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# **REFORMATION OF PRISONS IN INDIA: A HUMAN RIGHTS PERSPECTIVE**

AUTHORED BY - DR. NOOREEN ZAIDI & SHIVANG TANDON

## ***ABSTRACT***

*Prison reforms and the protection of human rights are essential components of a civilised criminal justice system. In general terms, prisons have often been criticised for overcrowding, inadequate healthcare, poor living conditions, and violation of basic human dignity. This paper examines the necessity for comprehensive prison reforms that align with international human rights standards. It also focuses on the challenges faced by the prisoners, especially women, persons with disabilities and juveniles. A civilized democratic setup protects the basic human rights.*

*Through this paper, the authors aim to focus on the current state of prisons in India. This paper points out the national and international framework which seeks to protect the civil liberties of prisoners. A failure to protect the prisoners' rights would mean a failure of the constitutional rights. The authors have pointed out the reforms introduced a legislative framework, especially through the newly introduced criminal law. This paper discusses the observations of the Hon'ble Constitutional Courts and emphasises that there is a need to shift the approach from a punitive system to a reformatory justice system. A failure to protect against miscarriage of justice would mean denying the right to live with dignity, which forms the core of the jurisprudence of human rights. The authors also suggest that there is a need to enforce a legislative framework which seeks to provide compensatory remedies to the inmates in case of a miscarriage of justice.*

Keywords: Prison, Inmates, Human Rights, Dignity, Justice.

## I. INTRODUCTION

*“No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens but its lowest ones.”*

**-Nelson Mandela<sup>1</sup>**

Punishing the offenders is the sine-qua-non part of all civil societies. It is known that there have been prisons throughout history. The existence of prisons could be traced way back to ancient times.<sup>2</sup> The prevailing belief was that strict isolation and custodial measures would lead to the reformation of offenders. The utility of prison as an institution for “rehabilitation of offenders” and preparing them for normal life has always been a controversial issue.<sup>3</sup>

The primary objective of incarcerating criminals is to reform them into honest and law-abiding citizens by instilling a strong aversion to crime and criminal behaviour. However, in practical application, the prison authorities endeavour to facilitate the reformation of inmates through “use of force and compulsive methods”.<sup>4</sup> Consequently, the change in the inmates is temporary and it lasts till they are confined to the prison and they again get attracted towards criminality as soon as they are released. It is for this reason that the medieval trend is to lay down greater emphasis on the prisoners so that they can be rehabilitated to normal life in the community. The only ways through which this objective can be achieved are “probation” and “parole”. The genuineness, truthfulness, tactfulness and adherence of the officials of prisons help greatly in the rehabilitation of the offenders.

This paper has been divided into nine parts. Part I deals with the Introduction, Part II attempts to point out the meaning of prisons, Part III deals with the history of prison reforms, Part IV deals with the need for prison reforms, Part V deals with prison reforms and human rights perspective, Part VI focuses on the case study of India, Part VII points out the need for the compensatory mechanism, Part VIII deals with the judicial and legislative frame work and last part is the conclusion.

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<sup>1</sup> “The Nelson Mandela Rules: Protecting the Rights and of Persons Deprived of Liberty” *United Nation*, Jul 18, 2019 available at <https://www.un.org/en/un-chronicle/nelson-mandela-rules-protecting-rights-persons-deprived-liberty>. (last visited on 27-07-2025).

<sup>2</sup> Greg miller, “The Invention of Incarceration”, *Jstor Daily*, March 18, 2022 available at <https://daily.jstor.org/the-invention-of-incarceration//>. (last visited on 27-07-2025).

<sup>3</sup> *Ibid.*

<sup>4</sup> “Prison and penal reform”, *UNDOC* available at <https://www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-and-alternatives-to-imprisonment.html> (last visited on 27-07-2025).

## II. MEANING OF PRISON

The word 'Prison' derives from the Latin word 'carcer' or 'carcerem', which means to "Seize or Dungeon or Jail"<sup>5</sup>. The Oxford English Dictionary defines it as "A place properly arranged and equipped for the reception of persons who by legal process are committed to it for safe custody while awaiting trial or punishment"<sup>6</sup>. It is a building especially identified by the law, or police often uses it for incarceration or confinement of persons who are directed to be kept in custody by the judicial branch.

