

**COMMITTEE ON EMPOWERMENT OF WOMEN (2001-2002)  
(THIRTEENTH LOK SABHA)**

**Women in Detention**

**Ministry of Home Affairs  
And  
Ministry of Human Resource Development  
(Department Of Women And Child Development)**

**Presented to Lok Sabha on 24<sup>th</sup> August, 2001  
Laid in Rajya Sabha on 24<sup>th</sup> August, 2001**

**LOK SABHA SECRETARIAT  
NEW DELHI  
24<sup>th</sup> August, 2001/Bhadrapada 2, 1923(Saka)**

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## COMPOSTION OF THE COMMITTEE ON EMPWOERMENT OF WOMEN

(2001-2002)

**CHAIRPERSON** Smt. Margaret Alva

### **MEMBERS**

#### **LOK SABHA**

2. Dr. (Smt.) Anita Arya
3. Smt. Jayashree Banerjee
4. Smt. Renuka Chowdhury
5. Smt. Santosh Chowdhary
6. Dr. (Smt.) Beatrix D'Souza
7. Shri P.D. Elangovan
8. Kumari Bhavana Pundlikrao Gawali
9. Smt. Abha Mahto
10. Dr. Ashok Patel
11. Prof. (Smt)A.K. Premajam
12. \*Dr. (Smt.) V. Saroja
13. Smt. Kanti Singh
14. Smt. Shyama Singh
15. Smt. Jayaben B. Thakkar
16. Shri Prakash Mani Tripathi
17. Shri D. Venugopal
18. Smt. D.M. Vijaya Kumari
19. Dr. (Smt.) Sudha Yadav
20. Vacant

#### **RAJYA SABHA**

21. Smt. Shabana Azmi
22. Smt. Chandresh Kumari
23. Dr. (Ms.) P. Selvie Das
24. Smt. Saroj Dubey
25. Smt. Jayaprada Nahata
26. Prof. (Smt.) Bharati Ray
27. Miss Mabel Rebello
28. Smt. Basanti Sarma
29. Smt Savita Sharda
30. Vacant

#### **SECRETARIAT**

- |    |                    |   |                   |
|----|--------------------|---|-------------------|
| 1. | Shri P.D.T. Achary | - | Joint Secretary   |
| 2. | Shri Ashok Sarin   | - | Deputy Secretary  |
| 3. | Smt. Veena Sharma  | - | Under Secretary   |
| 4. | Shri H.R. Kamboj   | - | Committee Officer |

\* Nominated as a Member of the Committee w.e.f. 20<sup>th</sup> March, 2001 vice Shri P. H. Pandian resigned

## **INTRODUCTION**

1. I, the Chairperson of Committee on Empowerment of Women, having been authorised by the Committee to submit the Report on their behalf, present their Third Report on 'Women in Detention'.

2. This Report is based on the inputs including material received from the Ministry of Home Affairs, Ministry of Human Resource Development (Department of Women and Child Development) National Commission for Women and impressions gained during on-the-spot visits to jails in some of the States where women are confined.

3. The Sub-Committee of Committee on Empowerment of Women on 'Appraisal of Laws relating to Women (2001-2002)' heard the views of former IG (Prison) Tihar Jail; exchanged ideas with some NGOs on the subject on 16<sup>th</sup> April 2001 and took oral evidence of the representatives of Ministry of Home Affairs on 19<sup>th</sup> April 2001. The Committee on Empowerment of Women also took oral evidence of the representatives of Ministry of Home Affairs on 6<sup>th</sup> June 2001 in connection with examination of the subject. The Committee had also interacted with the Chairperson and Members of the National Commission for Women on 10<sup>th</sup> July 2001.

4. The Report was considered and adopted by the Committee on Empowerment of Women (2001-2002) at their sitting held on 22<sup>nd</sup> August 2001. The Minutes of the sittings form Part II of the Report.

5. The Committee wish to express their thanks to the Ministry of Home Affairs, Ministry of Human Resource Development (Department of Women and Child Development), former IG (Prison) Tihar Jail, Delhi, Chairperson and Members of the National Commission for Women and Non-Governmental Organisations etc. for placing before them material and information in connection with the examination of the Report and for giving evidence before them.

6. For facility of reference, the Observations and Recommendations of the Committee have been printed in thick type in the body of the Report.

**MARGARET ALVA,  
CHAIRPERSON,  
COMMITTEE ON EMPOWERMENT OF**

**New Delhi;  
WOMEN  
17<sup>th</sup> August, 2001**

## REPORT

### INTRODUCTORY

The conditions in an average Indian prison present a very depressing picture. Overcrowded, unhygienic and hopeless, these prisons far from being any kind of correctional centres often produce hardened criminals who truly become a menace to society. A mindless adherence to centuries old jail manuals leaves very little scope for any innovative approach in the matter of dealing with people who end up in prisons for various reasons and under various circumstances. The enlightened sections of society have often demanded jail reforms having been moved by the horrifying conditions of prison life. Attempts have also been made to improve conditions by amending rules, issuing new regulations or appointing Committees. But no significant change has taken place in the general conditions with in jails or in the attitude of the jail authorities.

Although women in detention constitute only around 3 per cent of the total prisoners in various jails in the country, their condition is pathetic in terms of the prison's environment, the treatment meted out to them in the jail and the social ostracism they suffer. Women prisoners suffer from greater disabilities than men. The psychological stress caused by separation from children, the unhelpful attitude of close relations, uncertainty about the future are all factors which make their life miserable in jail. The antiquated manuals and insensitive approach of the jail authorities add to their woes. During its study tour, the Committee visited several jails where women prisoners are lodged. We found the conditions inside the jails appalling. Over 80% of the women prisoners found there are undertrials who have been there for years together. No one knows when the trial will take place or when they will be able to come out of the cold prison walls.

The slow moving judicial machinery, apathy on the part of the State and insensitivity of the jail authorities has made prison reforms almost impossible. There are, of course, some individual initiatives at reform, like in Tihar Jail. But firm initiatives on the part of the State are missing. A landmark report made by the Justice Krishna Iyer Commission on Women in Detention in 1987 is yet to receive serious attention of the Government.

As Parliamentarians we have a duty to highlight the problems of these unfortunate women who, in most cases, are victims of circumstances. We strongly feel that immediate steps need to be taken by the Union Government as well as the State Governments to reform the conditions in jails.

The Committee's findings and recommendations are contained in the succeeding paragraphs.

The question of ensuring custodial justice to women has been gone into by a number of Committees starting from the Indian Jail Committee in 1919-20, which had *inter-alia*

recommended separate institutions for women prisoners in each province. The All India Jail Manual Committee of 1957-59 suggested a specialised approach towards care, treatment and rehabilitation of women offenders. The Committee gave emphasis to vocational training for women, while in custody. Another Committee, i.e. The All India Committee on Jail Reforms, (1980-83) also studied the problem in depth. The Committee observed that “women in prison as we have witnessed during our visits to various jails in different States and Union Territories suffer from unhealthy living conditions, exploitation, unnecessary prolonged severance from their families and lack of gainful and purposeful employment.” The Committee laid emphasis on training of custodial staff in prisons to handle women prisoners with a reformatory attitude. Finally, the Expert Committee on ‘Women Prisoners’ constituted by the Government in 1986-87 under the Chairmanship of Mr. Justice V.R.Krishna Iyer made a number of very useful recommendations for women prisoners and suggested a National Policy for Custodial Justice for Women. It laid particular emphasis on the need for adoption of a specialised approach towards handling, treatment and rehabilitation of women prisoners.

1.2 It is generally a fact that the treatment of women in custody is not uniform throughout the country. There is a wide divergence in the situation in jails mainly because of the fact that the matters relating to prisons, reformatory institutions, borstal institutions, etc., and persons detained therein are a State subject under the Constitution (Entry 4 of List II in the Seventh Schedule) and prison administration is governed by the State Governments under the provisions of Indian Prisons Act, 1894 and the Jail Manuals framed by various State Governments.

