
LIBERTY BEHIND BARS: A COMPARATIVE ANALYSIS OF PRISONER RELEASE PROVISIONS IN UTTAR PRADESH, SCOTLAND, AND SRI LANKA

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Introduction

There are two types of release of Prisoners. One is temporary release which does not discharge the prisoner from the liability to undergo sentence whereas the other type of release is permanent release in the sense that they are discharged from prison. The prisoners are generally discharged from prison after completing their awarded sentence. In this paper we will be discussing the provisions for release of prisoners of Uttar Pradesh and try to compare it with international scenario, for which I have chosen Scotland, U.K. and Sri Lanka.

Chapter 6 of the UP Jail Manual deals with the release of prisoners which consist of 38 paragraphs (¶ 89-126). We will cover some of the important provisions.

Uttar Pradesh Jail Manual

CALCULATING DATE OF RELEASE. (¶ 89):

Date of release is to be calculated as per ¶ 31, which is as follows.

- Day of pronouncement of sentence and day of release shall be counted in imprisonment. ¹
- While reckoning fraction of month, a month will be of 30 days.
- If a sentence in commuted from death to transportation or imprisonment, it shall be deemed to be commenced from the day it was passed.

¹ Illustration: a person sentenced for a day shall be released on same day.

Name on Release register (¶ 90):

Name to be entered in release register when the sentence is due for expire of a convict punished with less than three months of substantive sentence and to be altered in case of special remission.

Check Dates (¶ 91):

Names of convicts of more than three months shall not be entered on the release register, but a “check date” shall be fixed which will be the day when convict completes two-third sentence. The date shall be mentioned in the release check register and to be signed by Superintendent and Jailor.

Check Dates if punished for more than 14 Years (¶ 92):

Check dates for the person convicted for fourteen years of more than that, his check date shall be fixed as if he is sentenced for fourteen years only. This date shall be revised according to State Government Orders under ¶ 198.

Fresh Check Dates (¶ 93):

The Superintendent shall cause a fresh check date to be fixed in the following case:

- a) If Sentence is enhanced or reduced
- b) Convict’s fine(s) are paid in whole or in part.
- c) Convict receives or forfeits extensive remission
- d) Order of the State government under the fourteen year rule are received under ¶ 200. (if the government postponed the consideration of case)

Fixation of Final date of release (¶ 94):

In the 1st week of every month officer entrusted by Superintendent shall examine the warrant, history ticket and remission card of every convict whose name is entered under release check register in the next following month and fix the date of release after crediting the convict with

interval. Such date shall be entered in the release register and remission card after having been approved by the Superintendent.

Provided, if the release date does not fall due within next three months, the entrusted officer shall fix a fresh check date which shall not be more than three months of the date of release, as far as practicable.

Parade of convicts due for release (¶ 95):

On or before 25th day of every month, all convicts to be released in upcoming month shall be paraded before the Superintendent and shall be informed about their date of release.

Information to be sent to Uttar Pradesh Apradh Nirodhak Samiti (¶ 96):

The Superintendent, before the end of every month shall intimate the Secretary of District Committee of *UP Apradh Nirodhak Samiti* about the release dates and industry, if learnt, of all the convicts to be released in three upcoming months.

The members of sub-committee (and probation officer, if any) appointed by District committee will be given all the facilities to interview such prisoners for the purpose of future assistance.

Release date falls on holiday (¶ 97):

In case release date falls on Sunday or any jail holiday shall be released on preceding day.

Orders of release to be complied promptly (¶ 98):

An order of court directing release shall be followed promptly and the prisoner shall be released same day unless his detention is required under some other authority. If the order is received after Superintendent has left the premises and it is not possible to release anyone without deferring the release to next day, the jailor should comply with release on his own responsibility and obtain necessary approval on his net visit.

If the release order is received after sunset or after the prison is shut for night, in such case the prisoner shall be released next morning, except in case of specific order by court in Habeas Corpus, then prisoner shall be released immediately irrespective of time.

All the release order through post shall be complied same day, in case it is not possible to release him same day the jailor shall maintain a record explaining the reason for failure to release.

Release orders to be duly authenticated (¶ 99):

The Superintendent shall not release any prisoner on the authority of any informal document. Release orders duly signed by the presiding officer of the court and impressed with the court's seal alone be acted upon. Such orders shall contain full particulars in regard to the prisoner to be release and shall be sent by courts as far as possible, through court peons after having been duly entered in the dak-book. All orders of release before being acted upon should be carefully scrutinized by the jailor in order to see that seal of the court and the signature of the presiding officer are genuine. In case of doubt a reference should be made to the court concerned before the order is carried out.

