International Journal for Multidisciplinary Research (IJFMR)
E-ISSN: 2582-2160 ● Website: www.ijfmr.com ● Email: editor@ijfmr.com

Recidivism in India: Challenges of Rehabilitation and Social Reintegration

Navleen Kaur[1], Dr. Dev Parbhakar[2]

[1]LL.M. Student, University Institute of Legal Studies, Chandigarh University, Mohali, Punjab, India.
[2]Assistant Professor, University Institute of Legal Studies, Chandigarh University, Mohali, Punjab, India.

Abstract
The focus of this study is on recidivism and the constraints it creates when attempting to reconcile the competing goals of the criminal justice system in India. While in prison, an individual may be protected from the public and may possibly be less of a threat; however, upon his release, he may not be able to function in society in a way that helps him acquire a job, proper medical care and social acceptance. The study reviews the present state of Indian prisons and the barriers to the social reintegration of prisoners upon release. The barriers include, but are not limited to, inadequate legal assistance, understaffed prisons, and vacancies in correctional staff. The study takes a doctrinal approach and reviews decisions of the Indian Courts relating to the protection of the dignity of an individual and the reformative theory of punishment. Research relating to the employment of released prisoners is reviewed. Recent orders of the Indian Supreme Court have made reintegration of released prisoners a constitutional obligation of the State. The State is required to take all necessary steps to effectuate the orders of the Court. The constitutional obligation of the State to provide reintegration services to prisoners is examined. Rehabilitation and reintegration of released prisoners is analysed in the context of human dignity and public safety.

Keywords: Recidivism; Prison Rehabilitation; Social Reintegration; Probation; Reformative Justice.

1. INTRODUCTION

Although pain may be an incidental consequence of imprisonment, that has never been the purpose. The main aim of criminal sentencing is to respond to and to some extent to prevent crime. While offenders remain under the control of the State they must be treated humanely and prepared for resocialisation. Post release they must be monitored and reintegrated into society. In India, administration of prison facilities lies primarily with the States. Further, correctional facilities in different States differ widely. In India a major portion of the prison population consists of under-trial prisoners. In a State committed to the protection of human rights and to the rule of law, alternative means to satisfy the purposes of punishment, e.g. imprisonment, must be offered to the convicted persons. Preparation for respectful life and useful citizenship in the community must be provided.[1]

[1] Rani Dhavan Shankardass (ed.), *Punishment and the Prison: Indian and International Perspectives* 13 (Sage Publications, New Delhi, 1st edn., 2000).

Recidivism can mean many things. It can refer to a former prisoner's re-arrest, reconviction or reimprisonment. Sometimes, an individual can be arrested many times but never convicted. Furthermore, being convicted does not always lead to time behind bars. One individual may be imprisoned multiple times over, whereas another may not be imprisoned at all despite many convictions. An individual can be convicted and sentenced to prison many times over, but may not be considered a repeat offender by the state. Using statistics regarding crime and arrests, one may draw false conclusions regarding the success of correctional policies and programmes. Correctional policies and programmes should always be evidence-based. The National Crime Records Bureau (NCRB) collects statistics related to correctional policies and programmes that can inform evidence-based corrections; however, conclusively linking the programmes to reductions in crime and recidivism would require further studies.[2]

Constitutional rights to life and dignity of the person are violated by the conditions of imprisonment. With respect to an inmate's post-release integration into the community, the courts have associated imprisonment conditions with reform. Caste, abuse of habitual offender provisions, and access to open prisons have been challenged on constitutional grounds. This study advocates that a combination of internal control measures and community integration would facilitate reintegration. It analyses the interplay of legal principles, limited official figures and research, and evaluates the shortcomings in the correctional system.[3]

2. CONCEPTUAL AND CONSTITUTIONAL FOUNDATIONS OF RECIDIVISM

There are multiple ways to measure recidivism. People can look at the history of criminal activity and identify similar behaviours. However, recidivism cannot be measured that way. The reason is that different decisions made about an offender can lead to different records. Different conclusions can be drawn about an offender based on various decisions made during the process. For instance, evidence, or a lack thereof, can lead to different outcomes.[4]

a. Definitions and the Problem of Measurement

Reoffending refers to the act of a person committing a crime after release from imprisonment or other punishment for the previous crime. Re-arrest refers to arresting a person again, and it does not necessarily mean that person will be convicted for the crime. It is important to consider the reasons for re-incarceration. Often cases may have different legal reasons for re-incarceration. In order to measure recidivism with accuracy, it is essential to specify the group of prisoners released. Without specifying the group, comparisons with different groups released in different time periods cannot be made. Longitudinal data on "habitual offenders" in India is not available. The Indian data on "habitual offenders" is misleading, as the numerator in the data excludes prisoners who were arrested and imprisoned more than once, but are still awaiting trial.[5]

