
BREAKING FREE: UNLOCKING THE BARS OF INDIA'S PRISON REFORM SAGA

Swarnim Shrivastava, B.A LL.B. (Hons.) National Law University, Tripura

Devashish Roy, B.A LL.B. (Hons.) National Law University, Tripura

ABSTRACT

This Paper explores prison reforms in India, tracing their evolution from ancient concepts of dharma to modern reform efforts. In ancient India, dharma provided a moral framework for justice, but formal prisons were not widespread. The modern prison system emerged under British rule in the 1830s. Several committees studied prison conditions and recommended reforms between the 1860s-1980s. Key recommendations focused on improving living conditions, emphasizing rehabilitation over punishment, and modernizing prison administration. Post-independence, prison reforms gained momentum with increased focus on prisoners' rights and rehabilitation. However, implementation of reforms has been uneven across states. This study examines the trajectory of prison reforms in India and evaluates their effectiveness in achieving stated goals of rehabilitation and humane treatment of prisoners.

This paper explores the evolution of prison reforms in the Indian legal landscape, tracing its roots from ancient Dharma concepts to modern correctional philosophies. The research examines the transformation of punitive practices in India, from the ancient notion of 'danda' (punishment) to the British-introduced modern imprisonment system. It analyzes key committees and their recommendations, both pre- and post-independence, that shaped India's prison administration.

This paper contributes to the understanding of the historical and legal context of prison reforms in India, highlighting the ongoing challenges in implementing a rehabilitative approach within the correctional system. The paper uses doctrinal method of research.

Keywords: Prison Reforms, Rehabilitation, Punitive, Human Rights

Introduction

Prison reforms in India needs a multifaceted solution targeting all legal, social and administrative reforms. “Indian Penal Code 1860”¹ governs penal system and “Prisons Act 1894”², “Prisoners Act 1900”³ are the legislative framework for governing and administrating Prisons in India. Cruel, degrading, inhuman treatment of prisoners and brutal punishment are against the core principles of Human Rights Jurisprudence. Hon’ble Justice V.R. Krishna Iyer in *Charles Sobhraj vs. Superintendent Central Tihar Jail*⁴ observed that “Imprisonment does not spell farewell to Fundamental Rights.”⁵

The need for comprehensive prison Reforms aligning with modern Correctional philosophies and Human rights has been highlighted many times over the years by various Committees and Judicial pronouncement. This paper explores the historical context, current state and future directions of prison reforms in India.

Mahatma Gandhi observed in 1917 "Criminals should be treated as patients in hospitals, and jails should be hospitals admitting such patients for treatment and cure. The outlook of the jail staff should be that of physicians in hospitals. ‘The prisoners should feel that the officials are their friends’.”⁶

Early Indian Concept

Dharma was practiced in both private and public life in Ancient India⁷. It was regarded as conducive for highest good and welfare for all. Dharma acted as a unified forum for interaction and balance between individual interests and social interests. In the Vedic periods the house of the accused served as jail, the accused was confined in his own house until he compensated the plaintiff⁸.

Pre-Independence Era

¹ The Indian Penal Code, 1860 (Act 45 of 1860)

² The Prisons Act 1894 (Act IX of 1894)

³ The Prisoners Act 1900 (Act 3 of 1900)

⁴ AIR 1978 SC 1514

⁵ *Charles Sobhraj vs. Superintendent Central Tihar Jail*, Tihar New Delhi, AIR 1978 SC 1514.

⁶ Quoted, Report of All India Jail Manual Committee, 1957-59, para. 3.

⁷ P. Ishwara Bhat, *Fundamental Rights* 56 (Eastern Law House, 2004) (citing Manu Smriti VII, 15).

⁸ Indira J Singh *Indian Prison-A Sociological Enquiry*. New Delhi: Concept, p. 20.