Sick prisoners not to be released unless fit (¶ 101):

No prisoner suffering from any acute or dangerous disease shall be discharged from prison against his will or until in the opinion of the Medical Officer, he can be safely discharged.

Responsibility for the correct release of prisoners (¶ 103):

The Superintendent and the Office Jailor of central prison and the Superintendent and Jailor of a district jail are personally responsible for the correct release of prisoners.

Step to be taken by the Jailor before a convict is released (¶ 104):

Before a convict is release from jail the Jailor shall—

- (a) check the conditions of sentence given in the warrant and registers and satisfy himself of the title of the prisoner to release;
- (b) compare the marks of identification as given on the warrant and in the jail registers with the convict and take his thumb impression or at the discretion of the Superintendent, in the case of a literate prisoner, his signature and compare it with that taken on the day of his admission to as to ensure beyond all doubt the convict's identity; and

(c) produce the convict with his clothing and other property, history ticket, warrant and the jail register of admission and release before the Superintendent.

Checking of warrant and a jail registers on completion of sentence (¶ 105):

The Superintendent shall check the warrant and jail registers and satisfy himself that the sentence of the convict has been completed or, if modified that he has received due and sufficient authority for such modification.

Convict's identity to be verified (¶ 106):

The Superintendent shall cause the descriptive roll of the convict to be read out and shall satisfy himself beyond all doubt of the convict's identity. He shall then endorse the order of release on the back of the convict's warrant and initial the entries of the date of release in the release and admission registers.

Delivery of prisoners' property at the time of release (¶ 107):

At the time releasing every prisoner the Superintendent or, in his absence, the Jailor shall deliver to him all money and other property (if any), belonging to him. The words "Property Received" shall be stamped across the list of property entered in the admission register and convict's signature or left thumb impression shall be taken below it in token of receipt. The Superintendent shall satisfy himself that convict has received all his private property and shall countersign the entry in the admission register.

Release to be effected before midday meals (¶ 108):

Ordinarily, convicts shall as far as possible be released after their morning meal and before their midday meal.

Supply of clothing to prisoners on destitute release (¶ 109):

The Superintendent shall supply every convict whose clothing has been sold or destroyed or is insufficient for the purpose of health or decency with clothing according to the scale laid down in Paragraph 110.

Scale of clothing to destitute prisoners on release (¶ 110):

The Superintendent may issue to a destitute male convict on release one kurta and one pyjama if he has no clothes of his own. Those who do not like to wear pyjama may be given a dhoti instead. Destitute female convicts may be given one sari and one jumper on release. In severe cold weather a serviceable blanket may be issued to really destitute and deserving convicts who are old and infirm and when the journey involves travelling by night. Superior class convicts who do not possess adequate clothes of their own at the time of release should in addition to a kurta and a dhoti or pyjama be also supplied with a cap and a pair of chappals.

Health and weight of convicts to be recorded on release (¶ 111):

The Medical Officer shall record all condition of health and weight of every convict on release in the admission registers.

Certificate of completion of sentence (¶ 112):

Every convict on release shall be furnished with a certificate to the effect that he has completed the term of imprisonment and also a certificate of proficiency in any industry learnt by him while in jail.

Railway ticket or lorry fare to be given in certain cases (¶ 114)

(a) A convict whose home is more than five miles from the jail from which he is may be given—

(1) a railway ticket or

(2) lorry fare, according to his convenience.

A convict may be given lorry fare in addition to railway ticket if his home is more than five miles from the nearest railway station. In the case of jails situated at a distance of more than five miles from the railway station lorry fare may also be paid from the jail to the railway station:

Provided that a convict, released from jail situated at a distance of more than five miles from the nearest railway station, may be paid railway fare instead of a railway ticket:

Provided further that no prisoner shall be given either a railway ticket or lorry fare if there is deposit in his name in the jail enough money to pay for his fare after leaving a sum of Rs 2 with him for miscellaneous expenses:

Provided also that the gratuity earned by a convict warder, under Paragraph 228, shall not be treated as convict's deposit for the purpose of this paragraph.

The ticket shall be third class, except if Superintendent considers that second class is reasonable depending upon the convict.

- (b) A convict who in the opinion of the Medical Officer, is unfit to travel on foot owing to illness or physical infirmity, may be given reasonable conveyance charges to his home for the portion of journey not covered by train or lorry, irrespective of the distance

Prisoners convicted under the Indian Railways Act, 1890 not to be given railway fare (¶ 115):

Convicts sentenced to imprisonment for travelling without ticket under the Indian Railways Act, 1890 (IX of 1890), whether residents of this State or another State shall, on release, not be given any railway ticket or lorry fare to their destination. They shall, however, be entitled to subsistence allowance which should not exceed the amount of railway fare.

