

SOCIAL DEFENCE



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CENTRAL BUREAU OF CORRECTIONS SERVICES
DEPARTMENT OF SOCIAL JUSTICE NEW DELHI

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SOCIAL DEFENCE IN INDIA

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General:

1. India has a total population of 4,39,234,771 (1961) extending to an area of 32,76,141 sq. km. divided into 17 States and 10 Union Territories. Further details are given in the appendix (A).

2. India has a Federal Constitution. According to the Constitution, the subjects covered under Social Defence—the police, the judicial administration and the correctional administration—are all on the State-list, while criminal legislation is a subject on the concurrent list and social planning is on the Union list. Under the three Five Year Plans of India, new services under Social Defence were treated as centrally sponsored, with Union Government contributing 50% of expenditure on ear-marked approved development schemes of the States. The bulk of the services already existing for the treatment of offenders and prevention of crime are totally financed by the State Governments out of their own resources.

Role of Union and State Governments, Constitutional and Administrative Pattern:

3. It will be evident, therefore, that the role of the Union Government is restricted to co-ordination, exchange of information among States, with foreign Governments and United Nations, collection and compilation of statistics, furnishing model legislation and schemes, training, research, etc.

4. At the Union level, it is the Ministry of Home Affairs which deals with judiciary, police, prisons, and criminal legislation while the Department of Social Welfare deals with the subjects of juvenile delinquency, probation services, suppression of immoral traffic and general welfare services.

5. The Central Bureau of Correctional Services established in 1961 is the centralised agency under the Government of India dealing with the following subjects:—

- *Standardising the collection of facts and statistics relating to crime, prisons, probation and other kinds of correctional work on a national basis;
- *coordinating the work and developing a uniform policy for prevention of crime and treatment of offenders;
- *assisting in the exchange of information with regard to crime prevention and correctional services and providing technical knowledge and assistance and other information either generally or on specific programme;
- *exchange information where necessary, between India and foreign Governments and with the United Nations;
- *promote research and training of staff, undertake studies and surveys and carry out research and experiments where necessary in the field of Social Defence;
- *disseminate information and stimulate interest by publications on the prevention of crime and treatment of offenders.

6. In fulfilment of the above functions, the Bureau keeps in contact with all the States and Union Territories giving technical advice on all problems. It convenes

meetings of correctional experts and administrators to discuss common problems. National and regional seminars, field visits, conferences are a continuing programme as a part of the programme for training and public education. Publications are periodically brought out. A quarterly journal "Social Defence" is also brought out.

7. With a view to strengthen the working of the Central Bureau of Correctional Services, the Government of India constituted in December, 1969, a Central Advisory Board on Correctional Services, which has representatives of Union Ministries of Home, Law and Social Welfare as well as representatives of State Governments dealing with Correctional subjects and some academic experts. The Director, Central Bureau of Correctional Services, is the Member-Secretary. The objectives of the Advisory Board are to advise the Central and State Governments to coordinate the working of various agencies and to create a public awareness of the problems in the field of social defence. The Board has taken up through several sub-committees the issue of Model Legislation for the young offenders in 16-21 age group, Model Rules for parole and Minimum Standards for services under the Children Acts.

8. The following are some of the important Central Acts: (a) The Prisons Act, 1894; (b) The Prisoners Act 1900; (c) Indian Lunacy Act, 1912; (d) Transfer of Prisoners Act, 1950; (e) Prisoners (Attendance in Courts) Act, 1955; (f) Abolition of Whipping Act, 1955; (g) The Suppression of Immoral Traffic in Women and Girls Act, 1956; (h) The Probation of Offenders Act, 1958; (i) The Children Act, 1960 (meant for Union Territories).

9. There is a large number of State laws also on these subjects. There is a feeling, often voiced that a basic uniformity of approach should be maintained in State legislation and that the Government of India should draft Model Laws and Rules for the guidance of the State Governments. Under the Constitution, the Union Government is now not competent to enact legislation on State subjects. However, the old Central Laws can be amended by the Centre.

10. The administrative pattern of dealing with Social Defence subjects varies from State to State. In general, matters dealing with prisons and adult offenders are looked after by the Home Department in the States with an Inspector General of Prisons as the Executive Head of the Department. Other subjects like prevention and control of juvenile delinquency, suppression of immoral traffic in women and girls, eradication of beggary, and after-care are under the Social Welfare Departments of the States. A machinery for co-ordination is advocated through State Advisory Boards on Correctional Services.

Trends in Criminality:

11. From the statistics on Crime in India, published by the Government of India, Ministry of Home Affairs (1970), it is seen that the incidence of crime in proportion to population during five years 1963 to 1968 is on the increase. The rate of crime per 100,000 of the population which stood at 143.5 in 1963 has risen to 164.7 in 1968. The total number of persons arrested in 1963 was over 700,000 which rose to over 1,000,000 in 1968. An overall variation of crime under different heads also showed a positive increase for different offences. Thus it can be concluded that crime in general is on the increase. A statistical statement showing trends in criminality over a five-year period is appended at (B).

PRISONS

12. Maintenance and development of prisons is a subject on the State list under the Constitution of India. However, on account of earlier central laws, the Prisons Act of 1894 and Prisoners Act of 1900 which still govern the management of prisons in the country, an overall uniformity in the actual practice is there. The State Governments have their own Prison Manuals based on the Central Act.

During the last two decades after independence, it has been realised that while the State Governments are free to remodel and reorganise the administration of prisons, some broad guidelines need to be continuously given with a view to coordinate the programme. Besides, collection of statistics, exchange of information in the country and with international agencies, model legislation, training, publication and research will always remain to be coordinated and guided by a centralised agency. It was out of this realisation that the Central Bureau of Correctional Services was set up in 1961 under the Ministry of Home Affairs, Government of India.