[2] Christy A. Visher and Jeremy Travis, "Transitions from Prison to Community: Understanding Individual Pathways", 29 *Annual Review of Sociology* 89 (2003).
[3] Shadd Maruna, *Making Good: How Ex-Convicts Reform and Rebuild their Lives* 85 (American Psychological Association, Washington, D.C., 1st edn., 2001).
[4] Francis T. Cullen and Cheryl Lero Jonson, *Correctional Theory: Context and Consequences* 2 (SAGE Publications, Thousand Oaks, 2nd edn., 2016).
[5] Joan Petersilia, *When Prisoners Come Home: Parole and Prisoner Reentry* 139 (Oxford University Press, New York, 1st edn., 2003).

b. Reformative Punishment and Constitutional Dignity

Articles 14 and 21 of the Constitution of India mandate and authorise respective prison and other custodial authorities to prohibit and eliminate unreasonable and arbitrary treatment of prisoners and other persons in custody, to preserve the dignity of such persons. In *Mohammad Giasuddin v. State of Andhra Pradesh*[6], while setting a guide line for the Court while imposing a sentence on an offender, the Apex Court held that in addition to punishment and protection of the society, attention should be paid for the reformatory needs and social conditions of the offender. The Court also held that after the term of punishment, the offender should be integrated in the community and ought to be provided facilities like vocational training, education and counselling to treat his/her antisocial and criminal tendencies.

In *Dharambir v. State of Uttar Pradesh*[7], the Court recognised the negative impact of long-term imprisonment and directed that meaningful labour and open prisons should be provided. *Dharambir* held that imprisonment does not result in the forfeiture of all Constitutional rights, citing the case of *Sunil Batra v. Delhi Administration*[8] where it was held that imprisonment does not eliminate all constitutional protections, including the protection from cruel and inhuman treatment. Reformatory administration is, therefore, a legitimate and constitutionally supported one. While broad constitutionally supported administration may call for the provision of certain unspecified services, this, however, may not be enforced. It is, therefore, for the prison administration to determine the measures and means to implement reformatory administration in the custody of prisoners.

c. Protection against Discriminatory Classification

Although some jurisdictions classify prisoners according to risk, sentences and programme suitability, reference to these in legislation is sometimes lacking, and procedures are discriminatory and lack fairness. For example, a petitioner in *Sukanya Shantha v. Union of India*[9], highlighted the tribal caste-based discrimination and arbitrary references to 'habitual offenders' in prison classifications and indicated the negative effects of such classifications on denotified and nomadic communities. As such classifications impact assignments and treatment while in prison, and the reception in the community on release, it is imperative that risk assessments upon which such treatment and assignments are based, are fair, individual and subject to review.

3. STATUTORY AND INSTITUTIONAL FRAMEWORK

Reformatory laws of India encompass child protection, legal aid, sentencing and prison management laws. This results in different laws, and the implementation of these laws requires cooperation of courts, prison officials and welfare workers.[10]

a. Probation and Community-Based Sanctions

The Probation of Offenders Act, 1958, provides for the conditional release and/or reprimand of certain eligible persons and prescribes the supervision and aftercare services of probation officers. The Act leaves courts to exercise their discretion in respect of certain offenders under Section 4.[11] Special protection is given to younger offenders under Section 6. Other offenders are advised and/or aided in respect of

[6] (1977) 3 SCC 287.
[7] (1979) 3 SCC 645.
[8] (1980) 3 SCC 488.
[9] 2024 INSC 753.
[10] Rani Dhavan Shankardass (ed.), *Punishment and the Prison: Indian and International Perspectives* 112 (Sage Publications, New Delhi, 1st edn., 2000).
[11] The Probation of Offenders Act, 1958 (Act 20 of 1958), ss. 3–6, 12, 14.

employment and/or other services under Section 14. Except where adequate and constant supervision and aftercare services are provided to and received by offenders, the objectives of probation, namely, the care, control, and protection of offenders in the community and their reintegration into the family and society, may not be achieved.

