with the Classification Committee even if they are appointed only on a part-time basis. The prison officer in-charge of the Classification Unit should serve as the Secretary of the Committee. The introduction of scientific classification will require the development of a sound system of the compilation of relevant information about prisoners by the police, probation officers, courts, employers and local authorities¹⁵.

Prisoners are classified on the basis of age, physical and mental health, length of sentence, degree of criminality and character. Factors like sequence of prisoners' criminal behavior, his social processing, his sophistication in crime, possibilities of his functioning as a contamination of discipline or escape risk, requirements of gradations in custody, educational and vocational needs, urban-rural background and possibilities of his social adjustment, his prospects after release and his rehabilitation needs are taken into consideration¹⁶. At the same time, a history sheet of the prisoners is also maintained.

Usually prisoners can be classified into a number of categories based on the factors as discussed above. However, the following categories of prisoners can be mentioned here: habitual and casuals, convicts, under-trials, detenues, women prisoners.

4.2. Habitual and Casual Prisoners:

A habitual offender is a person who has repeatedly committed the same crime. The nature, scope and type of habitual offender statutes vary but generally they apply

when a person has been convicted a minimum of twice for various crimes. Habitual offender laws may provide for mandatory sentencing in which a minimum sentence must be imposed, or may allow judicial discretion in allowing the court to determine a proper sentence¹⁷. The practice of imposing longer prison sentences on repeated offenders than on first time offenders who commit the same crime is not an innovation¹⁸.

Habitual offenders repeat the same or related crimes and are generally deemed beyond rehabilitation because they demonstrate no interest in ceasing their activities. Once someone is considered a habitual offender, special actions may be taken by the government in the interests of protecting society. Common example of a habitual offender is when a person racks up a large number of driving offences in a short period of time. A person may be repeatedly ticketed for speeding or receive drunk-driving convictions in a row. These persons, called habitual offenders, may have their licenses to drive revoked under the argument that they clearly pose a risk to public safety and the best way to prevent further incidents is to take away driving privileges. Other types of habitual offenders include those who are involved in robberies, vandalism or other activities.

Prisoners convicted in the same case may be transferred to different prisons, if in the opinion of the Superintendent, it is absolutely essential to do so in the interests of discipline and maintenance of order in the prison. The Superintendents may apply to the Inspector General for the transfer of a habitual prisoners from the prison on the ground that the prisoner is familiar with the locality and surroundings because of previous imprisonment there or otherwise. However, the Inspector General shall order transfer of such prisoners only in special cases treating every such application on its merit and after satisfying himself that sufficient reason for transferring the prisoner exist. At the same time, adolescents (in the age group of 18-21 years) admitted to a prison shall be transferred to a Borstal School or other suitable institutions for young offenders, under the orders of the Inspector General. They shall be transferred back to the prisons of their origin after they attain the age of 21 years if his sentence of imprisonment is not complete. Special arrangements must be made for them in such cases to continue getting the Borstal treatment, till their normal release¹⁹. It is to be maintained here that “the problem of habitual offenders is not so acute in India as in other western countries”²⁰.

There is yet another type of offenders which is exactly opposite to that of the habitual offenders called casual offenders. While habitual offenders include those who repeatedly commit the same crime, but casual prisoner is the one who is the first offender

and who lapses into crime not because he has a criminal mentality but on account of his surroundings, physical disability or mental deficiency. Over 90 percent of our prison populations include casual prisoners²¹.

As per the Model Prison Manual, 2003, casual prisoners need to be kept separate from the habitual prisoners. The Model Prison Manual²² recommended that no casual prisoner shall ordinarily be required to perform land labour during the first month after his/her admission to prison as opposed to the habitual prisoners who are required to perform the severest form of land labour, which he is capable of performing however with due regard to his/her health. The casual offenders are transferred from one institution to other open institution depending upon the type of crime committed by them. The Classification Committee should thoroughly screen the case of each casual prisoner on the following points before recommending them for transfer to an open institution:

- i. Physical fitness and mental health required for living in semi-open or open institution;
- ii. Behavior and conduct in the prison;
- iii. Progress in work, vocational training and education;
- iv. Group adjustability;
- v. Character and self-discipline;
- vi. Extent of institutional impact (whether the inmate has reached peak points of training and treatment);
- vii. Whether the inmate can be further helped in the institution; whether he will benefit by training and treatment in semi-open or open institutions;
- viii. Whether the inmate is getting institutionalized; and
- ix. Sense of responsibility²³.

In-fact, it is the duty of every prison official to separate the habitual and casual offenders so as to prevent the casuals from repeating crimes and thereby be included in habitual offenders.

4.3. Convicted Prisoners:

Imprisonment as a mode of dealing with offenders has been in vogue since time immemorial. Our country shares a universally held view that the sentence of imprisonment would be justifiable only if it ultimately leads to the protection of society against crime. But those who are imprisoned spend half of their lifetime in prisons awaiting their trial and they lose hope till they are sentenced by the court and are finally

called as convicted prisoners. Basically, a convicted person is the one who is found guilty of a crime and sentenced by a court.

The Model Prison Manual²⁴ has defined convict as: “Any prisoner under sentence of a court exercising criminal jurisdiction or court martial and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure of 1973 and the Prisoners’ Act of 1900”.

In India, there are various categories of jails with varied inmate capacities. The distribution of these jails in all the States and Union Territories of India is shown in table 2.3. As per the Prison Statistics India Report²⁵, there are a total of 1,20,115 convicted prisoners distributed among various categories of jails in different States and Union Territories in our country as shown in table 4.1.

Table 4.1

Table showing State/UT wise distribution of convicted prisoners in different jails across the country

S. No.	State / UT	Number of Convicted Prisoners in								
		Central Jail	District Jail	Sub-Jail	Women Jail	Borstal school	Open Jail	Special Jail	Others	Total
1.	Andhra Pradesh	4612	298	107	195	13	334	0	0	5559
2.	Arunachal Pradesh*	-	-	-	-	-	-	-	-	-
3.	Assam	1629	1777	6	0	0	38	130	0	3580
4.	Bihar	4201	1795	194	76	0	0	0	0	6266
5.	Chattisgarh	4346	118	61	0	0	0	0	0	4525
6.	Goa	124	0	23	0	0	0	0	0	147
7.	Gujarat	4262	601	114	0	0	68	24	0	5069
8.	Haryana	1159	3740	0	0	77	0	0	0	4976
9.	Himachal Pradesh	634	158	21	0	13	49	-	-	857
10.	Jammu and Kashmir	92	181	19	0	0	0	0	0	292
11.	Jharkhand	4843	953	67	0	2	0	0	0	5865
12.	Karnataka	3669	66	31	0	0	32	8	24	3830
13.	Kerela	2484	68	29	24	0	291	20	0	2916
14.	Madhya Pradesh	12841	1980	1492	0	0	0	0	0	16313
15.	Maharashtra	7809	681	4	26	0	624	35	24	9203
16.	Manipur	56	0	0	0	0	0	0	0	56

17.	Meghalaya	0	72	0	0	0	0	0	0	72
18.	Mizoram	159	147	0	0	0	0	0	0	306
19.	Nagaland	71	10	20	0	0	0	0	0	101
20.	Orissa	0	3323	526	14	0	59	329	94	4345
21.	Punjab	3548	955	247	69	85	55	0	0	4959
22.	Rajasthan	4692	550	14	170	13	431	0	0	5870
23.	Sikkim	82	0	0	0	0	0	0	0	82
24.	Tamil Nadu	6126	0	0	189	7	59	1	0	6382
25.	Tripura	533	162	97	21	0	0	0	0	813
26.	Uttar Pradesh	12336	6754	130	155	0	0	318	0	19693
27.	Uttarkhand	0	785	43	0	0	220	0	0	1048
28.	West Bengal	3799	305	68	40	0	86	47	0	4345
29.	A & N Islands	0	87	1	0	0	0	0	0	88
30.	Chandigarh	146	0	0	0	0	0	0	0	146
31.	D & N Haveli	0	0	0	0	0	0	0	0	0
32.	Daman and Diu	0	0	10	0	0	0	0	0	10
33.	Delhi	2072	133	0	63	0	0	0	0	2268
34.	Lakshadweep	0	0	3	0	0	0	0	0	3
35.	Pondicherry	85	23	3	0	0	0	0	0	112
Total		86410	25723	3330	1042	210	2346	912	142	120115

Source: Data extracted from Prison Statistics India Report – 2007.

