
MASS INCARCERATION AND PRISON REFORMS IN INDIA

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CHAPTER 1: BACKGROUND AND CONTEXT

1.1 Introduction

The phenomenon of mass incarceration is becoming a rapid issue within the global criminal justice system. This has raised concerns about aspects such as human rights, social justice and the role of prisons in shaping the modern society. This concept first originated in the United States where rates of incarceration are among one of the highest in the world. Nevertheless India too is facing such challenges of overcrowded prisons, undertrial populations and outdated penal practices. According to the National Crime Records Bureau (NCRB) over 77% of the population in Prisons of India consists of undertrial prisoners¹. This reflects a structural inefficiency in the process of criminal justice and stresses on pre-trial detention rather than reformative measures.

The Indian prison system structure was inherited historically from the colonial framework, where the prisons served as primary instruments of control rather than rehabilitation. Although the Constitution of India guarantees fundamental rights which extend protections under Articles 20, 21, and 22 to prisoners respectively, the ground reality of incarceration is that it often falls short of constitutional mandates. Judicial pronouncements, in cases such as *Sunil Batra v. Delhi Administration* emphasized that prisoners are entitled to all rights except those which are expressly curtailed by law yet overcrowding, custodial violence, and poor infrastructure are persistent as chronic issues.²

The discourse on prison reforms in India showcases the pressing need to shift from merely being a punitive model of justice towards one that is rooted in reformation, rehabilitation, and resocialization. Scholars are of the opinion that meaningful reform must aim to address systemic concerns including delays in trials, misuse of preventive detention laws, lack of

¹ National Crime Records Bureau, *Prison Statistics India 2022* (Dec. 2023), <https://www.livelaw.in/news-updates/ncrb-releases-prison-statistics-india-report-2022-243973>

² *Sunil Batra v. Delhi Administration*, AIR 1978 SC 1675, (1978) 4 SCC 494 (India)

mental health facilities, and discriminatory treatment of marginalized communities within the prison premises. Several innovative approaches have been introduced such as open prisons, prison radio initiatives and vocational training programs in displaying their potential to reduce recidivism and align the prison system with constitutional values.³

This research analyses mass incarceration in India along with broader debates on penal reform, constitutional morality, and restorative justice. With the help of examining statutory frameworks, judicial interventions, and scholarly discourse, this research aims to determine whether India's prison system can transition from just another site of exclusion and punishment into an institution that upholds the human dignity and facilitates reintegration of society.

1.2 Research Objectives

1. To examine the problem of mass incarceration in India by analyzing the data of population in prisons, undertrial statistics and the structural causes of overcrowding.
2. To evaluate the constitutional and legal safeguards guaranteed by the constitution under Articles 20, 21, and 22, the Prisons Act of 1894 and other related legislation.
3. To analyze judicial interventions in shaping prison jurisprudence.
4. To study the role of prison reforms in shaping the penal policy from punitive models towards reformative ones.
5. To recommend policy measures that can align India's prison administration with human rights aspect and constitutional morality.

1.3 Research Methodology

This study adopts a doctrinal legal research methodology supplemented with empirical insights from official reports and secondary sources. The nature of research is primarily qualitative and analytical focusing on statutory frameworks, constitutional provisions, and judicial pronouncements. The sources of data used are primary sources such as The Constitution of India, the Prisons Act, 1894, the Prisoners Act, 1900, relevant provisions of the Code of Criminal Procedure, 1973 and Supreme Court/High Court case laws. The secondary sources of

³ V. Nanda, Radio in Prison: Towards New-Age Reform

data such as books, scholarly articles, NCRB reports and international instruments have been used. The approach used to study the data is a comparative and interdisciplinary approach correlating Indian prison jurisprudence and mass incarceration with the aspect of criminology and human rights law.

1.4 Research Questions

1. Whether prison overcrowding plays a role in shaping the need for reforms?
2. Whether the prison reforms align with international human rights standards?
3. Whether there are any social, economic and political challenges in the implementation of prison reforms?

1.5 Literature Review

1.5.1 Introduction

India's prison system which is a legacy of colonial-era administration is grappling with problems such as chronic overcrowding, delayed justice, and human rights challenges. The predominance of undertrial detainees and infrastructural deficits have persistently created a need for reforms. Scholars, policymakers, and legal practitioners alike have debated over both the structural mechanisms of incarceration as well as the scope for reform interventions.⁴

Mass incarceration in India unlike the global scenario is distinct in several aspects. For instance in the United States, the severity of sentencing drives the bulk of imprisonment whereas in India there is an overwhelming proportion of pretrial detentions and systemic bottlenecks in courts.⁵ Overcrowding in prisons gives rise to health crises, limited rehabilitation opportunities and erodes constitutional protections. These are given under Article 21 which is the right to life and personal liberty.⁶ Therefore Understanding prison reforms requires an interdisciplinary approach encompassing various disciplines including law, sociology, criminology, public

⁴ Bawa, P. S. (2000). Towards prison reforms. *India International Centre Quarterly*, 27(2), 155–162.

[Http://www.jstor.org/stable/23005498](http://www.jstor.org/stable/23005498)

⁵ Hiremath, V. (2008). Draft Policy on Prison Reforms. *Economic and Political Weekly*, 43(26/27), 29–32.

[Http://www.jstor.org/stable/40278901](http://www.jstor.org/stable/40278901)

⁶ K. I. Vibhute, Right to Human Dignity of Convict under “Shadow of Death” and Freedoms “Behind the Bars” in India: A Reflective Perception, 58 *J. Indian L. Inst.* 15 (2016), <http://www.jstor.org/stable/45163060>

policy and human rights.⁷

1.5.2 Historical Evolution of Prisons in India

The historical development of Indian prisons can be traced back to the colonial period where penal philosophy and the administrative framework both were imposed by the British. The Prisons Act of 1894 formalized central control over jails, focusing more over punitive discipline than rehabilitation. Early reformers such as Barker (1944) and PACHAURI (1994) criticized the structural rigidity of colonial jails, stating that overcrowding, corporal punishment, and poor sanitation were some of the major problems.⁸

Brockway (1883) and Eldred (1893) laid emphasis on emergence of prisons as instruments of social control and moral discipline globally. This highlighted the tension existent between punishment and reform.⁹ ¹⁰ In India, these debates have produced a hybrid system of governance which combined British penology with the indigenous structures.

The Indian Jails Committee Report in 1919–1920 was a landmark document which was considered as a turning point in Prison governance. It suggested recommends such as systematic improvements including better medical facilities, vocational training and professionalization of staff. Barker (1944) reflected on the progress that was made in the twenty years which followed the report. In it there was emphases on the need for institutional reforms to ensure humane treatment of prisoners. On this progress report made Pachauri (1994) notes that many recommendations have remained theoretical rather than being implemented. This signified the lack of administrative inertia in management of prison.

1.5.3 Theoretical and Global Perspectives on Incarceration

Global perspectives on the prison system provides a conceptual frameworks for the understanding of Indian prisons. Gibson (2011) corelates the emergence of prisons with the modern formation of state. He links the rise in incarceration to bureaucratic rationalization and

⁷ C. N. Bhalerao, Urgent Need for Prison Reforms, 35 Econ. & Pol. Weekly 746 (2000), <http://www.jstor.org/stable/4408974>

⁸ S. K. Pachauri, History of Prison Administration in India in 19th Century: Human Rights in Retrospect, 55 Proc. Indian Hist. Cong. 492 (1994), <http://www.jstor.org/stable/44143401>

⁹ Z. R. Brockway, Needed Reforms in Prison Management, 137 N. Am. Rev. 40 (1883), <http://www.jstor.org/stable/25118292>

¹⁰ F. C. Eldred, Needed Prison Reforms, 157 N. Am. Rev. 383 (1893), <http://www.jstor.org/stable/25103206>

social discipline.¹¹ Schull (2014) analyzes the configuration of incarceration, emphasizing how physical and social factors shape a person's life in prison, a concept which highly relevant to the densely populated Indian prisons.¹²

Western theorists such as Foucault have highlighted the disciplinary function of prisons. According to him "they are mechanisms for shaping social behavior rather than merely instruments of punishment".¹³ Such perspectives align with the critiques of Indian prisons, where problems such as overcrowding, under-resourcing, and hierarchical management often bolster social inequalities rather than the remedial of criminal behavior.¹⁴

1.5.4 Post-Independence Reform Discourse in India

During the post-Independence era India inherited the existing colonial penal framework which led to the dual challenge of modernization as well as democratization. Early policies stressed upon professionalization, standardization and the incorporation of rehabilitation alongside punishment. Bawa (2000) and Hiremath (2008) argue for "reforms that integrate vocational training, psychological support and legal assistance to undertrial prisoners".¹⁵ ¹⁶ Bhalerao (2000) has stressed upon the urgency in reforms noting that due to lack of administrative efficiencies injustice is prolonged.¹⁷

The Bureau of Prison Research and Development (BPRD) has issued model prison manuals in 2003 which were revised in 2016. They serve as central policy blueprints addressing cell design, prisoner classification, staff responsibilities, and rehabilitation programs. The only problem that pertains is its uneven implementation across states. Bhushan (1970) in his work

¹¹ M. Gibson, *Global Perspectives on the Birth of the Prison*, 116 *Am. Hist. Rev.* 1040 (2011), <http://www.jstor.org/stable/23307878>

¹² K. F. Schull, *The Spatialisation of Incarceration: Reforms, Response and the Reality of Prison Life, in Prisons in the Late Ottoman Empire: Microcosms of Modernity* 111 (2014), <http://www.jstor.org/stable/10.3366/j.ctt9qdrdm.11>