The inception of the contemporary penitentiary system in India may be traced back to T.B. Macaulay's 1835 memorandum, which subsequently led to the establishment of the Prison Discipline Committee. The committee presented its report in 1838, signifying a notable change in jail management. Nevertheless, the report's suggestions were contentious, as they supported a more stringent approach to treatment while disregarding humanitarian concerns and prisoner rehabilitation. The group prioritised deterrence and punishment over rehabilitation, establishing a precedent that would shape Indian jail policy for many years. This approach differed with the rising reformist ideals in several Western countries, which were starting to contemplate prisoner rehabilitation and social reintegration.

It is the “Prisons Act, 1894”⁹, which governs the present jail management and administration operates in India and it has hardly undergone any substantial change.

1. The Act was implemented under British colonial control in India with the objective of overseeing prisons and establishing guidelines for jail management.
2. It is the main law governing prisons in India and is still in force today, over 125 years after it was first enacted.
3. The Act focuses primarily on custody, discipline and order in prisons, with little emphasis on reform and rehabilitation of prisoners.
4. It extends to the whole of India except for certain territories that were formerly Part B states.
5. The Act defines terms related to prisons, outlines duties of prison officers, and covers aspects like admission, removal and discharge of prisoners.
6. It prescribes punishments for prison offences and lays down rules for employment of prisoners.
7. The Act gives power to state governments to make rules for prisons on various matters.

However, the process of review continued even after this.

⁹ *Supra note 3*

The Indian Jails Committee of 1919-20, headed by Sir Alexander Cardew, laid the foundation for modern prison reforms by emphasizing the need for a reformatory approach rather than mere punitive measures.

Reformatory Approach: This committee rejected the use of corporal punishment in correctional facilities. This significant recommendation points towards adoption of reformatory approach towards prison inmates and a transition towards a humane and compassionate treatment of inmates.

The committee also recommended the use of prisoners in productive activities which provide skills and smooths the process their reintegration in society by providing them occupation opportunity. The committee also highlighted the importance of aftercare programs to aid prisoners in their rehabilitation and reintegration in Society. Thus this committee with its recommendations aimed at achieving the dual objective of both having a deterrence effect and reformatory approach and laid the foundation for future prison reforms in India.

Post-Independence Developments

Post-independence, the Indian government sought to modernize the prison system. “The All India Jail Manual Committee of 1957” and subsequent committees like “The Mulla Committee (1980)” and “The Justice Krishna Iyer Committee (1987)” made significant recommendations for improving prison conditions and administration.¹⁰ Despite these efforts, the implementation of reforms has been inconsistent across states due to the decentralised nature of prison administration, which is a state subject under The Constitution of India.¹¹

The All India Jail Manual Committee of 1957

1. **Model Prison Manual:** The committee prepared a detailed Model Prison Manual, which was presented to the Government of India in 1960. This manual laid down scientific guidelines for the corrective treatment of prisoners and efficient management of prisons.¹²

¹⁰ C S Mallaiah “Development of Prison Administration in India” 17 *Social Defence* 35-45 (1982)

¹¹ Ministry of Home Affairs (Govt. of India) “Prison Reforms - Centre State Division” available at: <https://www.mha.gov.in/MHA1/PrisonReforms/home.html> (last visited on July 03, 2024)

¹² Sneha Bhambri, “Prison Reforms in India Selected Recommendations and Guidelines on ‘Capacity ’by Prison Reform Committees in India” (India Justice Report) available at:

