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## CRITICAL ANALYSIS OF PRISON REFORMS IN INDIA

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### ABSTRACT

The goal of this research project is to conduct a critical analysis of prison reforms in India. This project has fueled the already blazing debate about prison reforms and highlights the growing need for an integrated criminal justice system. An overview of the integrated theory of penology and the history of prisons in India is given at the beginning of this research project. A perspective on punishment that stresses correction, reformation, and rehabilitation while accounting for retaliation and deterrence. According to the researcher, the basis for prison reform is the idea that a prison is a place where treatment comes before incarceration. Since the primary barrier to India's prison reform is packed too closely. First, it is advised that jail populations be decreased by setting up local custodial facilities for those who have not been found guilty and by utilising community treatment alternatives to cut down on short-term prison terms. The prisons can focus their resources on planning and organising for long-term inmates if these actions are taken. Therefore, this additional study examines prison reforms in India both before and after independence, as well as the current state of prisons, recent developments in prison reforms, and judicial patterns pertaining to prison reforms in India.

### 1. INTRODUCTION

Prisons are vital components of the criminal justice system, serving to maintain public safety, administer justice, and facilitate rehabilitation. People convicted of a variety of offences, from little infractions to serious felonies, are detained in these facilities. In essence, jails provide a multitude of significant functions. They are essentially used as safe havens for those deemed to be a threat to the public, acting as custodial institutions. Prisons isolate offenders from the broader public in an effort to prevent further harm and deter criminal activity. This aspect of incarceration is crucial to preserving law and order in the surrounding community.

Prisons are frequently utilised as sites for punishment and vengeance. They highlight the ways in which society forbids unlawful behaviour by imposing restrictions and denying people their freedom as punishment for their crimes. The punitive aspect of prisons seeks to maintain social norms while protecting victims and the community's sense of justice. In addition to serving as places of punishment, prisons are crucial for rehabilitation and reintegration. Correctional facilities offer activities and resources aimed at resolving the root reasons of criminal conduct because many offenders will eventually reintegrate into society. These include opportunities for mental health counselling, behavioural therapy,

substance rehab, job training, and education. Prisons provide services and support networks to their inmates in an effort to reduce recidivism rates and facilitate a smooth transition back into society.

Jails also serve as primary hubs for observation and tracking, ensuring compliance with legal mandates and care guidelines. Employees in the correctional industry, such as guards, counsellors, and administrators, are responsible for maintaining law and order, providing assistance, and protecting the rights and well-being of inmates.

## 2. DEFINITION OF PRISON

Criminal defendants are kept in prisons, which are safe havens managed by the public or private sectors, pending their trial and rehabilitation. Its goal is to safely detain offenders, depriving them of their freedom as payback for their transgressions and protecting the public from potential harm. Generally speaking, a prison's level of security ranges from lowest to highest depending on how serious the offences for which the inmates are being detained are. Furthermore, prisons usually offer programmes and services aimed at addressing the underlying causes of criminal activity in order to support offenders' rehabilitation and a smooth transition back into society upon their release.

### CONCEPT OF PRISON IN INDIA

The concept of prisons is heavily influenced by India's legal, cultural, and historical frameworks, which reflect the country's diverse social, economic, and political landscape. India's prison policy has evolved throughout time due to a multitude of reasons, including religious convictions, colonial legacies, and modern notions of criminal justice. The idea of imprisonment as a kind of punishment first appeared in ancient Indian cultures, where jails or detention centres known as "bandi grihas" were common. These institutions' primary function was to hold criminal defendants until trial or sentencing; the conditions within differed

substantially depending on the location and period of time. Ancient texts such as the Arthashastra contain references to the administration of justice and the treatment of prisoners, illuminating customary beliefs in India regarding punishment and imprisonment. The concept of imprisonment was further developed during the Middle Ages under Islamic rule with the arrival of "kotwals," or peacekeeping law enforcement officers. Prisons, sometimes known as "kacheris" or "jails," served as housing for criminals, POWs, and political dissidents. They were usually discovered on the premises of palaces or forts. The Mughal emperors instituted certain legal protocols, including the appointment of qazis (judges) and the implementation of Islamic law, which influenced the administration of prisons.