Railway ticket and allowance to convicts resident of another state (¶ 116):

A convict who is a resident of another State but was convicted in this State shall, on release, be entitled to receive subsistence allowance and a railway ticket to his home.

Return of writ, order or warrant after execution (¶ 117):

The Superintendent shall, after the execution of every writ, order or warrant by which a person has been committed to prison, or after the discharge of the person committed thereby, forthwith return such writ, order or warrant to the court by which the same was issued or made, together with a certificate endorsed thereon and signed by him, showing how the same has been executed or why the person committed thereby has been discharged from custody before the execution thereof.

If any convict is required to undergo two or more sentences under separate warrants shall be returned when the combined sentences have been executed.

Warrant of commitment of escaped or wrongly released convicts, who remain at large and are not recaptured, should be returned to the court concerned ten years after the date of escape or wrong release with a certificate endorsed thereon and signed by the Superintendent showing the date on which the convict had escaped or been wrongly released.

Return of warrant of railway thieves and swindlers. (¶ 119):

The Superintendent shall return the warrant of every railway thief or swindler to the convicting court, through the office of the Superintendent, Government Railway Police, Uttar Pradesh, Allahabad.

Police registered convicts. (¶ 120):

The following rules regulate the release of “police registered convicts” confined in and residents of Uttar Pradesh.

(1) A police registered convict is a convict with a police history sheet, for whom a P.R. slip is prepared and forwarded by the Superintendent of Police to the Superintendent of the Jail in which such convict is confined. The Superintendent shall furnish the Superintendent of Police with a receipt for the P.R. Slip and see that the any jail to which he is subsequently transferred. The letters “P.R.” shall be stamped or written against the convict's name in the admission register, the release check register and the release register as well as on the history ticket and the warrant.

(2) The Superintendent of the Jail in which a P.R. convict is confined shall send information to the Superintendent of Police of the District of his residence a month before the date of release of such convict and forward to him the P.R. slip of the convict in order to enable the local police to check up his arrival and arrange for his future surveillance, or, alternatively, to take the usual action if the man fails to return home and become untraced.

(3) A P.R. convict who is a resident of a district other than the district in which he is confined or resident of another State shall at the time of his release be paid a subsistence

allowance and provided with railway ticket to the railway station nearest to his home. He shall be released direct from the jail where he is confined.

(4) In case of the death or escape of a police registered convict the Superintendent of the Jail shall forthwith inform the Superintendent of Police concerned.

P.R. Juvenile convicts. (¶ 121):

P.R. Juvenile convicts released from the Bareilly Juvenile Jail shall be exempted from police surveillance, exception being made in the case of those whose conduct during detention has shown that they have not benefited by the course of training provided for them. Convicts who have been sentenced under the dacoity sections of the Indian Penal Code shall, however, be so exempted only if their conduct in jail has been exemplary.

P.R. slips of all P.R. Juveniles should be returned to the Superintendent of Police of the district concerned one month before the date of release. The P.R. slip of a juvenile who is entitled to exemption under this rule shall bear a remark by the Superintendent to the effect that on release the juvenile offender is to be exempted from police surveillance. In the case of convict who is not entitled to exemption the Superintendent shall attach to the P.R. slip a report on the convict's behaviour in jail.

Procedure on receipt of a release notice of P.R. convicts. (¶ 122):

When the Superintendent receives a release notice of any police registered convict he shall file it with the convict's warrant and P.R. slip. He shall enter in it everything of importance bearing on the character of the convict that transpires during the term of his imprisonment, particular note being made as to the persons with whom he associates or appears to be on intimate terms. A fortnight before the release of the convict, the release notice thus brought up to date shall be forwarded by the Superintendent to the Deputy Inspector General in charge of the Criminal Investigation Department.

Transfer of certain convicts to districts of residence before release. (¶ 123):

The following classes of convicts, if residents in Uttar Pradesh, shall, at any time not more than two months and not less than fifteen days before release, be transferred by the Superintendent of the Jail in which they are confined to the jail nearest their place of residence:

- (i) convicts against whom an order has been made under [section 356 Code of Criminal Procedure, 1973], and
- (ii) Convicts ordered to be released conditionally by the State Government.

Information of release of opium and cocaine Smugglers and Barware convicts. (¶ 126)

When any convict convicted for smuggling opium or cocaine is about to be released, information together with a copy of his descriptive roll shall be sent by the Inspector General to the Excise Commissioner, Excise Intelligence Bureau, Uttar Pradesh, Allahabad, one month previous to the date of release. When the prisoner belongs to another State these shall be sent to the Excise Bureau of the State to which the convict belongs.