** Prisons do not exist in this State.*

The above table 4.1 shows that from among the total of 1,20,115 convicted prisoners in different jails of various States and Union Territories across the country, Uttar Pradesh has the highest number of convicted prisoners (19,693) in its different jails followed by Madhya Pradesh (16,313) with second highest convicted prisoners; Maharashtra (9,203); Tamil Nadu (6,382); Bihar (6,266); Rajasthan (5,870); Jharkhand (5,865); Andhra Pradesh (5,559); Gujarat (5,069); Haryana (4,976); Punjab (4,959); Chattisgarh (4,525); Orissa and West Bengal (4,345 each); Karnataka (3,830); Assam (3,580); Kerela (2,916); Delhi (2,268); Uttarkhand (1,048); Himachal Pradesh (875); Tripura (813); Mizoram (306); Jammu and Kashmir (292); Goa (147); Chandigarh (146); Pondicherry (112); Nagaland (101); A & N Islands (88); Sikkim (82); Meghalaya (72); Manipur (56); Daman and Diu (10); Lakshadweep (3); D & N Haveli has no convicted prisoner in its jails. It is to be maintained here that there are no convicted prisoners in Arunachal Pradesh since there does not exist any Jails in this State as is evident from table 2.3.

This huge number of convicted prisoners includes both the males and females. Male convicts constitute 96.62 percent of the total convicted prisoners in the country while as female convict prisoners constitute 3.37 percent of the total convicted prisoners in India. The sex-wise distribution of convicted prisoners in different States and Union Territories in our country is given in table in 4.2.

Table 4.2

Table showing sex-wise distribution of convicted prisoners in different States/UTs and their percentage.

S. No.	States/Union Territories	No. of Convicted Prisoners		Total M + F	%age of Male Population	%age of Female Population
		Male	Female			
1.	Andhra Pradesh	5327	232	5559	95.82	4.17
2.	Arunachal Pradesh*	-	-	-	-	-
3.	Assam	3480	100	3580	97.2	2.79
4.	Bihar	6130	136	6266	97.82	2.17
5.	Chattisgarh	4317	208	4525	95.4	4.59
6.	Goa	145	2	147	98.63	1.36
7.	Gujarat	4876	193	5069	96.19	3.8
8.	Haryana	4775	201	4976	95.96	4.03
9.	Himachal Pradesh	838	37	875	95.77	4.22
10.	Jammu and Kashmir	285	7	292	97.6	2.39
11.	Jharkhand	5681	184	5865	96.86	3.13
12.	Karnataka	3660	170	3830	95.56	4.43
13.	Kerala	2858	58	2916	98.01	1.98
14.	Madhya Pradesh	15940	373	16313	97.71	2.2
15.	Maharashtra	8692	511	9203	94.44	5.55
16.	Manipur	56	0	56	100	0
17.	Meghalaya	70	2	72	97.2	2.7
18.	Mizoram	284	22	306	92.8	7.18
19.	Nagaland	95	6	101	94.05	5.94
20.	Orissa	4242	103	4345	97.62	2.37
21.	Punjab	4745	214	4959	95.68	4.31
22.	Rajasthan	5678	192	5870	96.72	3.27
23.	Sikkim	81	1	82	98.78	1.2
24.	Tamil Nadu	6190	192	6382	96.99	3.0
25.	Tripura	790	23	813	97.17	2.82
26.	Uttar Pradesh	19114	579	19693	97.05	2.94
27.	Uttarkhand	1020	28	1048	97.32	2.67

28.	West Bengal	4134	211	4345	95.14	4.85
29.	A & N Islands	87	1	88	98.86	1.13
30.	Chandigarh	141	5	146	96.57	3.42
31.	D & N Haweli	0	0	0	0	0.0
32.	Daman and Diu	8	2	10	80.0	20.0
33.	Delhi	2205	63	2268	97.22	2.77
34.	Lakshadweep	3	0	3	100.0	0.0
35.	Pondicherry	110	2	112	98.21	1.78
Total		116057	4058	120115	96.62	3.37

Source: Data extracted from Prison Statistics India Report – 2007

** Prisons do not exist in this State*

The above table 4.2 shows that the total percentage of male convicts in India is 96.62, which is much higher than that of the total percentage of female convicts in India which is 3.37. If we look at variation in the percentage of male and female convicts, we see that most of the States/UTs have more than 90 percent male conviction rate while less than 3 percent is the female conviction rate. Manipur and Lakshadweep are the only among 35 States/UTs having 100 percent male conviction rate. Taking the State of Jammu and Kashmir into consideration, we see from the above table 4.2 that there are a total of 292 convicted prisoners in Jammu and Kashmir jails. From among the 292 convicts, males score 285 in number constituting 97.6 percent of the total convicted inmates in the State. So far as female convicts are concerned, they score only 7 in number thereby constituting 2.39 percent of the total convicted inmates in the State. From the above table, we also see that the State of Manipur is having no female convict prisoner in its Jails compared to male convict prisoners who score 56 in number and thereby constitute 100 percent of the total convicted prisoners. Similarly the Union Territory of Lakshadweep has the 100 percentage of male convicted prisoners since there are no female convicts and the males score 3 in number. At the same time, as is evident from the table 4.2, there are not at all any male or female convicts in Dadra and Nagar Haveli. The State of Arunachal Pradesh has no Jails at all in its jurisdiction and this is the reason for having no convicted prisoner or any other prisoner in the State.

However, if we take into consideration the different types of jails in Jammu and Kashmir, we see from table 2.3 that there are a total of 12 jails of different types in the State of Jammu and Kashmir. As such there are two Central Jails, seven District Jails and three Sub-Jails in the State. Each of these jails is accommodating different types of

prisoners in it such as convicts, under-trials, detenues, women prisoners, etc. So far as the convicted prisoners in the state are concerned, they contribute a good quantity to the total number of prisoners in the state. These convicted prisoners are distributed among different types of jails in the state. Table 4.3 shows the year-wise distribution of convicts in different jails of the Jammu and Kashmir State from 1998 to 2007.

Table 4.3

Table showing year-wise distribution of convict prisoners in different jails in Jammu and Kashmir from 1998-2007

S. No.	Year	No. of Convicted Prisoners in			Total Convicts
		Central Jail	District Jail	Sub-Jail	
1.	1998	103	27	1	131
2.	1999	76	17	2	95
3.	2000	12	118	0	130
4.	2001	29	87	7	123
5.	2002	40	83	6	129
6.	2003	49	114	5	168
7.	2004	72	118	10	200
8.	2005	88	126	7	221
9.	2006	82	174	8	264
10.	2007	92	181	19	292

Source: Data Extracted from Prison Statistics India Reports 1998 to 2007

The above table 4.3 shows that on an average, the district jails are holding more convicted prisoners for all the ten years from 1998 to 2007. At the same time, we see that there is a gradual increase in the number of convicted prisoners from one year to another. We also see that the year 1998 is having 131 convicted prisoners; year 1999 shows a decrease in the total number of convicted prisoners compared to that of the year 1998. While in 1998, there were a total of 131 convicted prisoners as mentioned above, but in 1999, the convicted prisoners score only 95 showing a decrease by 36; in 2000, there is an increase from 95 in 1999 to 130 in 2000; year 2001 again shows a slight decrease from 130 in 2000 to 123. But there is a continuous increase in the number of convicted prisoners from 2002 to 2007. While in 2001, the convicted prisoner score 123 in number, the year 2002 shows the number of convicted prisoners as 129. Similarly years 2003, 2004, 2005, 2006 and 2007 have the number of convicted prisoners scoring 168, 200, 221, 264 and 292 respectively.

However, looking at jail-wise distribution of convicted prisoners in the jails of Jammu and Kashmir State, in all the ten years from 1998 to 2007, we see that in the year 1998, from among the total of 131 convicted prisoners, there were 103 in Central Jails, 27 in District Jails and only 1 in Sub-Jails; in 1999, a total of 95 convicted prisoners were there in all the three types of jails with Central Jails holding 76, District Jails holding 17 and Sub-Jails holding only 2; in the year 2000, there were 12 convicted prisoners in Central Jails, 118 in District Jails but there was no convicted prisoner in the Sub-Jails, however, in the two types of jails, the convicted prisoners score a total of 130; in 2001, from among a total of 123 convicted prisoners, Central Jails hold 29, District Jails hold 87 and Sub-Jails hold 7; the year 2002 is having a total of 129 convicted prisoners among which there are 40 in Central Jails, 83 in District jails and only 6 in Sub-Jails; in 2003, there were 49, 114 and 5 for Central Jails, District Jails and Sub-Jails respectively scoring a total of 168 convicted prisoners; the year 2004 shows that from among the total of 200 convicted prisoners, there were 72, 118 and 10 convicted prisoners for Central Jails, District Jails and Sub-Jails respectively; in 2005, there were 88, 126 and 7 convicted prisoners in Central Jails, District Jails and Sub-Jails respectively constituting a total of 221; year 2006 indicates that there were 82, 174 and 8 convicted prisoners for Central Jails, District Jails and Sub-Jails respectively constituting a total of 264; and in the year 2007, from among a total of 292 convicted prisoners there were 92 in Central Jails, 181 in District Jails and 19 in Sub-Jails. The per-year variation in the total number of convicted prisoners is shown in figure 4.1.