2. **Reformative Focus:** The committee emphasized that prisons should function as centers of correctional treatment. The goal was to induce constructive changes in inmates, focusing on their rehabilitation and reintegration into society.¹³
3. **Classification and Diversification:** Recommendations included the diversification and classification of institutions based on criteria such as sex, age, criminal record, security conditions, and treatment needs. This was aimed at providing more tailored and effective rehabilitation programs.¹⁴
4. **Infrastructure and Facilities:** The committee suggested improvements in prison architecture, accommodation, and basic facilities such as food, clothing, and medical services. It also stressed the importance of maintaining proper hygiene and living conditions.¹⁵
5. **Staff Training and Recruitment:** Emphasis was placed on the recruitment, selection, and training of prison personnel to ensure they were well-equipped to handle the complexities of prison management and inmate rehabilitation.¹⁶
6. **Vocational Training and Education:** The committee recommended the implementation of vocational training and educational programs for inmates to equip them with skills that would aid their reintegration into society post-release.¹⁷
7. **Aftercare and Rehabilitation:** The need for robust aftercare services was highlighted to support former inmates in their transition back into society, reducing the likelihood of recidivism.¹⁸
8. **Advisory Boards:** The establishment of advisory boards was recommended to oversee prison administration and ensure that the reforms were being implemented effectively.¹⁹

https://indiajusticereport.org/files/IJR_Recommendation_for_Prison_Reforms_in_India.pdf (last visited in July 3, 2024)

¹³ Id.,

¹⁴ Id.,

¹⁵ Id.,

¹⁶ Id.,

¹⁷ Id.,

¹⁸ Id.,

¹⁹ Id.,

THE MULLA COMMITTEE

“The Mulla Committee” on Jail Reforms was established by the Government of India in 1980, with Justice A. N. Mulla as the chairman. In 1983, the committee presented a thorough report that has since been regarded as a significant milestone in the reformation of jail systems in India. The committee's proposals were intended to tackle the complex problems afflicting the Indian jail system. The statement highlighted the importance of enhancing prison conditions through the provision of adequate nourishment, clothes, and cleanliness to incarcerated individuals, acknowledging that treating them with compassion is essential for their rehabilitation. An important suggestion was made to create an All India Service known as the Indian Prisons & Correctional Service, emphasising the significance of having a highly skilled and well-structured jail personnel. The objective of this idea was to enhance the professionalism of prison management and ensure that staff were adequately prepared to address the intricate requirements of convicts. The committee emphasised the essential importance of after-care, rehabilitation, and probation, asking for these components to be included into the prison service to facilitate the successful reintegration of former offenders into society. In order to enhance openness and citizen involvement, the committee proposed regular opportunities for the media and general public to visit prisons. The purpose of this policy was to gather direct information about the conditions in prisons and promote public collaboration in rehabilitation endeavours. The committee proposed several measures to address the problem of undertrials, who make up a substantial proportion of the jail population. These measures include expediting trials, making bail rules more lenient, and ensuring that undertrials are kept separate from convicted convicts to avoid any bad consequences. Although the recommendations were progressive, the execution has encountered multiple obstacles. The implementation of these reforms has been hindered by financial limits, a lack of political determination, and the decentralised structure of prison administration, which grants governments considerable autonomy. Furthermore, the persistent utilisation of obsolete methodologies, such as the convict officer system, underscores the sluggish rate of progress. Ultimately, although the recommendations of the Mulla Committee established a strong basis for prison reform, there is still a substantial disparity between policy and implementation. Sufficient financial resources and a coordinated endeavor from both central and state governments are vital to achieve the committee's objective of a compassionate and efficient prison system.

Justice Krishna Iyer Committee (1987)

“The Justice Krishna Iyer Committee” conducted a thorough examination of the condition of women prisoners in India in 1987. “It suggested that in order to effectively deal with women and child offenders, there should be a higher number of women in law enforcement”²⁰. Although the intention of this suggestion was to enhance gender sensitivity, its critics contended that it actually perpetuated preconceptions regarding women's societal responsibilities. The committee's findings emphasized overarching concerns such as overcrowding, inadequate healthcare, and the separation of children. However, the execution of reforms has been hindered by the sluggish progress in addressing prisons, which fall under the jurisdiction of individual states. Although there has been some advancement, some obstacles for female prisoners continue to exist even after many years.