As per the Lectric Law Library Lexicon<sup>7</sup>, "a prison is a place where persons are confined or restrained from personal liberty". It can also be termed detention, correctional or penal faculty. It is more or less a "correctional institution" where offenders are detained or punished.

The Prison Act, 1894<sup>8</sup> defines it as "prison means any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

- (a) any place for the confinement of prisoners who are exclusively in the custody of the police;
- (b) any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882; or
- (c) Any place which has been declared by the State Government, by general or special order, to be a subsidiary jail."<sup>9</sup>

## III. HISTORY OF PRISON REFORMS

### A. PRE-INDEPENDENCE

TB Macaulay was the chief architect behind the modern prison system in India. Prison Discipline Committee, 1836, recommended the rigorous treatment while ignoring the humanitarian aspect and the need for reforms. Based on the Macaulay Committee recommendation, central prisons were constructed in 1846. The present framework is a legacy of British rule. Subsequently, in 1864, the Second Commission of Inquiry into Jail Management Discipline followed the same model. However, it supported improvement in diet, clothing and medical care, etc. In 1894, the Prison Act was passed.

<sup>5</sup>Joanna Kelley, *When the Gates Shut*, (Longman 1967).

<sup>6</sup>The Oxford English Dictionary, Vol – VIII, P.1385

<sup>7</sup>Law Lexicon Dictionary

<sup>8</sup>The Prison Act, 1894 (Act IX of 1894).

<sup>9</sup>*Ibid* Section 3(1).

In 1919, the Indian Jail Reforms Committee was made under the chairmanship of Sir Alexander Cardio. It recommended for the inculcation of the reformatory approach for the inmates. In 1946, the Jail Refrom Committee was constituted and gave many humanitarian suggestions.

## **B. POST INDEPENDENCE**

In 1946, for the first time, the Pakawasha Committee<sup>10</sup> recommended allowing prisoners to make roads on a daily wage basis. In 1956, the punishment of transportation was replaced by imprisonment. The All India Jails Manual Committee 1957-59 was appointed to prepare a model prison manual.

Mulla Committee<sup>11</sup>:

This committee recommended the setting up of the “National Prison Commission”. It reviewed many laws and recommended a total ban on the clubbing of heinous offences with juvenile offenders. It followed the rehabilitation justice system. Some of the key recommendations of the committee were –

1. Proper training of the prison staff.
2. Improvement of the prison conditions
3. Adequate funding by the government.
4. Reduction of the under-trial prisoners
5. Separate jail for the undertrials.

Juvenile Justice Act, 2015<sup>12</sup>:

In the year 2015, a separate Juvenile Justice Act was enacted and provisions regarding the “observations homes and special homes” were incorporated. As per this act, juveniles mean “a person who has not completed the age of 18 years”.

Krishna Iyer Committee<sup>13</sup>:

In 1987, the Government of India appointed the Justice Krishna Iyer Committee to undertake a study on the situation of women prisoners in India. It has recommended the induction of more women in the police force, given their special role in tackling women and child offenders.

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<sup>10</sup> Pakawasha Committee, Report *On Prison Reforms*.

<sup>11</sup> Mulla Committee report on Prison reforms available at [https://keralaprisons.gov.in/userfiles/act-and-rules/mulla\\_committee\\_vol\\_01.pdf](https://keralaprisons.gov.in/userfiles/act-and-rules/mulla_committee_vol_01.pdf). (last visited on 27-07-2025).

<sup>12</sup> The Juvenile Justice (CARE AND PROTECTION OF CHILDREN) ACT, 2015 (ACT NO. 2 of 2016).

<sup>13</sup> Krishna Iyer Committee report (1986-87).