¹³ S. Ahrdc, *Prison Reform in India*, 46 *Econ. & Pol. Weekly* 30 (2011), <http://www.jstor.org/stable/27918036>

¹⁴ S. K. Raghuvanshi, *An Analysis of Prison Reforms in India and the Way Forward* (Mar. 6, 2023), <https://articles.manupatra.com/article-details/AN-ANALYSIS-OF-PRISON-REFORMS-IN-INDIA-AND-THE-WAY-FORWARD>

¹⁵ Bawa, P. S. (2000). *Towards prison reforms*. *India International Centre Quarterly*, 27(2), 155–162. <Http://www.jstor.org/stable/23005498>

¹⁶ Hiremath, V. (2008). *Draft Policy on Prison Reforms*. *Economic and Political Weekly*, 43(26/27), 29–32. <Http://www.jstor.org/stable/40278901>

¹⁷ C. N. Bhalerao, *Urgent Need for Prison Reforms*, 35 *Econ. & Pol. Weekly* 746 (2000), <http://www.jstor.org/stable/4408974>

highlights the need for localized adaptations of national frameworks, emphasizing that state-level administrative capacity and political will are undecisive factors.¹⁸

Contemporary scholarship including Jaishankar et al. (2014) and Kathpalia (2014), underscores a multidimensional approach. This suggests that reforms should address security, legal compliance, rehabilitation and post-release reintegration simultaneously.^{19 20}

1.5.5 Mass Incarceration and the Undertrial Crisis

One of the most paramount challenges persisting in Indian prisons is the large proportion of undertrial detainees. According to NCRB statistics approximately 70–75% of the total prison population constitutes undertrial detainees.²¹ The causes for this are multifaceted ranging from procedural delays in courts, inadequate legal aid to reliance on cash bail, and overburdened judicial infrastructure.

However judiciary has intervened to played a pivotal role in addressing this crisis. In landmark cases such as *Hussainara Khatoon v. State of Bihar* (1980) the court recognized the right to speedy trial as a constitutional right. Ultimately this led to the release of thousands of undertrial prisoners.²² To cite in recent times the case of *Papu v. State of Uttar Pradesh* (2017) addressed the issue of pretrial detention and bail rights which has led to the reinforcement of procedural safeguards.²³

Various campaigns such as “Release_UTRC@75” have also sought to address the prolonged pretrial incarceration via advocacy, data monitoring, and collaborating with legal aid agencies.²⁴ Vibhute (2016) speaks about the effects on the human dignity of convicts underscoring the psychological and social costs of prolonged detention.²⁵ These works

¹⁸ Vidya Bhushan, *Prison Administration in India: With Special Reference to Uttar Pradesh* (S. Chand & Co. 1970).

¹⁹K. Jaishankar et al., eds., *Indian Prisons: Towards Reformation, Rehabilitation and Resocialization*

²⁰ Girjesh Kathpalia, *Criminology and Prison Reforms*

²¹ National Crime Records Bureau, *Prison Statistics India 2022* (Dec. 2023), <https://www.livelaw.in/news-updates/ncrb-releases-prison-statistics-india-report-2022-243973>

²² *Hussainara Khatoon v. Home Secretary, State of Bihar*, 1979 AIR 1369 (S.C.).

²³ *Papu v. State / MANU/SC/1183/2017* — (2017). <https://www.manupatrafast.in/temp/pdf/MANU-SC-1183-2017-JUD20241019193558.pdf>

²⁴ Taking a Closer Look at the “Release_UTRC@75” Campaign (Aug. 23, 2022), https://articles.manupatra.com/article-details/TAKING-A-CLOSER-LOOK-AT-THE-Release_UTRC%4075-CAMPAIGN

²⁵ K. I. Vibhute, Right to Human Dignity of Convict under “Shadow of Death” and Freedoms “Behind the Bars” in India: A Reflective Perception, 58 *J. Indian L. Inst.* 15 (2016), <http://www.jstor.org/stable/45163060>

collectively showcase the centrality of procedural reforms in reducing mass incarceration.

1.5.6 Human Rights, Custodial Violence, and Judicial Oversight

Custodial deaths, torture, and degrading conditions have constantly been under attention from both scholars as well as the judiciary. Articles in Manupatra (2023) have talked about the right to life and protections against custodial death safeguarding it under the constitutional mandate of Article 21.²⁶ Solitary confinement as examined in *The Hole Shedding Light at Solitary Confinement* (2022) depicts the extremities such as psychological harm endured by prisoners punished with solitary confinement.²⁷

Supreme Court interventions including the guidelines provided in *D.K. Basu v. State of West Bengal* (1997) has led to the establishment of constitutional safeguards against custodial abuse. This emphasized the need for monitoring detainees, conducting medical checks and suggesting prompt legal recourse.²⁸ Leonard (1983) showcases the impact of litigation on improving conditions for female prisoners, urging the judiciary to use its capacity to spur reform.²⁹

There is a constant debate as to which are the primary obstacles to realizing human rights in prisons, whether enforcement gaps or statutory inadequacy? Vibhute (2016) and the India Justice Report (2011) advocates for independent monitoring, campaigns about legal awareness, and the integration of prison health care systems with that of public healthcare.

1.5.7 Rehabilitation, Open Prisons, and Alternatives to Incarceration

has been one of the recurrent themes while discussing Indian prison reforms. Open prisons were first experimented in the state of Rajasthan and Kerala allowing prisoners limited freedom and access to vocational training while they were under supervision.³⁰ The 2017 ruling on furlough without surety illustrates judicial support for semi-custodial measures to facilitate

²⁶ Right to Life and Custodial Deaths (Mar. 28, 2023), <https://articles.manupatra.com/article-details/Right-to-life-And-Custodial-Deaths>

²⁷ Luigi et al., *Shedding Light on “the Hole”*, 17 PLoS ONE e0240433 (2020), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7468496/>

²⁸ *D.K. Basu v. State of West Bengal*, 1997 (1) SCC 416, AIR 1997 SC 610 (India).

²⁹ E. B. Leonard, *Judicial Decisions and Prison Reform: The Impact of Litigation on Women Prisoners*, 31 Soc. Problems 45 (1983), <https://doi.org/10.2307/800408>

³⁰ *Understanding Open Prisons in India*, *Economic & Political Weekly* (Jan. 23, 2021), <https://www.epw.in/engage/article/understanding-open-prisons-india>

reintegration.³¹

Mahatma Gandhi's reflections on prison reforms as is discussed by Prathapan (2014) advocates for moral education, self-discipline and engagement of detainees in a non-punitive manner. This has greatly influenced modern frameworks on rehabilitation.³² Initiatives such as radio programs in prisons gives an innovative as well as educational and therapeutic intervention.³³

However, rehabilitation programs face the problem of operational challenges such as overcrowding, inadequate staff, limited funding, and lack of trained social workers to name some. Ferreira (2021) and Ghandy (2021) provide qualitative insights into life of detainees in prison bridging the gap between formal policies and ground reality.^{34 35}

1.5.8 Challenges to Reform Implementation

Despite their being comprehensive policy frameworks, implementation gaps are persistent. Overcrowding remains chronic as some prisons operate at more than double their capacity. Staff shortages, budget constraints, and lack of training show non-compliance with the Model Prison Manuals.³⁶

Political and economical factors are also responsible in influencing reform uptake due to which often priority is given to incarceration rather than rehabilitation. Scholars such as Roy (1989) and Jaishankar et al. (2014) are of the view that reforms require alignment all the aspects including policy intent, administrative capacity, and societal support.^{37 38}

Other challenges which exist are in the non uniform practices of parole, probation, and bail across states as well as limited empirical evaluation. These inequalities are highlighted in

³¹ Convict Confined in Open Prison Can Be Released on Furlough without Surety from Relatives (2017), <https://articles.manupatra.com/article-details/Convict-confined-in-open-prison-can-be-released-on-furlough-without-surety-from-relatives>

³² P. Prathapan, Mahatma Gandhi on Prison Reforms

³³ V. Nanda, Radio in Prison: Towards New-Age Reform

³⁴ A. Ferreira, Colors of the Cage: A Memoir of an Indian Prison

³⁵ K. Ghandy, Fractured Freedom: A Prison Memoir

³⁶ MP HC: Need to Decongest Prisons Housing Double the Number of Their Capacity (May 12, 2021), <https://updates.manupatra.com/roundup/tagsearch.aspx?Tag=Prison>

³⁷ J. G. Roy, Prisons and Society: A Study of the Indian Jail System (1989).

³⁸ K. Jaishankar et al., eds., Indian Prisons: Towards Reformation, Rehabilitation and Resocialization

articles related to parole and bail jurisprudence.^{39 40}

CHAPTER 2: UNDERSTANDING MASS INCARCERATION

2.1 Concept and Evolution of Mass Incarceration

Mass incarceration refers to the widespread and excessive use of imprisonment as a way to deal with crime and social problems.⁴¹ The term gained widespread prominence in the United States during the 1970s. It described the rise in incarceration due to stricter sentencing laws, mandatory minimums and policies such as “truth in sentencing.”⁴² Michelle Alexander argues that mass incarceration is a system which operates on the basis of racialized social control. This mostly affected the African American communities in the United States disproportionately.⁴³

While this concept is rooted in the U.S. elements of mass incarceration such as overcrowding, excessive pretrial detention, and marginalization of vulnerable populations are seen in many developing countries, including India.⁴⁴ Scholars state that incarceration is not merely about the number of people who are imprisoned, but also about the reliance of the state on prisons as a means of governance.⁴⁵

2.2 Global Trends and Comparative Perspectives

2.2.1 United States

The United States has one of the highest incarceration rates globally. It has almost exceeded 600 prisoners per 100,000 people during its peak period.⁴⁶ This surge in incarceration was mostly driven by the “War on Drugs” in the 1980s. This led to the imposition of harsher penalties and increased imprisonment especially for non-violent drug offenses.⁴⁷ The Anti-Drug Abuse Act of 1986 introduced the concept mandatory minimums which had

³⁹ Critical Issues in the Parole System of India (July 19, 2022), <https://articles.manupatra.com/article-details/Critical-Issues-In-The-Parole-System-Of-India>.

