

---

# Prison Reforms: A Critical Analysis and Suggestions

---

by BHAVYA JAIN<sup>1</sup>

## ABSTRACT

*Prisons, as public institutions, suffer from a troubling lack of transparency, concealing the lives of incarcerated individuals from public scrutiny. While prisons aim to protect society by housing undertrials and convicts, they often subject inmates to deplorable conditions. Establishing a transparent monitoring system is vital to hold prison authorities accountable and safeguard the well-being of prisoners. Regrettably, the excessive emphasis on prison security has overshadowed the need for public oversight. With their imposing walls and stringent measures, prisons remain hidden, leaving the public largely ignorant of the internal dynamics. This disregard reflects society's historical apathy towards prisoner deaths, prioritizing exoneration over rehabilitation. The 2019 Prison Statistics India reveals a total of 1,350 prisons across the country, encompassing various types. This research paper explores the urgency for comprehensive prison reforms that prioritize transparency, accountability, and the rights of inmates, fostering a more humane and just correctional system.*

## I. INTRODUCTION

Prisons, despite being public establishments, operate with a significant lack of transparency. The inner workings of prisons, including the lives of the inmates, are kept largely hidden from the public eye. While the primary purpose of prisons is to house undertrials and convicts to protect society, they also create an environment where inmates are susceptible to inhumane conditions. It is crucial to establish a reliable and transparent monitoring system to hold prison authorities accountable for incidents and ensure the well-being of inmates. Unfortunately, the excessive focus on prison security has obscured the need for public scrutiny and oversight of these institutions.

Prisons, with their high walls and strict security measures, remain unseen and receive minimal attention regarding the unforeseen events that occur within their walls. This highlights that a significant portion of our population spends a considerable amount of time in

---

<sup>1</sup> Author is a law student from Vivekananda Institute of Professional Studies, Pitampura, New Delhi

a place that is disconnected from public awareness. Historically, prisoner deaths in prisons have not garnered much concern from society, as there is often more emphasis on exoneration than on rehabilitation. Consequently, the life and rights of prisoners are often undervalued. According to the Prison Statistics India - 2019, the country has a total of 1,350 prisons, including various types such as sub jails, district jails, central jails, open jails, special jails, women's jails, borstal schools, and others.

## II. RIGHT TO LIFE AND PERSONAL LIBERTY FOR PRISONERS

**Article 21:** The Supreme Court in various cases has declared the right to medical care comes under the ambit of Article 21 of the Constitution. Article 21 of the Constitution also guarantees the right to personal liberty and thereby prohibits any inhuman, cruel or degrading treatment to any person whether he is a national or foreigner.

**Article 39A:** Article 39A of the Constitution of India deals with the obligation of the State to provide free Legal Aid to such accused prisoners both in the prison and outside, as they are unable to engage a lawyer due to a lack of means to defend themselves in the Court for the criminal charges brought against them.

## III. WHO IS A PRISONER?

A prisoner is an individual who is detained in jail or prison due to their violation of the law. While the Indian Constitution does not explicitly outline provisions for the protection of prisoners or prison justice, the framers of the Constitution have sought to guarantee certain rights to prisoners as they are also considered individuals under the law. Indian prisons face three significant structural challenges: overcrowding, primarily caused by a high percentage of undertrial prisoners and understaffing. These conditions result in deplorable living conditions, inadequate hygiene, and frequent conflicts between inmates and prison authorities. The issue of overcrowding in prisons necessitates reform, as highlighted in the *Rama Murthy v. State of Karnataka*<sup>2</sup>. Many prisons in India fail to meet appropriate structural standards, leading to inhumane conditions when they are filled beyond capacity. In fact, a significant number of Indian prisons hold twice the number of inmates they are designed to accommodate.

---

<sup>2</sup> (1997) S.C.C. (Cri) 386

As of December 2019, the prisons in India had the capacity to accommodate 403,739 inmates, but the actual number of prisoners was 478,600. This resulted in an occupancy rate of 118.5%. Out of the total prisoners, 458,687 were male and 19,913 were female. District Jails had the highest occupancy rate at 129.7%, followed by Central Jails at 123.9% and Sub Jails at 84.4%. Uttar Pradesh had the highest number of inmates with 101,297, exceeding its capacity of 60,340. It was followed by Madhya Pradesh with 44,603 inmates against a capacity of 28,718, Maharashtra with 36,798 inmates against a capacity of 24,095, Punjab with 24,174 inmates against a capacity of 23,488, and West Bengal with 23,092 inmates against a capacity of 21,772. In 2018, the Supreme Court acknowledged the connection between overcrowding in jails and the performance of courts. Therefore, there is a pressing need for expedited trials to alleviate this situation. The number of undertrial prisoners in 2019 was 330,487.

#### **IV. SUB-HUMAN CONDITIONS**

According to the Model Jail Manual (MPM), 2016, the Deputy Superintendent (DSP) is obligated to visit the prison twice daily and once a week during the night to ensure the absence of any untoward incidents and to maintain order. The DSP reports to the Superintendent, who, in turn, reports to the Inspector General of Prisons at the state level. Surprise visits by the Superintendent are also expected to enforce control. The development of this manual was prompted by a 2016 observation by the Rajasthan High Court, which highlighted the disturbingly low ratio of bathrooms per inmate. For instance, in barrack 4A at Jaipur's central jail, there are only four toilets for approximately 200-250 convicts, none of which have a water supply. The court noted the absence of doors in these bathrooms, denying convicts any privacy. Rajasthan's jail system was found to have failed in terms of sanitation, food, health, recreation, education, vocational activities, and infrastructure, based on data from seven key factors. The availability of water for daily use is insufficient, resulting in many inmates being unable to bathe for weeks or even months, leading to unhygienic conditions. The Model Prison Manual mandates one toilet for every 10 inmates, but in reality, most Indian prisons force 75 inmates to share a single toilet. Despite adequate space, an appropriate number of toilets are not constructed. While prison authorities claim regular medical check-ups and strict monitoring of communicable diseases, the actual numbers reveal that inmates continue to live under the constant threat of contracting diseases like AIDS or TB, which can easily spread within Indian prisons.