#### IV. NEED FOR PRISON REFORMS

The need for prison reforms has come into focus during the last few decades. The Supreme Court and the High Courts have commented upon the deplorable conditions prevailing inside the prisons, resulting in the violation of prisoners' rights. There is a need for prison reform for the following reasons::

**Overcrowded:** As per the Indian Justice Report 2025- the occupancy rate of prisons is about 131 percent.<sup>14</sup> Near about 89 prisons were operating with a capacity of 250 percent. Uttar Pradesh and West Bengal prisons were amongst the most crowded places.<sup>15</sup> In most of the states, the majority of the people in detention are awaiting trial, for a number of reasons, mainly because of the overloaded courts and cumbersome trial procedures, which ultimately cause delays in the conclusion of the justice process. Most of the prisoners are from poor and marginalised sectors of society and do not have access to legal counsel and face unfair trials. It is evident that overcrowding of prisons results in the deterioration of conditions, generates prison violence, disease and amplifies multiple human rights violations.

**Deprived Medical Facilities:** Most of the prisons lack basic medical facilities. States like Haryana, Uttarakhand and Uttar Pradesh have only one doctor per one thousand prisoners.<sup>16</sup> Health services in most of the states are substandard and characterised by a shortage of staff for essential medications etc. Inadequate health services hamper the social integration of prisoners, while leading to communicable and life-threatening diseases in prisons.

**Understaffed:** Most of the Indian Prisons are understaffed and not working as per the Model Prison Manual (2016).<sup>17</sup>

**Mental Health Care:** There are only 25 psychologists for the entire population, which means and an average of "1 for every 22,928" prisoners.

**Exclusion of persons with disabilities:** Absence of any special facility for the disabled persons

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<sup>14</sup> Pratibha Raju, "India's Prisons at Breaking Point: Overcrowded, Understaffed, and Starved of Healthcare", *Economic Times*, May 4 2025, available at <https://health.economictimes.indiatimes.com/news/industry/indias-prisons-at-breaking-point-overcrowded-understaffed-and-starved-of-healthcare/120872450#:~:text=Most%20of%20India's%20prisons%20are,chronic%20neglect%20of%20prison%20infrastructure>. (last visited on 27-07-2025).

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

has been observed despite the Accessibility guideline (2021) and numerous direction of the High Courts and Supreme Court. The special treatment requirements of these groups are rarely met in prisons, and especially in facilities which are “overcrowded and under-resourced”.

Under Trial Prisoners: Nearly 76 percent of the prisoners are under-trial, which is due to the delayed judicial trials.<sup>18</sup>

The problem of prison administration has been examined by numerous expert bodies set up by the Government of India. The most comprehensive examination was done by the All India Jail Reforms Committee of 1980-83, popularly known as the Mulla Committee. The National and the State Human Rights Commission have also, in their annual reports, drawn attention to the appalling conditions in the prisons and urged governments to introduce reforms.

Prisoners' rights have become a centre of importance in the regime of prison reforms. It is mainly because of the wide acceptance the prisoner “is no longer regarded as an object, a ward, or a ‘slave of the state’, who the law would leave at the prison entrance and who would be condemned to ‘civil death’.”<sup>19</sup> The earlier objection of the imprisonment has changed “from mere deterrence to deterrence and reformation.” It has led to the giving away of the brutal punishment and initiation of systems of rewards for excellent effort in the form of remission, review of sentences, parole, furlough and canteen facilities, etc.

A committee was formulated by the Government of Indian in December 2005 under the chairmanship of the “Director General, Bureau of Police Research and Development (BPRD)” with an aim to prepare a draft policy on reforms in prisons and “correctional administration”. It had made numerous suggestions; if it had been implemented, it would have made a lot of difference to prison management and the system.

If we look into the reformative theory, the aim of confinement of offenders in prisons should be for the purpose of rehabilitation and making them useful citizens rather than penalising them when positive changes are visible in their behaviour. Hence, it is the need of the time to opt for

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<sup>18</sup> Aparna Vats, “Why Jails in India are asking to be free”, *India Today* April 16, 2025 available at <https://www.indiatoday.in/india/story/jails-functioning-200-occupancy-rate-inmates-undertrials-india-justice-report-police-prison-reforms-2709715-2025-04-16>. (last visited on 27-07-2025).