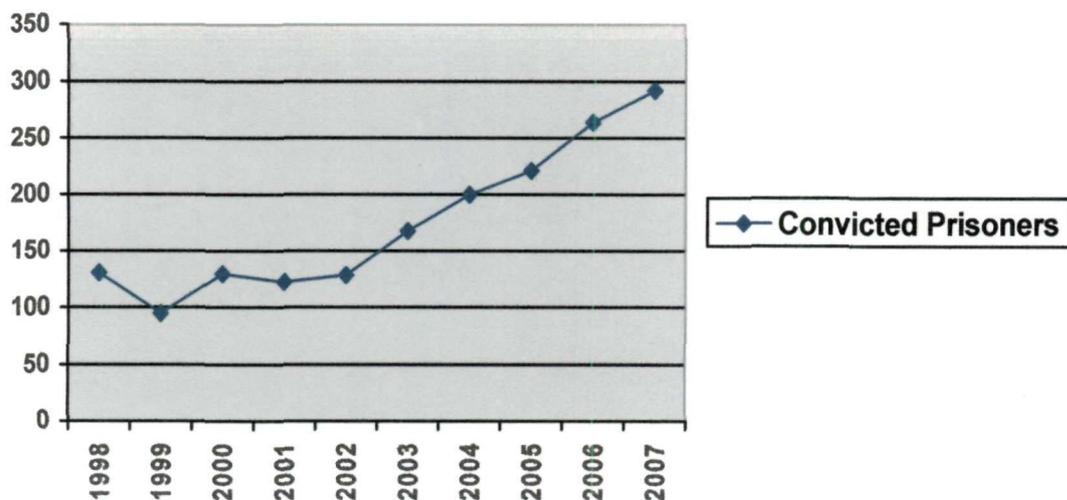


Fig. 4.1: Figure showing year-wise variation in the total number of convicted prisoners in Jammu and Kashmir.

However, if we take into consideration the sex-factor of the convicted prisoners in the jails of Jammu and Kashmir, we see that there are more male convicted prisoners than the female ones as is evident from table 4.4.

Table 4.4

Table showing yearly sex-wise distribution of convicted prisoners in Jammu and Kashmir from 1998 to 2007

S. No.	Year	No. of Convicted Prisoners	
		Male	Female
1.	1998	131	0
2.	1999	94	1
3.	2000	127	3
4.	2001	118	5
5.	2002	126	3
6.	2003	167	1
7.	2004	195	5
8.	2005	211	10
9.	2006	255	9
10.	2007	285	7

Source: Data extracted from Prison Statistics India Reports 1998-2007

The above table 4.4 shows that in all the ten years from 1998 to 2007, majority of the convicted prisoners comprise male prisoners while as females contribute a little to the total number of convicted prisoners. Table shows that in the year 1998, there were 131 male convicted prisoners but there was not any female convicted prisoner; in 1999, there were 94 male convicts and only 1 female convict; in the year 2000, male convicted prisoners score 127 in number while as females only 3; in 2001, there were a total of 118 male convicted prisoners while as only 5 female convicted prisoners; in 2002, there were 126 male and 3 female convicted prisoners; the year 2003 shows 167 male and only 1 female convicted prisoner; in 2004, there were 195 male convicted prisoners and only 5 female convicts; in 2005, male convicted prisoners constitute 211 while females 10 only, in 2006, there were a total of 255 male convicts in Jammu and Kashmir jails while there

were only 9 female convicts there; in 2007, there were 285 male convicts and only 7 female convicts. On the sum, table 4.4 indicates that there is a continuous increase in the number of male convicted prisoners except in the year 1999 which shows a decline in the number of male convicted prisoners. However, in the year 2000, as shown in table 4.4, there was again an increase in the number of male convicted prisoners. So far as female convicted prisoners are concerned, their number is floating between 1 and 10.

4.4. Under-Trial Prisoners:

Right from the introduction of modern prison system, under-trial prisoners are kept in prisons in our country. If the statistics of the under-trial prisoners in our country is scanned, we will find that at the end of 2007, there were 2,50,727 UTP languishing in different jails of our country. This huge number of UTP is the result of various factors, the main factor being delay in trials as discussed in Chapter 2. As mentioned in the Report of the Working Group Committee²⁶ that the Criminal Procedure Bill, 1970 contains a number of provisions which will help to reduce the under-trial population in prisons. It has also been suggested by the Draft National Policy on Prisons²⁷ that provisions shall be made for the timely production of the under-trial prisoners before the court(s) to facilitate speedy disposal of their cases. Production of UTP through video-conferencing facility shall be encouraged to expedite trial processes.

However, if we take a look on the statistical records of under-trial prisoners in various categories of Jails in different States and Union Territories of our country, we see that the UTP score very high in number, which is evident from table 4.5.

Table 4.5

Table showing State/UT-wise distribution of UTP in different types of jails in India

S. No.	State / UT	Number of Under-trial Prisoners in								Total
		Central Jail	District Jail	Sub-Jail	Women Jail	Borstal school	Open Jail	Special Jail	Others	
1.	Andhra Pradesh	3586	2276	3415	168	0	0	0	0	9445
2.	Arunachal Pradesh*	-	-	-	-	-	-	-	-	-
3.	Assam	2392	2543	49	0	0	0	106	0	5090
4.	Bihar	7000	22322	3962	32	0	0	0	0	33316
5.	Chattisgarh	3229	1573	1097	0	0	0	0	0	5899
6.	Goa	18	0	76	0	0	0	0	125	219
7.	Gujarat	1761	2723	1236	0	0	0	166	0	5886
8.	Haryana	1535	6259	224	0	99	0	0	0	8117

9.	Himachal Pradesh	147	137	276	0	0	0	0	0	560
10.	Jammu and Kashmir	525	1126	81	0	0	0	0	0	1732
11.	Jharkhand	2800	8287	946	0	30	0	0	0	12063
12.	Karnataka	5115	1709	2059	0	0	0	163	0	9046
13.	Kerela	824	713	1687	35	0	0	528	0	3787
14.	Madhya Pradesh	4657	4205	7438	0	0	0	0	0	16300
15.	Maharashtra	9505	6572	130	193	0	0	137	0	16537
16.	Manipur	252	0	0	0	0	0	0	0	252
17.	Meghalaya	0	557	0	0	0	0	0	0	557
18.	Mizoram	346	289	0	0	0	0	0	0	635
19.	Nagaland	123	138	133	0	0	0	0	0	394
20.	Orissa	0	4206	5599	14	0	0	1011	190	11020
21.	Punjab	7691	1732	1183	145	230	0	0	0	10981
22.	Rajasthan	3283	3145	2265	72	0	0	0	0	8765
23.	Sikkim	95	49	0	0	0	0	0	0	144
24.	Tamil Nadu	6236	444	1956	606	131	0	169	0	9542
25.	Tripura	137	62	296	8	0	0	0	0	503
26.	Uttar Pradesh	2399	51034	559	0	0	0	0	0	53992
27.	Uttarkhand	0	897	764	0	0	0	0	0	1661
28.	West Bengal	6235	3951	2986	11	0	0	778	0	13961
29.	A & N Islands	0	314	11	0	0	0	0	0	325
30.	Chandigarh	355	0	0	0	0	0	0	0	355
31.	D & N Haveli	0	0	28	0	0	0	0	0	28
32.	Daman and Diu	0	0	56	0	0	0	0	0	56
33.	Delhi	7429	1463	0	422	0	0	0	0	9314
34.	Lakshadweep	0	0	11	0	0	0	0	0	11
35.	Pondicherry	196	26	12	0	0	0	0	0	234
Total		77871	128752	38535	1706	490	0	3058	315	250727

Source: Data extracted from Prison Statistics India Report – 2007.

* Prisons do not exist in this State.

The above table 4.5 shows that most of the UTP are confined in Central Jails, District Jails and Sub-Jails followed by Special Jails, Women Jails, Borstal Schools and Other Jail Types. However, there is no UTP in any of the Open Jails throughout the country. We also see that there are 77,871 UTP in all the Central Jails in our country; the District Jails are holding a large number of UTP i.e. 1,28,752, among other types of prisons in the country; Sub-Jails hold 38,535 UTP throughout the country. So far as Women Jails are concerned, they hold 1,706 UTP; Borstal Schools have UTP scoring

490, Special Jails have 3,058 UTP, Other Jails have 315 UTP in number. The under-trial prisoners in all the Jails constitute a total of 2,50,727 in the country.