The British colonial era had a big impact on Indian prison policy. The British imposed punitive measures and Western judicial systems after the establishment of the East India Company and later direct British administration. This included constructing state-of-the-art prisons that were fashioned after those in Europe. When it opened its doors in 1770, the Presidency Jail in Calcutta (now Kolkata) was the country's first modern jail. Other places with a similar design were subsequently constructed all over India. These were further characteristics of the colonial penal system, It addressed more general issues of colonial tyranny and exploitation. The Code of Criminal Procedure and the Indian Criminal Code of 1860 are two of the criminal statutes that the British used to construct the current legal framework in India. After attaining independence in 1947, India started a process of nation-building and reform that included efforts to improve jail conditions and modernise its criminal justice system. The Indian Constitution, which was adopted in 1950, protected fundamental rights and justice principles.<sup>429</sup> These included the right of all citizens, including those who are detained, to

<sup>429</sup> INDIA CONST. arts. 14, 19 & 21.

humane treatment and due across the country. Additionally, each state's and union territory's unique prison rules and regulations control the day-to-day

uch as the Ministry of Home Affairs and the Bureau of Police Research and Development, provides funding, direction, and support for initiatives aimed at reforming the correctional system. Prisons serve a variety of functions in India, including sheltering, rehabilitating, and disciplining offenders.

They offer lodging to people who are detained awaiting trial or who have been found guilty of offences ranging from infractions to serious felonies. The condition of Indian prisons varies widely; many facilities have challenges such as overpopulation, inadequate facilities, and a staffing deficits.

The main goals of efforts to reform the Indian jail system have been to improve living conditions for inmates, promote programmes for rehabilitation and reintegration, and address structural issues including overcrowding and court delays. Various initiatives have been put in place to enhance the prospects and welfare of convicted individuals, such as mental health programmes, educational programmes, legal aid services, and vocational training.

However, issues remain, including misuse of authority, violations of human rights, and corruption within the criminal justice system. Because it can lead to issues like poor hygiene, limited access to medical treatment, and increased hostility among convicts, overcrowding is still a genuine problem. In addition, the lengthy pre-trial detention periods that sometimes result from the slow pace of justice in India's legal system worsen traffic and increase the backlog of cases.

India's understanding of prisons is the outcome of complex interactions between legal, cultural, and historical factors. Reforming the criminal

justice system remains challenging despite significant. These are the conditions of prisons, in India is justice, and modernization; these include systemic inequity, inadequate infrastructure, operations, overpopulation of In order to address these problems and ensure that the principles of justice, decency, and rehabilitation for all prisoners housed in India's jails are respected, continued efforts will be needed.

### BACKGROUND OF PRISON

Throughout history, societies have employed a range of punishments to deal with criminal activity, from fines and restitution to physical punishment and exile. But the prison system we have today was forged over several centuries by a multitude of legal, intellectual, and cultural traditions.

Some of the earliest known cases of imprisonment for punitive measures can be found in ancient communities from Mesopotamia, Egypt, and Greece. These societies used cages, dungeons, and other crude forms of confinement to temporarily house criminals. However, these early forms of jail were mostly employed for short-term confinement rather than long-term custody.

The Middle Ages saw a rise in the use of imprisonment as the primary form of punishment throughout Europe. Accused people were held in monasteries, castles, and fortified facilities that were converted into makeshift jails while they awaited trial or punishment. Over time, as legal systems developed, the act of incarcerating people became more structured and regulated, resulting in the appearance of "gaols" or "jails" as places where condemned criminals were kept permanently.

The ideas and ideas that emerged during the Enlightenment are largely to blame for the development of the modern prison system. Renowned thinkers like Cesare Beccaria and Jeremy Bentham advocated for more humane and reasonable forms of punishment, emphasising the value of deterrence,

<sup>430</sup> The Prisons Act, No. 9 of 1894, Acts of Parliament, 1894 (India).

proportionality, and rehabilitation in sentencing.