<sup>19</sup> Dr. Kurt Neudek, *The United Nations in Imprisonment Today and Tomorrow- International Perspectives on Prisoners' Rights and Prison Conditions* eds., Dirk van Zyl Smit and Frieder Dunkel; Kluwer Law and Taxation Publishers, Deventer, Netherlands, 1991.

the easier bail provisions and use the Probation of Offenders Act. This will ultimately lead to good behaviour of these prisoners, but also combat the challenge of overcrowded prisons.

## V. PRISON REFORMS AND HUMAN RIGHTS PERSPECTIVE

Human rights are the basic rights and freedoms that belong to every individual, regardless of nationality, race, gender, or religion. These include the “right to life, liberty, equality, freedom of expression, and protection from discrimination and torture”. They are universal, inalienable, and protected by various international instruments like the “Universal Declaration of Human Rights (UDHR)” and national constitutions, including India’s. Upholding human rights ensures dignity, justice, and equality for all, forming the foundation of any democratic society.

Prison reforms in the context of human rights could be gathered from the following:

1. Universal Declaration of Human Rights (UDHR), 1948: Article 3 ensures the “right to life, liberty, and security of person”. Article 5 provides that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment”. While Article 10 provides that “right to fair and public hearing by an independent tribunal”.
2. International Covenant on Civil and Political Rights (ICCPR), 1996: Article 7, Article 10(1) and Article 10 (3) protects against torture or cruel and protects the liberty and dignity.
3. UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), 2015:

It provides effective guidelines on:

1. Health Care
2. Rehabilitation and Reintegration
3. Protection against torture and abuse
4. Accommodation and Hygiene.

Rules 57 & 58 effectively provide for the reintegration of the prisoners into society. It provides that the “prison system shall not aggravate the suffering inherent in such a situation”. Similarly, the nature and duration of imprisonment should be such that upon his return to society, “the offender is not only willing but able to lead a law-abiding and self-supporting life”.

4. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984: It proves that states should aim to prevent acts of torture in any place of detention.

5. United Nations Rules for the Treatment of Women Prisoners (Bangkok Rules), 2010: It focuses on the specific needs and rights of women prisoners:- like 1) Mental health services 2) Protection from sexual abuses and 3) Pregnancy and Childcare.
6. United Nations Basic Principles for the Treatment of Prisoners, 1990: It provides for the basic principles to protect the dignity of prisoners.

## **VI. PRISON REFORMS AND HUMAN RIGHTS PERSPECTIVE: A CASE STUDY OF INDIA**

The population of undertrial prisoners has increased over the years.<sup>20</sup> As per the reports, almost sixty five percent of undertrial prisoners belong to schedule caste, schedule tribe and other backward class.<sup>21</sup> Majority of them are young and illiterate and many are too poor to afford the bail fee.<sup>22</sup> Emphasis has to be added on the point that the unnatural deaths in the prison has over the years.<sup>23</sup>

Law commission in its 268<sup>th</sup><sup>24</sup> report had remarked that “powerful, rich and influential obtain bail promptly and with ease, whereas the masses/the common/the poor languish in jails.” It is a situation of “human dignity at stake.”<sup>25</sup> In *Hussainara Khatoon v. Home Secretary, State of Bihar*, hon’ble supreme court aptly pointed out that undertrial prisoners remain in jail “because they(are) downtrodden and poor, and not because they are guilty”. Court further remarked that “it is a travesty of justice that many poor accused Indians are forced into long cellular servitude for little offences because the bail procedure is beyond their meagre means and trail don’t commence, and even if they do, they never conclude”.

Unnecessary detention in prisons could cause irreparable harm to the person and their family as well. It also severely affects the community and society. This also put pressure on the

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<sup>20</sup> Ministry of Home Affairs, Undertrial Prisoners, *PIB* February 06, 2024 available at <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2003162>. (last visited on 27-07-2025).