Community Service as a Sentence Component has been included in the Bharatiya Nyaya Sanhita, 2023. The key innovation of the said provision is to provide courts a legal alternative to impose community service in cases where a court thinks it is appropriate.[12] Any community service should retain proportionality. There should be adequate legal safeguards to ensure that the person's rights to fair treatment are observed. The Bharatiya Nagarik Suraksha Sanhita, 2023 provides for similar limitation on Undertrial Detention in Section 479.[13]

b. Legal Aid and Juvenile Aftercare

Access to justice is enshrined in Article 39-A of the Constitution of India. The Legal Services Authorities Act, 1987, provides for free legal services to persons in custody.[14] Prisoners should be advised about their release, appeals and other legal processes to help them plan for release and facilitate their reintegration into society. Elsewhere, the Juvenile Justice (Care and Protection of Children) Act, 2015 provides for the post-release care and reintegration of children in conflict with law.[15] While a similar approach may not be applicable for adult offenders, both Acts demonstrate support for rehabilitation and aftercare services beyond prison walls.

c. Model Correctional Framework and International Principles

The Model Prisons and Correctional Services Act, 2023 provides for various welfare and correctional services, including aftercare.[16] Currently, this Model Act is at the stage of being adopted by the states, and consequently, will not apply uniformly throughout the country. As of now, it is up to the states to frame laws and rules on administering prisons. The United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015, recognise the purpose of imprisonment as to prepare an inmate to lead a law abiding and self-supporting life in the society.[17] Rules 87 to 90 suggest that an inmate should be gradually released from custody and aftercare services should be provided. These Rules do not create legally binding obligations. However, they are useful in defining the concept of prison reforms.

d. Judicial Recognition of Open Correctional Institutions

Rama Murthy v. State of Karnataka[18] highlighted inadequate conditions in Indian prisons, and favoured sending more prisoners to open prisons. *Suhas Chakma v. Union of India*[19], decided in 2026, added to this line of cases by ordering authorities to not overcrowd prisons, to make open prisons available to certain prisoners, to set minimum standards for prisons, and to set up mechanisms for State-level supervision of prisons. Open prisons have the potential to empower prisoners by providing a legal means to engage in income-producing activities and by allowing them to interact with the community. Open prisons are appropriate for prisoners for whom such arrangements are legal and for whom the community can be

[12] The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 4.
[13] The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 479.
[14] The Legal Services Authorities Act, 1987 (Act 39 of 1987), s. 12.
[15] The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), ss. 39, 46.
[16] Model Prisons and Correctional Services Act, 2023 (Model Legislation), s. 55.
[17] United Nations General Assembly, "United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)" (Resolution 70/175, December 17, 2015).
[18] (1997) 2 SCC 642.
[19] 2026 INSC 198.

safely protected. Open prisons should be established considering the availability of employment in the community.

SEQUENTIAL REHABILITATION AND SOCIAL REINTEGRATION

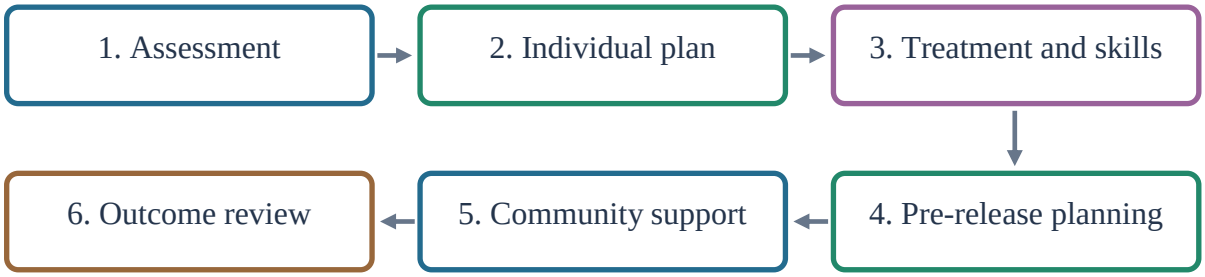


Figure 1: Proposed sequential rehabilitation and social reintegration process

4. STATISTICAL ASSESSMENT OF INDIA'S CORRECTIONAL SYSTEM

Official prison statistics provide an overview of correctional administration. For example,occupancy ratios determine the availability of education and institutional programmes. Decisions regarding classifications and programmes are generally made on the basis of an admission-based count of habitual offenders. The impact of correctional programmes on rehabilitation is difficult to measure and cannot be inferred from these counts.[20]

a. Prison Occupancy and Capacity

The following national year-end figures are reported in Prison Statistics India 2024. Taken together they indicate that prison capacity was increased, while the prison population fluctuated. In 2024, the overall prison occupancy rate was more than 100%. This figure represents the overall prison population was greater than the prison capacity, and was a decrease from the high in 2022.