At the same time, if we look at the State/UT-wise distribution of UTP from table 4.5, we find that Uttar Pradesh has the highest number of under-trial prisoners (53,992), followed by Bihar (33,316), Maharashtra (16,537), Madhya Pradesh (16,300), West Bengal (13,961), Jharkhand (12,063), Orissa (11,020), Punjab (10,981), Tamil Nadu (9,542), Andhra Pradesh (9,445), Union Territory of Delhi (9,314), Karnataka (9,046), Rajasthan (8,765), Haryana (8,117), Chattisgarh (5,899), Gujarat (5,886), Assam (5,090), Kerela (3,787), Jammu and Kashmir (1,732), Uttarkhand (1,661), Mizoram (635), Himachal Pradesh (560), Meghalaya (557), Tripura (503), Nagaland (394), Union Territory of Chandigarh (355), Andaman and Nicobar Islands (325), Manipur (252), Pondicherry (234), Goa (219), Sikkim (144), Daman and Diu, D and N Haveli and Lakshadweep Islands have 56, 28 and 11 under-trial prisoners respectively. Arunachal Pradesh is the only state who does not have even a single UTP, the reason being that there are no prisons in this state as is evident from table 2.3.

The jails in the State of Jammu and Kashmir are also holding under-trial prisoners. The Jammu and Kashmir Jail Manual²⁸ has suggested that: “under-trial criminal prisoners shall be kept apart from convicted criminal prisoners”. When an under-trial prisoner is convicted, the officer in-charge of the under-trial prisoner should hand over all the records of the prisoner to the in-charge of the admission of convicted prisoners. On conviction, an under-trial prisoner should be transferred to the yard meant for newly admitted convicts²⁹.

If we take into consideration the population of under-trial prisoners in different jails of Jammu and Kashmir, we see that District Jails are holding more under-trial prisoners. Table 4.6 gives year-wise account of under-trial prisoners in different jails in the State of Jammu and Kashmir.

Table 4.6
Table showing year-wise distribution of UTP in different jails of
Jammu and Kashmir

S. No.	Year	Number of Under-trial Prisoners in			Total Under-trial Prisoners
		Central Jail	District Jail	Sub-Jail	
1.	1998	551	412	124	1087
2.	1999	665	422	102	1189
3.	2000	230	717	65	1012

4.	2001	338	699	68	1105
5.	2002	398	761	70	1229
6.	2003	371	896	63	1330
7.	2004	466	856	65	1387
8.	2005	527	939	73	1539
9.	2006	521	1040	73	1634
10.	2007	525	1126	81	1732

Source: Data extracted from Prison Statistics India Reports: 1998-2007

The above table 4.6 shows that the total number of under-trial prisoners shows a gradual increase from the year 2000. Although the year 1999 also shows an increase in the number of under-trial prisoners from 1,087 in 1998 to 1,189 in 1999, however, there is a decrease in the year 2000 which shows a total of 1,012 under-trial prisoners in different types of jails in Jammu and Kashmir. From the year 2000 onwards, there is a continuous yearly increase in the number of under-trial prisoners which is probably the result of delay in trials. While the year 2000 shows a total of 1,012 under-trial prisoners, year 2001 shows 1,105; in the year 2002, there were 1,229 under-trial prisoners; in 2003, there were 1,330; for the years 2004, 2005, 2006 and 2007, the under-trial prisoners score 1,387, 1,539, 1,634 and 1,732 respectively in number. Table 4.6 also shows that there are more under trial prisoners in District Jails of Jammu and Kashmir than in other types of Jails except for a few years.

At the same time, if we take into consideration the jail-wise distribution of UTP, we find that in 1998, there were 551 under-trial prisoners in Central Jails of Jammu and Kashmir, 412 in District Jails and 124 in Sub-Jails constituting a total of 1,087; in 1999, there were 665 UTP in Central Jails, 422 in District Jails and 102 in Sub-Jails constituting a total of 1,189; in the year 2000, Central Jails were having 230 UTP, District Jails 717 and Sub-Jails 65 constituting a total of 1,012 UTP; in 2001, there were 338 UTP in Central Jails, 699 in District Jails and 68 in Sub-Jails scoring a total of 1,105 UTP; in 2002, Central jails were having 398 UTP, District Jails having 761 and Sub-Jails having 70 scoring a total of 1,229 UTP; in the year 2003, there were a total of 1,330 UTP distributed in J&K jails with Central Jails having 371, District Jails having 896 and Sub-Jails having 63 under-trial prisoners; in 2004, there were a total of 1,387 UTP with 466 in Central Jails, 856 in District Jails and 65 in Sub-Jails; In 2005, there were 527 UTP in Central Jails, 939 in District jails and 73 in Sub-Jails constituting a total of 1,539 under-trial prisoners; in the year 2006, Central Jails were having 521 UTP, District Jails 1,040

and 73 were there in Sub-Jails scoring a total of 1,634 under-trial prisoners; and in 2007, against a total of 1,732 under-trial prisoners, there were 525 in Central Jails, 1,126 in District Jails and 81 in Sub-jails. Thus we see that the UTP were mostly languishing in District Jails in all the ten years than in Central Jails or Sub-Jails. The year-wise variation in the number of under-trial prisoners in the jails of Jammu and Kashmir is shown in figure 4.2.

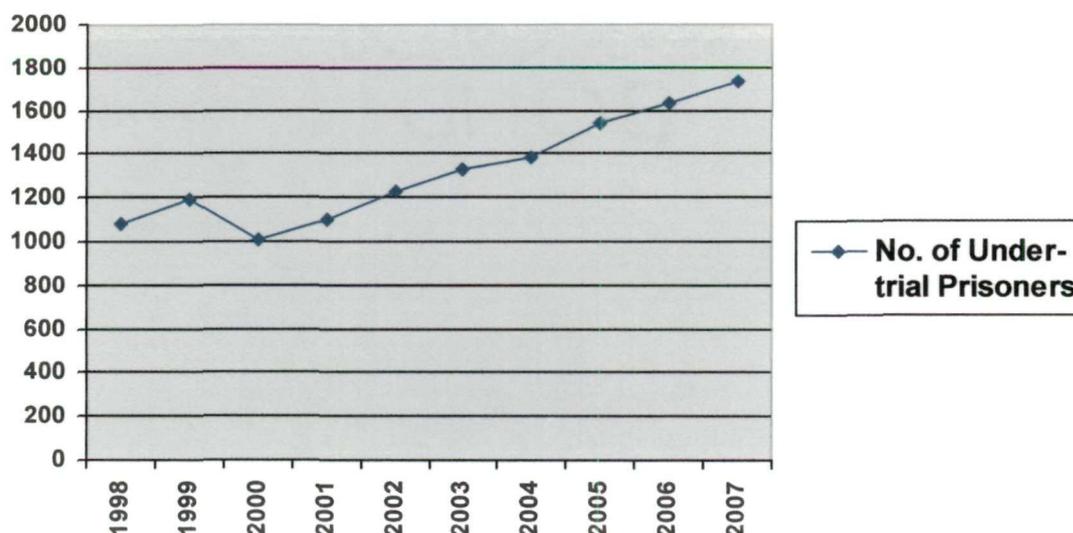


Figure 4.2: Figure showing year-wise variation in the number of UTP in various Jails of Jammu and Kashmir.

If we take into consideration the sex factor of the under-trial prisoners, we find that there are more male under-trial prisoners in the jails of Jammu and Kashmir than the female under-trial prisoners. This is evident from table 4.7.

Table 4.7

Table showing yearly sex-wise distribution of Under-trial Prisoners in the Jails of Jammu and Kashmir

S. No.	Year	No. of Under-trial Prisoners		Total number of under-trial prisoners
		Male	Female	
1.	1998	1069	18	1087
2.	1999	1166	23	1189
3.	2000	973	39	1012
4.	2001	1072	33	1105
5.	2002	1183	46	1229

6.	2003	1266	64	1330
7.	2004	1334	53	1387
8.	2005	1482	57	1539
9.	2006	1585	49	1634
10.	2007	1660	72	1732

Source: Data extracted from Prison Statistics India Reports 1998 - 2007

The above table 4.7 shows that in all the years from 1998 – 2007, there are more male under-trial prisoners than the females. In 1998, there were 1,069 male under-trial prisoners and only 18 female under-trial prisoners against a total of 1,087; in the year 1999, against a total of 1,189, there were 1,166 male under-trial prisoners and only 23 female under-trial prisoners; against a total of 1,012 UTP in the year 2000, there were 973 males and only 39 female under-trial prisoners; in 2001, 1,072 males and 33 females constitute a total of 1,105 under-trial prisoners; in 2002, males and females were 1,183 and 46 respectively against a total of 1,229 under-trial prisoners; in 2003, 1,266 males and 64 females constituted a total of 1,330 under-trial prisoners; in 2004, there were 1,334 male under-trial prisoners and 53 female under-trial prisoners scoring a total of 1,387; in 2005 against a total of 1,539 under-trial prisoners, there were 1,482 male under-trial prisoners and only 57 female under-trial prisoners; in 2006, there were 1,585 and 49 male and female under-trial prisoners respectively constituting a total of 1,634 UTP; in the year 2007, there were 1,660 male under-trial prisoners and only 72 female under-trial prisoners against a total of 1,732 in the whole the State of Jammu and Kashmir. Thus it is evident from the table that in each of these years, there were more male under-trial prisoners than the female ones.