<sup>21</sup> Mukesh Rawat, “Poor, young and illiterate: Why most Indian prisoners fight long lonely battles for justice”, April 5 2022, *India Today* available at <https://www.indiatoday.in/india/story/undertrial-prisoners-indian-jails-ncrb-report-prison-statistics-supreme-court-1618588-2019-11-15>. See also NCRB reports (2011-15).

<sup>22</sup> *Ibid*.

<sup>23</sup> “Death in prison increased by 5.49% in 2017 against 2015” *India Today*, October 22 2019 available at [https://www.indiatoday.in/india/story/death-in-prison-increased-by-5-49-in-2017-against-2015-1611701-2019-10-22?utm\\_source=story\\_btm\\_also\\_read&utm\\_medium=alsoread&utm\\_campaign=story\\_url](https://www.indiatoday.in/india/story/death-in-prison-increased-by-5-49-in-2017-against-2015-1611701-2019-10-22?utm_source=story_btm_also_read&utm_medium=alsoread&utm_campaign=story_url). (last visited on 27-07-2025).

<sup>24</sup> Law Commission of India, “268th Report on Amendments to Criminal Procedure Code, 1973-Provisions Relating to Bail” (May 2007).

<sup>25</sup> *Ibid*

exchequer of the state as the amount spent on the detention could have been better utilised for the betterment of society by keeping the people away from the ecosystem of crime.<sup>26</sup> One cannot specifically point out the solutions to the problems which lie in the entire justice delivery mechanism. The system is unaccountable to the miscarriage of justice, which causes undue hardships to the victims.

## VII. COMPENSATORY MECHANISM: A NEED OF THE TIME

Most countries including, the United States of America, the United Kingdom and Germany have, enacted specific laws which make it obligatory for the state to compensate a person for a miscarriage of justice. The Law Commission in its report of 2018 stressed the need to enact a legal provision for granting monetary and non-monetary compensation to the victims of wrongful prosecution. It also remarked, “there needs to be recompense for the years lost, for the social stigma, the mental, emotional and physical harassment, and for the expenses incurred etc.” The situation of undertrial prisoners is a “crying shame on the judicial system”<sup>27</sup> and a mockery of the human rights and constitutionally protected fundamental rights.

Though the number of years has passed, but the situation has remained unchanged; it is a need of the time for the enactment of central legislation which seeks to provide compensatory remedy in case of miscarriage of justice caused to the inmates. This would only help to secure the goals of protection of civil rights as enshrined under the Constitution of India and various international treaties and instruments.

## VIII. LEGISLATIVE AND JUDICIAL FRAMEWORK: NAVIGATING THE JOURNEY OF PRISON REFORMS IN INDIA

### A. LEGISLATIVE FRAMEWORK

Bharatiya Naya Sanhita, 2023<sup>28</sup>: It defines the different crimes and prescribes punishments for the same. Bharatiya Nagarik Suraksha Sanhita, 2023<sup>29</sup>: It lays a reasonable process for the bail, custody, arrest, trial, sentencing and plea bargaining.

Prison Act, 1894: It mainly focuses on the regulation and management of prisons. Prisoners

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<sup>26</sup> Madhurima Dhanuka, “Poverty and detention: Are legal frameworks adequate?” June 26<sup>th</sup> 2023, Penal Reform International Available at <https://www.penalreform.org/blog/poverty-and-detention-are-legal-frameworks-adequate/>. (last visited on 27-07-2025).

<sup>27</sup> Hussainara Khatoun & Ors vs Home Secretary, State Of Bihar 1979 AIR 1360.

<sup>28</sup> The Bharatiya Nyaya Sanhita, 2023 (ACT NO. 45 OF 2023).

<sup>29</sup> The Bharatiya Nagarik Suraksha Sanhita 2023 (Act No. 46 of 2023).

Act, 1900 and Transfer of Prisoners Act 1950: It provides for the transfer of prisoners from one state to another for security and administrative reasons. Model Prison Manual, 2016: This was issued by the Ministry of Home Affairs, and it includes guidelines for the state government regarding the inclusion of modern principles of rehabilitation, vocational training, legal aid etc. It also makes it obligatory for the segregation of undertrials and convicted prisoners.