Current State of Prisons in India

Model Prisons Act, 2023

The Model Prisons Act, 2023 represents a significant shift in India's approach to prison management and prisoner rehabilitation. This comprehensive legislation aims to modernise the outdated Prisons Act of 1894, focusing on reformation and rehabilitation rather than mere custody and discipline.

“Key features of the Act include:

1. Emphasis on security assessment and individualised sentence planning
2. Provisions for separate accommodations for women, transgender individuals, and other vulnerable groups
3. Integration of technology for improved transparency and efficiency
4. Establishment of high-security jails and open prisons

²⁰ G. Ganga Rao and Vinod Kumar, *Prison Reforms in India* (MEMBERS 'REFERENCE SERVICE LARRDIS LOK SABHA SECRETARIAT, NEW DELHI) No. 23/RN/Ref/July/2017

5. Stricter regulations on prohibited items
6. Focus on rehabilitation through vocational training and skill development
7. Provisions for legal aid, parole, furlough, and premature release”²¹

While the Act is a step in the right direction, it faces several challenges. Implementation across states may be inconsistent, as prisons are a state subject. The Act's success will depend on adequate funding, infrastructure development, and staff training. Additionally, the focus on high-security prisons and measures against hardened criminals may potentially conflict with the rehabilitation-centric approach.

The Act could go further in addressing systemic issues such as overcrowding, undertrials, and human rights violations. However, proponents believe that the Act's holistic approach, combining security measures with rehabilitation efforts, represents a significant improvement over the previous legislation.

The Act reflects a more progressive and humane approach to prison management. Its effectiveness will depend on proper implementation and continuous evaluation to ensure it meets its objectives of reforming prisoners and reducing recidivism.

Overcrowding and Understaffing

One of the most pressing issues facing Indian prisons is overcrowding.

Prison occupancy and undertrials as of December 2021

The United Nations Office on Drugs and Crime (UNODC) classifies 120% overcrowding as ‘critical’ and 150% as ‘extreme.’²²

“Within limits upto 100% (17 UTs/State) A&N Islands Andhra Pradesh Arunachal Pradesh Chandigarh Goa Kerala Ladakh Lakshadweep Manipur Mizoram Nagaland Odisha Puducherry

²¹ Press Information Bureau (May 12, 2023) *Under the visionary leadership of Prime Minister Shri Narendra Modi and decisive guidance of Union Home Minister Shri Amit Shah, a decision was taken to review and revise colonial-era outdated Prison Act in tune with contemporary modern day needs and correctional ideology* [Press Release] available at: <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1923682> (last visited on July 4, 2024)

²² INDIA JUSTICE REPORT 2022 Pg 66 available at https://indiajusticereport.org/files/Prison_Occupancy_&_Undertrials.pdf (last visited July 15, 2024)

Punjab Tamil Nadu Telangana Tripura”²³

“High upto 100% to 120% occupancy (7 state/UTs) Assam D&N Haveli and D&D Gujarat Himachal Pradesh Karnataka Rajasthan West Bengal”²⁴

“Very high upto 120% to 150% occupancy (6 state/UTs) Bihar Chhattisgarh Haryana Jammu & Kashmir Jharkhand Maharashtra”²⁵

“Severe upto 150% to 185% occupancy (upto 6 state/UTs) Delhi Madhya Pradesh Meghalaya Sikkim Uttar Pradesh Uttarakhand”²⁶

This overcrowding exacerbates other problems such as inadequate living conditions, lack of medical care, and increased violence among inmates

Legal and Administrative Framework

The administration of prisons in India is governed by a combination of central and state laws. Key statutes include the Indian Penal Code (1860)²⁷, the Prisons Act (1894)²⁸, the Prisoners Act (1900)²⁹, and the Code of Criminal Procedure (1973)³⁰. The IPC provides the substantive law for defining crimes and prescribing punishments, while the Prisons Act and other related laws focus on the management and administration of prisons.