4.5. Detenue Prisoners:

Detenue means any person ordered to be detained and committed to a place of detention by any authority. Detenues are those persons who are involved in terrorist and other militancy related activities. A detenue is not an ordinary gun wielding militant but an ideal log of the out-lawed out-fit indulged in the activities of preaching the cult of violence and polluting the minds of youths of impressionable age. The actions and activities of a detenue can be of wider and deeper ramifications to destabilize the lawfully established government and threatening the security of the state. Thus for these reasons, these detenue prisoners are considered as hardcore criminals. The ground on which a detenue is regarded as a hardcore criminal is that if he belongs to any anti-state

or anti-national organization the aims and objectives of which are to create terror amongst the people in general and youth in particular by resorting to acts of violence in order to achieve their goal³⁰.

These types of prisoners are lodged in separate enclosures demarcated as high security enclosures within the existing prisons. Detenues are also called as high security prisoners and so they are segregated from the rest of the prison population including convicts and under-trials. The Jammu and Kashmir Jail Manual³¹ has suggested that there are certain restrictions on the Detenues. It maintained that a detinue shall:

- i. reside in accommodation allotted to him by the Superintendent;
- ii. not stray beyond the limits of the place of detention;
- iii. abide by the instructions issued from time to time for his comfort, safety and health or for his discipline, orderly conduct and control;
- iv. attend roll-call, answer to his name in person at such times and places within the place of detention as may be appointed by the superintendent;
- v. not do anything willfully with the object of affecting his bodily welfare;
- vi. conform to the standards of cleanliness and dress laid down by the Superintendent;
- vii. not have in possession any coin, currency note or negotiable instruments, any weapon, stick, razor other than a safety razor, piece of iron or any other article;
- viii. not exchange or sell any of his kit-equipments, clothes, furniture or other possessions;
- ix. not refuse to take the diet fixed by the Superintendent; and
- x. not receive any article from a person other than the Superintendent or an officer employed in the place of detention who is authorized by the Superintendent to handover articles to him.

A detinue who contravenes any of the provisions mentioned above, upon enquiry, if the Superintendent is satisfied that a detinue is guilty of breach of discipline; he may award the detinue, one or more of the following punishments:

- i. Confinement in a cell for a period not exceeding fourteen days;
- ii. Reduction or alternation of diet for a period not exceeding fourteen days;
- iii. Cancellation or reduction of the concession of receiving funds from outside for a period not exceeding two months;

- iv. Cancellation or reduction, for a period not exceeding two months, of the privileges of writing and receiving letters or of newspapers, periodicals and books; and
- v. Cancellation of the privileges of wearing his own clothes³².

Turning to the prisons in different States and Union Territories in our country, there are some States and Union Territories having detenues in their jails and some who have no detinue in it, which is evident from the table 4.8. From the table 4.8, we also see that there are more male detenues in Jails throughout the country than the female detenues.

Table: 4.8
Table showing State/UT-wise and Sex-wise distribution
of detenues in India

S. No.	States/Union Territories	No. of Detenue Prisoners		Total M + F
		Male	Female	
1.	Andhra Pradesh	21	0	21
2.	Arunachal Pradesh*	-	-	-
3.	Assam	30	5	35
4.	Bihar	24	0	24
5.	Chattisgarh	0	0	0
6.	Goa	0	0	0
7.	Gujarat	712	175	887
8.	Haryana	0	0	0
9.	Himachal Pradesh	0	0	0
10.	Jammu and Kashmir	272	3	275
11.	Jharkhand	6	0	6
12.	Karnataka	10	0	10
13.	Kerala	32	0	32
14.	Madhya Pradesh	34	0	34
15.	Maharashtra	151	1	152
16.	Manipur	132	4	136
17.	Meghalaya	36	0	36
18.	Mizoram	0	0	0
19.	Nagaland	6	0	6
20.	Orissa	3	0	3
21.	Punjab	16	0	16
22.	Rajasthan	26	0	26

23.	Sikkim	0	0	0
24.	Tamil Nadu	638	29	667
25.	Tripura	1	0	1
26.	Uttar Pradesh	2244	53	2297
27.	Uttarkhand	0	0	0
28.	West Bengal	0	0	0
29.	A & N Islands	0	0	0
30.	Chandigarh	0	0	0
31.	D & N Haweli	0	0	0
32.	Daman and Diu	0	0	0
33.	Delhi	23	0	23
34.	Lakshadweep	0	0	0
35.	Pondicherry	0	0	0
Total		4417	270	4687

Source: Data extracted fro Prison Statistics India Report - 2007

** Jails do not exist in this State.*

The above table 4.8 shows that there are more male detenues confined in jails across the country than the female detenues who score least in number. Table shows that the State of Uttar Pradesh has the highest number of detenues (2,297) in its jails followed by Gujarat (887), Tamil Nadu (667), Jammu and Kashmir (275), Meghalaya (36), Assam (35), Madhya Pradesh (34), Kerela (32), Rajasthan (26), Bihar (24), Delhi (23), Andhra Pradesh (21), Punjab (16), Karnataka (10), Jharkhand and Nagaland (6 each), Tripura (1), while rest of the States/UTs do not have any detenuer prisoners in their jails. It is to be noted here, as mentioned earlier also, that in Arunachal Pradesh, since there is not at all any jail in the State, so none of the types of prisoners are housed there in that State.

Turning to the State of Jammu and Kashmir where there is an up-rise in the militancy related incidents, a good number of detenues are lodged in jails. According to Jammu and Kashmir Jail Manual³³ “detenues may be divided into special Class A, Class B and Class C, according to their official rank, stature in life, public importance, education, reputation, status in society and the standard of living to which they were accustomed immediately before their detention. A special class detenuer shall be entitled to such amenities, privileges and concessions as the Government may specify”. At the same time, it is the duty of the Government to decide in which class a detenuer is to be placed. However, if the Government does not specify the class for a detenuer in which he is to be placed, then in such a condition, the detenuer is deemed to be placed in Class ‘C’.

It is also suggested that detenues may be kept in single rooms or association barracks, separate from ordinary prisoners. The Superintendent shall always have the power to confine any particular detinue separately if he considers it desirable to do so on the grounds of health or for administration or other reasons³⁴.

If we take into consideration the population of detinue prisoners in the jails of Jammu and Kashmir, we will find that the detenues make a good contribution to the total prison population of the State. This is evident from table 4.9, which shows the year-wise population of detinue prisoners in the State.

Table 4.9

Table showing year-wise population of detinue prisoners in Jammu and Kashmir from 1998 to 2007

S. No.	Year	Total number of detinue prisoners
1.	1998	303
2.	1999	269
3.	2000	497
4.	2001	416
5.	2002	444
6.	2003	397
7.	2004	451
8.	2005	377
9.	2006	369
10.	2007	275

Source: Data extracted from Prison Statistics India Reports 1998 to 2007

The above table 4.9 shows that the number of detinue prisoners is floating 300 and 450 for most of the years. However for some years the number reduces below 300. In 1998, there were 303 detinue prisoners in the J&K jails; in 1999, the number of detinue prisoners was 269 showing a reduction in the total number of detinue prisoners by 34 compared to that of the year 1998; in 2000, the population again shows an increase by 228 detinue prisoners than that of the previous year i.e. 1999 thereby scoring a total of 497; in 2001, the number of detinue prisoners again shows a decrease from 497 in 2000 to 416 in 2001 thus showing a reduction by 81 than the previous year; in 2002, there was again an increase in the total number of detinue prisoners by 28 than the

previous year thus constituting a total of 444 prisoners; the year 2003 again shows a decrease from 444 in 2002 to 397 in 2003; for the year 2004, there were a total of 451 detenue prisoners which again shows an increase in the total detenue prisoners' population; in 2005, there were 377 detenue prisoners thus showing a decrease by 74 than the previous year; in 2006, there was again a decrease in the total number of detenue prisoners than the previous year. While 2005 shows 377 detenue prisoners, but in 2006 detenue prisoners count 369 in numbers; in 2007 also, there was a decrease in the total number of detenue prisoners in the State, however, the actual population of the detainees remained 275 in the year 2007.