The 18th and 19th centuries saw the rise of the prison system as a result of this shift in perspective. The initial intent of modern prisons, such as London's Newgate Prison and Philadelphia's Walnut Street Jail, was to reform inmates via work, religious instruction, and isolation. These facilities marked a departure from the brutal and disorderly surroundings of earlier jails, with the goal of offering a more regulated and disciplined atmosphere for rehabilitation.

The 19th and 20th centuries saw advancements in the design, classification, and treatment programmes offered by the prison system. Crime and jail congestion increased with urbanisation and industrialization, leading to innovations and developments in the correctional industry.

The modern jail system encompasses a wide range of institutions, from minimum-security facilities designed for reintegration to maximum-security prisons designated for the most dangerous offenders. Prisons remain an essential component of criminal justice systems globally, notwithstanding ongoing debates and challenges on issues such as overcrowding, rehabilitation, and recidivism.

## CLASSIFICATION OF PRISONERS

Many factors are taken into consideration when classifying inmates, such as the gravity of their offence, their conduct during incarceration, their risk assessment, and their specific need for security and treatment. While classification schemes vary from one jurisdiction to the next, they all generally aim to provide services and interventions that are appropriate for each instance while also safeguarding the security and safety of staff and convicts. Below is thorough explanation of the typical classifications:

### 1. Security Level

- Minimum Security: These inmates are believed to pose the least threat

to public safety and are the least likely to attempt a break-out. They may reside in open dormitories or camps with reduced mobility restrictions, and they may receive privileges like longer visiting hours and work release opportunities.

- Medium Security: Medium-security convicts may have committed less serious crimes and constitute a modest risk in comparison to maximum-security prisoners. Despite having limited mobility and typically being housed in cells or dormitories, individuals nonetheless have access to educational and vocational programming.
- Maximum Security: These inmates are considered to be the most violent or dangerous and to pose a significant risk to public safety. They have restricted mobility, are housed in extremely secure rooms under continual observation, as well as limited chances to socialise with other inmates. Prisons with maximum security are usually reserved for inmates convicted of heinous crimes such as murder, assault, or offences related to gangs.

### 2. Behavioral Classification

- General Population: Inmates who follow prison rules and regulations are often assigned to the general population category. They may be eligible for benefits including vacation time, guest privileges, and enrollment in educational or professional courses.
- Administrative Segregation (AdSeg): Inmates who endanger the safety and security of others or the institution itself may be placed in administrative segregation. Concerns about gang participation, disciplinary infractions, or ongoing investigations could be the cause of

this. Inmates placed in administrative segregation are often housed in segregated cells under strict observation and with limited access.

- Protective custody: Inmates who feel threatened by other inmates or by gang violence may be eligible for it. They are housed in a secure facility and kept isolated from the general population in order to keep them safe.

### 3. Classification of Special Needs

- Medical and Mental Health Needs: Inmates with physical or mental health conditions requiring special attention or accommodations are grouped based on their unique needs. They may require medical attention, medication management, therapy, or other forms of support services, depending on their situation.
- Treatment for Substance Abuse: Drug rehabilitation courses that treat addiction and reduce recidivism rates may be available to prisoners with drug-related issues.
- Categorization of Sexual Offenders: In an effort to reduce their chance of reoffending, prisoners found guilty of sexual offences may be placed in a different class and required to participate in programmes intended to treat sexual offenders.

### 4. Rehabilitation and Reentry Classification

- Reentry Preparation: Inmates who are about to be released from prison may be eligible to enrol in reintegration programmes designed to prepare them for a seamless return to society. These courses may address the development of life skills, job training, educational possibilities, and housing and substance abuse support services.
- Community Supervision: To facilitate

their reintegration into society and reduce their likelihood of committing new crimes, offenders classified as being on parole or probation may get transitional support and monitoring upon their release.

Prison categorization schemes serve the general goal of balancing the security and safety of the facility with the particular needs and circumstances of each prisoner. The ultimate objectives of doing this are to ensure public safety, reduce recidivism, and promote recovery.