⁴⁰ All You Need to Know About Arrest and Bail (Apr. 27, 2021), <https://articles.manupatra.com/article-details/All-you-need-to-know-about-Arrest-and-Bail>

⁴¹ The Sentencing Project, Mass Incarceration: Trends (2024)

⁴² Id.

⁴³ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2010).

⁴⁴ Id.

⁴⁵ Jonathan Simon, *Governing Through Crime* (2007)

⁴⁶ The Sentencing Project, Mass Incarceration: Trends (2024)

⁴⁷ Id.

disproportionate impact on the Black as well as Hispanic communities.⁴⁸ Despite the rise in scale of incarceration, research suggests that there was ultimately a limited impact on long-term reduction in crime.⁴⁹

2.2.2 United Kingdom

In the United Kingdom as compared the U.S. incarceration rates have significantly remained lower. England and Wales record about approximately 140 prisoners per 100,000 people.⁵⁰ Nevertheless persistent issues of overcrowding, aging infrastructure, shortages in staff and high rates of mental illness among prisoners are present even today.⁵¹ Despite their efforts to reform and shift towards rehabilitation the prison system remains overburdened and under-resourced.⁵²

2.2.3 Nordic Countries (e.g., Norway)

Nordic nations like Norway have always followed a rehabilitative model. Norway's incarceration rate which is among one of the lowest rates of incarceration in the world is around 50 to 60 prisoners per 100,000 people.⁵³ This penal philosophy is based on dignity, reintegration, and minimal interference beyond loss of liberty of prisoners.⁵⁴ The guiding principle of this philosophy is that "the punishment is the deprivation of liberty—nothing more."⁵⁵ These policies have played a significant role in the contribution of low rates of recidivism.⁵⁶

2.3 Historical Context of Incarceration in India

It is a well-established fact that India's prison system is a colonial legacy. The British introduced prisons with the intent to maintain control and suppress dissent.⁵⁷ The Macaulay Committee in 1835 and the Prison Discipline Committee in 1838 were the ones who laid the foundation for institutionalized incarceration.⁵⁸ Post-independence, India had retained colonial

⁴⁸ Anti-Drug Abuse Act of 1986, Pub. L. No. 99-570.

⁴⁹ Nat'l Research Council, *The Growth of Incarceration in the United States* (2014)

⁵⁰ U.K. Ministry of Justice, *Prison Population Statistics* (2024)

⁵¹ *Id.*

⁵² *Id.*

⁵³ World Prison Brief, *Norway Country Profile* (2024).

⁵⁴ *Id.*

⁵⁵ Norwegian Ministry of Justice, *Punishment That Works* (2015)

⁵⁶ *Id.*

⁵⁷ M.R.A. Noakes, *Colonial Prisons in India* (2018)

⁵⁸ *Id.*

laws such as the Indian Penal Code, 1860 and Prison Act, 1894.⁵⁹ Despite these constitutional safeguards existing to protect dignity and liberty bureaucratic practices from colonial-era still persist.⁶⁰ Much later due to judicial interventions, notably in the case of *Sunil Batra v. Delhi Administration* exposed custodial torture and demanded prison reforms.⁶¹

2.4 Causes of Overcrowding in Prisons

Indian prisons face the severe problem of overcrowding, with occupancy rates in some prisons exceeding 120% in many of the states.⁶² This is primarily due to:

2.4.1 High number of undertrials:

Over 75% of India's prison population consists of undertrial prisoners.⁶³ The procedural delays, slow trials, and lack of legal aid are the major contributors of this issue.⁶⁴ This was rectified in the case of *Hussainara Khatoon v. State of Bihar* where the Supreme Court recognized speedy trial as a fundamental right under Article 21 of the constitution.⁶⁵

2.4.2 Restrictive bail practices:

Although Sections 478-482 of the BNSS provide for bail, the access to bail is often determined on the basis of socio-economic disparities.⁶⁶ The Law Commission of India's 268th Report in the year 2017 highlighted how inability to furnish sureties keeps poor individuals incarcerated.⁶⁷

2.4.3 Poor prison infrastructure:

Prisons remain largely understaffed due to this there is a lack in basic sanitation, healthcare facilities and rehabilitation of prisoners.⁶⁸ The Government prioritizes expenditure on security

⁵⁹ Indian Penal Code, 1860; Prisons Act, 1894.

⁶⁰ Upendra Baxi, *The Crisis of the Indian Legal System* (1982)

⁶¹ *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494

⁶² National Crime Records Bureau, *Prison Statistics India* (2023)

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81

⁶⁶ *Bharatiya Nagarik Suraksha Sanhita*, 2023, Act No. 46 of 2023,

⁶⁷ Law Commission of India, *Report No. 268: Bail Reforms* (2017)

⁶⁸ NCRB, *supra* note 62.

rather than welfare or reintegration of prisoners.⁶⁹

2.5 Socio-Economic and Political Dimensions

From a socio-economic point of view mass incarceration affects marginalized communities disproportionately. For instance, in the U.S. black men are incarcerated at much higher rates than others. This is due to racism and biased policy making.⁷⁰ Similarly in India, undertrial prisoners comprise of a large number of economically weaker sections such as Dalits, Tribals and Muslims.⁷¹

Politically speaking, incarceration is often used as a means to project the toughness of crime.⁷² States tend to spend heavily on prison administration while underfunding legal aid and neglecting rehabilitation.⁷³ From an economic point of view, mass incarceration diminishes workforce participation, heightens dependency on social support, and places a substantial strain on public budgets.⁷⁴

CHAPTER 3: PRISON SYSTEM IN INDIA – AN OVERVIEW

3.1 Historical Development of Indian Prisons

As discussed earlier the foundations of India's prison system are laid down and shaped by colonial legacy and its administrative practices. The enactment of the Prisons Act in the year 1894 was the first unified statutory framework provided for prison administration in British India. Its main aim being order and control over prisoners rather than their rehabilitation or reform.⁷⁵ This Act's everlasting legacy is visible even today in many state prison rules and manuals. The early British prison policy consisted of deterrent policies, hard labour, and segregation of prisoners but subsequent reforms under commissions such as the All India Jail Committee Report, 1919-20 called for change in such administration practices. It including improved living conditions and classification of prisoners but its actual implementation remained substantial for over decades.⁷⁶ After independence, the Indian government decided

⁶⁹ Id.

⁷⁰ Alexander, *supra* note 43

⁷¹ NCRB, *supra* note 62.

⁷² Simon, *supra* note 45.

⁷³ Id.

⁷⁴ Nat'l Research Council, *supra* note 49.

⁷⁵ The Prisons Act, No. 9 of 1894 (India)

⁷⁶ Government of India, Report of the All India Jail Committee, 1919-20 (1921).

to retain the Prisons Act, 1894 this led to many states continuing to adopt versions of colonial-era prison rules. Reform efforts started increasing pace much later in the 20th century with committees such as the Mulla Committee Report in 1980-83. It recommended human-rights based approaches, professionalisation of prison staff and upgradation of infrastructure. Despite these initiatives there are many prisons which still retain the structural and administrative features inherited from the colonial era. This showcases how historical legacies continue to impact modern-day prison architecture, governance practices and culture. The historical development of Indian prisons thus gives us an insight into understanding the current challenges faced in prison management, rights of prisoners and the need for reforms.

3.2 Constitutional and Legal Framework

The constitutional and legal framework governing prisons in India is rooted in the country's fundamental rights which are guaranteed by the constitution as well as statutory enactments. Article 21 of the Indian Constitution talks about the right to life and personal liberty. This article has been interpreted by the Supreme Court of India in a wide ambit to include the right of prisoners subject to humane conditions, medical care and dignity. Article 14 and Article 19 of the Indian Constitution mandates equality before the law and protects certain freedoms of individuals including prisoners respectively. Although they are subject to lawful restrictions whereas Article 39A provides for free legal aid to ensure access to justice for all including undertrial prisoners. Speaking about statutory enactments, the Prisons Act of 1894 largely remains the central law governing prisons in most states. Although several states have amended or supplemented it as and when required in accordance with their own jail acts. In addition to this the Model Prison Manual, 2016 which was issued by the Ministry of Home Affairs provides for standards for classification of prisoners, prison infrastructure, medical facilities, vocational training, grievance redressal and accountability. The fact that "prisons" remain a subject under the State List under Entry 4 of List II of the Seventh Schedule of the Constitution means administration and management of prisons is the responsibility as well as discretion of the respective State/Union Territory governments. This has in turn led to considerable variation in laws, practices and conditions across India. Judicial jurisprudence for example, in cases such as *Sunil Batra v. Delhi Administration* and *Hussainara Khatoon v. State of Bihar* has made it evident that legal protections must be extended even to prisoners and undertrial detainees. This has placed obligations on the State to ensure that basic human rights are prevalent within prisons. Therefore the legal framework is a combination of constitutional mandates as well as

statutory laws and policy manuals but the gap between implementation and enforcement remains a core area for reform.