13. The two major developments of 1950-60 worth mentioning here are (i) the United Nations Technical Assistance sought by the Government of India under which Dr. W.C. Reckless visited India in 1952 and submitted a review of the 'Prison Administration in India', suggesting a number of modifications in the techniques of handling the offenders and (ii) the appointment by the Government of India of the All India Jail Manual Committee in 1957 which furnished its Report to the Government of India and finalised a Model Prison Manual in 1960 which the State Governments are expected to follow as a broad guideline to revise the State Prison Manuals. The Model Prison Manual recommendations incorporate the basic principles and guidelines of the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Central Bureau of Correctional Services has been pursuing the follow-up by the State Governments, in respect of all major changes.

14. Some of the more important basic issues which have been selected for priority implementation are (i) the classification of prisoners according to sex, age, criminal record, length of sentence, security requirements, need for training and treatment, physical and mental health, etc., (ii) removing congestion in prisons by eliminating the short term sentences, more extensive use of probation, semi-open and open institutions and greater use of parole, i.e., pre-mature release of the offender with or without conditions and under supervision, (iii) special programmes for treatment and rehabilitation of young offenders under Children Acts and separate institutions for young adult offenders in the age group of 16-21, (iv) treatment of prisoners in prisons, according to their individualised needs by understanding their individual personality and character in relation to their home and family background with the help of Prison Welfare Officers, who have emerged as a new category in prison personnel during the last decade, (v) after-care and rehabilitation of the discharged prisoners which has assumed a greater importance as an awareness has been growing that the institutional programme of treatment and training may be of little avail unless adequate attention is paid to after-care and rehabilitation of the discharged offenders.

15. Training of the Prison Officers has assumed greater urgency in the context of rapid development in the last one decade and State Governments are keenly aware of the need of having trained personnel with specialisation in criminology and correctional administration. The senior selected officials are deputed by the States for a two-

year course of Master's Degree in Social Work. Over and above this basic training, there is a growing realisation of specific training in jail administration and management of institutions and two States have Prison Officers Training Schools. During the last two years, the need to set up higher-level Regional Training Centres for Officers of the Prisons as well as Correctional Departments has been realised and one Regional Correctional Institute for the Southern Region is already proposed to be started so that all the Southern States can avail of the facility. Government of India deputed officers abroad for training at the U.N.A.F.E.I., Japan, as well as to commonwealth countries.

16. Another useful development is the introduction by several States of "Open Prisons", which offer an atmosphere of minimum security, greater opportunity of rapid socialisation and economic programmes to make the prisons self-sufficient while giving the prisoner a wage for the work he carries on, out of which he can help his family and make savings. The experiment of Open Prisons has proved successful over the last 20 years. Over and above the eleven States which have initiated this programme, several new States have prepared their own plans. A publication by the Central Bureau of Correctional Services on "Open Prisons in India" has evoked a great deal of interest. A Committee is working to prescribe Minimum Standards in the management of open prisons. The Central Bureau of Correctional Services organises periodical conferences and seminars on general or specific subjects with a view to create a greater awareness and adoption of better techniques of handling the offenders.

17. The Nation celebrated the Centenary of Mahatma Gandhi during the year 1969-70. In consideration of the great principles of love, compassion and non-violence advocated by the Father of the Nation, all the States in India implemented a programme of giving extensive remissions in the sentences of all categories of prisoners with the result that large number of prisoners, in various categories were released from prisons all over the country. No major increase in the quantum of crime has been apparently noticed. According to reports so far received several thousands of prisoners in various categories were released from all over the country. It is too early to assess the impact of the release of a large number of convicts before the expiry of their prison terms. However, it created a helpful atmosphere to suggest that confinement to prisons is neither the best nor the surest way of prevention of crime and treatment of offenders. A general survey to study the post-release period of prisoners is under way.

18. The statistical extract of the total number of prisons State-wise, with their prison population is appended at (C).

PROBATION SERVICES

19. While the concept of probation as a method of extramural treatment, of offenders has been known in India for almost 75 years, the recognition of probation as a more effective weapon to tackle the problem of criminal and his rehabilitation has been more recent and has been universally accepted during the past two decades. While some of the States had passed their Probation of Offenders Acts even before the Independence in 1947, it was the Central Probation of Offenders Act, 1958 which introduced a comprehensive measure, applicable to the whole country with some very progressive provisions as compared to the earlier legislations. The Central Act provides for a mandatory calling of a social investigation report by the Courts from the probation officers in respect of all offenders under 21 year of age. It also imposes severe restriction on the

imprisonment of offenders below 21 years of age and if such offenders have to be sent to prisons, special reasons have to be recorded in writing. Under Model Rules which were circulated by the Government of India for adoption by all the States, the duties and functions of the probation officers, minimum requirements in terms of the grade of probation officers and their training and education have been emphasised. At present the States of Andhra Pradesh, Assam, Bihar, Haryana, Kerala, Madhya Pradesh, Mysore, Orissa, Punjab and Rajasthan and Union Territories of Delhi, Himachal Pradesh, Tripura, Manipur and Goa have adopted the Central Probation of Offenders Act. The States of Gujarat, Maharashtra, Tamil Nadu and West Bengal which have their own State Acts are gradually introducing the Central Act in a phased manner. Thus, on the whole, a broad measure of uniform legal provision and procedures has been achieved in the probation field.

20. There are still several limitations as regards the successful implementation of the probation programme. From the statistical surveys it is seen that the percentage of offenders who are released on probation is insignificant compared to the large numbers who find their way to prisons serving terms ranging from a few days to a few weeks. The underlying reasons as to why the provisions of probation are not fully utilised are under investigation. The record of some States, which had enforced such a measure earlier, is better as contrasted to States which have implemented lately. Statistical summaries of total prison population indicate that about 85 per cent of the convicts come to prisons with prison terms of less than 6 months. This indicates that there is a vast field open for probation. One of the likely reasons for inadequate use of probation provisions is the small number of probation officers, their low status and inadequate academic and professional background. The States have given a low priority to correctional programme and adequate budgets to develop this programme are not provided. There is one probation officer for every district in several States though there are exceptions. The target should be to have at least one probation officer attached to every sub-divisional court, so that he has not to cover long distances to reach the courts or the clients. The educational background and professional equipment of the probation officers have also got to be raised and specific training provided. The judiciary, who have been given the discretion to use probation instead of imprisonment, have also got to be oriented to the new tasks and techniques of corrections. At present 379 probation officers have been appointed in 261 districts covered under the Probation of Offenders Act. During 1965, 7924 offenders were released on probation while in 1966, the number of probationers rose to 8044. While this is indicative of a positive trend in favour of probation, as contrasted to 3,67,995 convicts admitted to prisons in 1965 and 3,74,862 in 1966, the proportion of probationers is insignificant.