The data shown in Figur2 2 is reported annually by the National Crime Records Bureau. The data shown represents the last day of each year. The rounded percentage estimates are provided below the data.[21]

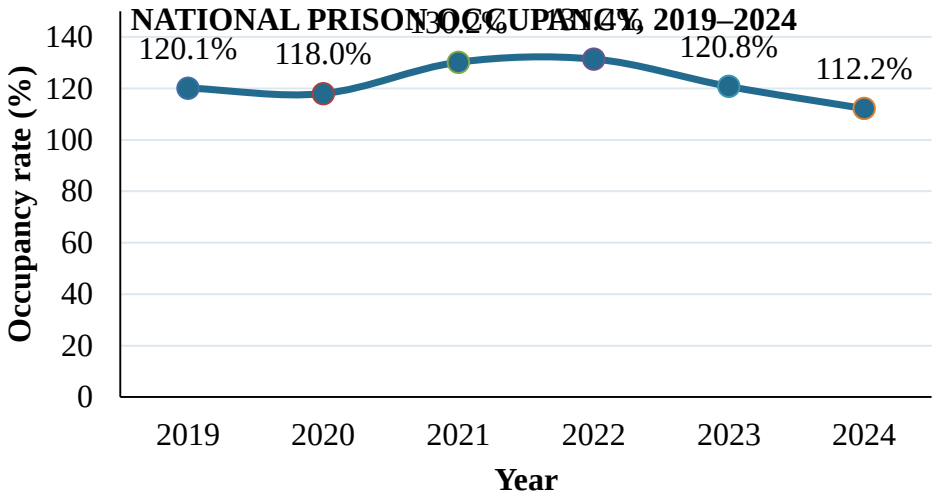


Figure 2: Prison occupancy rates across India, 2019–2024

[20] National Crime Records Bureau, *"Prison Statistics India 2024"* (Ministry of Home Affairs, Government of India, 2026).
[21] National Crime Records Bureau, *"Prison Statistics India 2024"* (Ministry of Home Affairs, Government of India, 2026).

While the overall occupancy rate nationwide fell after 2022, improvements in some states may mask continued overcrowding in others. Overcrowding may adversely affect an inmate's ability to access private or individual counselling and may disrupt the availability of classroom space. Decreases in national occupancy rates should not be presumed to bring about improvements in rehabilitative conditions. Rather, strategies to improve conditions should be informed by an integration of prisoners' rehabilitation programmes and central statistics.[22]

b. Recorded Habitual Offenders and Methodological Caution

For 2024, the National Crime Records Bureau noted 1,966 habitual offenders among 1,40,957 convicts admitted during 2024. This accounts for about 1.4% of the total convicts. The report acknowledges that repeat offenders among undertrials was not included in the report. The term 'convicted admissions' refers to convicted persons admitted to prison during the year, not to persons released after completing their sentences. These admission figures and jurisdictional details cannot, by themselves, estimate the risk of recidivism.

Figure 2 shows selected information from Table 5.5 of the official report. Figures from the report may have been recorded using different definitions and classification standards. As such, differences reported in this analysis should not be interpreted as lack of rehabilitation.[23]