1.3 1.3 The provisions relating to custodial justice to women are incorporated not only in various laws passed by the Parliament or State Legislatures but also in various subordinate legislations made by Governments of different States. A good part of the relevant provisions have also spilled over to executive instructions, circulars, memoranda etc., compiled and consolidated in various manuals. Above all, there are a number of judicial decisions of the Supreme Court and High Courts which have set the pace for custodial justice. Amongst the notable judicial decisions of the Supreme Court, references can be made to the following;

Hussainara Khatoon AIR, 1979 S.C. 1360

Prem Shankar Shukla Vs. Delhi Admn. AIR, 1980 S.C. 1535

Upendra Baxi Vs. State of U.P. (Writ petition number (Crl.) 1990 of 1981, decided on 23.7.1986

Chinnamma Sivadas Vs. State of Delhi Admn. (Write petition number 2526 of 1981, order dated 14.9.1981).

Nandini Satpathy case AIR 1978 S.C. 1205.

But the most important case is that of Sheela Barse vs. State of Maharashtra (AIR 1983 S.C.378) in which it has been held that it is absolutely essential that legal assistance is made available to prisoners, whether they be undertrial or convicted prisoners. The Supreme Court outlined seven guidelines to come to the aid of women in custody, viz., exclusive police lock-ups for female suspects, interrogation of women prisoners in the presence of a female police officer, arrestee being informed of the grounds of arrest immediately, provision for legal aid, surprise visits to police lock-ups, communication to the nearest relatives or friends of arrested women, immediately inquiry by the Magistrate about any torture meted out to the woman arrestee and her right to medical examination etc. All these have become a part of the law itself.

1.4 The Committee has been given to understand that in the realm of custodial justice, a reference first of all, must be made to the Indian Penal Code, which remedies the substantive provisions for crimes and sentences. While the ingredients of a substantive criminal offence may remain the same irrespective of gender, there is an urgent necessity to work out sentencing strategies appropriate to women. The I.P.C. demands a fresh approach in this light. Justice Krishna Iyer's Committee on Women Prisoners had also referred to this.

1.5 The Committee was informed that the Criminal Procedure Code has already posed a number of issues on which amendments have become incumbent. The amendments of the Cr.P.C. centres on matters of arrest, search, bail, interrogation, etc. Then, there is the Police Act of 1861 which is a Central Act defining powers and conduct of the police to make it an efficient instrument for the prevention and detection of crimes. Matters concerning women in relation to police have several provisions that need change. Appropriate amendments to reflect the special needs of women are urgently needed.

1.6 The Committee has noted that the legal issues on custodial justice are covered by the Prisons Act of 1894 which is also a Central Act providing for the regulation of prisons almost throughout India. This Act defines the duties of prison officers including medical officers, admission, removal and discharge of prisoners, food, clothing and bedding and different categories of prisoners as well as issues relating to their health and employment while in prison. Above all, there are also provisions defining prison offences and arrangements. Therefore, the Prison Act is an important piece of legislation that regulates situations in custody as well as treatment of jail inmates. Being a Colonial Act, it demands a fresh look to reflect the special needs of women.

1.7 The Ministry of Human Resource Development (Department of Women and Child Development) had set up an Expert Committee at the national level to identify the gaps and drawbacks of the existing facilities and services and suggest a more humane policy towards the women offenders. The Committee under the Chairmanship of Justice V.R.Krishna Iyer submitted its report in the year 1987. The report inter-alia states that “womenhood and childhood even in criminal wrappings and behavioral aberrations deserve to be nursed in dignity and restored to working normally, using all the material, moral and spiritual resources at the society’s command”. In his report, Justice Krishna Iyer had observed that the “existing malpractice and the delinquencies in the various forms of custody tend to effect women more adversely than men. This is on account of the fact that the women are still a marginal group in the custodial population and tends to be less vocal, demanding and violent in demonstrating against custodial or other injustice. With this in mind, specific and specialised interventions are necessary to restore the existing imbalance in the criminal correctional justice system vis-à-vis women”. The recommendations that follow represent the essence of the Committee’s perceptions regarding a reform approach to dispensing custodial justice to women and to protecting her dignity and her person in custody. The proposed interventions are addressed to the policy making, reviewing, enforcement and organisational and infrastructural levels. The extracts of the major recommendations contained in the Report of the National Expert Committee on Women Prisoners headed by Justice Krishna Iyer are summarised in Annexure 1.

1.8 The Committee on Empowerment of Women took up the subject 'Women in Detention' for detailed examination and report. Accordingly, the Department of Women and Child Development which had constituted the National Expert Committee on Women Prisoners headed by Justice Krishna Iyer, was requested to state the follow -up action taken on the recommendations contained in the Report. In reply, the Department of Women and Child Development has stated that they had received the report of the Committee. However, as per Allocation of Business Rules, 1961, the work relating to follow-up action on the Report of the National Expert Committee on Women Prisoners was transferred to the Ministry of Social Justice & Empowerment.

1.9 When the matter was taken up with the Ministry of Social Justice and Empowerment, they stated that the National Expert Committee on Women Prisoners headed by Justice Krishna Iyer was appointed by the Department of Women and Child Development in May, 1986. The Committee submitted its report to that Department in May, 1987. The report was examined by that Department who appointed a Working Group to implement its recommendations and also coordinated follow-up action. According to the Ministry of Social Justice and Empowerment their records indicate that all the relevant files were returned to the Department of Women and Child Development on 14<sup>th</sup>

September, 1990 for taking further follow up action. The Ministry added that as per the Allocation of Business Rules, the Ministry of Social Justice & Empowerment deals with juvenile vagrancy, juvenile delinquency and offenders and not women in custody. Since the Department of Women & Child Development was concerned with the welfare of women and coordination of activities of other Ministries and Organisations on this subject, it is for the Department of Women & Child Development to take further follow-up action on the Report of the National Expert Group on Women Prisoners and submit reports on action so far taken in this regard.

1.10 The matter was again taken up with the Department of Women and Child Development. After prolonged correspondence, the Department of Women and Child Development stated that:

“The Department of Women and Child Development has checked its records. There is no record to prove that the Ministry of Social Justice & Empowerment returned the relevant files and records to this Department in September, 1990 as claimed by that Ministry.

However, in order to avoid further delay in the matter, this Department has, circulated the extracts of the recommendations contained in the Report of the National Expert Committee on Women Prisoners headed by Justice Krishna Iyer to all State Governments/Union Territory Administrations requesting them to send action taken reports on the recommendations. The subject ‘prison’ is a state subject as per the VIIth Schedule of the Constitution of India”.

1.11 Explaining the position in this regard, the Secretary, Department of Women and Child Development stated during evidence:

“The Department of Women and Child Development had appointed the Justice Krishna Iyer Committee in 1986. They gave the report in May, 1987. The Report was sent to the concerned Ministries and concerned State Governments. A Committee was formed to monitor the implementation. The Report was sent to the Law Minister under the signatures of the then State Minister for consideration of the recommendations by the Law Commission. He had made certain suggestions regarding Article 252 and he had the views of the Attorney-General annexed to the Report. There were still some doubts on the question whether the women prisoners can be tried under mobile courts within the jail. That recommendation was also sent to the Law Commission. xx xx xx xx

They were mandated to consider all the recommendations. They considered the recommendations and sent their views to the Ministry of Home in May, 1994 on the Report of the Law Commission as well as on the Cr.P.C. In fact, they had appointed their own Committee under the Chairmanship of Justice Bhagwati. That Committee had considered the recommendations of the Law Commission and Justice Krishna Iyer’s Committee and made suggestions to NCW. On that basis the NCW sent its recommendations in May 1994 to the Ministry of Home. Subsequent to that, a legislation was introduced and it is still pending. The Law Commission has since then given its 154<sup>th</sup> Report where some of these views are

subsumed. As far as the other recommendations of the Justice Krishna Iyer's Committee are concerned xx xx xx one related to having National Authority on Custodial Justice. He suggested that all custodial matters, whether it be women in prison or whether it be women in mental hospital, should be considered by one authority, called the National Custodial Authority.

