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## FROM DETERRENCE TO REHABILITATION? EXAMINING INDIA'S EVOLVING PHILOSOPHY OF PUNISHMENT

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### ABSTRACT

India's penal framework stands at a crossroads between entrenched deterrent principles and emergent reformatory imperatives. Traditionally, punishment operated within a retributive–deterrent paradigm premised on the infliction of proportionate suffering to discourage criminal conduct. However, evolving judicial discourse and correctional initiatives increasingly acknowledge criminogenic socio-economic conditions and advocate rehabilitative strategies aimed at reintegration. This normative shift reflects a growing recognition that punitive severity alone is insufficient to address recidivism or achieve long-term social stability.

Notwithstanding this progression, structural deficiencies such as chronic prison overcrowding, fiscal constraints, and the adjudication of heinous offences continue to reinforce a deterrence-oriented sentencing culture. Courts frequently oscillate between rehabilitative aspirations and the imperatives of proportionality, accountability, and societal denunciation. Consequently, India's criminal justice system embodies a hybridized penal model that cautiously accommodates reformatory objectives without relinquishing the centrality of deterrence. The formulation of calibrated sentencing guidelines distinguishing minor from grave offences may facilitate doctrinal coherence while harmonizing rehabilitative interventions with punitive legitimacy.

**Keywords:** Deterrence, Rehabilitation, Retributive Paradigm, Reformatory Jurisprudence, Hybrid Penal Model, Sentencing Proportionality, Recidivism, Penal Policy.

## **Introduction**

The persistence of crime despite severe punishment challenges the very foundation of deterrence-based justice. Punishment has long been one of the most powerful tools used by societies to maintain order. For a long time, the criminal justice system relied on a simple and powerful assumption: fear prevents wrongdoing. Severe penalties were imposed to send a clear message that crime would bring painful consequences. The idea was straightforward: if the cost of crime was high enough, people would think twice before committing it.

Yet reality tells a more complicated story. Despite strict laws and harsh penalties, crime has persisted and prison continues to overflow. This raises an important question: if punishment alone could deter crime, why does crime continue to exist? Such concerns have prompted legal thinkers, policymakers, and courts to reconsider the very purpose of punishment.

Gradually, the focus of criminal justice began to shift. Crime started to be viewed as a product of social conditions, economic hardship, lack of opportunity, and psychological factors. This realization paved the way for a new approach of rehabilitation. Justice is no longer measured solely by the severity of punishment, but by its ability to prevent crime and facilitate the reintegration of offenders into society. Modern societies believe that a system that reforms has the potential to transform society in the long run. However, whether India has truly moved from deterrence to rehabilitation remains debatable, as punitive sentencing practices and overcrowded prisons continue to reflect a strong deterrent orientation.

## **The Reformatory Turn in Indian Penal Policy**

Punishment was traditionally grounded in the principle of retribution, which conceives punishment as a moral and proportionate response to wrongdoing. Under this perspective, justice requires that an offender be subjected to a penalty corresponding to the gravity of the harm caused. The well-known maxims “**an eye for an eye**” and “**just deserts**” reflect this retributive idea, emphasizing retaliation as a means of restoring moral equilibrium and maintaining social order. Even Classical theorists such as Cesare Beccaria emphasized deterrence as the primary justification of punishment, arguing that certainty and proportionality prevent crime. In contrast, modern criminological thought recognizes rehabilitation as essential for reducing recidivism and promoting long-term social stability.

At the same time, punishment also served a deterrent function. The imposition of severe and visible penalties was intended to discourage both the offender and the broader community from engaging in criminal conduct. By instilling fear of legal consequences, the legal system sought to prevent the recurrence of crime and uphold societal stability.<sup>1</sup>

During this period, punishments were intentionally harsh and exemplary in nature. Common forms included capital punishment, corporal punishments such as whipping and mutilation, long-term imprisonment, fines, and transportation or exile. In colonial India, offenders were often sentenced to transportation for life to penal settlements such as the Cellular Jail, demonstrating the severity of penalties imposed to deter crime. However, the persistence of crime despite such harsh measures gradually exposed the limitations of purely deterrent punishment.<sup>2</sup>

Over time, the concept of punishment began to shift from a predominantly retributive and deterrent framework toward a reformatory model of justice. This transition was influenced by the growing recognition that criminal behaviour is often shaped by complex social, economic, and psychological factors. Consequently, the objective of punishment expanded beyond the mere imposition of penalties to include the reformation of the offender and their reintegration into society as law-abiding individuals.

This reformatory approach found expression in several judicial pronouncements of the Supreme Court. In *Mohd. Giasuddin v. State of Andhra Pradesh*,<sup>3</sup> Justice V.R. Krishna Iyer emphasized the reformatory purpose of punishment, observing that “crime is a pathological aberration and the criminal can ordinarily be redeemed.” The Court held that sentencing should aim at the rehabilitation and reintegration of offenders rather than mere retribution. This marked a significant judicial shift from punishment as retaliation to punishment as correction.