21. The contribution of voluntary probation officers, though provided under the Act, is not very significant. On the whole, compared to 379 full-time probation officers in 1968 there were 111 voluntary probation officers in the country. No specific training programme has been implemented to give orientation to the voluntary probation officers.

22. In view of the growing realisation that prison sentence is not the best mode of treatment to ensure the protection of society, probation services have a vast scope for expansion. The financial argument that it is cheaper to have an offender treated outside the prison and that there are better prospects of rehabilitation should carry

conviction to the authorities and policy makers who should agree to invest greater funds for the improvement and development of the probation programme.

23. The probation programme has to be coordinated at the district level with other agencies such as the police, judiciary, after-care and rehabilitation agencies, voluntary welfare services, would-be-employers, etc. Participation of the public is very meaningful here. In Maharashtra and Gujarat States such district probation committees meet once in a quarter to take a review of the cases investigated or supervised by the probation officers. Another forum of contact between the judiciary and probation officers is periodical meetings, of judicial officers and probation officers, which have been found very helpful in creating better awareness of the potentiality of probation. In the Bombay Criminal Manual, 1960 issued by the High Court, clear directives are given for the judiciary on this subject.

24. A statement showing the State-wise position as regards the implementation of Probation of Offenders Act is appended at (D).

PREVENTION AND TREATMENT OF JUVENILE DELINQUENCY

General:

25. With the rapid social changes arising out of economic development, migration of rural masses to cities, urbanisation and consequent social disorganisation, juvenile delinquency is rising in all developing countries. India is no exception, and incidence of Juvenile Delinquency is on the rise. In 1963, 16,432 cognizable crimes by young offenders below 21 years of age were reported as compared to 22,853 in 1967 in the same age group. Miscellaneous crime and ordinary thefts put together, accounted for three fourths of the total juvenile crime.

26. No precise research has been made to study the causation of juvenile crime. In fact, it is a highly complex multi-causal phenomenon. However, from available data it can be surmised that juvenile crime is largely a result of neglect by parents or family due to broken home or poverty, exploitation of children and faulty environment during the early years of childhood. It may also be stated that the institution of extended family in India which traditionally gives shelter and support to near relations and the negligible rate of divorce are positive factors in the direction of prevention of delinquency. A study of several new economic development projects in India has revealed that if the social planning goes hand in hand with economic development, there is no increase in juvenile delinquency. But haphazard economic growth is sure to lead to greater incidence of crime.

Administration:

27. Treatment of juvenile delinquency is a State subject and generally it is administered by the prisons or by Welfare Departments in the States. In India the problem of juvenile delinquency is generally interpreted as a welfare problem and not necessarily a penal problem. Some of the States have implemented State Children Acts for over half a century and have developed wide experience and very well organised children's institutions. At the same time, the Children Acts are not enforced by all the States with the result that juvenile offenders are still being treated through the normal channel of the penal system. The Union Government through the Central Bureau of Correc-

tional Services has been pursuing the remaining States to enact the Children Acts and implement them. In the absence of a suitable institutional machinery for handling juvenile delinquents in these States, some children are sent to Borstal Schools or youth wings of ordinary prisons. It is expected that before the end of 1970, all the States in the country will be having State Children Acts.

28. The Union Government passed in the year 1960, a Central Children Act applicable to all the Union Territories. This Act has introduced for the first time a separate channel for processing neglected and destitute children, viz., the Child Welfare Boards. Members of the Child Welfare Boards are non-official social workers well versed to child welfare and social problems, nominated by the Administration. Destitute and neglected children are sent to Children Homes and the delinquent children only are sent to Approved Schools. Many of the new States have adopted this Act as a model. While the experiment for Child Welfare Board is being studied, there is a difference of opinion whether the distinction between a destitute and a delinquent child is valid in actual practice.

29. The Central Bureau of Correctional Services is engaged in the task of framing minimum standards in the services under the Children Acts in consultation with all State Governments. An Inter-State Study Team has also been arranged.

30. A great deal of emphasis is given to the training of personnel for functioning as Probation Officers, Superintendents of institutions, care-takers etc. With the proposed expansion of services for several States, training programme will have to be intensified. Basic training at the graduate level in social work with specialisation in correctional administration will be useful. This has to be supplemented by in-service training at all levels.

31. A statement giving the operation of Children Act in various States, the number of institutions and the number of children in these institutions is appended at (E).

Non-institutional Services:

32. From the experience of managing correctional institutions for children it has been realised that a good number of children can be taken care of without being processed by the police or the juvenile courts, through non-institutional services of recreation, education, counselling, craft training and helping the families to look after children. Six major cities in India have undertaken such pilot projects of non-institutional services for prevention of delinquency, vagrancy and begging by children who are highly vulnerable.

33. Another variation of the non-institutional care is the foster-care programme developed in some States under the provisions of Children Acts. The juvenile courts give custody of a child to a fit person, under certain conditions till the child grows up. Some financial support is also given to the family to look after the child. Adoption of children has not become practical in India for want of enabling legislation. A Bill on the subject has already been drafted.

Role of the public in prevention of crime and treatment of delinquency:

34. The programme of care and protection of children offers good scope for associating voluntary workers and agencies in all general social welfare activities. Honorary Social Workers are appointed as Honorary Magistrates or Members to assist the

Juvenile Courts and Child Welfare Boards. Non-official members are also appointed as visitors to juvenile correctional institutions. In some States the management of Remand Home is entrusted to local Probation and After-care Associations. A large number of orphanages and Childrens Homes run by voluntary agencies are recognised as fit person institutions under the Children Acts.