3.3 Types of Prisons in India

India's prison infrastructure is a heterogeneous system, stratified depending upon the type of institution, severity of sentence, prisoner category, and administrative control. According to the latest data released by the National Crime Records Bureau (NCRB) there are approximately 1,319 prison institutions in India as of December 2021. They comprise a total of 148 central jails, 424 district jails, 564 sub-jails, 88 open jails, 32 women jails, 19 borstal schools and 3 "others".⁷⁷ Central jails are generally for housing long-term convicts often with higher security whereas district jails usually serve undertrials and short-term convicts. Sub-jails and other smaller units serve in semi-rural or remote areas and are a victim of significant resource constraints. Open jails (or open prisons) is a contemporary concept which constitutes a lesser restrictive model allowing selected categories of prisoners to live with fewer constraints and to engage in community work or reintegration programmes. Women jails and special jails for habitual offenders also exist. Nevertheless, they are very few in number and their capacity remains relatively limited. This classification reveals not only distinctions in administration but also points towards equity and resource-allocation challenges in prisons. Therefore, understanding these types is critical in the analysis of how prisoner classification, access to facilities, staffing and rehabilitation opportunities vary across institutions.

3.4 Demographics of the Prison Population

The demographic landscape of India's prison population is a reflection of both systemic pressures as well as social inequalities. According to the NCRB's Prison Statistics India report for 2021, the total number of prisoners increased from 488,511 in 2020 to 554,034 in 2021. This led to the jumping of national occupancy rate to 130.2%.⁷⁸ The World Prison Brief, using data provided by NCRB, reports that as of December 2022 the total prison population was 573,220 out of which undertrials/remand detainees constituted of 73.5% of the total population.⁷⁹ Women inmates make up approximately 4.1% of the prison population, a figure which has remained stable over the years but their conditions of detention often raise concerns.

⁷⁷ National Crime Records Bureau, Prison Statistics India 2021: Executive Summary at Tbl.1 & Tbl.2 (2022), available at https://im4change.in/docs/Executive_ncrb_Summary-2021.pdf

⁷⁸ *Id.*

⁷⁹ World Prison Brief, "India — Prison Population Totals," <https://www.prisonstudies.org/country/india>

Other demographic parameters are caste/status with Scheduled Castes, Scheduled Tribes, and Other Backward Classes being represented significantly. Age profiles of prisoners skewed towards younger adults in offence concerning large shares of property, narcotics-related offences and undertrial cases. The fact that undertrial prisoners form the majority of prisoners points towards delays in the judicial and investigative processes. It produces profound implications for prison management, rights of the incarcerated and the burden on the justice system. Moreover, problems such as overcrowding, limited infrastructure and inadequate staff adds to the difficulties faced by these populations. The only solution remains requiring targeted policy and adequate resourcing.

3.5 Challenges of Indian Prison Administration

Prison administration in India faces a unification of structural, operational and human-rights challenges with one of the key issues being overcrowding. This means that the occupancy rate of 130% in 2021 shows that there are an average of 13 persons housed for every 10 persons' capacity with many sub-jails reporting the occupancy of 200-300%.⁸⁰ Deficiency in Staffing is acute with large numbers of vacancies among prison officers, medical practitioners and support staff. This ultimately results in diminished supervision, inadequate healthcare and limited rehabilitation programmes. Security and custodial maintenance are often prioritised in resource allocation over matters such as large-scale rehabilitation, vocational training, mental-health services and re-entry support. The infrastructure in many facilities is ageing, maintained poorly and lacks adequate sanitation facilities, ventilation and space. All these factors contribute to the health risks, safety concerns and violations of rights of prisoners. The state-to-state variation in prison management, owing to prisons being a subject under the State List integrates these challenges leading to disparate in standards across jurisdictions. Finally, implementation gaps between policy frameworks such as the Model Prison Manual and actual on-ground practice as are documented by NGOs such as the Commonwealth Human Rights Initiative (CHRI) remain persistent. Reform efforts therefore need to address the problems of staffing, infrastructure, programme orientation especially towards rehabilitation, data transparency and accountability mechanisms if alignment of prison administration is to be done with

⁸⁰ Commonwealth Human Rights Initiative, "Ten Things You Should Know About Indian Prisons: CHRI's Analysis of Prison Statistics India 2020" 3 (2021), available at <https://www.humanrightsinitiative.org/download/1644243968Jail%20Mail%20Prison%20Statistics%20India%2020>

constitutional and human-rights standards.

CHAPTER 4: HUMAN RIGHTS AND MASS INCARCERATION

4.1 International Human Rights Standards for Prisoners

The recognition of prisoners' rights as human rights is a product of international human rights law and humanitarian standards. The United Nations Standard Minimum Rules for the Treatment of Prisoners (1955) which was later revised and adopted as the "Nelson Mandela Rules" (2015). They are a collection of the most comprehensive international framework governing prison conditions.⁸¹ These rules set minimum benchmarks regarding humane treatment of prisoners, prohibition of their torture, access to healthcare facilities and the right to dignity irrespective of the nature of their offence or conviction. Rule 1 of it explicitly states that "all prisoners shall be treated with respect due to their inherent dignity and value as human beings."⁸² The Nelson Mandela Rules is an attempt to emphasize rehabilitation as the core objective of imprisonment. It advocates for constructive engagement rather than punitive isolation.⁸³ These principles are aligned with other international conventions such as the Universal Declaration of Human Rights, 1948 (Arts. 5, 9, and 10), and the International Covenant on Civil and Political Rights, 1966 (Arts. 7, 9, and 10). Both these conventions stand against the cruel, inhuman, or degrading treatment of prisoners.⁸⁴ The Convention Against Torture (1984) further obligates states to criminalize torture to ensure accountability for any custodial violence.⁸⁵

India, as a party to these conventions bears an obligation towards the alignment of its domestic penal framework with international human rights norms.⁸⁶ However, irrespective of judicial interventions and policy reforms compliance remains uneven. The main reasons for it being infrastructural constraints, underfunding, and lack of sensitization among prison authorities and

⁸¹ United Nations, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175 (Dec. 17, 2015), available at https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

⁸² *Id.* at Rule 1.

⁸³ *Id.* at Rule 4.

⁸⁴ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948); International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

⁸⁵ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

⁸⁶ India, Ministry of Home Affairs, Annual Report (2022–23)

others.⁸⁷

4.2 Judicial Approach to Prisoners' Rights in India

The Indian judiciary has played a transformative role in expanding the ambit of prisoner rights through wide interpretation of Article 21 of the Constitution. The Supreme Court progressively recognized that incarceration of an individual does not strip him of his fundamental rights.

4.2.1 Sunil Batra v. Delhi Administration (1978, 1980) – solitary confinement & torture

In the case of Sunil Batra v. Delhi Administration the Court condemned the use of solitary confinement and physical torture to declare it unconstitutional. The motive behind which was emphasizing that “prison walls do not separate the inmates from the fundamental guarantees enshrined under Article 21.”⁸⁸ The Court in its judgement directed the state to ensure that there is humane treatment, medical care, and fair procedures for disciplinary actions of the prisoners.⁸⁹

4.2.2 Charles Sobhraj v. Supdt. Central Jail (1978) – rights under Art. 21

Also in the case of Charles Sobhraj v. Superintendent, Central Jail, Tihar (1978) the Court once again reaffirmed that prisoners retain the basic human rights except those which are lawfully curtailed by incarceration.⁹⁰ This decision marked a shift in perspective from retributive towards a reformatory approach within India's penal jurisprudence. It recognized prisoners as subjects of rights rather than objects of discipline.

4.2.3 Sheela Barse v. State of Maharashtra (1983) – rights of women prisoners

Similarly, in Sheela Barse v. State of Maharashtra (1983) the Supreme Court in its judgement extended protection to women prisoners, highlighting issues of sexual abuse, medical neglect, and custodial discrimination.⁹¹ The Court gave directions for the establishment of separate women facilities and mandated periodic inspections to prevent abuse.⁹² These decisions time

⁸⁷ National Human Rights Commission, Prison Reforms and Human Rights (2021).

⁸⁸ Sunil Batra v. Delhi Administration, (1978) 4 S.C.C. 494; (1980) 3 S.C.C. 488.

⁸⁹ Id.

⁹⁰ Charles Sobhraj v. Superintendent, Central Jail, Tihar, (1978) 4 S.C.C. 104.

⁹¹ Sheela Barse v. State of Maharashtra, (1983) 2 S.C.C. 96.

⁹² Id.

and again collectively strengthened the existing framework for humane treatment and procedural safeguards for inmates.

4.3 Custodial Violence and Abuse of Power

4.3.1 DK Basu v. State of West Bengal, 1997

Custodial violence remains to be one of the most pressing human rights concerns in India's criminal justice system. The Supreme Court in the landmark judgment in *D.K. Basu v. State of West Bengal* (1997) prescribed a set of detailed procedural guidelines to curb custodial torture and unlawful detention.⁹³ The Court articulated right to life under Article 21 in such a way so as to include the right to be free from torture and arbitrary deprivation of liberty. This made it mandatory for law enforcement⁹⁴ authorities to maintain strict compliance.⁹⁵

Despite these directives, National Crime Records Bureau (NCRB) data reveals that there is persistent instances of deaths and violence in police and judicial custody.⁹⁶ Structural factors like lack of accountability, inadequate oversight, and systemic bias continue to prove to be a challenge in the enforcement of human rights within custodial settings. The judiciary's intervention over the years though being significant remains constrained without proper institutional reforms, independent oversight mechanisms, and human rights training for prison personnel.⁹⁷

4.4 Vulnerable Groups: Women, Juveniles, and Marginalized Communities

Mass incarceration as discussed previously disproportionately affects vulnerable populations such as women, juveniles, Scheduled Castes, Scheduled Tribes, and economically marginalized groups. The Juvenile Justice (Care and Protection of Children) Act in 2015 redefined the treatment of juvenile offenders in alignment with the Convention on the Rights of the Child in 1989. Its main aim was to emphasize rehabilitation and reintegration of children over punishment.⁹⁸ Thus, the Act mandates separate detention facilities and creation of specialized

⁹³ *D.K. Basu v. State of West Bengal*, (1997) 1 S.C.C. 416.