In *Sunil Batra v. Delhi Administration*,<sup>4</sup> the Supreme Court affirmed that prisoners retain fundamental rights even during incarceration. The Court observed that “prison walls do not keep out fundamental rights,” emphasizing that prisons must function as institutions of

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<sup>1</sup> Legal Punishment, Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/entries/legal-punishment/> (last visited Mar. 14, 2026).

<sup>2</sup> Punishment, Encyclopaedia Britannica, <https://www.britannica.com/topic/punishment> (last visited Mar. 14, 2026).

<sup>3</sup> *Mohd. Giasuddin v. State of Andhra Pradesh*, (1977) 3 SCC 287.

<sup>4</sup> *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

correction rather than instruments of cruelty. The decision reinforced the idea that incarceration should not extinguish the possibility of reform and that prisons must operate as spaces of rehabilitation rather than mere confinement.

In *Rajendra Prasad v. State of Uttar Pradesh*,<sup>5</sup> Justice V.R. Krishna Iyer stressed a humanistic approach to sentencing, emphasizing that the criminal justice system must not ignore the possibility of reform and rehabilitation while determining an appropriate punishment. The judgment further strengthened the reformatory orientation in sentencing jurisprudence.

In *Bachan Singh v. State of Punjab*,<sup>6</sup> the Supreme Court introduced the “rarest of rare” doctrine, holding that the death penalty should be imposed only in exceptional circumstances. The Court emphasized that judges must consider the potential for reform and rehabilitation before awarding capital punishment. The doctrine reflects an attempt to balance deterrence with the possibility of rehabilitation, acknowledging that even serious offenders may not be beyond reform.

Collectively, these decisions illustrate the judiciary’s gradual movement toward a reformatory philosophy of punishment, emphasizing rehabilitation, human dignity, and the reintegration of offenders into society.

Under the Indian Penal Code, 1860, § 53, enumerated the forms of punishment that could be imposed, including death penalty, imprisonment for life, imprisonment, forfeiture of property, and fine. Historically, the provision also recognized the colonial punishment of “transportation for life,” under which offenders were sent to distant penal settlements such as the Cellular Jail. This punishment was subsequently abolished and replaced by life imprisonment, reflecting a gradual movement toward a more humane penal framework.<sup>7</sup>

The recently enacted Bharatiya Nyaya Sanhita introduced in 2023 a notable reform by recognizing community service as a form of punishment under Section 4. The inclusion of community service signifies a shift toward a reformatory approach, enabling courts to impose corrective measures that promote accountability and social responsibility while reducing

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<sup>5</sup> *Rajendra Prasad v. State of Uttar Pradesh*, (1979) 3 SCC 646.

<sup>6</sup> *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.

<sup>7</sup> Indian Penal Code, No. 45 of 1860, India

reliance on incarceration.<sup>8</sup>

### **Reformative Measures and Structural Challenges in India**

Recent initiatives show that rehabilitation is gradually becoming an important focus within the prison system. For instance, the Punjab and Haryana High Court, in collaboration with Punjab prison authorities, launched a correctional reform programme aimed at transforming prisons into centres of learning and rehabilitation. The initiative provides vocational training, counselling, and post-release employment support to around 2,500 inmates across Punjab's prisons, helping them reintegrate into society after release.<sup>9</sup>

Another example is the Tamil Nadu Prisons (Release on Furlough) Rules, 2026, which allow well-behaved long-term convicts to spend up to 60 days annually outside prison. This measure seeks to reduce psychological stress and maintain family connections, recognizing that social ties play an important role in preventing re-offending.<sup>10</sup>

Similarly, rehabilitation programmes in Tihar Jail focus on vocational training and education for inmates. Prisoners are trained in various trades and are also provided access to educational opportunities through institutions such as the Indira Gandhi National Open University and the National Institute of Open Schooling, enabling them to acquire skills that may support their reintegration into society.<sup>11</sup>

Comparable efforts can also be seen in Assam prisons, where inmates are engaged in vocational training, education, and skill-development activities such as agriculture, tailoring, and computer literacy. Inmates are paid wages for their work, and some released convicts receive small rehabilitation grants to start a livelihood. Such measures attempt to improve employability and ease reintegration after release.<sup>12</sup>

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<sup>8</sup> Bharatiya Nyaya Sanhita, No. 45 of 2023, India.

<sup>9</sup> 11 Industrial Training Institutes to Be Established in Punjab Jails Under Correctional Justice Initiative, Times of India, <https://timesofindia.indiatimes.com/city/chandigarh/11-industrial-training-institutes-to-be-established-in-punjab-jails-under-correctional-justice-initiative/articleshow/125774031.cms> (last visited Mar. 15, 2026).

<sup>10</sup> TN Allows Long-Term Prisoners up to 120 Days Furlough a Year, Times of India, <https://timesofindia.indiatimes.com/city/chennai/tn-allows-long-term-prisoners-up-to-120-days-furlough-a-year/articleshow/128727667.cms> (last visited Mar. 15, 2026).