xx xx xx xx xx

As far as other set of recommendations were concerned, they relate to administrative matters with regard to the women; facilities of their better trials, their being able to contact their relatives, their living conditions, avoiding harassment to women and so on. These were also considered subsequently by the National Commission for Women. They organised seminars and had conference with IG prisons. All the recommendations which they made were sent to the concerned Ministry which is the Ministry of Home Affairs. We sent those recommendations to them and we got a response that since this is a State subject they had a certain limitation in implementing quite a few of those recommendations. However, as an advisor they issued a number of circulars to the State Governments for implementing many of these recommendations. xx xx xx xx

xx xx We must confess that after 1990 there was a certain dispute between the Department of Social Justice and the Department of Women and Child Development and though till then these recommendations were followed up, after that Justice Krishna Iyer's recommendations were not followed up. As far as the question in general terms as to what steps the National Commission for Women had taken on these recommendations, they have a chapter on detention. But we must confess that these recommendations could not be considered. There was no follow up. xx

xx xx xx

Subsequently, after the Committee took up this matter again, we decided that instead of having inter-Ministerial disputes, we would take up this matter and would write to the State Governments. We wrote to them in January, 2001 for getting the updated position on the implementation of these recommendations and the status on the conditions of jails. We have decided now to implement these recommendations and follow them up within our own Department. This is what we plan to do.”

1.12 When asked about the position regarding implementation of Justice Krishna Iyer Report on women prisoners from the representatives of Ministry of Home Affairs, during evidence, the Special Secretary, Ministry of Home Affairs stated:

“About the Justice Krishna Iyer Report, there were basically two sides. The report recommended wide-ranging changes in the justice administration system and there were also recommendations for reforming the jails. In the Home Ministry, this report was analysed and then this was forwarded to the Law Commission for their review. Now the Law Commission, in their 154<sup>th</sup> report, have incorporated most of the recommendations.

We will certainly be taking the orders of the Cabinet for the wholesale change in the Criminal Procedure Code, which will incorporate most of the suggestions made in the Justice Krishna Iyer Report.”

He further added

“But we have made a note also as to which of the recommendations have been accepted by the Law Commission. Once the 154<sup>th</sup> Report is placed before the Parliament and the Criminal Procedure Code is amended, the legal aspect of Justice Krishna Iyer’s Report will be taken care of. So far as the reforms side is concerned, we have been issuing advisories to the States to implement the recommendations. As you know Madam, basically Prisons is a State subject. So, in number of cases such reforms are being attempted. Then, we have a centrally sponsored scheme for which we provide financial assistance also to the State Governments. During the current year we have a sum of Rs. 7 crore. We have already released Rs. 124 crore to the States. This amount is available for providing better prison amenities.”

1.13 When the Committee desired to know the extent of implementation by each State of the recommendations contained in the Report of Justice Krishna Iyer on women in detention, the Ministry of Home Affairs has stated that the State Governments have been asked to furnish the status of implementation of the recommendations of the Justice Krishna Iyer Committee’s Report. The Committee were informed that some of the States have implemented Justice Krishna Iyer recommendations. On being asked to state what important recommendations have been implemented by the States, the Special Secretary, Ministry of Home Affairs during evidence on 6<sup>th</sup> June, 2001 stated:

“we will compile that and we will send it to you. We would make a list of the States and the list of suggestions which have been implemented.”

However, this information is still awaited from the Ministry of Home Affairs.

1.14 The Committee desired to know from the Ministry of Home Affairs about their views on the situation prevailing in the various jails where women are confined. Responding, the Ministry have stated that ‘Prisons’ is a State subject under List-II of the Seventh Schedule to the Constitution and Prison Administration is governed by the State Governments under the provisions of Indian Prisons Act, 1894 and the Jail Manuals framed by various State Governments. The State Governments undertake legislation and make rules and regulations etc. on the subject. The detailed rules and regulations for management of prisons have been incorporated by the State Governments in the respective Jail Manuals which are updated from time to time. According to the Prisons statistics at the end of 1998, there were 1133 prisons including 16 women prisons in the country (Annexure-II). The State-wise details of women prisons are at Annexure-III. The Ministry of Home Affairs has further stated that against the capacity of 217021, the actual number of prisoners accommodated in

these prisons is about 275605 (Annexure-IV). Out of the total prison population, the total number of under-trials is 202564 which is approximately 73.5% of the total prison population (Annexure-V).

1.15 The information as made available to the Committee by the Ministry of Home Affairs regarding total capacity, number of inmates, Indian as well as foreign women inmates, is at Annexure – VI. The Age-wise information on convicts and undertrial women prisoners under various offences is at Annexure-VII and Annexure VIII. The duration of detention of undertrials and period of sentence for convicted women prisoners are at Annexure – IX and Annexure-X.

1.16 According to the Ministry of Home Affairs, in India, as in other countries, the strength of women prisoners incarcerated in prisons is comparatively much less than their male counterparts. Against 275605 inmates, the women prisoners were 8822, which constitute 3.2% of the total prison population at the end of 1998. Out of total 8822 women prisoners, the number of women undertrials were 6649 (Annexure XI). The total available capacity to lodge women prisoners was 11061. The statistics at Annexure – IV reveals that except in the States of Bihar, Haryana, Maharashtra, Punjab and Uttar Pradesh the authorised capacity for women prisoners is more than the actual prisoners kept in the jails. Against the authorised capacity of 11061 women prisoners, 8822 women prisoners were in detention at the end of 1998. Thus overcrowding is not a problem at the national level in so far as women prisoners are concerned. Some of the States have at least one or two exclusive prisons for women. Most States & Union Territories in India do not have exclusive women's prisons, but have separate enclosures for them. Such enclosures/wards are governed by female staff. In smaller jails as the District or Sub-jails, depending on the strength of the female prisoners, a separate Wing or Cells are allotted for them which is supervised by female staff. In such cases, the female staff are generally appointed on a temporary basis and they are also only at the lower level. According to the Ministry, separate women prisons exist in the States of Andhra Pradesh, Bihar, Kerala, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal and the Union Territory of Delhi, where it has become functional from the year 2000.

1.17 The Ministry of Home Affairs have further stated that even as 'Prisons' is a State subject, keeping in mind the pressing need for improving prevailing conditions inside prisons, the Ministry of Home Affairs has been providing central assistance to the State Governments to supplement their efforts in improving the condition of prisons and prisoners under the scheme of Modernisation of Prison Administration since 1987. The funds are provided to the State Governments for strengthening security, communication and transport, repair and renovation of old prison buildings, facilities to women offenders, vocational training, modernisation of prison industries and training to prison personnel etc. An amount of Rs.124.81 crore was released to the State Governments under this scheme from 1987 to March, 2001. During the current financial year an amount of Rupees 07 crore is available under the scheme. The monitoring of the Scheme is

done by this Ministry by asking the States to give utilisation certificates of funds released to them for the items covered under the Scheme. Which the State Governments have been furnishing the utilisation certificates in respect of the entire amount released to them, they are not, giving specific details. The State Governments have not also been sending their schemes on time for release of funds.

1.18 The Ministry of Home Affairs have added that in view of the status of women in family and society, their special needs/problems and their vulnerability while in prisons, special provisions have been made in the Prison Manual of States for the segregation, protection, care, treatment, training and rehabilitation of women prisoners which in prisons. Immediately after admission to prison, every women prisoner has to undergo a thorough medical examination so as to ascertain whether she is pregnant or not. The result of such examination has to be recorded in the relevant records and her history ticket and such women prisoners are given special medical care either in the prison hospital or in outside hospitals to ensure better medical health both physically as well as mentally to them. They are taken to the local maternity hospital for the purpose of delivery. While registering the birth of a child of women prisoners the place of birth indicated is the name of the hospital only instead of indicating the name of the prison/institution in which they are confined. The pregnant and nursing women prisoners are being provided a prescribed special diet and exempted from unsuitable type of work in addition to their regular medical check-up as advised by a competent medical officer.