Table 4.9 also shows that from 2000 to 2007, there were more detenue prisoners in the jails of Jammu and Kashmir, which reveals that the maximum number of incidents of crimes related to terrorism and militancy had taken place during these years. The variation in the total number of detenue prisoners is shown in figure 4.3

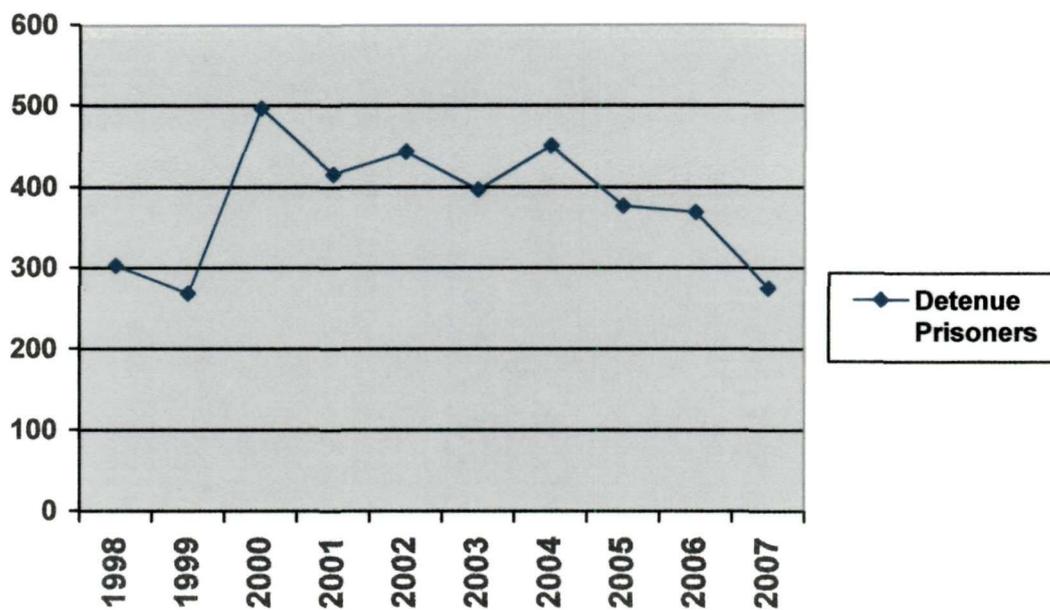


Figure 4.3: Figure showing variation in the total number of detainees in Jammu and Kashmir from 1998 to 2007.

At the same time, if we take into consideration the sex factor of the detenue prisoners, we will see that the male detenue prisoners have outnumbered the female detenue prisoners, which is evident from table 4.10. The table also shows sex-wise population of detenue prisoners in Jammu and Kashmir during various years.

Table 4.10

Table showing sex-wise population of detenue prisoners in Jammu and Kashmir from 1998 to 2007

S. No.	Year	No. of Detenue Prisoners	
		Male	Female
1.	1998	303	0
2.	1999	269	0
3.	2000	495	2
4.	2001	414	2
5.	2002	443	1
6.	2003	397	0
7.	2004	449	2
8.	2005	373	4
9.	2006	368	1
10.	2007	272	3

Source: Data extracted from Prison Statistics India Reports 1998 to 2007

The above table 4.10 shows that during the ten years, there are more male detenue prisoners in the jails of Jammu and Kashmir than the female ones. In 1998, there were 303 male detenue prisoners but there was no female prisoner; in 1999, again there was no female detenue prisoner while male detenue prisoners score 269 in number; in 2000, there was a sudden up-rise in the total number of male detenue prisoners who scored 495 while there were only 2 female prisoners of this category in the jails; in 2001, against a male prisoners population of 414, there were only two female detenue prisoners in the jails; the year 2002 shows a rise in the number of male detenue prisoners than the previous year. There were 443 male detenue prisoners and only 1 female detenue prisoner in 2002; in 2003, there were 100 percent male detenue prisoners in the jails of Jammu and Kashmir since there was no female detenue prisoner, which is evident from table 4.10. The number of male detenue prisoners for the year 2003 was 397; for the year 2004, against a male detenus population of 449, there were only 2 female prisoners; in 2005, the number of male detenue prisoners decreased and there was a slight increase in the total number of female detenue prisoners. While there were 373 male prisoners, there were 4 female detenue prisoners; in 2006, table shows that there were 368 male detenue prisoners and only 1 female prisoner; and in 2007, there were 272 male detenue prisoners

while females score only 3 in number. The table indicates that in each of the given ten years, males have out-numbered the females, which means that they were more involved in criminal activities related to terrorism and other militancy activities. This may also be the result of the rise in the militancy related activities since 1989.

4.6. Women Prisoners:

Crime itself is not a disease though it may be due to a disease. This is perfectly true in respect of women in conflict with law. Women prisoners constitute a small minority and are often a neglected segment of population in terms of the service provisions. Some of the major problems that women prisoners are facing include separation from their families, mental and emotional health problems, issues related to child-care and pregnancy, limited access to health and so on³⁵.

Women inmates undergo intensive emotional stress due to the separation from their families. Studies have revealed that women inmates have a fatalistic attitude towards their imprisonment which they feel that they suffer as they have not obeyed the advice of elders as has been pointed out by R. Nataraj³⁶ in his article “rehabilitation of women prisoner³⁷”. Mr. Nataraj has also maintained that the social stigma attached to a woman prisoner is much worse compared to that of the males. Besides, visit by families to these women prisoners is also few. In most communities, women are the care-takers, sometimes the only care-takers, of their families and the sudden change of their role from care-giver to criminal and isolation from loved ones usually have an intensely adverse effect on their mental well-being. Consequently, mental disabilities among female prisoners are more common compared to male prisoners. As a result of this, women are much more likely to harm themselves or make an attempt to suicide than men.

Generally all women, particularly women who have been charged with or convicted of crimes, are at a greater risk of being abandoned by their families, which means that they will lack the vital family support during their imprisonment and following release. The disruption of family links has extremely harmful emotional consequences for women prisoners, especially if they are mothers, with a detrimental impact on their resettlement prospects³⁸.

In-fact, adequate contact with the outside world is an important component for reducing the harmful effects of imprisonment and assist with social re-integration of all offenders. One of the key elements of successful social re-integration has been identified as strong family ties and support from partners. Unfortunately, since women prisoners

are often housed at a distance from their homes, they are likely to receive fewer visits from their families compared to their male counterparts. However, special needs of women to have access to their families and children are rarely taken into account in regulations relating to prison visits³⁹. As a result of this, women suffer from mental and emotional problems related to their health. Health-care is an issue of grave concern for the women prisoners. It has also been confirmed by the Commission on Human Rights in 2003 that “sexual and reproductive health are integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”⁴⁰.

In order to prevent women from holding any intercourse with male inmates, it has been suggested that “In a prison containing female as well as male prisoners, the females shall be imprisoned in a separate buildings, or separate parts of the same buildings in such manner as to prevent their seeing, or conversing or holding any intercourse with the male prisoners”⁴¹. In case there is only one female prisoner in the jail, it has been suggested that arrangements shall be made for a female warder to remain with her both by day and night⁴².

So far as the issue related to the children of female offenders is concerned, a child under the age of 6 years can be admitted to jail with its mother provided that the child has been weaned and there is no friend or relative of the female prisoner who is found to take charge of the child-care. However, if a child is born to a prisoner in jail, he is permitted to remain in jail with its mother but only up to the age of six years, as has been suggested by Jammu and Kashmir Jail Manual-2000.

As mentioned earlier that women prisoners do not score much compared to those of the male prisoners. This is also evident from table 4.11, which shows State/UT-wise distribution of women prisoners of varied categories in India.

Table 4.11

Table showing State/UT-wise distribution of different types of women prisoners in India

S. No.	States/Union Territories	Type of women prisoners				Total No. of Women Prisoners
		Convict	Under-trials	Detenues	Others	
1.	Andhra Pradesh	232	635	0	0	867
2.	Arunachal Pradesh*	-	-	-	-	-
3.	Assam	100	146	5	0	251

4.	Bihar	136	1156	0	0	1292
5.	Chattisgarh	208	253	0	0	461
6.	Goa	2	18	0	0	20
7.	Gujarat	193	297	175	0	665
8.	Haryana	201	360	0	0	561
9.	Himachal Pradesh	37	24	0	0	61
10.	Jammu and Kashmir	7	72	3	0	82
11.	Jharkhand	184	473	0	0	657
12.	Karnataka	170	352	0	6	528
13.	Kerela	58	125	0	0	183
14.	Madhya Pradesh	373	481	0	0	854
15.	Maharashtra	511	841	1	0	1353
16.	Manipur	0	6	4	0	10
17.	Meghalaya	2	4	0	0	6
18.	Mizoram	22	73	0	0	95
19.	Nagaland	6	12	0	0	18
20.	Orissa	103	517	0	0	620
21.	Punjab	214	621	0	0	835
22.	Rajasthan	192	342	0	0	534
23.	Sikkim	1	3	0	0	4
24.	Tamil Nadu	192	994	29	0	1215
25.	Tripura	23	14	0	0	37
26.	Uttar Pradesh	579	1696	53	1	2329
27.	Uttarkhand	28	54	0	0	82
28.	West Bengal	211	1002	0	53	1266
29.	A & N Islands	1	1	0	0	2
30.	Chandigarh	5	13	0	0	18
31.	D & N Haweli	0	0	0	0	0
32.	Daman and Diu	2	4	0	0	6
33.	Delhi	63	422	0	0	485
34.	Lakshadweep	0	0	0	0	0
35.	Pondicherry	2	2	0	0	4
Total		4058	11013	270	60	15401

Source: Data extracted from Prison Statistics India Report - 2007

** Prisons do not exist in this State.*

The above table 4.11 shows that the total number of female under-trial prisoners combined together for all the States and Union Territories score much more than other type of female prisoners. The female under-trial prisoners count 11,013 in number compared to the convicts who count 4,058 followed by detenues who score 270 while other category of prisoners score only 60. This shows that there are more under-trial female prisoners in jails throughout the country which is similar to that of the male prisoners who though score much higher than the female prisoners but on its categorical basis score more. The table also shows that the total number of female prisoners of varied categories in jails of different States and Union Territories across the country count 15,401 in number.