### COMMITTEES ADVISORY TO JAIL REFORM

1. Mulla Committee (1980–1983), formerly the All India Committee on Jail Reforms<sup>431</sup>

In 1980, the Indian government established a Committee on Jail Reforms, chaired by Justice A. N. Mulla. The report of the Mulla Committee was presented in 1983.<sup>432</sup> The primary objective of the Committee was to examine the laws, customs, and guidelines while keeping in mind the twin objectives of protecting society and assisting offenders in their rehabilitation. It was highly recommended that the abhorrent practice of locking up juvenile offenders alongside more seasoned criminals be prohibited.

Some of the well-known suggestions made by the Mulla committee are as follows:

- The improvement of jail circumstances; the provision of suitable clothing, food, and sanitation; the staff's separation into different cadres and proper training.
- Establishing as a national service the Indian Prisons & Correctional Service.
- A vital part of jail labour is aftercare, rehabilitation, and probation.

<sup>431</sup><https://www.mha.gov.in/sites/default/files/MullaCommitteeimplementationofrecommendationsVol%202.pdf>

<sup>432</sup> Mulla Committee on Jail Reforms, *Report of the All India Committee on Jail Reforms* (Gov't of India 1983).

- Public access to prisons and related correctional facilities on a regular basis will help the public comprehend the conditions there and prepare them to support rehabilitation initiatives.
- Detainees awaiting trial should be kept apart from those who have already been found guilty.
- A sizable portion of inmates are currently awaiting trial. Their number will be decreased by accelerating the judicial proceedings and loosening the bail requirements.

### 2. Committee on Women Prisoners Report of Justice V. R. Krishna Iyer (1987)<sup>433</sup>

The committee led by Judge V. R. Krishna Iyer released its report on women incarcerated in 1987. The following are the report's main recommendations:

- Women should be allowed the chance to restore their dignity, even in cases when they are judged guilty under the penal code.
- To accomplish its objectives, the government should make use of all available resources, including moral, spiritual, and material ones.
- Women are a marginalised group, making them vulnerable to exploitation while incarcerated.
- Thus, there ought to be facilities reserved especially for female offenders. Furthermore, the personnel of these institutions should only consist of women.
- The committee placed a strong emphasis on the value of human rights, security, discipline, and comprehensive programmes.

### 3. Committee chaired by the Director General of the Bureau of Police Research and

Development (BPR&D) in 2005:<sup>434</sup>

The Indian government established a powerful panel in 2005, with the Director General of the Bureau of Police Research and Development serving as its chair. BPR & D. After consulting the Justice Mulla Committee Report and the Justice Krishna Iyer Committee Report, this committee submitted a few fresh and extra recommendations. A 2007 National Policy on Correctional Administration and Prison Reforms was also produced by it. Draft National Policy for Administration and Reform in Corrections. The draft National Policy on Prison Reforms and Correctional Administration, which is now in the draft stage and verifies prison-related concerns, states that prisons will be added to a concurrent list.

Some of the main elements or mechanisms of the policy that were added to this document based on comments from earlier reports are as follows:

- Putting prisons on the concurrent list and changing the constitution to include provisions about prison administration and the treatment of defendants awaiting trial under the DPSP.
- Adoption of a thorough, uniform law addressing matters pertaining to prisons. Every state, along with Utah, will create a department dedicated to prisons and correctional services.
- The state will create a suitable procedure for
- The government must provide alternatives to imprisonment, such as community service, property confiscation, victim compensation, and public censure, in an effort to reduce the use of prisons.
- The state has to make improvements to living conditions in all prisons and similar institutions.

<sup>433</sup> <https://www.mha.gov.in/sites/default/files/PrisonAdmin17072009.pdf>

<sup>434</sup> <https://bprd.nic.in/WriteReadData/userfiles/file/5261991522-Part%20L.pdf>

- The state will endeavour to advance criminology and penology research.