1.19 As regard the facilities provided to women inmates, the Ministry of Home Affairs have stated that taking into consideration, the development of the child, its attachment to the mother and other relevant factors, children up to the age of 4 to 6 years are allowed to accompany women prisoners. Creches are organised in many prisons for such children. Facilities like, the naming rites of children born in prison are being extended to them. The Prison Manual of States also provide for special diet for the children accompanying women prisoners, as prescribed by the medical officers from time to time and suitable clothing. Prisons have a system of classification for the segregation of various categories of women prisoners like convicts, under-trials, habitual offenders, prostitutes, procuresses, etc. Women prisoners are provided the facilities of maintaining contacts with their families through letters, visits from relatives and leave. This apart, facilities like, radio, TV, cassette player etc. are also being provided to the women prisoners for their recreation in some prisons. Suitable clothing including sanitary pads are being provided to the women prisoners along with the adequate quantity of washing and toilet soaps in order to maintain proper cleanliness and hygiene while in prisons.

1.20 According to the Ministry of Home Affairs medical check up of female prisoners is generally done by Women Medical Officers and wherever necessary the women prisoners are referred to outside hospitals for treatment. The food is provided as per the scales provided in the respective jail manuals of the State Governments. Special diet is provided to the ailing/pregnant women prisoners on medical advice. Vocational training is provided to the convicted prisoners and also to the undertrial women prisoners in many jails. In most cases the vocational training is confined to the traditional jobs like sewing, knitting, embroidery, paper bags, garment making etc. Arrangements are also available at many jails to provide primary education and adult education with trained teachers. Legal aid is provided to the needy women prisoners through the legal aid societies. Some NGOs are also helping the prisoners in this regard.

1.21 The Ministry of Home Affairs has further stated that as desired by the Committee, they had deputed officers to some of the jails in the country so as to assess for themselves the conditions of women inmates there.

1.22 In a note furnished to the Committee in this regard the Ministry have stated that their officers found the various facilities in regard to accommodation, medical, food, training, recreation, counselling and legal aid exist in various jails of the country and the general conditions of women in jails as more or less satisfactory. The major complaint of the prisoners according to them is the delay in trial and delay in disposal of appeals. The other major complaint from the life convicts was regarding refusal to consider their premature release. Some of the deficiencies noticed by the officials of Ministry of Home Affairs during their visits have been reproduced in Annexure XIV.

1.23 1.23 In order to study the conditions of Women in Detention, the Committee undertook visits to the following jails:-

- |      |      |   |
|------|------|---|
| i)   | i)   | Central Prison (Arthur road Jail), Mumbai     |
| ii)  | ii)  | Tihar Jail, Delhi                             |
| iii) | iii) | Model Jail, Chandigarh                        |
| iv)  | iv)  | Central Prison, Orissa                        |
| v)   | v)   | Presidency Jail, Kolkata                      |
| vi)  | vi)  | Nari Bandi Niketan and District Jail, Lucknow |

1.24 The details regarding number of inmates, facilities provided to the women, problems etc in respect of each jail is given in Annexure XV. Some of the impressions gathered by the Committee during their visits to these jails are as under:-

1. Most of the jails do not have exclusive women's prisons but only separate enclosures for women.
2. The majority of female detainees are undertrials. They languish in jails for offences for which sentences would have been far less if they had been convicted.
3. Special Courts/Lok Adalats were not being held in the jails for expeditious disposal of cases for undertrials and for petty offences.
4. In Arthur Road Jail, Mumbai, the women prisoners were for more than the authorised capacity leading to acute shortage of space and discomfort.
5. General conditions relating to food, lodging, clothing, recreation etc. were far below standard and needed considerable improvement.
6. In most of the jails, there was one common kitchen and no separate kitchen for women prisoners, who desired that they should be allowed to cook food or alternatively a separate kitchen, should be allotted to them.
7. In some jails, there was no whole time lady medical officer but only a part time lady medical officer who seemed to have appeared for our visit.
8. Most of the jails do not have counseling cells for women. There was urgent need for counseling centres especially for psychiatrist counseling in each prison.
9. There was an urgent need for simplification of bail procedures for women prisoners.
10. A need was felt to strengthen the free legal aid cell for women prisoners. It was felt that students from Law Colleges should be involved to render legal assistance to women prisoners.
11. Facilities for vocational training, elementary education, legal literacy, free legal aid, etc. were lacking at most of the places.
12. Women prisoners were finding it difficult to sustain their relation/contact with family members.

13. In some places NGOs were being associated by jail authorities for imparting educational, vocational training and counseling facilities.
14. A good proportion of women after their release from jails, face desertion by their families due to the social stigma attached to having been in jail.
15. Counseling, support and rehabilitation facilities for women after their release from jails, were almost negligible.
16. In some jails convicts and undertrials were lodged together.
17. Seriously ill patients and women with infectious diseases were not segregated.
18. There was no bailer to bail out some of the women inmates who had received bail.
19. The jail authorities were not taking the initiative for premature release of women prisoners.
20. The female jails/enclosures were not managed by women personnel but were staffed by male members.
21. In some jails foreign prisoners were given special facilities in regard to food, clothing, etc.
22. It was difficult to conduct surprise visits to jails to see the conditions prevailing there as prior permission from jail authorities was required.
23. In District Jail, Lucknow, the Committee noted that the accounts relating to wages paid to the women convicts were not maintained. There was no accountability. The women convicts were not informed about the total amount earned by them as no pass book/account was maintained.
24. The vacancies in the prison cadre especially of female staff were not filled-up.
25. At times the women prisoners were not aware of the grounds of their arrest.

26. Mentally ill patients were languishing in jails and many have breakdowns after coming to jail. They were locked up without any proper care/treatment/help.
27. There were also some cases of exploitation of young women prisoners by the jail staff for immoral purposes.

1.25 At the instance of the Committee, a two-day seminar was organised by the National Commission for Women in New Delhi on 17 and 18 May, 2001 for focused deliberations on women in prisons. Some of the measures suggested in the Seminar were the reiterations of Justice Krishna Iyer Report. Other fresh recommendations surfaced as a result of discussions in the seminar, which are listed below.

1. The women's physical, psychological and bodily needs are different. When in prison, women miss their families; had few visitors and often no news of their homes. This has a serious impact on destroying the spirit of jailed women.
2. It was important that the existing rules are implemented properly by the prison officers to uphold the right and dignity of women in prisons and in police stations. Instead of more and more laws, it was stressed that the existing laws should be implemented in letter and spirit.
3. The Centre and State Governments should properly monitor the utilisation of funds with regard to improvement of conditions, and training programmes in jails.
4. As a result of over crowding, mal-nutrition and inadequate medical facilities, the figures of custodial deaths are increasing. During the year 1995-96, 308 cases of death were reported in police/jail custody. In 1996-97 this figure rose to 900 and in 1998-99, there were 1114 such cases.
5. The children who are born in jails and those who accompany their mothers to jails are compelled to live behind bars without being offenders. There is no Act in the country to take care of these children. As crèche facilities are not available in every jail, they lack guidance and proper care/education.
6. An alternative mechanism of settlement of disputes at the local level should be developed and alternative sentencing such as community based service should be explored.

7. In view of the special needs of women, specific budget allocation for women in detention should be made.
8. There is an urgent need for networking and coordination amongst the different agencies working for women in detention. There should be greater involvement of NGOs.
9. The jails are meant for reform of not only the convicts but all the inmates. As such vocational training and meditation programmes like Vipasana should be introduced and all the inmates should be encouraged to participate either in work or in learning some skills.
10. Jail Adalats should be organised for expeditious disposal of cases, especially for undertrials and petty offences.