If we analyze the table to check State/UT-wise population of female prisoners, we see that there are two Union Territories having not at all any female prisoners in its jails. These are Dadra and Nagar Haveli and Lakshadweep. Uttar Pradesh has the highest number of female prisoners in its jails which count 2,329 in number. This is followed by Maharashtra (1,353), Bihar (1,292), West Bengal (1,266), Tamil Nadu (1,215), Andhra Pradesh (867), Madhya Pradesh (854), Punjab (835), Gujarat (665), Jharkhand (657), Orissa (620), Haryana (561), Rajasthan (534), Karnataka (528), Delhi (485), Chattisgarh (461), Assam (251), Kerela (183), Mizoram (95), Jammu and Kashmir and Uttarkhand (82 each), Himachal Pradesh (61), Tripura (37), Goa (20), Nagaland and Chandigarh (18 each), Manipur (10), Meghalaya and Daman and Diu (6 each), Sikkim and Pondicherry (4 each) and Andaman and Nicobar Islands (2). Arunachal Pradesh hold none of the categories of prisoners be it male or female.

However, turning to the year-wise population of female prisoners in India as a whole we will notice that the total population is not the same for all the years as shown in table 4.12.

Table 4.12

Table showing year-wise population of various categories of female inmates in India

S. No.	Year	Population of Female Prisoners				Total
		Convicts	Under-trials	Detenues	Others	
1.	1998	1858	6649	260	49	8816
2.	1999	1873	6347	378	43	8641
3.	2000	1741	6185	137	1018	9081

4.	2001	2189	7182	272	1451	11094
5.	2002	2662	7761	256	1368	12047
6.	2003	3370	7714	167	1529	12780
7.	2004	3358	7852	204	1556	12970
8.	2005	3543	9070	83	1290	13986
9.	2006	3904	9455	96	1202	14657
10.	2007	4058	11013	270	60	15401

Source: Data extracted from Prison Statistics India Reports 1998 to 2007

The above table 4.12 shows that there is an upward trend in the total population of female prisoners of various categories from 1998 to 2007. But if we categorically look at the population of female inmates, we see that there is both an upward and downward trend in the population of female inmates. While in 1998, there were 1,858 convicts, 6,649 under-trial female prisoners, 260 detenues and 49 prisoners of other categories, there were 1,873 convicts, 6,347 under-trial female prisoners, 378 detenues and 43 female prisoners of other categories in 1999. This shows a slight increase in convicts and detenues but slight decrease in under-trial prisoners and prisoners of other categories compared to that of the year 1998; in 2000, we see a decrease in convicts, under-trials and detenues, but there is a massive increase in the population of female prisoners of other categories. Whereas convicts count 1,741, under-trials count 6,185 and detenues count 137 in number, but other category prisoners show an increase from 43 in 1999 to 1,018 in 2000; for the year 2001, there is an increase in all the categories of female prisoners whereby convicts score 2,189, under-trials 7,182, detenues 272 and other count 1,451 in number; the year 2002 again witnessed an upward trend in the number of female prisoners of different categories except detenues who show a decline in the number of prisoners. As such the year 2002 witnessed 2,662 convicts, 7,761 under-trials, 256 detenues thus showing a slight decrease than the previous year while other categories count 1,368; for the year 2003, there were 3,370 convicts, 7,714 under-trial prisoners, 167 detenues and 1,529 prisoners of other categories. This again shows an increase in the total population for the three categories of prisoners while there is a decrease in the population of detenues than the previous year; in 2004, the population of convicted female prisoners shows a slight decrease by 12 prisoners than the previous year i.e. 2003. However, for the rest of the categories, there is an upward trend in the population of

inmates where under-trials count 7,852, detenues count 204 and prisoners of other categories count 1,556; in 2005, for the convicts and under-trial prisoners, the population shows an increase but for detenues and other categories of prisoners, there is a decrease in the prisoners' population. This year witnessed 3,543 convicts and 9,070 under-trials while as detenues count 83 and prisoners of other categories count 1,290 thereby showing a decline in the total population of these two categories of prisoners than the previous year; in 2006, there were 3,904 convicts, 9,455 under-trials, 96 detenues and 1,202 prisoners of other categories thereby showing an increase in the population of female prisoners of all the four categories than the previous year; in 2007, there is again an increase in the population of female prisoners for the three categories of convicts, under-trials and detenues while there is a decline in the number of female prisoners for other categories. While convicts count 4,058, under-trials 1,1013 and detenues count 270 but other categories of female prisoners scored only 60 in number showing a reduction in the population of this category by more than 1,100 than those of the previous year.

However, if we look at the total female prisoners' population for all these years, we see that there is an upward trend in the total number of female prisoners of various categories from 8,816 in 1998 to 15,401 in 2007. Whereas table shows 8,816 female prisoners for the year 1998 but in 1999, there were 8641 female prisoners showing an increase by 175 prisoners; in 2000, there were a total of 9,081 female prisoners and thus again showing an increase in the total prisoners' population. Similarly in 2001, there were 11,094 female prisoners; the year 2002 witnessed 12,047; for the year 2003, there were a total of 12,780 female prisoners; 12,970 for the year 2004; 13,986 for 2005, 14,657 for 2006 and 15,401 for the year 2007 thus showing a continuous increase in the total population of female prisoners of all categories.

In Jammu and Kashmir, we will find that the categories of women prisoners discussed above including convicts, under-trials and detenues except those of others, are also housed in the jails of the State. These categories of women prisoners do not count much as in rest of the States and Union Territories of India except a few. Table 4.13 shows year-wise population of female prisoners of various categories in the State of Jammu and Kashmir.

Table 4.13

Table showing year-wise population of different categories of female prisoners in Jammu and Kashmir

S. No.	Year	Population of Female Prisoners			Total
		Convicts	Under-trials	Detenues	
1.	1998	0	18	0	18
2.	1999	1	23	0	24
3.	2000	3	39	2	44
4.	2001	5	33	2	40
5.	2002	3	46	1	50
6.	2003	1	64	0	65
7.	2004	5	53	2	60
8.	2005	10	57	4	71
9.	2006	9	49	1	59
10.	2007	7	72	3	82

Source: Data extracted from Prison Statistics India Reports 1998 to 2007

The above table 4.13 shows that there are more under-trial prisoners for all the given years in the State of Jammu and Kashmir compared to those of other categories of convicts and detenues. Thus the State of Jammu and Kashmir is similar in this regard to other States and Union Territories of India. The prevalence of this huge number of under-trials is obviously the result of the problem of delay in trials as has been discussed earlier in chapter 2. To reduce the number of women under-trials, the Mulla Committee (1980-83) recommended that bail should be liberally granted to them and those not able to furnish sureties should be released on personal recognizance⁴³.

The above table also shows that in 1998, there was neither any female convict prisoner nor any detainee prisoner, however, the under-trial prisoners count 18 in 1998; in 1999, there was only 1 convict female prisoner but no detainee prisoner, yet the under-trials score 23 in number; for the year 2000, table shows that there were 3 convict

prisoners, 39 under-trial prisoner and 2 detainee female prisoners in the jails of Jammu and Kashmir; in 2001, the convicts count 5 in number, under-trials count 33 and again the detainee female prisoners count same in number as that of the previous year i.e. 2; in 2002, there were 3 convict female prisoners, 46 under-trial prisoners and only 1 detainee prisoner; in 2003, there was only 1 female convict prisoner but no detainee prisoner yet the under-trial prisoners count 64 in number; in 2004, convicts score 5 in number, under-trials count 53 and detainees only 2 in number; in 2005, the population of convict female prisoners was 10, of under-trials 57 and of detainees was only 4; in 2006, there were 9 convicted female prisoners, 49 under-trial prisoners and only 1 detainee prisoner; and in 2007, there were 7 convicts, 72 under-trials and only 3 detainees female prisoners.