SUPPRESSION OF IMMORAL TRAFFIC

35. India is one of the signatories to the International Convention on the Suppression of Immoral Traffic in Women and Girls signed in 1949 at New York. Under the Indian Constitution, traffic in human beings is prohibited. In pursuance of this solemn policy, the Government of India enacted the Suppression of Immoral Traffic in Women and Girls Act in 1956. It is a Central Legislation applicable to the whole of the country and empowers the State Governments to make Rules for its smooth application.

36. It is a truism that such social problems, the roots of which are deeply entrenched in social attitudes, religion, superstition, economic gain and vested interests cannot be tackled by legislation alone and require a general level of public education and a fair measure of support from the public for its eradication. Thus, an extensive programme of social and moral hygiene, prevention of prostitution through other social services such as protection and rescue of girls and women in moral danger is called for.

37. This prevention programme which was initiated in 1958 and under which all the States set up district-level Shelters and State-level Homes for all types of cases of women has been found very useful; the same cannot be said about the success of implementing the legislation on the subject. From practical experience it has been seen that very few cases are being received after successful prosecution in the Protective Homes set up under the Act by the State Governments. The Act provides penalties for the following offences:—

- (a) Keeping a brothel, etc. (Section 3).
- (b) Living on the earnings of prostitution (Section 4).
- (c) Procuring, inducing or taking women or girls in premises where prostitution is carried on (Section 5).
- (d) Detaining a woman or a girl in premises where prostitution is carried on (Section 6).
- (e) Prostitution in or in the vicinity of public places (Section 7).
- (f) Seducing or soliciting for the purpose of prostitution (Section 8).

38. The legislation in India seeks to inhibit the commercialised vice, i.e., the traffic in women and girls for purposes of prostitution as an organised means of living. The women and girls rescued from brothels are to be sent to Protective Homes or Corrective Homes. The Act also provides for the setting up of non-official advisory bodies to assist the Special Police Officers and prescribes that before making any search of the premises, the Special Police Officer should be accompanied by two responsible persons from the locality, one of whom should be a woman. These provisions are sometimes difficult to fulfil and result in unsuccessful prosecutions.

39. According to the information available in 1968 from 12 States, there were 46 whole-time Special Police Officers and 142 part-time Special Police Officers, 103 non-official Advisory Bodies, 5,047 persons were prosecuted under various sections, 4,031 ended in conviction and 112 women were sent to Protective Homes for corrective treatment. There is a growing demand for amendment to the present legislation.

40. The treatment and rehabilitation of women admitted to Protective Homes present no small problem. Change in attitude and values inherent in such a situation are difficult to bring about specially when the prospects of rehabilitation in the normal community are not very bright. It requires a great skill on the part of correctional personnel to change the attitudes towards life. So far rehabilitation programme through marriage of the young girls has been found fairly successful but the question of rehabilitation of elderly women who generally procure other women has not found any easy solution. Trained personnel with good knowledge of human nature and the understanding of social problems are very essential. The physical plan and settings of the Protective Homes need to be planned with great attention to the needs of the inmates.

INDIAN POSITION

A. Social Defence Policies and National Development Planning:

41. It is generally considered that a rise in the incidence of crime and delinquency is a concomitant of rapid economic and social changes. This realisation provides a good rationale for the planning of services for the prevention of crime and treatment of offenders in the context of overall National Development Planning.

42. With a view to test the above hypothesis several studies were undertaken in India at the instance of the United Nations Section of Social Defence to study the impact of industrialisation on the crime situation. Those places were selected where a marked development had taken place in the last few years as a result of locating large public sector undertakings or major industrial projects under the Plans. The over-all findings of the inquiry revealed that industrialisation by itself does not generate crime, if the social services are properly planned simultaneously and social disorganisation is avoided. However, if the industrialisation and urbanisation is haphazard and without social planning, they invariably result in increased criminality.

43. India has adopted the process of a coordinated national planning from the early fifties and three Five Year Plans are already over, while the Fourth Plan has just been ushered. During the past fifteen years period, services under the social defence sector were treated as centrally sponsored schemes under which Government of India provided 50% of the budget for its implementation by the States. This, however, did not include the field of prisons. The development schemes were assisted for the five years of the Plan, after which the State Governments had to take over the total liability of financing them. The further development of the existing services was eligible for the next Plan. This financial incentive led to rapid development of services under the Children Act, probation programme, control of beggary and suppression of immoral traffic in women and girls. During the second Five Year Plan (1957-62) 40 new Remand Houses, 17 new Certified Schools, 10 Protective Homes, 60 Rescue Homes and 70 Reception Centres were established. A beginning was made in prison welfare services and 13 Prison Welfare Officers were appointed for the first time to look after the individualised treat-

ment programme in prisons and to maintain liaison with the families and the outside community. 100 Probation Officers were also appointed in the States.

44. During the Third Five Year Plan (1962-67) the progress was further extended with the addition of 32 Remand Homes, 9 Certified Schools, 3 Protective Homes, 19 prison welfare officers and 91 probation officers. A beginning was also made in organising creches for the children of women prisoners remaining in prisons. A new project offering non-institutional services for prevention of juvenile beggary, vagrancy and delinquency was also sponsored by the Central Government in six major cities, executed by the State Governments.

45. From the beginning of the 4th Five Year Plan, the social defence schemes have been transferred from the centrally-sponsored sector to the state sector and the Government of India now does not earmark any financial provision for any particular scheme and discretion lies with the State Government regarding allocation of priorities and funds.

46. There is a strong demand, which has been often expressed that the prison administration, which is outside the Plan Sector should be brought into the Plan. It is also felt that agriculture, industries, education and other activities carried out within the walls of the prisons should be treated as sectors of General Plan Progress Programme eligible for development funds. It has, however, been seen that there is a considerable resistance, presumably based on inadequate information, to treat prisons as a part of the Plan. Under these circumstances, the prison administration does not share the benefit of the development programme. This has led to a stagnation and sense of frustration amongst correctional administrators. This is, perhaps, a reflection of the general apathy on behalf of the public which is reflected in the attitude of policy makers. It only goes to show that greater efforts are necessary to create a better public understanding of the issues involved in the correctional process.