⁹⁴ *Id.*

⁹⁵ National Crime Records Bureau, *Crime in India 2023: Custodial Deaths and Police Excesses* (2024)

⁹⁶ *Id.*

⁹⁷ NHRC, *Annual Report on Custodial Violence* (2022).

⁹⁸ Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, INDIA CODE (2016).

boards for juveniles operationalizing child-centric justice.⁹⁹

For women, the Model Prison Manual (2016) and judicial directives which recognized unique needs of women such as maternity care, childcare facilities within prisons, and protection from gender-based violence serve as a safeguard.¹⁰⁰ In *R.D. Upadhyay v. State of A.P.* (2006), the Supreme Court laid down some comprehensive guidelines for pregnant women and children residing with them in prisons stressing on humane treatment and postnatal care of such prisoners.¹⁰¹ However, implementation of it remains inconsistent across states due to infrastructural and budget related disparities.¹⁰²

Marginalized communities continue to face systemic discrimination within the incarceration system. This is often reflected in the overrepresentation of marginalised communities among undertrials.¹⁰³ The causes of it being again structural inequalities, poverty, and lack of legal aid which aggravates the risk of incarceration. This gives us a glimpse of the broader socio-economic disparities that intersect with caste, class, and gender.¹⁰⁴

4.5 Mental Health and Healthcare in Prisons

Mental and physical healthcare in prisons comprise of a vital aspect of human rights protection. The Mental Health Act of 1987 which was replaced by the Mental Healthcare Act, 2017 recognizes the right to mental healthcare as a fundamental right under the Indian law.¹⁰⁵ Section 103 of the Act specifically provides that there should be mental health services for prisoners which makes it mandatory that persons with mental illness should receive treatment in accordance with medical ethics and human dignity.¹⁰⁶

Irrespective of these statutory provisions the ground reality in Indian prisons is altogether a different scenario, characterized by overcrowding, lack of psychiatrists, and inadequate access to medication and therapy.¹⁰⁷ Reports from the National Human Rights Commission (NHRC) and NCRB reveal that mental health concerns of prisoner are largely ignored or criminalized

⁹⁹ Id. § 18.

¹⁰⁰ Ministry of Home Affairs, Model Prison Manual (2016).

¹⁰¹ *R.D. Upadhyay v. State of A.P.*, (2006) 3 S.C.C. 422.

¹⁰² Id.

¹⁰³ NCRB, Prison Statistics India 2023 (2024).

¹⁰⁴ Law Commission of India, Report No. 273: Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (2017)

¹⁰⁵ Mental Healthcare Act, No. 10 of 2017, INDIA CODE (2017).

¹⁰⁶ Id. § 103.

¹⁰⁷ NCRB, Prison Statistics India 2022, *supra* note 103.

rather than being treated.¹⁰⁸ Therefore, integrating mental health professionals into prison systems, regular screening of prisoners, and rehabilitation programs remain a vital step toward ensuring compliance with both constitutional as well as international standards.¹⁰⁹

CHAPTER 5: PRISON REFORMS IN INDIA

5.1 Early Reform Movements and Committees

5.1.1 Indian Jails Committee (1919–20)

The history of prison reforms in India is a slow but evolving process shifting its focus from punitive to reformative justice. The early instances of reform movements emerged during the colonial period. At that time the prison administration was primarily governed by the Prisons Act of 1894 a statute meant for instilling security and discipline rather than rehabilitation.¹¹⁰ The Indian Jails Committee established in the year 1919–1920 was one of the earliest comprehensive commissions on prison conditions. It marked a crucial step towards the reform of prison governance system.¹¹¹ The Committee criticized the appalling living conditions of prisoners in jails and advocated for the separation of undertrial prisoners from convicts, vocational training, and reform-oriented incarceration.¹¹²

5.1.2 Mulla Committee (1983) – prison modernization

Post colonial era after India got independence there was a call for prison modernization. This gained prominence through the All India Jail Manual Committee set up in the year 1957–1959 and the Mulla Committee in 1983.¹¹³ The Mulla Committee's report showcased a milestone in prison reform discourse. Its recommendations lead to the establishment of an All India Prison Service, improved prison infrastructure, and integration of correctional staff training with criminological research.¹¹⁴ Its perspective on the humanization of prison conditions and

¹⁰⁸ NHRC, Report on Mental Health in Indian Prisons (2022).

¹⁰⁹ Id.

¹¹⁰ Prisons Act, 1894 (Act No. 9 of 1894) (India), available at <https://www.indiacode.nic.in/handle/123456789/2254>

¹¹¹ Report of the Indian Jails Committee 1919–1920 (Gov't of India Press 1921), available at <https://archive.org/details/in.ernet.dli.2015.34251>

¹¹² Id.

¹¹³ All India Jail Manual Committee Report (1959).

¹¹⁴ Gov't of India, Ministry of Home Affairs, Report of the All India Committee on Jail Reform (Mulla Committee) (1983), available at <https://www.indianculture.gov.in/official-reports/all-india-committee-jail-reforms-1980-83>.

rehabilitation of inmates served as a base and continues to inform contemporary penal policy even today.¹¹⁵

5.1.3 Justice Krishna Iyer Committee on Women Prisoners (1987)

Subsequently, in the year 1987 Justice Krishna Iyer Committee on Women Prisoners highlighted the issue of gendered vulnerabilities within prisons. It drew attention towards the lack of maternity facilities, health care, and legal aid for women detainees.¹¹⁶ This Committee's recommendations shaped the upcoming reforms for women and laid the foundation for gender-sensitive prison policies in India.¹¹⁷

5.2 Legislative and Policy Reforms

While the Prisons Act of 1894 remains the primary legislation governing Indian prisons, governments have successively attempted to modernize its framework according to the contemporary need of the society. The Model Prison Manual which was issued by the Ministry of Home Affairs (MHA) in 2016 aimed to bring uniformity in prison management across various states by adopting a human-rights-based approach.¹¹⁸ The Manual included prisoner classification, vocational training and educational programs, healthcare as well as grievance redressal mechanisms.¹¹⁹

The MHA's report on prison reforms in the year 2021 reinforced the need to replace the colonial Prisons Act of 1894 with a more UpToDate relevant legal structure that reflects the constitutional guarantees of dignity and rehabilitation.¹²⁰ In 2023, the Government of India introduced the Bharatiya Nyaya Sanhita (BNS), Bharatiya Sakshya Adhinyam (BSA), and the Bharatiya Nagarik Suraksha Sanhita (BNSS) to replace the colonial ear acts of IPC, Evidence Act, and CrPC respectively. The contention behind it was to reflect a broader modernization agenda.¹²¹

¹¹⁵ Id.

¹¹⁶ Justice V.R. Krishna Iyer Committee on Women Prisoners, Report on Women Prisoners in India (1987).

¹¹⁷ Id.

¹¹⁸ Ministry of Home Affairs, Gov't of India, Model Prison Manual (2016), available at <https://bprd.nic.in/WriteReadData/userfiles/file/ModelPrisonManual2016.pdf>

¹¹⁹ Id. chs. 6–8.

¹²⁰ MHA, Annual Report on Prison Reforms (2021–22).

¹²¹ Bharatiya Nagarik Suraksha Sanhita, 2023, Act No. 46 of 2023, available at <https://www.indiacode.nic.in/handle/123456789/20099>

The Law Commission of India's 268th Report in 2017 on bail reforms highlighted that systemic undertrial incarceration is the major contributing factor leading to overcrowding of jails. This advocated the liberalization of bail provisions in consistency with the human-rights norms.¹²²

5.3 Role of the Judiciary in Driving Prison Reforms

5.3.1 Hussainara Khatoon v. State of Bihar (1979) – speedy trial

Judicial activism has played the role of a catalyst in reforming India's prison journey. For instance, in cases like *Hussainara Khatoon v. State of Bihar* (1979) the Supreme Court's interpretation of right to a speedy trial as an fundamental right under Article 21 of the Constitution was implicit which lead to the release of thousands of undertrial prisoners languishing years after years in jails.¹²³ This case transformed the narrative entirely on pretrial detention and access to justice.¹²⁴

5.3.2 Ramamurthy v. State of Karnataka (1997) – directions on prison reforms

Further, in *Ramamurthy v. State of Karnataka* (1997), the Supreme Court identified vital deficiencies in administration of prisons and proclaimed detailed directions on issues such as overcrowding, health, hygiene, vocational training, and rehabilitation.¹²⁵ The judgment was pivotal in recognizing the necessity of systemic reform over ad hoc measures.¹²⁶

The judiciary in its activism has persistently invoked Articles 14, 19, and 21 to expand the scope of prisoners' rights. The liberal interpretation of these articles transformed prisons from sites of punishment into potential spaces of rehabilitation and reform.¹²⁷ Judicial pronouncements coupled with public interest litigation has facilitated in the oversight of prison administration.¹²⁸

¹²² Law Commission of India, Report No. 268: Amendments to Criminal Procedure Code on Bail Reform (2017), available at <https://lawcommissionofindia.nic.in/reports/Report268.pdf>

¹²³ *Hussainara Khatoon v. State of Bihar*, (1979) 3 S.C.C. 168 (India), available at <https://indiankanoon.org/doc/501198/>

¹²⁴ *Id.*

¹²⁵ *Ramamurthy v. State of Karnataka*, (1997) 8 S.C.C. 123 (India), available at <https://indiankanoon.org/doc/304004/>

¹²⁶ *Id.*

¹²⁷ India Const. arts. 14, 19 & 21.