1.26 Dr. (Smt.) Kiran Bedi, Joint Commissioner of Police who had joined Tihar Jail, Delhi as I.G. (Prison) was instrumental in initiating several reforms affecting the women prisoners. These reforms were widely appreciated. The Committee, therefore, decided to hear the views of Dr. Bedi on her experience in bringing about reforms in one of the biggest jails in Asia. Accordingly, the Committee interacted with Dr. (Smt.) Kiran Bedi, Joint Commissioner of Police and the following suggestions emerged therefrom:-

1. There was an urgent need to start educational, literacy para, legal and vocational training programmes, for women in jails.
2. There should be separate schools for children of women prisoners.
3. Reliable NGOs and other voluntary organisations should be associated by jail administration in the rehabilitation and counselling of women inmates. Community entry would give prisoners an environment of social acceptance and understanding.
4. Counselling and legal aid centres should be opened.
5. There was need to set up exclusively jails for women.
6. There was urgent need for expeditious trials of cases of undertrials.
7. Convicted and undertrial women in jails should be segregated.
8. Custodial staff is the key element in bringing about custodial reforms. To achieve the objectives of prison reform, there is need for motivation and better promotional avenues for prison staff.
9. There was need for a separate prison cadre headed by an I.G.
10. Legal panchayats inside the prison should be held.

11. There was need for more Rehabilitation Centres/Half-Way Homes for women.
12. The Indian Prisons Acts, 1894 and the Police Act, 1861 should be thoroughly reviewed and amended.
13. There was lack of coordination between Central and the State Governments, and amongst State Governments themselves on matters affecting prison reforms.
14. Computers should be widely used in compilation of data and other details of prisoners including women inmates in the country so that there could be better networking in this regard.

1.27 The Committee also interacted with some of the NGOs who were closely involved with the National Commission for Women. They put forth their views/suggestions for improving the conditions of women in jails.

1.28 Consequent upon study visits of various jails by the Committee and deficiencies which came to light during the seminar specially held for the purpose, the Committee interacted with the representatives of the Ministry of Home Affairs and enquired from them as to what was being done to solve the problems faced by women in jails. The Ministry of Home Affairs stated in reply that overcrowding, and delay in trials were some of the problems being faced by all prisoners (both male and female). However, special problems faced by women prisoners relate to their psychological, physical and rehabilitative needs. The Ministry further stated that while the administration of prisons comes within the responsibility of State Governments, the Ministry of Home Affairs has been providing financial assistance to State Governments under the scheme for Modernization of Prison Administration, which includes the component for the specialized care of women prisoners. All prison Manuals formulated by State Governments have specific provisions for women prisoners including their children in jails and as such they are being constantly pressured to adopt the Model Prison Manual with certain minimum standards for the care of women prisoners.

1.29 The Committee referred to inadequate facilities available to women in jails (e.g. absence of basic amenities, inadequate medical aid, training, lack of other facilities etc). To this the Ministry of Home Affairs replied that while the State Prison Manual spell out various facilities to be provided to women prisoners including basic amenities, the actual practices vary from State to State. All these provisions needed to be standardized in keeping with human dignity. The Ministry has further stated that in the Committee, which has been set up to formulate the Model Prison Manual, a nominee of the National Commission for Women is proposed to be associated. The Chairperson of NCW has already been requested to nominate one representative for the purpose.

1.30 The Committee desired to know the steps taken by the Ministry for expeditious trial of cases of women undertrials. In reply the Ministry has stated that the Chief Justice of India (CJI), vide his letter dated 19-11-1999 has impressed upon all the Chief Justices of High Courts that every Chief Metropolitan Magistrate or the Chief Judicial Magistrate of the area, in which a District jail falls, may hold his court once or twice in a month, depending upon the workload, in jail, to take up the cases of those undertrial prisoners who are involved in petty offences and are keen to confess their guilt. The CJI has further suggested that "Legal Aid Counsel" may be deputed in jails to help such prisoners and move applications on their behalf on the basis of which the Chief Metropolitan Magistrate or the Chief Judicial Magistrate may direct the investigating agency to expedite the filing of the police report. Further, the Ministry stated that in pursuance of the orders passed on 13-10-1999 and 7-12-1999 by the Supreme Court of India, the case –R.D Upadhyay Vs. State of Andhra Pradesh & others, the Central Government has also written to all the State governments and UT Administrations to take urgent necessary steps for expeditious disposal of cases of undertrials who are languishing in various jails in the country. Most of the State Governments have also appointed Special Judicial/Metropolitan Magistrates for the disposal of petty criminal cases, including traffic cases.

1.31 The Special Secretary, Ministry of Home Affairs added in this connection, during evidence:-

"The Supreme Court had issued some instructions in this regard, not specifically for women prisoners but for prisoners in general. But, perhaps, these are not being implemented and as you have rightly observed, if the Committee recommends, we could advise the States to set up special courts or *Lok Adalats* for offences which are not so serious in nature and which can be tried in the courts expeditiously and the cases of the undertrials could be disposed of. This would substantially reduce the crowd".

1.32 The Ministry has further stated that the XI Finance Commission has provided a sum of rupees 502.90 cores for establishing 1734 additional courts to ensure speedy trial of under-trial prisoners. Out of 1734 additional courts (known as Fast Track Courts) proposed to be set up, 459 Fast Track Courts as on 1<sup>st</sup> July, 2001 have been set up in different States. The State-wise break up of Fast Track Courts sanctioned and actual number of such courts set up are given in Annexures XII and XIII. It is hoped that the steps being taken at the Central and State levels will have a salutary effect on the reduction of the period of stay of women undertrials in jails. Elaborating further, the Ministry has stated that the Code of Criminal Procedure (Amendment) Bill, 1994, introduced in the Rajya Sabha on 9<sup>th</sup> May, 1994 has inter-alia the following proposal to enable expeditious trial of cases.

- (i) (i) The proviso to Section 223 of the Code of Criminal Procedure, 1973 provides that the Magistrate on an application of the accused persons may direct their joint trial even if they do not fall in the categories specified, if he is satisfied that such persons would not be prejudicially affected thereby. In the interest of prompt disposal of cases, scope of this proviso is being widened to enable the Court of Session also to hold such trials.
- (ii) (ii) Under sub-section (I) of section 260 a Magistrate has a discretion to try offences specified therein either summarily or in a regular way. It is proposed to amend this sub-section to make summary trial of offences specified therein mandatory.
- (iii) (iii) It is also proposed to provide that the offence of theft and other cognate offences, namely, offences under sections 379, 380, 381, 411 and 414 of the Indian Penal Code may be tried summarily where the value of the property involved does not exceed two thousand rupees instead of two hundred rupees at present.

1.33 Explaining the position further in this regard, the representative of the Ministry of Home Affairs stated during evidence:

“The Government has asked the State Governments and the High Courts to institute fast track Courts. So some 1700 fast track Courts have been set up with effect from 1<sup>st</sup> April, 2001 and some are in the process of being set up”.

1.34 On being asked whether some of these Courts were earmarked exclusively for women, the representative during evidence stated:

"This can be considered; they are supposed to take up old cases or the pending cases. So, a view could be taken by the Ministry of Law, Department of Justice. So, a couple of fast track courts could be dedicated to disposing of the women-related cases or women prisoners. There are going to be more than 1700 fast track courts and action plan has been finalised in consultation with the high courts of each and every State. So, it is not that the Government of India has done it. The Department of Justice will be concerned with it; the Eleventh Finance Commission was very kind and generous; apart from looking at that totality of the problem of investigation or of pendency of cases, they provided Rs. 500 crore for fast track court”.

1.35 The Committee desired to know the measures that are being taken by the Government to bring about prison reforms in the country. The Ministry of Home Affairs has stated in reply that apart from the scheme for the modernisation of Prison Administration administered by the Ministry of Home Affairs, two important steps have recently been taken in the field of prison reforms.