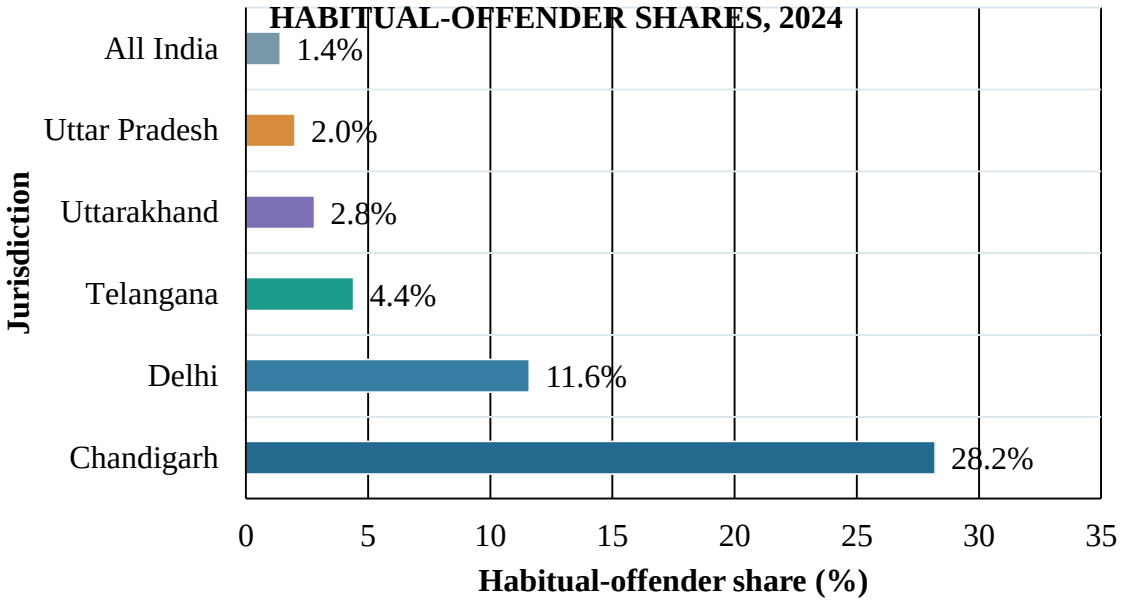


Figure 3: Recorded shares of habitual offenders in selected jurisdictions, 2024

Chandigarh has a higher recorded share of habitual offenders among convicted admissions (28.2%) than the other jurisdictions shown, despite having only 241 convicted admissions. Local differences may be attributed to the nature of crimes committed, the state of policing and the extent to which preventive detention is applied. From a policy perspective, the emphasis should be on improving the process rather than on the targets. Hence, to estimate reconviction rates, there should be commitment to: (i) protect

[22] Francis T. Cullen and Cheryl Lero Jonson, *Correctional Theory: Context and Consequences* 171 (SAGE Publications, Thousand Oaks, 2nd edn., 2016).
[23] National Crime Records Bureau, *"Prison Statistics India 2024"* (Ministry of Home Affairs, Government of India, 2026).

personal information by appropriately trading-off transparency, (ii) ensure regular publication of rates, and (iii) specify the circumstances under which persons are excluded from estimates.[24]

c. Educational Access and Recorded Rehabilitation

The account describes many types of participation in education, including pre-school, continuing, college and computer-assisted education, and vocational training. Increased educational opportunities and vocational training enhance employability and self esteem. A prisoner may participate in many of these activities. The account lacks a uniform basis for comparisons (i.e., the total number of prisoners in each education or vocational training programme). The account does not indicate the percentage of participants completing programmes, or education and training related employment upon release. Therefore, the data primarily reflect administrative activities undertaken by the facility rather than achievement by the inmates.[25]

Programme or assistance	Persons reported, 2024
Elementary education	58,005
Adult education	41,391
Higher education	15,587
Computer courses	9,024
Vocational training	61,902
Convicted persons recorded as rehabilitated	1,698
Persons receiving financial assistance on release	1,038

Table 3: Education, vocational training and recorded rehabilitation assistance during 2024

The data in Table 3 are reported in the Executive Summary and Chapter 10 in the form officially reported. The report does not show that the persons comprising the categories are mutually exclusive.[26]

There are issues related to the transition between vocational training and employment. Employment or training within the prison system may develop skills relevant to the labour market; however, the absence of verified employment references and/or obstructions to employment may undermine considerations for release. The small number of recorded cases of direct release support indicates a strong need for aftercare support; however, it is inconclusive as to why some individuals do not receive aftercare support, e.g. it may only monitor some support programmes.[27]

d. Specialist Personnel and Budgetary Priorities

Planning the treatment of an incarcerated person and evaluating their risks requires an understanding of that person's case and situation. The reported anticipated and actual strengths for 2024 show significant deficits in management and specialist positions. It's possible that inadequate staffing will compromise the availability of counselling, welfare, and psychiatric services.[28]

[24] Francis T. Cullen and Cheryl Lero Jonson, *Correctional Theory: Context and Consequences* 2 (SAGE Publications, Thousand Oaks, 2nd edn., 2016).
[25] Rani Dhavan Shankardass (ed.), *Punishment and the Prison: Indian and International Perspectives* 112 (Sage Publications, New Delhi, 1st edn., 2000).
[26] National Crime Records Bureau, *"Prison Statistics India 2024"* (Ministry of Home Affairs, Government of India, 2026).
[27] Christopher Uggen, "Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism", 65 *American Sociological Review* 529 (2000).
[28] Francis T. Cullen and Cheryl Lero Jonson, *Correctional Theory: Context and Consequences* 223 (SAGE Publications, Thousand Oaks, 2nd edn., 2016).