Constitution of India: Legal Aid: Article 39A of the Constitution makes it obligatory to provide legal aid. Fundamental Rights: Article 14 guarantees the “right to equality”. Article 19 guarantees civil liberties even for prisoners subject to reasonable restrictions. Article 21 guarantees “the right to life and personal liberty”. It includes the right to live with human dignity-even in prison.

### **TRANSFORMATIVE JUDICIAL APPROACH**

*Sunil Batra v. Delhi Adminsitration*<sup>30</sup>: In this case the Apex court dealt with the issue of the custodial torture and solitary confinement. The Supreme Court held that “Article 21 applies even within prison walls, and protection from inhumane treatment is fundamental”.

*Hussainara Khatoon v. State of Bihar*<sup>31</sup>: It focused on the disparaging condition of the undertrial prisoners. This case established the “right to speedy trial” as a fundamental right under Article 21. The Apex Court held that “right to speedy trial” is a fundamental right and it flows from the liberal interpretation of Article 21 of the Indian Constitution. It is expected that the court would adopt the requisite steps for the speedy trial and quick disposal of the cases, as the delay in disposal of cases means “denial of justice”.<sup>32</sup>

*Charles Sobhraj v. Superintendent, Central Jail, Tihar*<sup>33</sup>: The Apex Court recognised that the prisoners retain all fundamental rights other than those that are necessarily restricted due to detention. It further held that “solitary confinement without statutory backing is unconstitutional”.<sup>34</sup>

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<sup>30</sup> AIR 1978 SC 1675

<sup>31</sup> AIR 1979 SC 1514.

<sup>32</sup> Ibid.

<sup>33</sup> AIR 1978 SC 1514

<sup>34</sup> Ibid.

*Sheela Barse v. State of Maharashtra*<sup>35</sup>: This case mainly dealt with the rights of women prisoners and the need for legal aid. It held that “legal assistance must be provided to all prisoners and that women prisoners should not be subjected to police brutality”. The majority of the population in prisons of the country comprises under trials and those inmates who are under trials and whose trials are yet to begin. Hence, “access to court and legal facilities” is sine-qua-non for providing a fair trial to the prisoners; it is further supplemented by Article 21 of the Indian Constitution.

The Apex Court had also condemned the fact that session judges were unwilling to appoint counsel for the poor accused in serious cases. The defence should never be refused legal aid of competent counsel. This means that genuine and legal papers should be made available to the defendant along with the service of counsel. It was also held that free legal assistance at State cost is a fundamental right of a person accused of an offence which may “involve jeopardy to his life or personal liberty”.<sup>36</sup>

*State of Andhra Pradesh v. Challa Ramkrishna Reddy*<sup>37</sup>: The Supreme Court held that “Article 21 cannot be denied even to a convicted prisoner”. Compensation was awarded by the court to the family of inmate who passed away due to negligence.

*In Re-Inhuman Conditions in 1382 Prisons*<sup>38</sup>: In this case, the Supreme Court took suo motu cognizance of poor conditions in prisons across India. It pressed for the reforms of overcrowding and health etc. in prisons. The Apex Court gave key guidelines, which are as follows:

1. It directed the State Governments and Union Territories to combat overcrowding by establishing more jails etc.
2. Directed for the release of the under trial prisoners under section 436A of CrPC.
3. Proper maintenance of Health care and Hygiene.
4. Inculcation of rehabilitation and reintegration.
5. Suggested for setting up a compensation scheme for custodial deaths, torture or illegal detention.

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<sup>35</sup> AIR 1983 SC 378

<sup>36</sup> Ibid.

<sup>37</sup> AIR 2000 SC 2083

<sup>38</sup> (2016) 3 SCC 700.

6. Special facilities for women and children. They should be separated from others and should be kept in accordance with the Model Prison Manual, 2016.
7. Directed the National Legal Service Authority (NALSA) and state legal services authorities to collect and publish data on prison conditions regularly.