4. The jail reform commission led by Justice Amitava Roy<sup>435</sup>

A committee headed by the Supreme Court was tasked with looking at the several problems that beset the country's prison system, including overcrowding, a lack of legal representation for prisoners, and pardon and parole inquiries. The chair of the committee will be retired Supreme Court judge Justice Amitava Roy. Observations and suggestions from the committee:

- Human rights violations have an equal impact on the prisoner and his guard. Despite the packed, dirty kitchens, the food hasn't altered in years.
- Overcrowding in the understaffed jails is a regular issue. A quick trial remains one of the finest remedies for the needless overcrowding issue. A quick trial remains one of the finest remedies for the needless overcrowding issue.
- The most disadvantaged prisoner is the one who is still awaiting trial; they endure years of solitary confinement without being granted a trial. Their numbers are vastly disproportionate to that of convicts.
- There need to be one lawyer for every thirty inmates.
- There are always between 30% and 40% of unfilled positions in the jail department. Using video conferencing for judicial proceedings is an additional recommendation. This will do away with the requirement for physical production in court, which calls for the escort and carriage of police guards.

## ESSENTIAL TROUBLES WITH INDIAN PRISONS

- Overcrowding Undertrials: Given the existing state of prisons, there is cause for concern regarding the number of undertrials, as was previously mentioned.
- Corruption and extortion: In order to receive visitation rights, the families of the prisoners are being asked to bribe officials, and they are subjected to harassment and complete disrespect for the law.
- Lack of legal support: Excessive and exponential growth in overcrowding has been caused by inadequate representation and a lack of interest on the part of the assigned legal officials for the clients. The majority of prisoners are still ignorant that they are entitled to bail.
- Living situations that are inadequate - The living conditions are something to pity upon and frequently function as a deterrent for the population at large to not be convicted of a crime.
- Sexual assault and torture: It is frequently reported that the staff harasses the inmates. Numerous inmates have reported experiencing sexual abuse. Inmates frequently engage in non-consensual sex, according to surveys conducted in US and UK prisons. A 2012 US Department of Justice report stated that one in ten convicts experienced sexual abuse while incarcerated or in treatment centres after being released from jail. A quarter of respondents to the study who stated they had experienced unwanted sexual contact from other prisoners claimed to have been physically restrained, 25% had suffered physical hurt or injury, and 25% had been put down or restrained. Anal/vaginal ripping was reported by nearly a quarter (23%) of those with

<sup>435</sup> [www.drishtiias.com/pdf/1589625591-sc-panel-recommendations-on-prison-reforms.pdf](http://www.drishtiias.com/pdf/1589625591-sc-panel-recommendations-on-prison-reforms.pdf)

significant injuries.

- Lack of staff: One of the main problems with jail administration has always been staffing. With fewer staff members relative to the number of inmates, the jails are thought to be excessively overcrowded. If not to create new positions, it is imperative that the current vacancies be filled.
- Deaths in custody: 4484 people died in the previous two years, according to data that was released.

### JUDICIAL APPROACH TOWARDS THE PRISON REFORM IN INDIA

The Supreme Court listed nine issues with prisons in *Shri Rama Murthy v. State of Karnataka*<sup>436</sup>, including overcrowding, backlogs in court proceedings, torture and other brutal treatment of prisoners, disrespect for their health and hygiene, and inadequate clothing and food.

In *State of Andhra Pradesh v. Challa Ramkrishna Reddy*<sup>437</sup>, the court held that a person committed to prison is entitled to all fundamental rights unless those rights are restricted by the constitution or by legal procedures.

In *Charles Sobaraj v. Supdt Central Jail Tihar*<sup>438</sup>, it was decided that while all of the rights provided to prisoners under Articles 14, 19, and 21 are restricted, they cannot all be considered static. They have an obligation or rather, a desire to rise to unprecedented human heights in trying circumstances.

### CONCLUSION

Finally, it should be noted that the prison system has been tasked with reforming prisoners and reintegrating them into society. Along with essential educational, medical, and recreational amenities, an ideal prison must offer sufficient employment opportunities,

vocational training, and basic schooling. In India, the social movement did not lead to the implementation of jail reforms; rather, it was the result of the inhumane treatment that political prisoners endured while incarcerated. The Indian judiciary has been instrumental in improving the jail system in the past, and it is hoped that the rulings made by the Apex court in this particular case will also aid in mitigating some of the system's current issues. In light of this, it can be said that this is only the start of a lengthy road that will lead to improved management and administration of the criminal justice system.

As a result, this study helps to understand prison reform by examining prison reform because it involves changes to not only prison buildings but also the activities that take place inside of them.

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