Now turning to the variation per year of the total female prisoners' population in Jammu and Kashmir, table 4.13 shows that in the year 1998, there were a total of 18 female prisoners; in 1999, there were a total of 24 female prisoners thereby showing an increase by 6 prisoners from that of the previous year's total female prisoners population; in 2000, there was an addition of 20 female prisoner to the total population of female prisoners thereby counting a total of 44 female prisoner for the year 2000; in 2001, the total population of female prisoners shows a slight decrease by 4 prisoners in the total population of the year 2000 and thus for the year 2001 counted a total female prisoner's population of 40; in 2002, there is again an upward trend in the total population of female prisoners than the preceding year thus counting a total of 50 prisoners in 2002; in 2003, the total population increased from 50 in 2002 to 65 in 2003 thus showing an addition of 15 prisoners to the previous year's total female population; in 2004, however, there is a slight reduction in the total population of female prisoners though it counted 60; in 2005, there are a total of 71 female prisoners of various categories thus showing an increase by 11 than the previous year; in 2006, 59 was the total female prisoner's population of various categories in the State of Jammu and Kashmir which indicates a reduction by 12 prisoners than the previous year; however, in 2007, the population shows an upward trend scoring a total of 82 female prisoners of various categories. The year-wise variation in the population of female prisoners of various categories is graphically shown in figure 4.4.

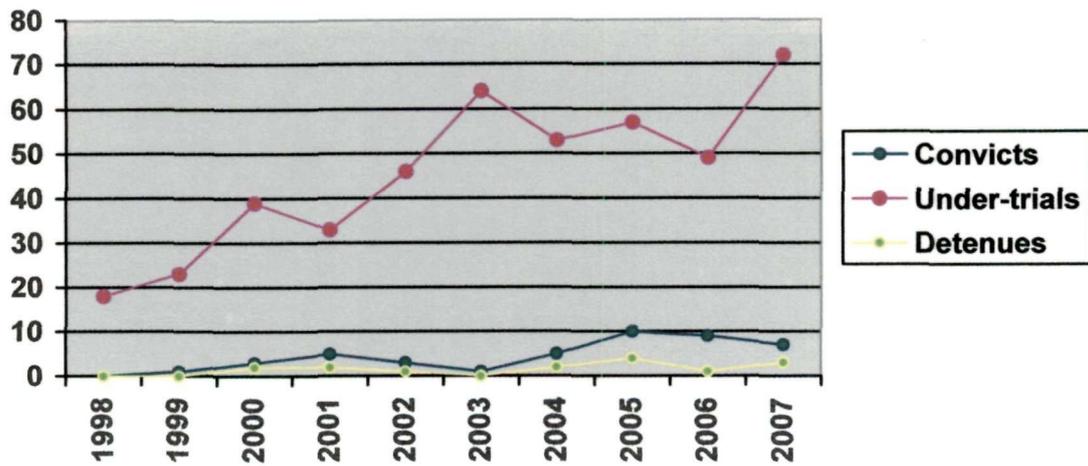


Figure 4.4. Figure showing year-wise variation in the total number of female prisoners' population in Jammu and Kashmir.

The variation in the total number of female prisoners' population in Jammu and Kashmir is shown in figure 4.5.

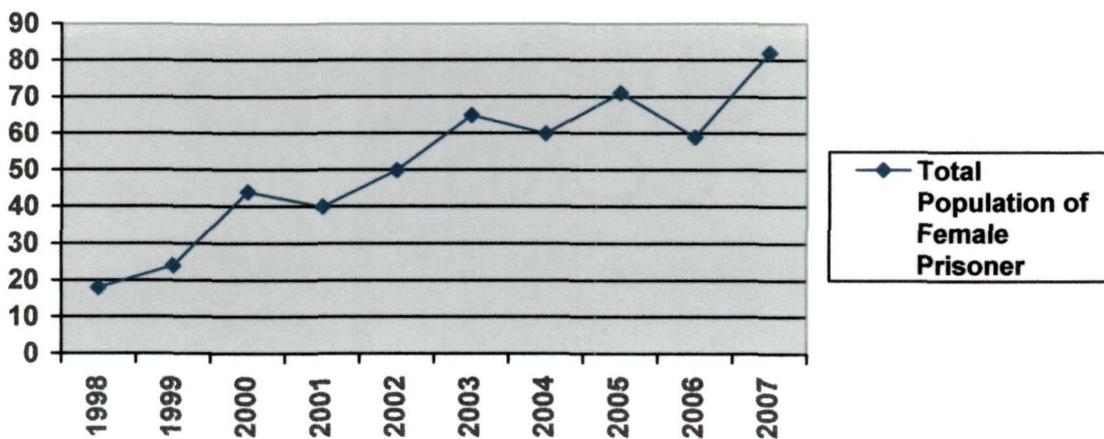


Figure 4.5: Figure showing year-wise variation in the total population of female prisoners in Jammu and Kashmir.

The justification of an administration rests primarily on its success in achieving its fundamental objects i.e. to wean the offender from wrong-doing and reforming them as useful citizens, which is the essence of the scientific classification of prisoners. The decisions on the classification of prisoners is often based on the interest of the institution but in the present context, it has turned to be in the interest of the prisoners as well in the light of the fact that there are hardcore criminals also in the jails who can act as a threat

to the life of other prisoners, like casuals, if mixed up with them. Classification provides a source for handling different types of prisoners which are housed in different jails in our country. It prevents the evil effects of contaminating the prisoners with several degrees of criminality. In-fact, classification has tended to be the process of understanding prisoners at individual level and thereby introducing such programmes as are necessary for their over-all care and maintenance that are appropriate to his needs.

References:

1. Report of the Indian Jails Committee 1919-20, pp.73
2. Draft National Policy on Prison Reforms and Correctional Administration, Prepared by BPR&D, MHA, GoI – 2007, pp.173-174
3. Ibid, pp.174
4. Ibid.
5. Elmer R. Akers: Classification in the State Prison; Journal of Criminal Law and Criminology (1931-1951), Vol. 34, No. 1 (May-June, 1943), pp.16
6. Roy Jaytilak Guha: Prisons and Society-A Study of the Indian Jail System, Gian Publishing House, New Delhi, pp. 45-46
7. Report of the Working Group on Prison in the Country, 1972-73, MHA, GoI, pp.105
8. American Correctional Association, Handbook on Classification in Correctional Institution, 1947, pp.353-54
9. George F. Cole and Christopher E. Smith: Criminal Justice in America, (5thed.) Thompson Learning Inc. USA (2008), pp.354
10. Report of the All India Committee on Jail Reforms 1980-83, Vol. I, pp.108
11. Andrew Coyle, A Human Rights Approach to Prison Management – A Handbook for Prison Staff; International Centre for Prison Studies, King's College, London-2002, pp.62
12. Ibid.
13. Ibid, pp.63
14. Ibid.
15. Supra note 7, pp. 110

16. Datir. R.N: Prisons as a Social System with special reference to Maharashtra State, Bombay Popular Prakashan Publications, Bombay 1978, pp.197
17. http://en.wikipedia.org/wiki/Habitual_offender
18. Franklin E. Zimring, Gordon Hawkins and Sam Kamin, Punishment and Democracy: Three Strikes and You're out in California, Oxford University Press, New York, 2001, pp.4
19. Model Prison Manual for the Superintendence and Management of Prisons in India, formulated by BPR&D, MHA, GoI, 2003, pp.110 - 111
20. Datir. R.N, op. cit. pp.184
21. Ibid. 185
22. Supra note 19, pp.175
23. Ibid, pp.226 - 227
24. Data extracted from Model Prison Manual for the Superintendence and Management of Prisons in India – 2003, MHA, Government of India.
25. Prison Statistics India Report - 2007, Prepared by BPR&D, MHA, Government of India.
26. Supra note 7, pp.26
27. Supra Note 2, pp.185
28. Manual for the Superintendence and Management of Jails in jammu and Kashmir, Government of Jammu and Kashmir, Civil Secretariat, Home Department, Srinagar - 2000, pp.158
29. Ibid, pp. 168
30. Abdul Aziz Dar Vs. State of Jammu and Kashmir & Others HCP No. 43 / 2000, decided on 19.9.2000, High Court of Jammu and Kashmir, Srinagar; Available at: <http://jkhighcourt.nic.in/rather.html>

31. Supra note 28, pp.238
32. Ibid, pp.239-240
33. Supra note 28, para 29.3
34. Ibid, para 29.5
35. http://www.unodc.org/india/woman_prisoners.html
36. R. Nataraj is an IPS Officer, serving as Director General of Police/Director, Fire and Rescue Services, Tamil Nadu.
37. Nataraj, R: Rehabilitation of Women Prisoners: Available at:
http://tnpolice.gov.in/pdfs/art_women.pdf
38. Handbook for prison managers and policy makers on “Women and Imprisonment”, launched by United Nations Office on Drugs and Crime, Criminal Justice Handbook Series, United Nations Publications 2008, pp.17; Available at: <http://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>
39. Ibid, pp.60
40. Report of the United Nations High Commissioner for Human Rights on “The right of everyone to the enjoyment of the highest attainable standard of physical and mental health”, Commission on Human Rights resolution 2003/28, Available at:
<http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/267fa9369338eca7c1256d1e0036a014?Opendocument>
41. Supra note 28, para 19.1
42. Ibid, para. 19.7
43. Pachauri, S.K; Prisoners and Human Rights, APH Publishing House, New Delhi (1999), pp. 92