B. Participation of the Public in the Prevention and Control of Crime and Delinquency

47. In view of this substantive item on the Agenda of the U.N. Congress in 1970, a survey was undertaken in India to elicit information from all the States and Union Territories on the various aspects of public participation in this field, particularly on the following aspects of the subject:—

- (i) The form and extent of the participation of the public.
- (ii) Measures being taken to promote, encourage and orient the participation of the public including the training of volunteers.
- (iii) Evaluation of the effectiveness of the various forms of participation and quality of services rendered by the public.
- (iv) Laws and regulation having a bearing on the participation of the public and particularly on the use of volunteer workers.
- (v) Problems arising out of the use of public participation of volunteer workers.

The inquiry was further directed to find out the participation of the public specifically in dealing with (i) problem of juvenile destitution and delinquency under the Children Acts, (ii) services for youthful offenders, (iii) adult criminals, (iv) probation and parole, (v) after-care, (vi) preventive services, (vii) traditional laws and justice. A summary of findings of this survey is given in the paragraphs which follow.

48. Any form of Government presumes a broad level of consent of the public as no system of law or authority can subsist without a good measure of general acceptance by the citizens. On the other hand, public attitudes have to be cultivated by a process of continuous education and giving a general understanding of the purposes of the law and its implementation.

49. Not only public attitudes have to be cultivated by creating a general awareness and understanding of the social defence policy goals, but provision should also be made to ensure that enlightened public opinion is reflected in policy formulation and programme implementation, such as amending the old and obsolete legislation, raising the level of institutional services, stricter enforcement of measures to curb offences like child begging and kidnapping of children, etc. It is desirable and necessary to have enlightened forums or associations of citizens which can exert pressure for healthy development of correctional policies. Public should be involved in the process of change and public opinion so generated should be channelised to expedite changes in desirable directions. As an example, the law against Child Marriage in India, a measure of social reform enacted in 1929, had been more observed in its breach rather than in practice for many years for want of a strong public opinion and it is only now that the public practice approximates to the public policy. Another illustration is the law forbidding untouchability. While the educated masses and the elite in the urban areas no more follow the practice, its vestiges are still persisting in backward rural areas for want of severe public condemnation; there are very few prosecutions under the Act based on the information furnished by the public. Thus, public attitudes are influenced by the legislation as well as the legislation shapes the public attitudes.

Laws and Regulation, Extent of Participation:

50. In the criminal legislation, the Criminal Procedure Code, Sections 42, 43, 44, 59 and 128 enjoin upon the public to offer cooperation to the police in detection, apprehension and prosecution of offenders. Section 17 of the Police Act provides for the public being appointed as Special Police Officers. The Home Guards or/and the Village Guards are a well established auxiliary police force, systematically trained and are called upon for duty in emergencies.

51. The traditional law controls the civil conduct of several communities and it has the same force as civil law. Even in administration of criminal justice the traditional form of tribal village panchayats carries a legal authority and its enforcement is assured, making justice cheap and prompt, also reflecting the cultural mores and customs of the tribal groups. Under the democratic decentralization in several states in the country, the village and taluqa panchayats have been delegated powers of dispensing justice in civil and criminal matters, in simple local matters. Detailed evaluation of these Nyaya Panchayats is not available but will offer a fruitful field of study.

52. Besides, the various correctional laws provide for the association of the members of the public with the implementation of the Acts. (i) The statutory visitors committees of prisons have a few non-official members who can give suggestions for improvement. (ii) The prison manuals of various States provide for the appointment of moral and religious teachers for the prisoners on payment of some out-of-pocket expenses. (iii) The Probation of Offenders Acts of the States and the Central Act provide for the appointment by the court of voluntary probation officers to supervise

the probationers. In various States, there are Probation Committees, at district or regional level, with non-official members who assist in the rehabilitation of probationers. (iv) Under the Children Acts in force in India, there are provisions of appointing honorary magistrates for the juvenile courts who are non-official and volunteers. Under the Central Children Act of 1960 meant for Union Territories, all the members of the child welfare board are required to be non-judicial voluntary social workers. The juvenile court can also appoint voluntary probation officers. The Government may also recognise voluntary societies for the appointment of probation officers. A good number of children's homes run by voluntary societies are recognised as private certified schools or fit person institutions under the Children Acts. In all state-run juvenile correctional institutions including borstal schools, there are visitors' committees, which invariably have non-official members. Children can also be entrusted by the courts to "fit persons", who volunteer to look after the children, on specified conditions. There are state-level and district probation and after-care associations in Maharashtra, Gujarat and Mysore, which run remand homes on a grant-in-aid basis under the Children rules framed by State Governments. Similarly, Children's Aid Society and Society for the Protection of Children in Western India, recognised under the Act, are working well and appoint qualified professional workers to manage their institutions. (v) Under the Suppression of Immoral Traffic in Women and Girls Act, there are prescribed non-official advisory boards to assist the special police officers in their task of apprehension, prevention and rehabilitation. The Act provides for the recognition and licensing of voluntary protective homes. The State-run protective homes also have managing committees with non-official members. (vi) There are Discharged Prisoners' Aid Societies in many parts of the country which extend shelter, relief and facilities of rehabilitation to discharged prisoners. The Association of Moral and Social Hygiene in India has branches all over the country to mobilise public opinion against commercialized vice and also to help in prevention and rescue work by running rescue homes.

53. The above is indicative of the laws and rules which incorporate elements of public participation. It has, however, been seen from the reports received from several States that the fullest possible use is not made of the participation of the public in prevention of crime and treatment of offenders and generally, the members of the public, who are active in general social welfare field, have not yet realized the potentiality of their participation in this field. (vii) the central Advisory Board on Correctional Services and the State Advisory Boards on the same subject recently set up by Government aim at creating a general public awareness about the problems of social defence and arousing public support and sympathy for the treatment and rehabilitation of offenders. (viii) In the field of prevention of delinquency, a whole new field is open. All voluntary social services including housing, health, education, welfare, employment, recreation, counselling can ultimately lead to a reduction of crime and delinquency. Services under urban community development involving local residents can be very effective, on an ecological basis to prevent crime.