Personnel category	Sanctioned	Actual	Vacancies
All prison staff	99,761	62,944	36,817
Correctional staff	1,530	784	746
Medical staff	3,827	2,041	1,786

Table 4: Selected sanctioned and actual prison personnel, 31 December 2024

Vacancies are defined as the difference between sanctioned posts and filled posts, and are determined by the National Crime Records Bureau. Tallying the numbers in various categories is not valid because vacancies at lower levels may be lumped with vacancies at higher levels.[29]

As of the end of the year, nearly half of the sanctioned correctional positions were not filled. The National Crime Records Bureau reports that during the financial year 2024-2025, about 9.15 crore rupees was spent on vocational and educational training as opposed to about 1,520 crore rupees that was spent on food. Food and training cannot be viewed in the context of trade-offs, that is, that food can be replaced with training. The report suggests that funds are distributed based on recognised needs and that the impact of protected programmes is assessed.

e. Open Institutions and Transitional Capacity

Prisons with increasing levels of freedom grant still greater opportunities to prepare inmates for life outside prison. The 2024 report recorded 103 open prisons. Occupancy in open prisons was considerably lower than in central or district prisons. This is most likely due to the limits on the inmate populations permitted in open prisons. Not all inmates are eligible for placement in open prisons, and practical constraints may limit the transport of inmates to and from these facilities.[30]

The categories included in the National Crime Records Bureau Report, Chapter 1, provide institution-specific details. These categories represent various security functions and cannot be assessed or compared with each other.[31]

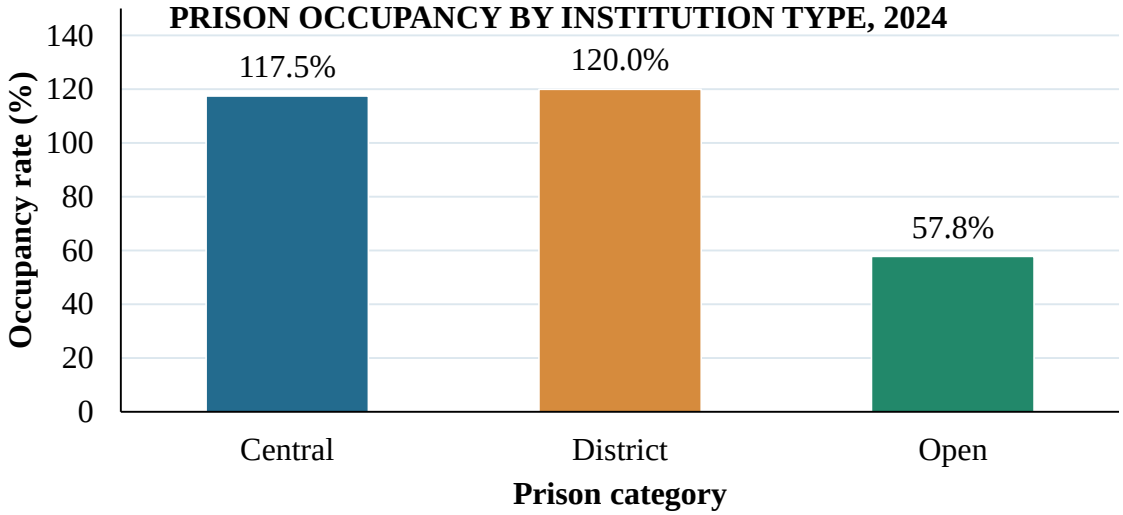


Figure 4: Occupancy rates by selected institution type, 2024

[29] National Crime Records Bureau, *"Prison Statistics India 2024"* (Ministry of Home Affairs, Government of India, 2026).
[30] Joan Petersilia, *When Prisoners Come Home: Parole and Prisoner Reentry* 93 (Oxford University Press, New York, 1st edn., 2003).
[31] National Crime Records Bureau, *"Prison Statistics India 2024"* (Ministry of Home Affairs, Government of India, 2026).

The contrast suggests that the Court is correct to be concerned about empty space in correctional facilities. It also suggests that it may not always be the case that excess space is available to house excess prison populations. There may be a requirement for a screening process by trained personnel and adequate community resources. In such cases, the decision not to grant an offender's request for release should be made public, along with the reasons for the decision.[32]