Prisons (Scotland) Act 1989

As per the Scotland Prisons Act, only two sections are dedicated for the discharge of prisoners. However, the Prisons and Young Offenders Institutions (Scotland) Rules 2011 provides for some more rules regarding release/ discharge of prisoners. It is to be noted that these rules are not as comprehensive as the rules provided in UP jail Manual.

Discharge of Prisoners:

Where a prisoner is due for discharge on Saturday or Sunday, he shall be discharged on the preceding Friday.

Allowance to prisoners on discharge:

When the prisoner is discharged from prison the Secretary of State may provide him with the means of returning home by causing his fare to be paid or in any other convenient manner.

The Prisons and Young Offenders Institutions (Scotland) Rules 2011

Part 14 deals with transfer and release of Prisoners. We are only concerned with the provisions related to release of prisoners.

Pre-release preparation:

At an appropriate time before a prisoner is released from prison the Governor shall discuss, or arrange with some other person to discuss, with that prisoner the immediate needs or welfare issues of that prisoner upon release.²

Provision of clothing and return of property:

At the time of a prisoner's release, the Governor must—

- a. if the prisoner has insufficient clothing to meet his or her immediate needs following release, provide suitable clothing to meet the prisoner's immediate needs; and
- b. subject to Part 7, return to the prisoner all property belonging to the prisoner that was accepted into or purchased within prison and which has not been disposed of or destroyed in pursuance of any rule or direction.

Release of fine defaulters after payment:

This rule applies to the prisoner who is committed to prison or otherwise detained in a prison for failure to pay a fine imposed by a court. Such prisoner shall be released immediately after payment of fine using one of the approved methods of payment

Sri Lanka – Prison Ordinance, 1877

Part IV of the Ordinance provides for Admission, Removal and Discharge of Prisoners. We are only concerned with discharge/ removal of the prisoners and will be discussing the rules relating to discharge.

Medical examination before removal of Prisoners:

All prisoners before removal from the prison shall be examined by medical officer.

Discharge of Prisoner:

1. The jailer shall be responsible for the due discharge of each prisoner upon his becoming

² Para 130, The Prison and Young Offenders Institutions (Scotland) Rules, 2011

entitled to release whether by the expiration of his term of sentence, or on the grant of a pardon or on remission or commutation of sentence, or by operation of law.

2. The equivalent in days, and the date of expiry, of every sentence of imprisonment or preventive detention, shall be calculated in such manner as may be prescribed by rules made under section 94.³
3. Each prisoner entitled to release shall be discharged from prison on the date on which he becomes entitled to release, or, if that date falls on a Sunday or other day which is for the time being specified in any rule made under section 94 as a nonworking day for all prisoners generally, then on the day next preceding that date, at such time as may be prescribed by any such rule:

Provided, however, that where any such prisoner is on that date under medical treatment for any acute or dangerous illness, he may be formally discharged, but unless he himself desires to leave, may be further detained in prison until the medical officer certifies that the prisoner can be removed from prison without danger to his health.

4. On the discharge of a prisoner from any prison the Superintendent may, in accordance with such rules as may be made in that behalf under section 94, provide him with a railway warrant or with such amount of money as may be necessary, or with both such warrant and such money, to enable him to return to his home or intended place of residence. All expenses incurred by the Superintendent in providing such warrant or money shall be met out of such funds as may be allocated for the purpose out of the Consolidated Fund.

Conclusion

We have seen that UP jail manual provides comprehensive rules for the release of prisoners providing each and every minute details to be followed as per rules. Whereas we can see that in Scotland, the provision regarding the release of prisoners are not very comprehensive, they only provide for some general direction. In Sri Lanka also, unlike Indian States of Uttar Pradesh and Punjab the provisions for discharge of prisoners are very general in nature. It seems that they provide more power to the prison officer to take decision depending on the circumstances.

³ Section 94 empowers the Minister to make rules not inconsistent with the ordinances wherever necessary.

We cannot comment by reading the rules actual condition of prison and whether the rules are actually being followed. Nonetheless, Uttar Pradesh is having more than one lakh prisoners⁴ in jail which is highest in India, it is highly doubtful whether they are all legitimately detained. But one thing is sure, rules are so made that if followed properly the violation of rights of prisoners can be avoided, however it is being said “the more laws, the less justice”⁵

⁴ As per Prison Statistics India, 2019

⁵ Often attributed to Marcus Tullius Cicero