## **B. NEWLY ENACTED CRIMINAL LAWS: A WATERSHED MOMENT IN THE CRIMINAL JUSTICE SYSTEM**

The three new criminal laws that have replaced the colonial-era Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and Indian Evidence Act are:

1. Bharatiya Nyaya Sanhita, 2023 (BNS)<sup>39</sup> – replaces the Indian Penal Code.
2. Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)<sup>40</sup> – replaces Code of Criminal Procedure.
3. Bharatiya Sakshya Adhinyam, 2023 (BSA)<sup>41</sup> – replaces the Indian Evidence Act.

While the laws are not directly focused on prison reforms (which are largely under state jurisdiction and prison manuals), there are indirect implications and procedural changes that may impact prison administration, undertrial prisoners, and overall criminal justice. Here are the key points:

### **1. BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS), 2023**

**Use of Technology:** Provisions for using video conferencing for trials, appearances, and even for recording statements. This can reduce the need to transport prisoners frequently and helps decongest prisons.

**Time-Bound Investigation And Trials:** Police must complete investigations in most cases within 90 days. Trials for certain offences should be concluded within 2 years. This can reduce the number of undertrial prisoners languishing in jail.

**Provision For Community Service:** Minor offences may be punished with community service instead of imprisonment, which can help reduce overcrowding.

**Mandatory medical examination of arrested persons (including women) to ensure their rights and physical condition are documented.**

**Right To Legal Aid:** A stronger emphasis on ensuring access to legal representation for the accused, especially those in custody.

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<sup>39</sup> The Bharatiya Nyaya Sanhita, 2023 (ACT NO. 45 OF 2023).

<sup>40</sup> The Bharatiya Nagarik Suraksha Sanhita 2023 (Act No. 46 of 2023).

<sup>41</sup> Bharatiya Sakshya Adhinyam, 2023 (Act No. 47 of 2023).

## 2. BHARATIYA NYAYA SANHITA (BNS), 2023

Decriminalization and proportionate sentencing: Some colonial-era offences have been removed or simplified. Punishments have been rationalized, which may help reduce unnecessary incarceration.

Victim-centric approach: Though more relevant to victims, a balanced approach in sentencing may indirectly impact sentencing policies and hence prison populations.

## 3. BHARATIYA SAKSHYA ADHINIYAM (BSA), 2023: Digital records and electronic evidence:

More flexible rules regarding the admissibility of digital and electronic evidence can speed up trials, reducing case backlogs and long pre-trial detention.

These new criminal laws do not provide direct prison reforms, such as prison conditions, staff training, or rehabilitation programs. However, they introduce systemic changes that can:

- Reduce delays in trials and investigations
- Promote alternatives to imprisonment
- Improve conditions for undertrial prisoners
- Leverage technology to reduce prison overcrowding

## IX. CONCLUSION

Prisons are no longer a custodial institution and their role has been changed radically over the years. Prison reforms in India are essential not just for improving prison infrastructure, but for upholding the fundamental rights and dignity of inmates. Despite multiple recommendations by law commissions, judicial pronouncements, and human rights bodies, the pace of reform has been slow and uneven. Overcrowding, undertrial incarceration, lack of legal aid, poor healthcare, and inadequate rehabilitation programs continue to plague Indian prisons.

Recent developments, including the introduction of the three new criminal laws in 2023, offer some procedural improvements—such as faster trials, use of technology, and alternatives to imprisonment—but they fall short of comprehensive prison reform. True transformation requires a shift from a punitive to a rehabilitative approach, rooted in human rights and social reintegration. This involves policy-level changes, investment in correctional services, training of prison staff, and greater transparency and accountability.

A reformed prison system is not just a reflection of a nation's justice delivery, but also of its

commitment to democracy, rule of law, and human dignity. The time has come for India to prioritise prison reforms as a critical component of criminal justice reform. Right to free legal aid enshrined under Article 39-A of the Indian Constitution should be fully implemented. It is the need of time to expedite the appeal hearings, and it would be possible only by increasing the number of judges in the higher judiciary.