But are these steps taken? No, the reason is pretty obvious: the jail authorities try to defer all the liability on the government for lack of funds or other excuses and vice-versa the government imposes liability on the jail authorities. Whereas the liability lies on both governments as well as with the concerned jail authorities.

## **V. CASTE DISCRIMINATION**

The Wire (2020) in its article part of the series ‘Barred–The Prisons Project’ shows the prevalence and distribution of work as per caste of the prisoners. The Madhya Pradesh Jail Manual continues the caste-based assignment in conservancy work – the official term used for manual scavenging. The chapter titled “Mal Vahan” or conservancy states that a “Mehtar prisoner” would be responsible for handling human excreta in the toilets. Identical practices find mentioned in the Haryana and Punjab state prison manuals and rules too. Selection of sweepers, barbers, cooks, and hospital staff among others are all pre-decided as per one’s caste identity. If any prison faces a scarcity of prisoners of a certain caste to carry out the requisite labour, prisoners are to be brought in from nearby prisons. However, no exceptions or changes in rules are mentioned in the manual.

## **VI. ABUSE OF PRISONERS**

The physical abuse of prisoners by guards remains a persistent issue, leading to unimaginable suffering within prisons. In many distressing cases, prisoners are subjected to beatings resulting in their death at the hands of prison authorities. What's even more alarming is that these authorities can manipulate doctors into providing false certificates claiming the deceased committed suicide or die from natural causes. Jail authorities employ various forms of abuse to fulfil their motives. This can include brutal assaults, solitary confinement, blindfolding prisoners with glycerine-soaked clothes, forcing them into prolonged bending positions, intimidating them with sudden bursts of tear gas, subjecting them to prolonged standing in water, coercing them to remove facial hair or shave their heads, keeping them naked, terrifying them with unexpected gunshots, denying them water, food, or medical care, and even forcing them to sign documents written in unfamiliar languages, among other deplorable acts. Female prisoners, in particular, often have to endure sexual assault in Indian prisons. Prisoners with their hands bound behind their backs are dragged to open areas and subjected to beatings, sometimes resulting in death. Numerous individuals languish in jails without trial for minor offences. Moreover, it is crucial to provide a safe environment for

such prisoners after screening, observation, and identification. They should be placed under the supervision of qualified mental health professionals who can assess the level of risk, provide appropriate support and supervision for their recovery, and offer suitable mental health treatment options.

## **VII. DEATHS IN JAIL**

Death in prisons can be broadly classified into two main categories i.e., natural deaths and unnatural deaths. Here unnatural death includes Suicide, Murder by co-prisoners, death due to firing, death due to negligence or excesses by prison personnel, etc.

The death of a prisoner should have been a matter of grave concern for prison administration due to its increasing numbers. These cases are quite intriguing because there have been no steps by the authorities to correct the same. There are no such serious efforts to go deep into such incidents and to find factors leading to such tragedy. There should be an identification of such prisoners that are under stress and they should be provided counselling by welfare officers or by counsellors of NGOs whoever is willing to volunteer. For example: due to increasing suicide cases, the prison authorities have set up 'Gumsum Panchayat' in every ward to help stressed people.

## **VIII. CONDITIONS DURING THE PANDEMIC**

Prisons in India witnessed the spread of the virus soon after the first wave began in 2020. With their crowded spaces and inadequate healthcare facilities, Indian prisons were always at a higher risk of becoming epicentres for the spread of the COVID virus. Taking cognizance of the matter, the Supreme Court of India took steps as early as March 2020 and directed measures to all states and UTs for reducing overcrowding in prisons. The court directed states/ UTs to constitute a High-Powered Committee (HPC) to determine the categories of prisoners to be released on interim bail/ parole or furlough to reduce overcrowding in prisons. However, with relative ease in the spread of the virus in India, those who were released were compelled to return back to their respective prisons by February-March 2021.

On May 7 2021, the country had a second wave of the pandemic, the Supreme Court issued instructions that the prisoners who were granted bail or parole last year on the recommendation of the HPC should be released forthwith on bail on the same terms and conditions. Those on parole got a 90-day extension under the same order.

## IX. RECOMMENDATIONS FOR JAIL REFORMS

**Recommendations of Law Commission of India in its 268th report:** The Commission recommended that those detained for offences that come with a punishment of up to seven years of imprisonment should be released on completing one-third of that period and for those charged with offences that attract a longer jail term after they complete half of that period. It also recommended that the police should avoid needless arrests, while magistrates should refrain from mechanical remand orders.

**Justice Amitava Roy Committee Recommendations:** In 2018 The Supreme Court constituted a three-member committee, to be headed by former apex court judge Amitava Roy, to look into the aspect of jail reforms across the country and make recommendations on several aspects, including overcrowding in prisons. It recommended:

- i. Special fast-track courts should be set up to deal exclusively with petty offences which have been pending for more than five years.
- ii. Further, accused persons who are charged with petty offences and granted bail, but who are unable to arrange surety should be released on a Personal Recognizance (PR) Bond.
- iii. Launching a National Mission for Justice Delivery and Legal Reforms.

**Open prisons:** The All-India Committee on Jail Reform constituted in 1980 recommended the government to set up and develop open prisons in each state and UT similar to the Sanganer open camp in Rajasthan. It also recommended that life convicts who offer a good prognosis should be transferred to semi-open & open prisons.