First, the Ministry of Home Affairs has circulated in September, 1999 a draft Model Prisons Management Bill among the State Governments for their views. The Model Prison Bill lays emphasis on a thorough reorganisation of the prison system to bring it in tune with the modern criminology and penological thinking and to effectively cater to the changed and changing environment of society in transition. It stresses upon the need for greater rights of prisoners including the right to human dignity, right to basic minimum needs, right to communication with family members and other authorised person, right to access to law and speedy trials. Side by side, it prescribes the duties of prisoners to maintain prison discipline, violation of which would render them liable to punishment. It also emphasises differential handling and treatment of under-trials in jails. It seeks to have uniformity in the matters of leave, special leave, remission, premature release, etc. in order to remove multiplicity of systems prevailing in different State Jail Laws. Setting up of more open institutions, and organisational restructuring for prison personnel is also envisaged. Besides, it has undertaken the task of formulation of a Model Prison Manual so as to bring uniformity in the provisions of the State Prison Manuals.

1.36 On being asked as to how far the training and calibre of custodial staff was necessary to achieve the objectives of prison reform, the Ministry has stated that they have a high priority on the training of custodial staff in prison reforms. The Central Government has already set up a separate research and development Wing in the Bureau of Police Research and Development to deal with prison management and correctional administration. BPR&D is also conducting every year Vertical Interaction Courses for Prison Officers at the national level. Further in order to provide reorientation training to the prison officers, the Government of India have established an Institute of Correctional Administration at Chandigarh. A Regional Institute of Correctional Administration at Vellore has also been set up by Southern States which caters to the training needs of directly recruited and serving officers of the ranks of Assistant Jailors to Additional Superintendents, Probation Officers etc. Besides the training, these institutions are also providing necessary guidance in Prison Management and Correctional Administration. Besides, most of the States in the country have their own training institutes for conducting induction courses for newly appointed personnel as well as on-the job-training for inservice personnel. The training includes two components viz. out door training and indoor training. The outdoor training involves preparing the officer physically for the requirements of the correctional services. It includes training in parade, physical training, sword and lathi drills, arms drills, training in shooting, karate (unarmed combat),

games etc. The indoor training is basically confined to the class rooms and it prepares the trainee mentally for the job requirements. The trainees are taught subjects such as Criminology, Penology, Sociology, Social Works, Laws and Juvenile Delinquency.

1.37 The Committee noted that Colonial Acts viz. the Prisons Act, 1894 and the Police Act, 1861 were still being followed in the country after more than five decades of Independence. Asked to state whether these Acts had been reviewed and revised to meet the requirement of fast changing times, the Ministry has stated that Prison Administration is governed by the State Governments under the provisions of Indian Prisons Act, 1894 and the Jail Manuals framed by various State Governments. The State Governments undertake legislation, and make rules and regulations etc. on the subject. The detailed rules and regulations for management of prisons have been incorporated by the State Governments in their respective Jail Manuals which are updated from time to time. As regards the review of the Prisons Act, 1894, the Ministry has stated that according to article 246(3), the Legislature of any State has the exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II of the Seventh Schedule of the Constitution. However, article 252 of the Constitution provides that two or more States may by resolution in their respective State Legislatures authorize Parliament to enact a Central legislation on the State subject. The Union of India can thus consider enactment of law relating to 'Prisons' only on receipt of requests from two or more States. The Ministry further stated that they have requested the State Governments to pass resolutions under article 252 of the Constitution for enactment of a new Prisons Act to replace the existing Prisons Act, 1894. However, having not received the requisite response from the State Governments, it circulated in September, 1999 a draft Model Prisons Management Bill among the State Governments for their views.

1.38 When the Committee desired to know the steps taken by the Ministry in regard to preparation of the Common Uniform Prison Manual applicable to all the States which was one of the recommendations made by the Justice Krishna Iyer Commission, the Special Secretary, Ministry of Home Affairs during evidence stated:

“We are preparing one such manual.”

1.39 In reply to a query about the likely time which the Ministry would take to circulate the draft manual, Special Secretary stated during evidence: “six to eight months is the outer limit”.

1.40 When the Committee desired to know whether the women prisoners are entitled to free legal aid and counselling, the Ministry has stated that all women prisoners are entitled to free

legal aid and legal cells are operative in all jails in States and Union Territories. In a few States social workers and psychiatrists have also been appointed to provide counselling to women prisoners. However, in reply to the question whether counselling cells exist in every prison for the benefit of women inmates, the Ministry has stated that counselling cells are not uniformly available to women prisoners all over the Country.

1.41 On being asked about the status of computerisation in regard to compilation of data and other details on prisoners including women in various jails of the Country and networking amongst all the prisons, the Ministry has stated that most of the prisons in the Country are yet to be computerised so as to develop networking amongst them.

1.42 When asked to state the role being played by the jail administration to rehabilitate the women in society after their release from jails and other places of custody, the Ministry has stated that vocational training is provided to the convicted prisoners and also to the undertrial women prisoners in many jails. In most cases the vocational training is given in jobs like sewing, knitting, embroidery, paper bags, garment making etc. After release, the skill acquired by them can be gainfully utilized by them for their rehabilitation. Arrangements are also available at many jails to provide primary education and adult education with trained teachers. The jail administration in several states has established linkages with social welfare agencies and NGOs for the purposes of rehabilitation of women after release from jails. In some states rehabilitation assistance is also provided to prisoners including women prisoners on a selective basis. There is however, a definite need for evolving a definite policy in this regard.

## Observations/Recommendations

1.43 The inequality between the socio-economic status of men and women reinforces the vulnerability of the latter, which makes them more susceptible to social maladjustment, abuse and exploitation. It is this process of victimization of women and their induction into criminality that makes them the subject of custodial and correctional welfare. It is pertinent to note in this regard that the All India Committee on Jail Reforms (1980-83) had pointed out that although women constituted a fragment of the total number of prisoners in the country (estimated at 2.6%), the figure was steadily growing. This percentage has gradually increased over the years and as per the Ministry of Home Affairs, it is at present 3.6%. More than 8000 women are lodged in prisons. The steady increase in the number of women prisoners requires greater effort on the part of the authorities to ensure custodial justice.

1.44 Considering the importance of the custodial conditions in the country, the All India Jail Reforms Committee (1980-83) had gone into this aspect and made significant recommendations. The National Expert Committee on 'Women Prisoners' (1987) had also made a thorough study of the subject and outlined a number of recommendations of far reaching consequences in their Report. This Report considered to be a landmark on the subject had inter-alia mentioned that "womenhood and childhood even in criminal wrappings and behavioral aberrations deserve to be nursed in dignity and restored to working normally using all the material, moral and spiritual resources at the society's command".

1.45 There are also a series of judicial decisions of the Supreme Court to guide the Government and the concerned authorities in this regard. The Law Commission of India have dealt with the legislative aspects of the subject. Further, the National Commission for Women have also made from time to time recommendations to the Government on a wide range of matters relating to custodial justice. The Committee is, however, constrained to point out that despite all these recommendations there is still a serious shortfall in the delivery of requisite services to women who are in jails.

1.46 The Committee notes that the Ministry of Human Resource Development (Department of Women and Child Development) had set up in May, 1986 an Expert Committee at the National level to identify the gaps and drawbacks in the existing facilities and services and suggest a more humane policy towards women prisoners. The National Expert Committee on

Women Prisoners headed by Justice V.R.Krishna Iyer had gone into the conditions of women in the penal and correctional system and submitted their Report in May, 1987 to the Department of Women and Child Development. For almost thirteen years the Government remained silent on the implementation of the Report till the Committee on Empowerment of Women took up this subject for detailed examination. Even when a reference was made to the Department of Women and Child Development regarding the action taken on the recommendations of the Report, the Department of Women and Child Development indicated that the Ministry of Social Justice and Empowerment were to take action on the Report. On a reference having been made to the Ministry of Social Justice and Empowerment they stated that the National Expert Committee on Women Prisoners headed by Justice Krishna Iyer was appointed by the Department of Women and Child Development in May, 1986 and the report was also submitted to them. The Ministry of Social Justice and Empowerment also indicated that all the relevant files were returned to the Department of Women and Child Development in September 1990. The Secretary, Department of Women and Child Development conceded during evidence that after 1990, there was a certain dispute between the Ministry of Social Justice and Empowerment and Department of Women and Child Development and till 1990 these recommendations were followed up.