Evaluations:

54. No systematic evaluation is available as to the effectiveness of public participation in the above spheres of social defence. There is no denying the fact that

association of the public in the social defence system can bring a fresh approach and can save from stereotype attitudes developed by professionals. The public has a great advantage in the spheres of prevention and rehabilitation. However, it is the general feeling that very often, the people keep away from the police, courts and prisons to save botheration and this reflects a general apathy for the whole system. The faulty time-consuming administrative and judicial practices also may have to do with this attitude. The role to be played by volunteers has not been defined in clear terms. resulting sometimes in lack of appreciation of each other's roles and sometimes mutual suspicion by professionals and volunteer groups. Some problems are also created when the volunteers, without proper understanding of the legal and technical aspects, adopt an over-bearing and superior attitude towards the full-time professional staff. Volunteers should also be given an understanding of their supportive role to permanent staff in statutory responsibilities.

55. It seems enough attention has not been given in India to the training of volunteers to support the social defence services, though several bodies like the Indian Council of Social Welfare, Indian Council for Child Welfare convene conferences where such problems are discussed. The task of training voluntary workers is of utmost importance. The training and orientation of judiciary, especially the honorary magistrates who deal with children is very much needed. Similarly, the voluntary probation officers will benefit a great deal along with the field, by a better understanding of the problems involved. Of late, some projects for training voluntary workers are under consideration. Suitable literature in print, published with a view to create a general understanding by the lay citizen, has a great value. The Central Bureau of Correctional Services periodically organises orientation seminars and setting up of regular social defence training institutions is already under consideration.

C. Standard Minimum Rules for the Treatment of Prisoners—in the light of recent development in the correctional field

56. The Standard Minimum Rules for the Treatment of Prisoners finalised by the First U.N. Congress on Prevention of Crime and Treatment of Offenders, which met at Geneva in 1955 offer guidelines on the basis of which the U.N. expects the member States to base their laws or rules.

57. In India, the basic principles and techniques enunciated by the United Nations Standard Minimum Rules are incorporated in the Model Prison Manual which was finalised in 1960 by the All India Jail Manual Committee. As the State Governments in India are delegated with the powers to frame their own rules for the management of prisons, the State Governments are taking action on the model rules circulated by the Government of India. The progress achieved from State to State is not uniform. While some States have gone far ahead and revised entirely their State Prison Manuals, other States are still in the process of revision. The Central Bureau of Correctional Services in 1968 made a comparative study of the United Nations Standard Minimum Rules and the Model Prison Manual and found that all the major recommendations are taken into account in the Model Prison Manual of India.

58. However, the actual practice of implementing these rules has got to be studied. The Central Bureau of Correctional Services has been in touch with the State Governments offering technical guidance as and when needed to the State Governments in

modifying their prison rules. A special study is in progress to measure the extent of implementation and the difficulties faced by the States in following the United Nations Standard Minimum Rules, comparing the position from 1960 to 1970; the report is under finalisation. From the information available from 8 States and 2 Union Territories, it can be seen that a majority of the States has accepted the spirit of the U.N. Standard Minimum Rules and a good number of the Rules has been implemented in the day-to-day functioning of the prisons. However, the overall revision of the State prison manuals which is a fundamental document governing the management of prisons, has not yet been achieved all over the country. Among the difficulties faced in the implementation of the Standard Minimum Rules, inadequate financial allocations, shortage of qualified personnel and ancient prison buildings are some of the obstacles enumerated by the various States.

D. Organisation of research for policy development in Social Defence:

59. The contribution of social defence research in policy development cannot be underrated and yet not enough attention has been devoted or enough resources allocated for research in the field of social defence so as to make available verified facts with a view to provide guidelines to policy. The programmes of prevention of crime and treatment of offenders are still largely based on the traditional system evolved during the past century. No doubt, a good number of alternatives to institutional treatment have come to the fore and also implemented e.g., probation, parole and minimum security institutions, open prisons, etc. However, not enough research data is available about the comparative merits or demerits of a particular penal or correctional system. There is a general resistance all over the world in making changes in the criminal justice system and India is no exception. However, it is realised that if the new techniques were studied from the point of view of research and conclusions based on facts were made available, the policy makers' job will be greatly facilitated. Studies in cost-benefit can help in allocation or reallocation of budgets.

60. The primary requisites of research are a good system of correct reporting and compilation of statistics on the criminal justice system. In India, the statistics of judicial, police and correctional administration are collected at the State levels separately. It is realised that to make these statistics more meaningful, they need to be collated and interpreted in relation to one another at the State and National level. However, the organisation for data collection at the primary level has to be strengthened for this purpose. Some of the States have set up such Statistical and Research Units at State headquarters, yet a great leeway has to be made.

61. The Central Bureau of Correctional Services collects at the national level statistics on prisons, probation, treatment of juvenile delinquency, beggary, suppression of immoral traffic etc., ever since its inception. However, there are limitations as the easy flow of statistics from primary level to the state and national level is not ensured. The compiled statistics are periodically printed in the journal "Social Defence" and in special brochures. Several study groups are appointed by the Bureau on various aspects of correctional administration. Various committees and commissions appointed by the Government of India have also produced excellent reports based on surveys, which have guided the policy for years. The report of Dr. W.C. Reckless (1952) and of the All India Jail Manual Committee (1960) can be cited as examples. The Central

Bureau of Investigation under the Ministry of Home Affairs publishes annually statistics on "Crime in India" based on police station records. The police departments as well as the Central Bureau of Investigation undertake research on police problems.

62. Besides the official agencies, many universities and research agencies carry out research in this area primarily for students requirements. In order to meet the need for better information, the Central Bureau of Correctional Services maintains a "National Register of Social Defence Research" which is periodically revised. The Indian Council of Social Science Research has been recently set up by Government of India as an autonomous and incorporated agency to promote and coordinate social science research.