Alignment with IPC Provisions

Punitive vs. Reformatory Justice

The IPC primarily adopts a punitive approach to justice, prescribing various forms of imprisonment and fines for different offenses³¹. However, modern correctional philosophies advocate for a more reformatory approach, emphasizing rehabilitation and reintegration of

²³ Id.,

²⁴ Id.,

²⁵ Id.,

²⁶ Id.,

²⁷ The Indian Penal Code, 1860 (Act 45 of 1860)

²⁸ the Prisons Act 1894 (Act IX of 1894)

²⁹ The Prisoners Act 1900 (Act 3 of 1900)

³⁰ The Code of Criminal Procedure 1973 (Act 2 of 1974)

³¹ *supra note 22*

offenders into society. The Model Prisons Act of 2023 aims to bridge this gap by incorporating provisions for parole, furlough, and remission to encourage good conduct among prisoners³².

Human Rights and Prison Conditions

The Apex Court of India has played a crucial role in upholding the human rights of prisoners. Landmark judgments such as *Sunil Batra v. Delhi Administration*³³ and *Ramamurthy v. State of Karnataka*³⁴ have highlighted “the need for humane treatment of prisoners and the protection of their fundamental rights under Article 21 of the Indian Constitution”³⁵. These judicial pronouncements align with the IPC's provisions on the humane treatment of offenders and the prohibition of cruel and unusual punishment.

The scope of prisoner's rights is expanded by the judiciary with the help of The Constitution of India art. 21. The Apex Court has observed in *Sunil Batra II*, "human rights jurisprudence in India has a constitutional status and sweep ... so that this Magna Carta may well toll the knell of human bondage beyond civilised limits."³⁶

Rehabilitation and Reintegration

The IPC, while primarily punitive, does provide for certain reformatory measures such as probation and parole. The Probation of Offenders Act (1958)³⁷ and the Juvenile Justice (Care and Protection of Children) Act (2000)³⁸ are examples of legislation that align with the IPC's reformatory provisions. “The Model Prisons Act of 2023 further strengthens this alignment by emphasising the need for vocational training, educational programs, and psychological counselling for inmates.”³⁹

Challenges to Prison Reforms

Institutional Bottlenecks

³² *supra note 28*

³³ *Sunil Batra vs. Delhi Administration (II)*, AIR 1980 SC 1579

³⁴ *Ramamurthy v. State of Karnataka 1997 (2) SCC 642*, AIR 1997 SC 1739

³⁵ Saloni Maheshwari and Surbhi Agarwal, “Legal Backdrop of prison reform”, *pleaders*, October.24, 2019 available at: <https://blog.ipleaders.in/legal-backdrop-prison-reforms/> (last visited July.5, 2024)

³⁶ *Sunil Batra vs. Delhi Administration (II)*, AIR 1980 SC 1579

³⁷ The Probation of Offenders Act 1958 (Act 20 of 1958)

³⁸ The Juvenile Justice (Care and Protection of Children) Act 2000 (Act 56 of 2000)

³⁹ *Supra note 22*

Several institutional bottlenecks hinder the effective implementation of prison reforms. These include inadequate funding, lack of trained personnel, and bureaucratic inertia. The decentralised nature of prison administration, with each state having its own prison manual, further complicates the uniform implementation of reforms.

Corruption and Abuse

“Corruption and abuse by prison staff remain significant challenges. Low salaries and lack of accountability mechanisms contribute to the prevalence of bribery and exploitation of inmates.”

⁴⁰Addressing these issues requires comprehensive administrative reforms and stricter enforcement of anti-corruption measures.

Health and Hygiene

The health and hygiene conditions in Indian prisons are deplorable. Overcrowding, inadequate medical facilities, and poor sanitation contribute to the spread of diseases and adversely affect the physical and mental well-being of inmates. Ensuring adequate healthcare services and improving living conditions are essential components of prison reforms.