1.47 The Committee deplore the attitude and inaction on the part of the Ministries in not taking seriously the recommendations of such an important Committee which had made a number of important suggestions to solve the problems being faced by women prisoners. The very purpose of setting up of such powerful Committees is defeated if the reports are shelved and are simply ignored by the appointing authorities. The Committee hopes that Government would be more careful in future and take the reports of such Committees with all the seriousness and urgency that they deserve.

1.48 The Ministry of Home Affairs and Department of Women and Child Development have now assured the Committee that steps would be taken to implement the recommendations of the Justice Krishna Iyer Report. The Committee would urge upon them to impress upon all the State Governments and Union Territory Administrations to immediately act upon the findings of the Report. The Committee desire that a Status Paper on the implementation of recommendations contained in the aforesaid Report, both by Central and State Governments, be compiled and forwarded to the Committee within three months of the presentation of the Report.

**1.49** Soon after the selection of this subject, the Committee had interaction with representatives of the National Commission for Women, Department of Women & Child Development, Ministry of Home Affairs, former I.G. (Prisons), Tihar Jail and NGOs with a view to ascertain the problems being faced by women prisoners and the remedial measures that should be taken by the Government to alleviate their sufferings. In this connection, the Committee had also visited a number of jails in the country viz. Arthur Road Jail, Mumbai, Tihar Jail, Delhi, Model Jail, Chandigarh, Central Prison, Orissa, Presidency Jail, Kolkata, Nari Bandi Niketan and District Jail, Lucknow. The Committee has come to the conclusion that there is total neglect on the part of the concerned authorities in providing basic needs to women prisoners. There is overcrowding, mal-nutrition, lack of medical care, educational, vocational and legal facilities in almost all the jails. The general condition relating to food, clothing, recreation, hygiene is not proper and needed considerable improvement. Further, very few counsellors visit jails to give much needed advice to the inmates. The status of women even in custody requires attention, recognition and protection which have not been forthcoming in an adequate manner. The majority of the female population in jails consist of undertrials ( 6649 out of 8822 ) and they languish in jails for offences for which sentences would have been far less if they had been convicted. What is more pathetic is the fact that the women inmates who obtained bail were still languishing in jails for want of surety. The Committee, therefore, strongly feels that the remedial measures must be taken expeditiously by the Centre and State Governments, to bring about perceptible improvement in the conditions of women in custody. These have been discussed in succeeding paragraphs.

**1.50** The Committee understands that the status of women in custody is not uniform throughout the country. There is a wide difference in the facilities provided to women inmates in different jails. This is mainly because of the fact that the matters relating to prisons, reformatories, borstal institutions, etc., and persons detained therein are a State subject. But the recommended measures for upgradation of custodial justice involve functions to be performed by the Centre also. The Central Government, the refore, cannot absolve themselves from the responsibility of ensuring proper custodial justice for the women detained in the various jails of the country.

**1.51** The Committee find that the Ministry of Home Affairs have released Rs. 124 crores to the States from 1987 to March, 2001 for strengthening security, communication and transport, repair and renovation of old prison buildings , facilities to women offenders, vocational training, modernisation of prison industries and training to prison personnel. However, this does not appear to have brought about the desired results. Not only is the

Ministry of Home Affairs responsible to ensure proper and optimum utilisation of the funds sanctioned in this regard, but there should be frequent visits by the officials of the Ministry of Home Affairs to the various jails and there ought to be consultations and coordination at the appropriate level with the concerned State Government officials to ensure that basic needs of the women prisoners are properly met by the jail officials.

1.52 The Committee feels that prisons should have a remedial, rehabilitative and reformatory approach where avenues should be built for advancement of basic skills, activities, wages and scopes for moral and intellectual growth, leisure and recreation. In this connection, a vital role is to be played by the custodial staff which is the key element in bringing about custodial reforms. The prison officers should act in a way that upholds the rights and dignity of women in prisons, in police stations and other custodial institutions. An attitudinal change is required on the part of prison officials to keep pace with theoretical laws. The jail officials should look upon their duty as a developmental function and jail as a place of reforms and persuasive deterrence rather than intimidation and conformity. Motivation and ensuring sustained level of involvement of the prison staff in the process of correctional reform in the institutional settings are of prime importance. The Jail Superintendents must appreciate the problems of women prisoners and deal with a variety of issues keeping in view their background and differing needs. It is, therefore, of paramount importance that Prison staff is specially selected given training on these lines and they are sensitised to women's issues and their needs.

1.53 As per the information furnished by the Ministry of Home Affairs, there are only 16 women prisons against the total number of 1133 prisons in the country. Most of the States do not have exclusive women prisons but only have separate enclosures for women. There is need for more separate women's jails managed by female staff in every State in accordance with the size, population and number of women convicts in each State. They should have every facility to serve as correctional and rehabilitative institutions and all women convicts in the State should be transferred there. It has come to the notice of the Committee that when women prisoners are shifted to a women's prison, out of their district, their families stop visiting them because it becomes expensive for them. The Committee hopes that with the opening of more separate women's jails, it would be possible to shift the women prisoners to a women prison nearest to their district.

1.54. The Committee are informed that at the end of the 1998 Open Jails existed in Andhra Pradesh, Assam, Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh,

Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The system has proved that it is not only far cheaper to control and run Open Institutions, but that they also have a definite rehabilitative value in that they restored the dignity of the individual and give him/her self-reliance and self-confidence besides instilling a sense of social responsibility which is necessary for community living. While appreciating the establishment of such Open Jails, the Committee desire that a review of their working and results achieved so far be undertaken by the concerned State Government with a view to evaluating further their efficacy, utility and necessity. Based on the results of such a study, necessary changes, if required, may be carried out while opening new jails.

1.55 The women are sent to prisons either as undertrials or convicted prisoners. The Supreme Court of India had issued instructions, not specifically for women prisoners but for prisoners in general, to all the State Governments and Union Territory Administrations to take urgent steps for expeditious disposal of cases of undertrials who are languishing in jails.

However, it has come to the notice of the Committee that suitable steps are not being taken by the concerned authorities to dispose of expeditiously the cases of the undertrials. The Committee strongly recommends that Jail Adalats should be held frequently in all the jails so as to ensure early disposal of the cases of the undertrials.

1.56 The Committee also note that the XI Finance Commission has provided a sum of Rs. 502.90 crores for establishing 1734 additional Courts to ensure speedy trial of undertrials. The Government of India has advised the State Governments and the High Courts to institute Fast Track Courts. The Committee has been informed that as on 1<sup>st</sup> July, 2001, 459 Fast Track Courts have been set up in different States and the remaining courts are in the process of being set up. The year 2001 being the year of Empowerment of Women, special efforts are needed for women in detention. The Committee recommend that out of the 1734 Fast Track Courts proposed to be set up in States, ten percent of these Courts should be exclusively earmarked for disposing of the cases of women undertrials.

1.57 The Committee find that at times the undertrials get bail but they still languish in jails for want of persons who can bail them out. The Committee strongly recommends that the undertrials who are unable to furnish surety should be released on personal bonds and where this is not possible jail authorities should explore alternative measures through NGOs.