63. A Seminar was held at New Delhi, in April 1970, on the subject of Planning Research in Social Defence under the auspices of the Social Development Council and in collaboration with the U.N. Social Defence Research Institute, Rome, and U.N.D.P. This seminar brought together a good number of experts and administrators to discuss the contribution of Social Defence Research in policy development in India.

64. The other prerequisite is the research expertise and technically competent personnel, familiar with the field as well as with latest research techniques. It was accepted that special training programmes need to be developed for social defence research at national and regional levels, supported by efficient statistical machinery. In this context, it is accepted that social defence research should be integrated and interwoven in the day-to-day administration practices so that facts and trends are constantly made available to the policy makers.

APPENDIX 'A'

INDIA AT A GLANCE

1. India is a Sovereign Democratic Republic.
2. Total population in 1961 Census—439234771.
3. Population on March 1, 1970—546042000.
4. Rate of growth of population—2.3 per cent.
5. Area—3276141 Sq. Km.
6. 17 States, 10 Union Territories and 1 Territorial Unit make the Union of India.
7. The 17 States, their areas and population are:

State	Area		Population (1961)
1. Andhra Pradesh	232132	sq. km.	35983447
2. Assam	122481	"	11872772
3. Bihar	172022	"	46455610
4. Gujarat	187091	"	20630000
5. Haryana	43869	"	7590543
6. Jammu & Kashmir	22800	"	3561000
7. Kerala	38855	"	16903715
8. Madhya Pradesh	438156	"	32370000
9. Mysore	192204	"	23586772
10. Maharashtra	306345	"	39550000
11. Nagaland	16297	"	369200
12. Orissa	155845	"	17548846
13. Punjab	50255	"	11147054
14. Rajasthan	340230	"	20155602
15. Tamil Nadu	123847	"	33686953
16. Uttar Pradesh	2901642	"	73672906
17. West Bengal	87537	"	34930000

8. The 10 Union Territories, their areas and population are:

Union Territory	Area		Population
1. Andaman & Nicobar Islands			
2. Laccadive, Minicoy and Amindivi Islands	23	sq. km.	24108
3. Delhi	1483	"	3500000
4. Himachal Pradesh	56319	"	2810000
5. Manipur	22388	"	940876(1966)
6. Tripura	10680	"	1142005
7. Chandigarh			
8. Dadra and Nagar Haveli	1212	"	57963
9. Goa, Daman and Diu	3663	"	634584
10. Pondicherry	481	"	369079

9. The Territorial Unit is — The North East Frontier Agency.
10. Constitution—Federal.

APPENDIX 'B'

TABLE NO. 1

Incidence of Crime and Population during 1963 and 1968 in India

Year	Population	Total cognizable Crime	Rate of Crime per 100,000 of population
1963	459.1	6,58,830	143.5
1964	475.2	7,59,013	159.6
1965	486.9	7,51,615	154.4
1966	498.7	7,94,733	159.4
1967	511.3	8,81,981	172.5
1968	523.5	8,61,962	164.7

TABLE NO. 2

Persons Arrested During 1963-68 in India

Year	Number of persons arrested	Average number of persons arrested per case
1963	7,23,394	1.09
1964	8,40,292	1.10
1965	8,53,473	1.13
1966	8,81,653	1.11
1967	9,63,716	1.09
1968	10,41,257	1.21

TABLE NO. 3

Incidence of Crime under different heads in India—1963-68

Sl. No.	Head of Crime	1963	1964	1965	1966	1967	Quinquennial average	1968	Percentage variation+ increase— decrease over Q.A.	Percentage variation+ increase— decrease over 1967
1	2	3	4	5	6	7	8	9	10	11
1.	Total Cognizable Crime	658830	759013	751615	794733	881981	769234	861962	+12.1	—2.3
2.	Murder	10754	11748	12310	12631	13398	12108	13849	+13.8	+3.4
3.	Kidnapping and Abduction	6924	8050	7927	7874	8192	7793	8830	+13.3	+7.8
4.	Dacoity	4997	5287	4955	4817	6300	5271	6384	+21.1	+1.3
5.	Robbery	7694	8336	8067	8583	10252	8587	10194	+18.7	—0.6
6.	House Breaking	137025	153862	142015	150180	173575	151331	156206	+3.2	—10.0
7.	Cattle Thefts	23557	23504	22243	24103	26868	28975	25579	+6.7	—3.4
8.	Ordinary Thefts	218930	250172	251459	274598	313393	261712	289967	+10.8	—7.5
9.	Riots	28114	32693	32940	34696	42447	34178	45801	+34.0	+7.9
10.	Criminal breach of trust	18438	21180	21354	22353	23850	21455	22408	+4.4	—7.4
11.	Cheating	8854	11670	11935	11606	12701	11353	12524	+10.3	—1.4
12.	Counterfeiting	289	317	436	655	1413	622	1425	+29.1	+0.8
13.	Miscellaneous	193254	232194	235974	242635	249892	230791	268795	+16.5	+7.6

Q.A. means Quinquennial average

APPENDIX 'C'