Recommendations for Future Reforms

Legislative Reforms

1. “Uniform Prison Code: There is a need for a uniform prison code that harmonizes the various state prison manuals and aligns them with the IPC and other central laws. The Model Prisons Act of 2023 is a step in this direction, but its adoption and implementation across states need to be ensured.”⁴¹

2. “Bail and Remand Reforms: Reforming bail and remand procedures to reduce the number of undertrials is crucial. The Law Commission of India's 268th report recommends that persons arrested for crimes carrying sentences of up to seven years be released after serving one-third

⁴⁰ Subham Kashyap “Major problems of prison system in India” *The Times of India* January.01, 2022 available at <https://timesofindia.indiatimes.com/readersblog/shubham-kashyap/major-problems-of-prison-system-in-india-40079/> (last visited July.06, 2024)

⁴¹ Supra note 31

of that time, and those accused of more serious crimes be released after serving half of that time.”⁴²

Administrative Reforms

1. Training and Capacity Building: Enhancing the training and capacity of prison staff is essential for effective prison management. This includes training in modern correctional practices, human rights, and psychological counselling.

2. Improving Infrastructure: Upgrading prison infrastructure to reduce overcrowding and improve living conditions is critical. This includes constructing new prisons, renovating existing facilities, and ensuring adequate sanitation and healthcare services.

Judicial Reforms

1. Speedy Trials: Establishing special fast-track courts to handle minor offences and reduce the backlog of cases can help address the issue of undertrials⁴³. Promoting plea bargaining and alternative dispute resolution mechanisms can also expedite the judicial process.

2. “Judicial Oversight: Regular judicial oversight of prisons through inspections and monitoring can ensure compliance with legal standards and protect the rights of inmates.”⁴⁴

3. “Food quality: A quality and nutrient rich diet is essential for the well-being of humans. It recommended conducting surprise checks by medical dieticians and government officials to ensure the quality of food.”⁴⁵

Social and Psychological Reforms

1. “Rehabilitation Programs: Implementing comprehensive rehabilitation programs that include vocational training, educational opportunities, and psychological counselling can

⁴² Aseem Muhammed “Prison Reforms” *ClearIAS* (April.08, 2024) available at <https://www.clearias.com/prison-reforms/> (last visited July.07, 2024)

⁴³ *Supra note 43*

⁴⁴ Raveesh Sharma “Issues Related to Prisons and Prison Reforms – Explained, pointwise” *ForumIAS* (June.25, 2023) available at: <https://forumias.com/blog/issues-related-to-prisons-and-prison-reforms-explained-pointwise/> (last visited July.06,2024)

⁴⁵ The Standing Committee on Home Affairs (Chair: Mr. Brijlal) “Prison- Conditions, Infrastructure and Reforms”, (September 21, 2023)

facilitate the reintegration of inmates into society.”⁴⁶

2. “Community Engagement: Encouraging community involvement in the rehabilitation process through initiatives such as open prisons and community service can help reduce recidivism and promote social reintegration.”⁴⁷

Conclusion

Prison reforms in India are essential for aligning the penal system with modern correctional philosophies and human rights standards. While the IPC provides the substantive legal framework for defining crimes and prescribing punishments, there is a need for comprehensive legislative, administrative, judicial, and social reforms to address the challenges facing the prison system. The Model Prisons Act of 2023 and various judicial pronouncements provide a roadmap for these reforms, but their effective implementation requires coordinated efforts by the central and state governments, the judiciary, and civil society. By adopting a holistic approach to prison reforms, India can transform its prisons into institutions of rehabilitation and reintegration, thereby contributing to a more just and humane society.

⁴⁶ *Supra note 22*

⁴⁷ G. Ganga Rao and Vinod Kumar, *Prison Reforms in India* (MEMBERS 'REFERENCE SERVICE LARRDIS LOK SABHA SECRETARIAT, NEW DELHI) No. 23/RN/Ref/July/2017