¹²⁸ National Human Rights Commission, Annual Report on Prison Conditions (2022).

5.4 Non-Governmental Efforts and Civil-Society Involvement

Civil society organizations play an important role in the advocacy for prisoners' rights and monitoring human-rights violations. The Commonwealth Human Rights Initiative (CHRI) has been at the frontier for advocating for transparency, accountability, and legal aid for prisoners through various initiatives for instance Access to Justice for the Marginalized.¹²⁹ The People's Union for Civil Liberties (PUCL) has documented the custodial deaths, torture, and the plight of undertrial detainees which influenced judicial and legislative interventions.¹³⁰

International NGOs like Amnesty International and Human Rights Watch have uncovered systemic violation of rights in Indian prisons. This pressed for adherence to the Nelson Mandela Rules.¹³¹ Collaboration efforts by NGOs with state institutions have led to capacity-building workshops for prison staff, legal awareness campaigns, and post-release rehabilitation programs of prisoners.¹³²

5.5 Comparative Study of Best Practices

Global models serve as valuable lessons for reforming India's prison governance system. For instance Norway's rehabilitative prison model most notably the Halden Prison which emphasizes on dignity, education, and reintegration.¹³³ Norway focuses more on normalcy instead of punitive isolation in a way that ensures that life conditions inside the prison mirrors conditions outside prison as closely as possible. This fosters responsibility and social reintegration on the state.¹³⁴

The United Kingdom's system of probation which is administered under the Offender Management Act (2007) has prioritized community-based correction and restorative justice.¹³⁵ Probation officers are trained in fields of psychology and social rehabilitation to reduce

¹²⁹ Commonwealth Human Rights Initiative (CHRI), Prison Reform Programme – Access to Justice (2023), available at <https://www.humanrightsinitiative.org/programs/prisons-reform-programme>

¹³⁰ People's Union for Civil Liberties (PUCL), Custodial Deaths in India Report (2022), available at <https://www.pucl.org>

¹³¹ Amnesty International, India: Prison Conditions and Human Rights (2021), available at <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/india/report-india/>

¹³² Human Rights Watch, Broken System: Custodial Abuse in India (2020), available at <https://www.hrw.org/asia/india>

¹³³ Norwegian Correctional Service, Halden Prison Model (2019), available at <https://www.kriminalomsorgen.no/halden-prison>

¹³⁴ John Pratt, Scandinavian Exceptionalism in an Era of Penal Excess, 48 *Brit. J. Criminology* 119 (2008).

¹³⁵ Offender Management Act 2007, c. 21 (UK), available at <https://www.legislation.gov.uk/ukpga/2007/21/contents>

criminal relapse.¹³⁶ Both these systems are a demonstration of how humane and reformative approaches yield lower reoffending rates and promote social harmony.¹³⁷

CHAPTER 6: ALTERNATIVES TO INCARCERATION

6.1 Restorative Justice and Community-Based Corrections

In the past few decades there has been a growing recognition that incarceration, especially when applied to non-violent and petty offenders produces harm to social, economic, and human-rights while yielding limited criminogenic benefits. Alternatives to incarceration include a spectrum of approaches such as restorative, community-based, supervisory, diversionary, rehabilitative and technology-assisted measures. These are designed to reduce prison populations, improve reintegration outcomes, and protect the safety of the public through less costly and more effective interventions.¹³⁸

Restorative justice refers to the reframing of criminal harm as an interpersonal injury requiring correction among offender, victim, and community rather than exclusively retributing them. Restorative Justice programs such as victim-offender mediation, family group conferencing, circles, and community panels seeks to offer accountability, victim participation and concrete restorative outcomes. It may be either in the form of restitution, apology or community service. In the Indian context, the concept of restorative justice in a way resonates with traditional community dispute mechanisms¹³⁹. Therefore, it has been implemented in juvenile justice system and some community sentencing projects, though comprehensive statutory enforcement of it remains limited.¹⁴⁰

Empirical analysis from comparable jurisdictions indicates that restorative justice can lead to reduction in recidivism among selected groups of offenders in turn leading to increased victim satisfaction. Though its effectiveness is contingent on the basis of program design,

¹³⁶ UK Ministry of Justice, Probation System Reform Plan (2021), available at <https://www.gov.uk/government/publications/probation-reform-programme>

¹³⁷ World Prison Brief, Comparative Prison Data 2024, available at <https://www.prisonstudies.org>

¹³⁸ M. Agarwal, Community Sentencing in India (2019), available at <https://globcci.org/wp-content/uploads/2021/07/Community-Sentencing-in-India-2019.pdf>

¹³⁹ Ministry of Home Affairs (India), Prison Reforms (Division page) (updated Jan. 8, 2025), https://www.mha.gov.in/en/divisionofmha/Women_Safety_Division/prison-reforms

¹⁴⁰ D. Pandey, Restorative Justice in India: A Critical Examination (2024), SSRN, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5075204

voluntariness, adequate preparation, and safeguards available for vulnerable victims.¹⁴¹ Policy suggestions for India include (1) legal recognition for restorative justice outcomes for instance diversion for petty offences or mitigation at sentencing, (2) capacity building for facilitators drawn from civil society and probation services, and (3) monitoring frameworks that document outcomes ensuring a restorative processes protecting the rights of victims'.¹⁴²

6.2 Probation and Parole Systems in India

Probation and parole are the two supervisory alternatives aimed at rehabilitation of offenders under conditional freedom. In India, the Probation of Offenders Act of 1958, is the statutory authority which provides for courts to release certain offenders on probation or admonition. The main aim behind it is to prevent offenders from becoming hardened criminals and to facilitate their reintegration into the society.¹⁴³

Despite these statutory provision probation and parole remain underutilized due to the uneven implementation at state-level, limited numbers of trained probation officers, scarcity of community corrections infrastructure and weak post-release support mechanisms.¹⁴⁴ Comparative research showcases that strengthening probation officers' training, establishing clear risk-assessment tools and creating interlinks with vocational and counselling services could substantially improve outcomes.¹⁴⁵

Restorative Justice reform proposals focus mainly on (a) revising legislative frameworks which will broaden the eligibility for non-custodial measures, (b) professionalising probation services as a service under centralized training and accreditation and (c) integration of data systems including e-prison modules for enabling supervision and timely interventions.¹⁴⁶

6.3 Decriminalization and Diversion Mechanisms

Mechanisms such as decriminalization and diversion reduce the inflow of prisons by removing

¹⁴¹ S.R. Manu, Adoption of the Restorative Criminal Justice System in India (2023), IJFMR, <https://www.ijfmr.com/papers/2023/5/14009.pdf>

¹⁴² Looking at Community-Based ADRS in India Through a Restorative Justice Perspective, ResearchGate chapter, https://www.researchgate.net/publication/364820127_Looking-at-Community-Based-ADRS-in-India-Through-a-Restorative-Justice-Perspective

¹⁴³ Beyond retribution: The emerging role of restorative justice ...” (LawJournals.org PDF, Jul. 21, 2025), <https://www.lawjournals.org/assets/archives/2025/vol11issue7/11153.pdf>

¹⁴⁴ World Bank & UNODC, Evidence on Community-Based Alternatives to Imprisonment

¹⁴⁵ J. Zehr, The Little Book of Restorative Justice (rev. ed. 2015).

¹⁴⁶ Probation of Offenders Act, 1958 (India), text, Government of India, https://www.indiacode.nic.in/bitstream/123456789/15408/1/the_probation_of_offenders_act%2C_1958.pdf

criminal penalties for low-harm conduct or channelling eligible cases away from formal prosecution.¹⁴⁷ The Law Commission of India's report on bail and bail related reforms has highlighted how restrictive bail practice and criminalization of petty criminal offences contributes toward pretrial detention and overcrowding.¹⁴⁸ Recommendations from the report include revision of bail presumptions, expanding the scope of plea bargaining for minor offences and administrative sanctions as plausible alternatives to prosecution.¹⁴⁹

Empirical study suggests that decarcerating reforms i.e. the decriminalization of petty offences, administrative fines, community penalties are more effective where they are accompanied by administrative capacity to enforce non-custodial sanctions and where institutional incentives do not push cases back to courts¹⁵⁰. For India, prototypes in community service orders and enhanced use of compounding for petty offences could be viable near-term options.¹⁵¹

6.4 Rehabilitation and Reintegration of Offenders

Rehabilitation and reintegration are central components in reducing recidivism. By using means such as correctional education, vocational training, cognitive-behavioural programmes, mental-health treatment and substance-use interventions have demonstrated reductions in repetition of offending followed by community support including housing and employment assistance.¹⁵² In India the gaps exist between limited curriculum-based education in many prisons, poor post-release linkage to jobs in the markets and inadequate data on programme outcomes. Recommendations related to this include skill based education and learning programmes, forging of public and private partnerships for post-release employment and

¹⁴⁷ Probation of Offenders Act, 1958 — alternate host (Gujarat SJE),

https://sje.gujarat.gov.in/dsd/downloads/probation_of_offenders_act_1958.pdf

¹⁴⁸ Legislative Dept., Probation of Offenders Act, 1958 (Legislative Dashboard),

<https://iddashboard.legislative.gov.in/actsofparliamentfromtheyear/probation-offenders-act-1958>

¹⁴⁹ Law Commission of India, Report No. 268: Amendments to Criminal Procedure Code, 1973 — Provisions Relating to Bail (May 2017), <https://taxguru.in/wp-content/uploads/2017/06/Report-No.268.pdf>

¹⁵⁰ Jay Gormley, Melissa Hamilton & Ian Belton, The Effectiveness of Sentencing Options on Reoffending (Sentencing Council, U.K. 2022), available at

<https://www.sentencingcouncil.org.uk/media/rdzfopqp/effectiveness-of-sentencing-options-review-final.pdf>

¹⁵¹ Law Commission of India, Report No. 237: Compounding of (IPC) Offences (Dec. 2011), available at <https://delhihighcourt.nic.in/files/reports/237.pdf>

¹⁵² shan Singhal & Kamal Hasme, "Education and Skill Development for Prisoners: A Path to Rehabilitation and Reintegration,"

https://www.researchgate.net/publication/385642837_EDUCATION_AND_SKILL_DEVELOPMENT_FOR_PRISONERS_A_PATH_TO_REHABILITATION_AND_REINTEGRATION

ensuring access to identity documents and social benefits upon prisoners post release to ease their reintegration.