<sup>11</sup> Government of NCT of Delhi, *Tihar Prisons: Reformation*, <https://tiharprisons.delhi.gov.in/tiharprisons/reformation> (last visited Mar. 15, 2026).

<sup>12</sup> Assam Prison Headquarters, *Rehabilitation of Released Life Convicts*, <https://prisons.assam.gov.in/portlets/rehabilitation-of-released-life-convicts> (last visited Mar. 15, 2026).

These initiatives indicate that the idea of reform is no longer confined to judicial observations but is gradually finding space in practice. At the same time, such efforts remain limited in reach, and their effectiveness depends on consistent implementation across prisons. This suggests that while the reformatory approach is gaining recognition, it is still evolving and has not yet fully transformed the prison system.

A significant criticism of the rehabilitative model emerged from Robert Martinson's 1974 study on prison reform, where he reviewed 231 correctional rehabilitation programmes and concluded that most of them showed little measurable success in reducing recidivism. This finding became widely known as the “**Nothing Works**” thesis and generated considerable scepticism toward rehabilitation policies. The debate also highlighted that correctional programmes cannot follow a “**one-size-fits-all**” approach, as different offenders may require different forms of intervention.<sup>13</sup>

This concern becomes more pronounced in cases involving serious offences such as sexual violence. Unlike crimes driven by socio-economic pressures, sexual offences are often viewed as deliberate violations of bodily autonomy, leading to arguments that rehabilitation alone may be insufficient. Consequently, there is growing opinion that such grave offences may require stronger deterrent punishment to maintain public confidence in the justice system. In instances involving serious or heinous offences, public opinion often favours deterrent or retributive punishment, raising questions about whether rehabilitation alone can satisfy the broader objectives of justice.

This perspective was reflected in *Mukesh v. State (NCT of Delhi)*,<sup>14</sup> where the Supreme Court upheld the death penalty for the convicts, emphasizing the gravity of the offence and the need for deterrence. The judgment illustrated that, in exceptional circumstances, the criminal justice system may prioritize deterrence and societal condemnation over rehabilitation.

In India, the implementation of reformatory justice faces significant practical obstacles. One major issue is prison overcrowding. According to the National Crime Records Bureau's Prison Statistics India 2023, India houses nearly 5.6 lakh prisoners across about 1,332 prisons, despite a sanctioned capacity of only 4.3 lakh,<sup>15</sup> resulting in an average occupancy rate of nearly 130%.

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<sup>13</sup> Norval Morris, *The Future of Imprisonment*, 63 J. Crim. L. Criminology & Police Sci. 167 (1972).

<sup>14</sup> *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1.

<sup>15</sup> Nat'l Crime Records Bureau, *Prison Statistics India 2023*, 9 (2023), <https://www.ncrb.gov.in/uploads/files/PSI-2023.pdf>.

Furthermore, approximately 77% of inmates are undertrials, meaning they have not yet been convicted. Such overcrowded conditions limit the ability of correctional institutions to provide meaningful rehabilitation programmes, causing prisons to function more as detention centres than institutions of reform. In addition to overcrowding, inadequate funding and resource allocation further hinder prison reforms in India. A report by the Parliamentary Standing Committee on Home Affairs observed that several states did not receive sufficient financial support for prison administration and reform programmes. Limited financial resources restrict the development of infrastructure, training facilities, and rehabilitation initiatives within prisons, thereby weakening the implementation of the reformative approach.<sup>16</sup> Unlike India's evolving framework, systems in the United Kingdom and Scandinavian jurisdictions such as Norway reflect a more institutionalized integration of sentencing proportionality and offender rehabilitation.

The contemporary debate on punishment reveals that while rehabilitation offers important opportunities for reform, it cannot by itself address the complex realities of crime. In the context of heinous offences, particularly sexual violence, criminal behaviour may stem from motives such as dominance, retaliation, or a sense of entitlement, where offenders consciously disregard legal and moral boundaries. Such acts represent deliberate violations of bodily autonomy and dignity, and in these circumstances, reliance solely on rehabilitation may appear inadequate. While rehabilitation has a role to play, particularly in cases driven by socio-economic factors, the criminal justice system must ensure that punishment reflects the gravity of the offence and reinforces accountability. In serious crimes, the need for deterrence becomes more pronounced, both to express societal condemnation and to discourage similar conduct.

Ultimately, a justice system must balance reform with responsibility, but it cannot overlook the central importance of deterrence in maintaining social order. Meaningful reform is desirable, yet it should not come at the cost of proportionate punishment. A framework that prioritizes deterrence, while cautiously incorporating rehabilitative measures where appropriate, offers a more realistic and credible approach to preventing crime, reinforcing accountability, and maintaining public confidence in the justice system. A structured sentencing policy distinguishing between minor and serious offences, along with clearer sentencing guidelines,

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<sup>16</sup> PRS Legislative Research, *Prison Conditions, Infrastructure and Reforms*, <https://prsindia.org/policy/report-summaries/prison-conditions-infrastructure-and-reforms> (last visited Mar. 15, 2026).

may help reconcile deterrence with limited rehabilitative goals.