5. CHALLENGES OF REHABILITATION AND SOCIAL REINTEGRATION

Successful reintegration into the community requires a number of supports after release. These supports should be in place before release to ensure that the release does not negatively impact the individual. The following conditions should be considered relational. The absence of one or more conditions may increase the likelihood of recidivism.[33]

a. Stigma, Family Relations and Community Acceptance

Family and community members often have a difficult time trusting people who have been released from prison. Barriers to employment and concerns related to financial and emotional security of children can negatively affect family reunification. Alternatively, contact with family can assist with the reestablishment of a support system. While children often benefit from visiting parents in prison, the benefits of contact between imprisoned parents and children diminish as the distance increases. Difficulty in making prison visits is often compounded by the emotional and financial costs.[34]

b. Employment Exclusion and Economic Vulnerability

While legislation may not specifically ban the employment of ex-offenders, a criminal record can adversely impact post-release employment. Deficits in a potential employee's work history can raise questions about an applicant's reliability. A job applicant may appear to be highly skilled, but potentially threatening to other employees. An employer is justified in having such concerns and may consequently, fail to hire the ex-offender. In the interests of public protection, the employer may also be justified in refusing to employ the applicant. However, policies and practices should recognise the right of citizens to be employed and to be economically self-sufficient.[35]

c. Mental Health, Addiction and Continuity of Care

Certain risk factors related to psychological well-being (e.g. psychological distress, substance dependence, and untreated illness) can affect successful reintegration; however, they do not necessarily indicate dangerousness. Appropriate assessment and intervention (including referrals to health services) should be undertaken. Insufficient correctional staff can adversely impact the provision of health services and reintegration support within prisons. Individualised release plans should incorporate the ongoing provision of health services, support, and medication. Release plans should be balanced with respect to the requirements to provide appropriate services to women, the elderly and persons with disabilities.[36]

---

[32] 2026 INSC 198.
[33] Shadd Maruna, *Making Good: How Ex-Convicts Reform and Rebuild their Lives* 85 (American Psychological Association, Washington, D.C., 1st edn., 2001).
[34] Jeremy Travis, *But They All Come Back: Facing the Challenges of Prisoner Reentry* 119 (Urban Institute Press, Washington, D.C., 1st edn., 2005).
[35] Christopher Uggen, "Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism", 65 *American Sociological Review* 529 (2000).
[36] Christy A. Visher and Jeremy Travis, "Transitions from Prison to Community: Understanding Individual Pathways", 29 *Annual Review of Sociology* 89 (2003).

d. Fragmented Aftercare and Administrative Documentation

Many former prisoners must suddenly find ID, a place to live, transportation, and other means to support themselves after release. Responsibility to provide these normally shifts to the individual, who then must interact with many different officials to receive aftercare services. Aftercare should name a contact person and provide a case record to outline the services and people who should provide them. Aftercare services must remain voluntary and not be part of an individual's release condition and surveillance. The lack of available financial assistance mandates an evaluation of the services and the people who provide them.[37]

e. Gender, Caste and Unequal Access

Equality applies to treatment concerning access to reformative measures and options. Discrimination on the basis of caste or assumed traits of communities violates dignity and accurate legal classification. Women tend to experience barriers to employment and family responsibilities (including care responsibilities) and stigma in different ways, particularly in the case of penitentiary institutions predominantly housing males. The judgments of the Supreme Court have recognised these situations and requirements. Prison authorities should take these into account. Implementation should include, inter alia, adequate programmes, motivated decisions, remedies and complaints procedures, as well as disaggregated participation in prison activities and services, in order to safeguard the privacy of persons.[38]

f. The Data Gap and Risks of Misleading Performance Claims

Tracking enrolment and attendance provides little insight into a service user's post-release circumstances. Without benchmarks for a release cohort, it is inappropriate to attribute changes in recidivism to the employment of a specific service. Ethically and appropriately conducted follow-up evaluations should examine the integration of services, the client's needs, and outcome effectiveness. Limitations due to administrative and statistical reasons should be openly addressed. The histories of research participants should not be disclosed. Criminal histories of research participants, for instance, should not be made publicly available.[39]

6. CRITICAL ANALYSIS

Constitutional changes for more humane treatment in prison systems have been established. It is important to understand whether legal requirements, limited administrative resources and reasonable objectives can be developed to address correctional needs. This must be accomplished while safeguarding the interests of the public, including prison staff.[40]

a. Reformative Ideals versus Operational Capacity

The judiciary acknowledges the need for dignity and reform, but sweeping statements, in and of themselves, will not construct treatment facilities, train staff or provide aftercare. The absence of counsellors and therapists means that even when courts order treatment and aftercare, it is not provided. Discrimination in the criminal justice system can be definitionally broad; however, the systems ability to respond in a substantive manner to remedy the discrimination is highly constrained. To ensure that sustainable treatment and aftercare services are available, the state must appropriate the necessary funds,