6.5 Use of Technology in Correctional Systems

In the digital era use of technology for case management systems (e-Prisons), video conferencing for court appearances and virtual family visits, use of biometric identity, and telemedicine have offered potential efficiencies.¹⁵³ It reduces transportation cost, ensures timely hearings for undertrials, enhances the transparency as well as improves prisoner welfare. India's e-Prisons initiative and modules such as eMulakat/Video-Conferencing have already been implemented in many States to facilitate virtual visitation and manage records.¹⁵⁴

However, technology has its own limitations. The risks of which include digital exclusion of poor litigants, data privacy and security concerns which remains one of the biggest concerns and the tendency to substitute genuine access to justice with merely procedural online appearances.¹⁵⁵ Technology should therefore be implemented in such a way so as to safeguard the digital access programs, training for stakeholders and transparent data governance frameworks.¹⁵⁶

6.6 Policy Recommendations

Policy recommendations for restorative justice include a multi-dimensional reform agenda i.e. statutory reforms to expand even to non-custodial options, investment in professional probation/parole infrastructure, outcome-driven rehabilitation programmes that are linked to the labour market and carefully woven intersection of technology to enhance fairness and efficiency.¹⁵⁷ Prototype programmes, rigorous evaluation, and skill based training are the essential steps to be taken for achieving this goal. All these measures taken together can reduce incarceration rates, improve individual and community outcomes, and align with the international human-rights standards while protecting public safety.

¹⁵³ Lexport, "The e-Prison revolution in the Indian criminal judicial system" (article/PDF), https://lexport.in/images/1741246315_Article%20IBEYOND%20WALLS%20THE%20E-PRISON%20REVOLUTION%20IN%20THE%20INDIAN%20CRIMINAL%20JUDICIAL%20SYSTEM.pdf

¹⁵⁴ ePrisons Video Conferencing System (VC), <https://eprisons.nic.in/vc/>

¹⁵⁵ Data privacy and digital governance in criminal justice — policy briefs and national guidance on e-governance and data protection applicable to correctional settings.

¹⁵⁶ Critical analyses of virtual court hearings and access to justice

¹⁵⁷ Recent legal and policy analyses of bail reforms and pretrial detention in India

CHAPTER 7: CONTEMPORARY ISSUES AND CHALLENGES

7.1 Overcrowding and Undertrial Prisoners

India's prison system continues to grapple with the problem of severe overcrowding which is largely driven by the high proportion of undertrial prisoners.¹⁵⁸ According to the India Justice Report 2025, undertrials constitute 76 % of the population in prisons nationally which went up from 66 % in the year 2012.¹⁵⁹ The national average occupancy rate of prisons stands somewhere about 131 % and many facilities are operating at more than double or even triple their sanctioned capacity at present.¹⁶⁰

Overcrowding leads to serious implications for prisoner welfare and their constitutional rights. It undermines the presumption of innocence for undertrial prisoners who are held in custody, contributes to delays in trials, precludes meaningful access to legal aid, and imposes strains on infrastructure, medical services as well as rehabilitation programmes. The Parliamentary Standing Committee on Home Affairs noted in its 2023 report that overcrowded prisons are “the most neglected part of the criminal justice system” and recommended urgent transfers and decongestion measures.¹⁶¹ Given the current scenario many undertrial prisoners are detained for years without conviction. The alternative to this is bail reform, case-management systems and diversion of assume critical importance for reducing custodial delays and easing the load on prisons.¹⁶²

7.2 Corruption, Mismanagement, and Lack of Transparency

Management and oversight deficits in prisons are the major contributors to corruption, mismanagement, and opacity of operations. For instance, a media investigation into the

¹⁵⁸ India Justice Report 2025: Where Do We Stand?, Adda247 (Apr. 2025), <https://currentaffairs.adda247.com/india-justice-report-2025-where-do-we-stand/>

¹⁵⁹ Id.

¹⁶⁰ Drop in Inmate Additions but Indian Prisons 120% Full, Delhi Jails Most Overcrowded at 200%: NCRB Data, The Print (Oct. 2025), <https://theprint.in/india/drop-in-inmates-additions-but-indian-prisons-120-full-delhi-jails-most-overcrowded-at-200-ncrb-data/2754893/>

¹⁶¹ Standing Committee on Home Affairs, Parliament of India, Prison – Conditions, Infrastructure and Reforms (Sept. 21 2023), https://prsindia.org/files/policy/policy_committee_reports/Standing_Committee_Report_Summary_prison_conditions.pdf

¹⁶² A System Under Strain: India's Police and Prisons in Crisis, Sabrang India (May 2025), <https://sabrangindia.in/a-system-under-strain-indias-police-and-prisons-in-crisis-shows-indian-justice-report-2025/>

Karnataka's Prison Department Parappana Agrahara Central Jail exposed the smuggling of mobile phones as well as luxury amenities and illicit payments by inmates to staff.¹⁶³

The India Justice Report of 2025 has monitored that less than 1 % of the budget for prisons are allocated to rehabilitation programmes such as education or vocational training.¹⁶⁴ Staffing shortages, inadequate supervision and poor transparency of prison records are further some of the risks which amplify abuse of power, unequal treatment among inmates, and impunity for rights violations.¹⁶⁵

Addressing these issues requires a mechanism to strengthen the internal oversight such as inspection mechanisms, independent monitoring, enhancing transparency through data publication, inmate complaint systems and alignment of incentives so that correctional staff are evaluated for rehabilitation outcomes rather than mere custodial control.

7.3 Gender-Specific Challenges in Prison

Gender-specific challenges pertaining to women prisoners and those identifying as transgender face several acute challenges in prisons. A recent study of the Naribandi Niketan Mahila Karagar in Uttar Pradesh showcases how women inmates are held in facilities which were originally designed for men. Therefore, they face limited access to gender-sensitive health care, counselling, vocational training, and timely release.¹⁶⁶

Data show that female prisoners constitute only a small proportion of the total incarcerated population which is about 4 % but often are a subject that remains under-studied and underserved.¹⁶⁷ Lack of adequate separate accommodation, inadequate childcare provisions for inmate-mothers and non-transgender inclusive facilities further aggravates the vulnerability of these populations.

¹⁶³ Karnataka: Rampant Corruption, Negligence and Mismanagement Exposed in Parappana Agrahara Central Jail Scandal, *Organiser* (Aug. 27 2024), <https://organiser.org/2024/08/27/253542/bharat/karnataka-rampant-corruption-negligence-and-mismanagement-exposed-in-parappana-agrahara-central-jail-scandal/>

¹⁶⁴ India Justice Report 2025, *supra* note 158.

¹⁶⁵ Prison Conditions, Infrastructure and Reforms, *supra* note 161.

¹⁶⁶ Farzeen Bano, Challenges and Dilemmas in Social Rehabilitation of Women Prisoners: A Case Study of Naribandi Niketan Mahila Karagar in Uttar Pradesh, India, 8 *Int'l J. L. Mgmt. & Hum.* 574 (2025), <https://ijlmh.com/paper/challenges-and-dilemmas-in-social-rehabilitation-of-women-prisoners-a-case-study-of-naribandi-niketan-mahila-karagar-in-uttar-pradesh-india/>

¹⁶⁷ NCRB Reports Highlights, *PW Only IAS* (Sept. 2024), <https://pwnonlyias.com/current-affairs/ncrb-reports-highlights/>

Corrective measures for gender specific prisons should include various aspects such as a gender-responsive prison design, hiring of women staff, dedicated mental-health and reproductive services, training of officers in gender sensitivity and independent oversight of conditions for women and transgender inmates.

7.4 Prisoners' Right to Education, Work, and Social Security

The right to access to education, meaningful work, and social security are fundamental in offering rehabilitation and reintegration of offenders. The Model Prison Manual of 1960 emphasised on the importance of providing prisoners with basic education, vocational training and correspondence courses so as to enhance their reintegration prospects.¹⁶⁸

Nevertheless, empirical evidence points that educational training among prisoners remains very low. The Parliamentary Committee report indicates that approximately 65 % of inmates were illiterate or had education below Class X.¹⁶⁹ Without access to work, education or social security including identity documentation, post-release benefits and housing support the vicious cycle of recidivism remains perpetual.

Hence, correctional systems must aim to expand access to certified educational programmes, remunerated prison labour that is aligned with market skills and social welfare linkage for released offenders including job-placement, housing, credit access etc. Also monitoring outcomes related to post-release employment and recidivism is essential to highlight the value of these rights-based interventions.