1.58 Most of the ills that beset our legal system are due to antiquity of our laws such as the Indian Penal Code, 1860, the Indian Evidence Act, 1872. Due to changes in the socio -

economic conditions, there is urgent need to have a fresh approach in dealing with offences against women. Taking cognizance of contemporary changes in the type and nature of offences, a holistic view should be taken and a comprehensive review of all the three statutes namely, the Indian Penal Code, Criminal Procedure Code and Indian Evidence Act should be undertaken and appropriate amendments and additional provisions, if any, introduced to reflect the special needs of women in custody. The assessment and relevance of various legislations bearing on women's status in custody should be undertaken by the Law Commission in consultation with the National Commission for Women and their findings should form the basis for prison reform.

1.59 The Committee note that Colonial Acts viz. The Prisons Act, 1894 and the Police Act, 1861 are still being followed in the country. Even after more than five decades of independence, these Acts have not been comprehensively revised. The Prisons Act, 1894 was enacted during British Rule and obviously the policies of that period were reflected in the Act, like the provision for better food and facilities for foreigners in jails. These policies have now not only become outdated but they have also been obstructing proper development and working of prison administration. The Committee also notes that the All India Committee on Jail Reforms (1980-83) had recommended updating, revision and consolidation of prison laws so as to meet the requirements of changing times. The Supreme Court of India had also stressed the need for the revision of prison laws. The Ministry of Home Affairs have informed the Committee that the Central Government had requested the State Governments to pass resolutions under Article 252 of the Constitution for enactment of a new Prisons Act to replace the existing Prisons Act, 1894. However, having not received the desired response from the State Governments, it circulated in September, 1999 a draft Model Prisons Management Bill among the State Governments for their views. The Committee, therefore, recommends that the Ministry of Home Affairs take the initiative and work in close association with State Governments so that the proposed draft Prisons Management Bill could be finalised early and the objectives of uniformity in prison administration could be achieved.

1.60 The rules and regulations governing management and treatment of prisoners are embodied in the Jail Manuals framed by various State Governments. During visits to some of the jails in States, the Committee found that there were wide variations in prison rules in various States and concerted measures were urgently needed to establish minimum standards, uniform practices regarding management and administration of prisons and treatment of offenders through revision of jail manuals. A comprehensive review of jail

manuals should be undertaken by the respective State Governments to ensure uniformity in administration of prison and treatment of women prisoners. The Ministry of Home Affairs should prepare a draft model Jail Manual and circulate the same to all the State Governments/UT Administrations for their guidance.

**1.61** The Committee had noticed a number of shortcomings/deficiencies during their visits to various jails and would like the Government to consider and implement the following suggestions in consultation and coordination with the respective State Governments, so as to improve the conditions of the women lodged in various jails to ensure proper custodial justice:-

- (a)** The hardened criminals should not be clubbed with other inmates, particularly the Juveniles.
- (b)** Women arrested for vagrancy, loitering, begging, destitution etc. should not be sent to jails but to appropriate protection homes.
- (c)** On being brought to the prison, the arrested women must be informed of the grounds of arrest immediately and a communication in that respect should also be sent to the nearest relatives(s) of arrested women.
- (d)** Literacy programmes, vocational training and treatment of women prisoners is largely neglected. In most jails, satisfactory facilities for appropriate vocational training, elementary education, medical care, free legal aid, etc are lacking and suitable corrective measures need to be taken.
- (e)** The prison administration should associate the students of Law Colleges to render legal assistance to women, follow-up cases for bail and other procedures to get relief from the courts.
- (f)** Counselling by psychologists and psychiatrists must be provided for inmates, particularly for women who live away from their children and other dependents and may suffer mental breakdowns. Prompt remedial action need to be taken by the jail authorities to provide necessary care/treatment/health to the women prisoners who become mentally ill while languishing in the jails.
- (g)** The quality and quantity of food supplied to women inmates needs to be improved and there should not be any discrimination in this regard. Use of

aluminium utensils should be discontinued, both for cooking and for serving food, as these constitute a health hazard. Instead, stainless steel utensils should be used. There should be a separate kitchen for women prisoners and they should be allowed to cook their own food.

- (h) Sanitary napkins should be supplied to women inmates as a part of their 'essential' personal needs.
- (i) Occupational therapy and meditation programmes are of utmost importance for their mental and physical health. The vocational training programmes as well as meditation programmes like Vipasana and Art of Living have a tremendous effect on the psyche of the prisoners. As the jails are meant to reform not only the convicts, but all the inmates, the undertrials should also be encouraged to participate in work and to learn some skills.
- (j) There should be a uniform wage structure for the women convicts in all the jails. The prisoners should be aware of the amount earned by them and proper accounts should be maintained by the prison staff. They should have bank accounts where the amount earned by them during the conviction period could be deposited and they should be provided pass book of their bank accounts.
- (k) The children who are born in jails and those who accompany their mothers to jails are compelled to live behind bars without being offenders. There is no Act in the country to take care of these children. As creche facilities are not available in every jail, they lack guidance and proper care. Infant care facilities like creches and ICDS project should be established/run in each prison for proper care and development of children accompanying the women inmates.
- (l) For recreation and pastime, indoor games facilities should be provided such as Carrom, Ludo and access to light reading/books, magazines, etc as these are essential facilities for the mental health of inmates.
- (m) The Committee would like the Government to consider sympathetically the request from women inmates for a change in the colour of their sarees from white to an appropriate colour as also the freedom to wear the salwar kameez, if they so desire - as is done in the case of foreign detainees.

- (n) The jail visitors committee should comprise members of the judiciary, social workers, journalists and others with powers to visit prisons and interact with inmates and represent their grievances. One-third of the members of the jail visitors Committee should be women
- (o) Sophisticated gender sensitive training in human rights and human handling skills need to be imparted to jail officials urgently and continuously.
- (p) To encourage and motivate the prison staff to discharge their assigned duties towards prisoners in a caring and sympathetic manner, there should be better working conditions and promotional avenues available to them. For this purpose a separate prison cadre headed by an I.G may be created in each State. The vacancies in the prison cadre especially of female officers/staff should be filled up by appointing female officers/staff only. A special recruitment process should be initiated expeditiously by the concerned State Government.
- (q) In view of the special circumstances of women whose custody in jails not only leads to their social segregation but also to complete disruption of the family life, the rules of premature release should be liberally applied in their case, because they do not pose a social risk. Cases for pre-mature release of 'eligible' women convicts should be taken up by jail authorities' suo-moto at the earliest.
- (r) A well-laid policy for rehabilitation during the post-release period for women should be drawn up in collaboration with the Social Welfare Departments of the State Government and NGOs. Special attention is needed in case of mentally broken down women prisoners released after languishing in jails for long period.
- (s) The National Commission for Women and the State Commissions for Women, whenever mandated, have the right to enter and inspect any place(s) where women are kept in custody. To ensure transparency, the Committee recommend that Women Members of Parliament, and Legislative Assemblies, Chairpersons of the National Commission for Women and the respective State Commissions for Women, women lawyers and representatives of the NGOs associated with the jail should be given permission to enter the women's jails without prior notice.

- (t) The jail authorities should be instructed to generously follow the principle of releasing the women prisoners on parole.
- (u) Considering the general overcrowding of prisons, unnecessary arrests for trivial offences should be avoided; the constable, at the cutting edge level, who primarily makes the arrest, should be suitably sensitized.

The aforesaid measures should be implemented at the earliest and, if necessary, by bringing about the changes in the relevant Acts, Jail Manuals, etc.

**1.62** The year 2001 is being observed as the year of Empowerment of Women. The Committee, therefore, recommend that premature release/remission of sentences of the following categories of women prisoners be considered after weighing the gravity of their crime:

- I) Those suffering from serious ailments like Cancer, AIDS, TB, mental breakdown and depression.
- II) Those above 60 years of age who have served major part of their sentence.

The Committee would also recommend urgent steps for the disposal of cases of women undertrials languishing in jails.

NEW DELHI  
17<sup>th</sup> AUGUST, 2001  
Sharvana 26, 1923 (Saka)

MARGRET ALVA  
CHAIRPERSON  
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