Prisons in India in 1969

Sl. No.	States/Union Territories	Central Jails	District Jails	Special Jails	Sub Jails	Open Jails	Model Jails	Juvenile Jails	Borstal Schools	Total	Total Capacity	Present Population
1.	Andhra Pradesh	5	7	—	149	2	—	—	1	164	N.A.	7612
2.	Assam	—	16	1	—	1	—	—	—	18	N.A.	5395
3.	Bihar	7	12	1	41	—	—	—	1	62	21697	33425
4.	Haryana	1	3	—	13	—	—	—	—	17	2638	2887
5.	Gujarat	2	5	1	14	1	—	—	—	23	5127	5340
6.	Jammu & Kashmir	2	—	—	7	—	—	—	—	9	N.A.	875
7.	Kerala	3	1	—	37	1	—	—	1	43	434	2449
8.	Madhya Pradesh	4	23	—	31	—	—	—	1	59	11048	13483
9.	Maharashtra	4	34	1	178	3	—	—	1	221	14883	14499
10.	Mysore	3	7	—	—	1	—	1	1	13	N.A.	6739
11.	Nagaland	1	1	—	—	—	—	—	—	2	N.A.	118
12.	Orissa	—	12	1	48	—	—	1	—	62	5710	7351
13.	Punjab	3	6	—	13	—	—	—	1	23	N.A.	8109
14.	Rajasthan	2	5	2	75	3	1	—	—	88	N.A.	12254
15.	Tamil Nadu	8	—	4	122	2	—	—	1	137	N.A.	13138
16.	Uttar Pradesh	5	50	—	4	3	1	1	—	64	N.A.	39530
17.	West Bengal	5	9	4	34	—	—	—	1	53	18109	16201
Union Territories												
1.	A. & N. Islands	—	1	—	—	—	—	—	—	1	N.A.	85
2.	Delhi	1	—	—	—	—	—	—	—	1	1273	1832
3.	Goa	—	—	1	6	—	—	—	—	7	583	199
4.	Himachal Pradesh	—	—	1	4	1	1	—	—	7	N.A.	153
5.	L.M. & A. Islands	—	—	—	3	—	—	—	—	3	120	N.A.
6.	Manipur	—	1	—	1	—	—	—	—	2	575	403
7.	Pondicherry	2	—	—	—	—	—	—	—	2	N.A.	223
8.	Tripura	1	—	—	9	—	—	—	—	10	452	526
Total:		59	193	17	789	18	3	3	9	1091	86563	192832

N.A.—not available.

Probation Services in India—1968

Name of the State	Number of Districts	Number of Probation Officers (stipendiary)		Number of Voluntary Probation Officers		Total number of social inquiries on probation	Total number released
		Probation Officers (stipendiary)	Voluntary Probation Officers	Probation Officers	Voluntary Probation Officers		
1. Andhra Pradesh	20	49	—	—	—	5238	853
2. Assam	11	9	—	—	—	—	—
3. Haryana	7	10	—	—	—	112	474
4. Gujarat	17	55	14	—	—	2424	425
5. Kerala	9	13	3	—	—	2569	1253
6. Madhya Pradesh	42	—	91	—	—	—	—
7. Maharashtra	19	35	—	—	—	5564	197
8. Mysore	13	21	—	—	—	1719	267
9. Punjab	11	13	2	—	—	489	768
10. Tamil Nadu	26	68	—	—	—	28267	6877
11. Uttar Pradesh	58	57	—	—	—	—	2412
12. Orissa	13	13	—	—	—	—	—
13. West Bengal	6	9	—	—	—	—	—
Union Territories	9	27	1	—	—	4628	256
Total:	261	379	111	—	—	51010	13782

APPENDIX 'E'

Children Acts in force in the States/Union Territories, their coverage and number of institutions

Name of the States/Union Territories	Children Act in force	Coverage Number (Number of districts)		Number of institutions set up under the Act					
		of juvenile Courts	of Courts	Children Homes Fit Person Institutions		Remand/Observation Homes		Approved/Certified special/Reformatory Schools	
				State	Voluntary	State	Voluntary	State	Voluntary
1. Andhra Pradesh	a) Hyderabad Children Act, 1951 b) Madras Children Act, 1920	20	2	—	—	3	—	4	—
2. Gujarat	a) Bombay Children Act, 1948 b) Saurashtra Children Act, 1956	17	14	—	19	10	9	5	2
3. Kerala	a) Madras Children Act, 1920 b) Cochin Children Act, 1937 c) Travancore Children Act, 1939	9	8	2	1	8	1	4	—
4. Maharashtra	Bombay Children Act, 1948	26	28	9	86	1	32	19	21
5. Mysore	Mysore Children Act, 1964	19	16	1	20	13	6	9	—
6. Tamil Nadu	Amended Madras Children Act, 1958	13	11	2	1	2	6	5	14
7. Uttar Pradesh	U.P. Children Act, 1951	26	9	—	—	13	—	3	—
8. West Bengal	West Bengal Children Act, 1959	2	1	—	—	2	—	11	—
9. Delhi	Central Children Act, 1960	1	1	4	—	3	—	1	—
10. Pondicherry	Central Children Act, 1960	(Entire Union Territory)	1	1	—	—	—	1	—

Note :— i) The Central Children Act, 1960 is in force in the Union Territories of Goa, Daman and Diu and Himachal Pradesh, but no institutions have been set up under the Act.
ii) In states like Haryana and Punjab the East Punjab Children Act, 1949 has been enforced but no institution has been set up.
iii) In Assam, Bihar, Madhya Pradesh and Rajasthan Children Acts are in the process of being implemented. No institution has been set up.

Capacity of the Institutions and daily average number of inmates

Name of the States/Union Territories	Capacity of the Institutions									Daily average number of inmates								
	Children Homes			Remand/ Observation Homes			Approved/Certified/ Special Reformatory Schools			Children Homes			Remand/ Observation Homes			Approved/ Certified/ Special Reformatory Schools		
	State	Vol.	Total	State	Vol.	Total	State	Vol.	Total	State	Vol.	Total	State	Vol.	Total	State	Vol.	Total
1. Andhra Pradesh	—	—	—	115	—	115	1218	—	1218	—	—	—	122	—	122	1205	—	1205
2. Gujarat	—	—	—	520	550	1070	550	(not fixed)	—	—	—	293	330	623	910	—	910	
3. Kerala	439	782	1221	109	25	134	—	—	—	433	582	1015	34	35	69	—	—	
4. Maharashtra	103	1973	2076	—	2750	2750	1750	2700	4450	20	1283	1303	—	2124	2124	1660	2756	4416
5. Mysore	15	1594	1609	560	550	1110	1280	—	1280	14	1362	1376	431	179	610	1762	—	1762
6. Tamil Nadu	—	300	300	325	470	795	2832	1882	4714	—	294	294	402	216	618	2922	1770	4692
7. Uttar Pradesh	—	—	—	293	—	293	300	—	300	—	—	—	123	—	123	123	—	123
8. West Bengal	Not available																	
9. Delhi	719	—	719	120	—	120	50	(not fixed)	830	—	830	217	—	217	21	—	21	
10. Pondicherry	7	—	7	50	—	50	50	—	50	3	—	3	50	—	50	28	—	28

END