7.5 Privatization of Prisons: Prospects and Pitfalls — Debate in India vs. U.S.

The proposal for privatization of prisons often appears attractive to policymakers because it facilitates cost savings of the government, rapid infrastructural expansion and private-sector innovation in management and rehabilitation of the prisoners. In theory, all these benefits could help lessen the problems such as chronic overcrowding and under-resourced facilities in India. However, in practice the international experience most notably in the United States has

¹⁶⁸ Model Prison Manual 1960: Framework for Indian Reform, Institute of Social Work (2023), <https://socialwork.institute/criminal-justice/1960-model-prison-manual-framework-indian-reform/>

¹⁶⁹ Indian Prisoners Situation, IAS Current Affairs (Sept. 23 2023), <https://iascurrentaffairs.com/2023/09/23/indian-prisoners-situation/>

cautioned against this uncritical adoption.¹⁷⁰ Empirical studies and governmental reports show mixed or inconclusive cost advantages while noting persistent problems including reduced safety, poorer access to rehabilitative services, perverse profit incentives to cut staff/training and human-rights abuses in privately operated facilities.¹⁷¹ These concerns prompted major policy reactions for example, the decision of the U.S. Department of Justice's in 2016 against federal private prisons and repeated critical reports by watchdogs and auditors.¹⁷² The Indian debate differs in terms of scale and institutional context. India's experiments recently have largely taken the form of public-private partnerships for services or pilot initiatives rather than wholesale transfer of custodial control.¹⁷³ This reflects a stronger constitutional and administrative constraint, a fragile regulatory apparatus and a justice system that is already overburdened by overcrowding and pretrial detention.¹⁷⁴ Consequently, the prudential lesson to be learnt is limited or transparent pilots which are confined to noncore services along with contractual safeguards, independent monitoring, mandatory standards for staffing, healthcare and rehabilitation and statutory limits on profit motives. These measures are preferable to large-scale privatization of custodial authority. In any other case without these safeguards, there is a twin risk of accountability erosion as well as commodification of custody that outweigh potential efficiency gains. Hence, any reform in India should therefore prioritize strengthening the public capacity and regulatory oversight alongside selective private participation.

CHAPTER 8: WAY FORWARD AND RECOMMENDATIONS

8.1 Rethinking Mass Incarceration the Indian Way

India's dependency on incarceration as a primary response to criminal behaviour needs to be urgently addressed. The widespread population of undertrial prisoners, overcrowded prisons and cost-ineffectiveness of prolonged sentences accentuate the limits towards a carceral approach. Re-thinking of mass incarceration involves shifting the model toward custodial restraint only when it is absolutely necessary. Instead the alternatives of favouring supervision,

¹⁷⁰ Kristen M. Budd, Private Prisons in the United States, The Sentencing Project (Feb. 21, 2024), <https://www.sentencingproject.org/reports/private-prisons-in-the-united-states/>

¹⁷¹ U.S. Gov't Accountability Office, Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service, GAO/GGD-96-158 (Aug. 16, 1996), <https://www.gao.gov/products/ggd-96-158>

¹⁷² U.S. Dep't of Justice Ends Use of Private Prisons, Human Rights Watch (Aug. 18, 2016), <https://www.hrw.org/news/2016/08/18/us-justice-department-ends-use-private-prisons>

¹⁷³ Prison Privatization: Exploring Possibilities in India, Indian Law Institute (2017), <https://ili.ac.in/pdf/bcn.pdf>

¹⁷⁴ India Justice Report 2019: Ranking States on Police, Judiciary, Prisons & Legal Aid, India Justice Report (2019), https://indiajusticereport.org/files/IJR_2019_Full_Report154ef5.pdf

community sanctions and restorative processes for lesser offences should be considered. Nevertheless such transformation requires legislative, administrative as well as cultural changes ranging from case-flow management to sentencing reform and non-custodial alternatives.¹⁷⁵

Policy frameworks are now therefore increasingly emphasising on the effective downsizing of prison populations which must be coupled with concurrent investments in sectors such as community-based supports, risk assessment tools and reintegrative programmes.¹⁷⁶

8.2 Strengthening Prison Governance and Accountability

One of the essential preconditions for a humane and effective correctional system is well-founded governance and accountability framework. Thus, key reforms such as independent oversight bodies, regular audits of prison conditions, transparency of data on admission, length of stay, and recidivism are crucial along with performance metrics which is focused on rehabilitation rather than mere confinement.¹⁷⁷

This not only means adopting newer statutes such as the Model Prisons Act of 2023 but also ensuring their implementation via empowered prison services, capacity-building of staff and the decentralisation of oversight mechanisms to include participation even at civil society level.¹⁷⁸ Evidence from comparative systems suggests that when the governance itself is weak even well-designed non-custodial and rehabilitative programmes fail to achieve their intended outcomes.¹⁷⁹

8.3 Policy Recommendations for Sustainable Reform

For the advancement of sustainable reform in India the following policy-oriented recommendations are proposed.

¹⁷⁵ Legal Service India, The Need for Prison Reform in India (last visited Nov. 1 2025), <https://www.legalserviceindia.com/legal/article-10755-the-need-for-prison-reform-in-india-aditya-raj-amity-university-patna-.html>

¹⁷⁶ P.W. Only IAS, Prison Reforms in India – Way Forward (2025), <https://pwnonlyias.com/current-affairs/prison-reforms-in-india/>

¹⁷⁷ Standing Committee on Home Affairs, Parliament of India, Prison – Conditions, Infrastructure and Reforms (Sept. 21 2023), https://prsindia.org/files/policy/policy_committee_reports/Standing_Committee_Report_Summary_prison_conditions.pdf

¹⁷⁸ Id.

¹⁷⁹ Karen Tang, Retribution Versus Rehabilitation: Why North America Should Adopt the Nordic Prison Model, 6 Can. Graduate J. Sociology & Criminology (2023), <https://doi.org/10.15353/cgjsc-rcssc.v6i1.4958>

8.3.1 Bail reforms & pretrial diversion

Implementing procedural changes to minimise the detention of under-trial persons including stronger use of Section 479 BNSS, fast-track courts for minor offences and expansion of legal-aid access.¹⁸⁰

8.3.2 Parole liberalisation & supervised release

Broadening the eligibility criteria for parole and early release of low-risk convicts tied to rehabilitative engagement and use of risk assessment tools rather than mere duration served.¹⁸¹

8.3.3 Decongestion strategies

Investment in infrastructure of prisons must be linked with decarcerative measures such as community service orders, fines, restorative justice panels and a systematic review of long-term remand detainees and convicts to identify early release potential.¹⁸²

8.3.4 Community sentencing and post-release support

Empowering probation and parole agencies to handle community sanctions and linking them with employment schemes, vocational training, housing and social security to establish a robust after-care model for post-release support.

8.3.5 Data and evaluation culture

Mandating the standardisation of data systems across States, regular public reporting of key metrics including occupancy rate, undertrial share, recidivism and independent evaluation of reform programmes to guide scaling.

8.4 International Lessons for India

On the international footing, the Nordic penal model offers an instructive lesson for India. Nordic countries such as Norway and Sweden rely heavily on open prisons with minimal use

¹⁸⁰ NextIAS, Prison Reforms – Current Affairs (Jan. 2023), <https://www.nextias.com/ca/current-affairs/23-01-2023/prison-reforms>

¹⁸¹ nsightsonIndia.com, Prison Reform in India: Addressing Overcrowding, Human Rights, and Disability Inclusion (May 19 2025), <https://www.insightsonindia.com/2025/05/19/upsc-editorial-analysis-prison-conditions-and-the-crisis-of-accessibility-in-india/>

¹⁸² Pmfias.com, Prison Reforms in India: Need & Suggestions (2025), <https://www.pmfias.com/prison-reforms/>

of isolation. They have high ratios of staff-to-prisoner, a robust rehabilitative culture and strong social welfare linkages.¹⁸³ Research shows that the “Nordic penal exceptionalism” is directly correlated with lower recidivism rates and better reintegration outcomes. Although some critics are of the opinion that contextual differences for instance lower crime rates and smaller populations limit direct transplantability.¹⁸⁴

In India, adapting to such models means redesigning the entire structure of correctional institutions into lighter-security facilities for eligible convicts, emphasising on vocational work, community contact and gradual reintegration of prisoners all the while maintaining rigorous risk management. For this implementation pilot projects and empirical evaluations will be needed to test the scalability of the model.¹⁸⁵

8.5 Towards a Human-Centric Prison System

Looking forward the prison system must place the human dignity of prisoners at its centre. This means acknowledgment of incarcerated persons as rights-bearing individuals who are entitled to elements such as safe living conditions, access to education, work, health care and social security. Therefore the transformation to achieve these steps include Designing prisons with humane architecture, open spaces and fixing daily routines that resembles life outside the prison rather than punitive dormitories.

8.5.1 Educational and vocational training

Embedding educational and vocational training opportunities linked to local labour markets that ensure the post-release continuity of social security benefits and identity documentation of the prisoners.

8.5.2 Training of prison staff

Cultivating training of prison staff in human rights and gender-sensitive practices as well as

¹⁸³ Daniel Coulter & Mats Nilsson, Nordic Penal Exceptionalism: A Comparative, Empirical Analysis, 63 Brit. J. Criminology 424 (2023), <https://doi.org/10.1093/bjc/azac013>.

¹⁸⁴ Scandinavian Prison Project, Scandinavian-Inspired Prison Policies (2025), <https://www.scandinavianprisonproject.com/>

¹⁸⁵ Towards a Humane Prison System: Evaluating Policy, Practice, and Constitutional Mandates in India (2025), <https://www.dhyeyaias.com/current-affairs/daily-current-affairs/indian-prison-system-reforms-challenges-nhrc-policy-review>

mental-health awareness and restorative approaches.

8.5.3 Prisons as nodes of rehabilitation

Establishing a structured reintegration pathway with the help of community organisations and mentors to support the transition of prisoners from custody to freedom. By doing this there will be a reconceptualization of prisons as nodes of rehabilitation rather than punishment. In this sense India can begin shifting the balance from punitive toward justice systems that protect the safety of the public while supporting human flourishing.

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