[37] Jeremy Travis, *But They All Come Back: Facing the Challenges of Prisoner Reentry* 219 (Urban Institute Press, Washington, D.C., 1st edn., 2005).
[38] 2024 INSC 753.
[39] Francis T. Cullen and Cheryl Lero Jonson, *Correctional Theory: Context and Consequences* 2 (SAGE Publications, Thousand Oaks, 2nd edn., 2016).
[40] Rani Dhavan Shankardass (ed.), *Punishment and the Prison: Indian and International Perspectives* 49 (Sage Publications, New Delhi, 1st edn., 2000).

and staff these positions in accordance with predetermined targets. Compliance with orders to provide treatment and aftercare must be evaluated based on the existing capacity of the prison, including smaller district facilities.[41]

b. Public Safety and the Limits of Individual Prediction

Public safety should be the primary consideration in making decisions about parole and probation. Using inflexible limits based on offence categories can work against an offender's rehabilitation. For example, an offender's risk may have been accurately assessed, but decision records may state an adverse decision was based on reasons that do not exist in reality. On the other hand, conviction does not necessarily mean the individual remains a danger to the public. An offender cannot be considered to have desisted from crime just because his risk level has been assessed as "low." Restricting public safety by imposing "timeout" periods can encourage rehabilitation and the public's safety and confidence.[42]

c. Comparative Evidence without Uncritical Transplantation

Studies completed internationally demonstrate improved educational attainment and visits, particularly within the last year of an offender's sentence, and facilitate positive post-release adjustment. Variability occurs across jurisdictions. Innovations and strategies implemented internationally are often not contextually transferable. Given variation across the Indian legal, socio-economic and labour systems and markets, it would be speculative to apply international figures and target reductions in recidivism. Rather, it is prudent to implement evidence-based strategies and initiatives, and substantively assess them in India.[43]

d. Federalism, Implementation and Accountability

Differences in how States administer prisons prevent the adoption of uniform prison administrations. Courts encourage improvements in prison administrations. States are able to maintain control over their prison administrations by applying these minimum court-mandated improvements. National standards allow for the comparison of prison administrations. The Constitution of India protects against arbitrary and degrading treatment in custody and therefore establishes a national constitutional standard. Federal and national laws could require all States to apply standards over prison administrations.[44]

COORDINATION HIERARCHY FOR CORRECTIONAL AFTERCARE



Figure 5: Proposed coordination hierarchy for correctional aftercare

[41] Francis T. Cullen and Cheryl Lero Jonson, *Correctional Theory: Context and Consequences* 171 (SAGE Publications, Thousand Oaks, 2nd edn., 2016).
[42] Jeremy Travis, *But They All Come Back: Facing the Challenges of Prisoner Reentry* 87 (Urban Institute Press, Washington, D.C., 1st edn., 2005).
[43] Christy A. Visher and Jeremy Travis, "Transitions from Prison to Community: Understanding Individual Pathways", 29 *Annual Review of Sociology* 89 (2003).
[44] The Constitution of India, arts. 14, 21.

7. FINDINGS

The analysis establishes the following specific doctrinal and institutional findings.

1. **Measurement Defect:** The habitual-offender policy defines a habitual offender as someone convicted a minimum of three times. It does not account for what happens after a person is released. As such, it cannot be used to evaluate the national crime prevention policy.
2. **Persistent Capacity Pressure:** Although average occupancy for 2024 was 112.2%, which is above total capacity, it is important to analyse occupancy at the site level. Such analysis may uncover extreme conditions for education, counselling, and living services.
3. **Specialist Staffing Shortfall:** As of the end of 2024, only 784 of 1,530 authorised positions in correctional facilities were reported to be staffed. This creates a significant shortfall in the capacity to evaluate and oversee the supervised progress of clients.
4. **Uncertain Programme Outcomes:** Education and vocational counts show activity, but not the number of individuals served uniquely or the post-release outcomes. Without follow-up records, it will be impossible to compare programmes or determine their quality and effectiveness.
5. **Underused Open Institutions:** Reported occupancy rates for open prisons was lower compared to central and district prisons. While the number of beds available may suggest capacity, eligibility and access along with governance ultimately dictate if spare capacity exists for reintegration.
6. **Equality-Based Correctional Duty:** The Supreme Court has prohibited caste-based discrimination in prison classification and directed that references to habitual offenders comply with definitions under applicable State legislation. Prison classifications must therefore comply with constitutional equality guarantees and applicable law.
7. **Fragmented Release Support:** The effects of the released financial assistance are limited compared to the yearly transfers of prisoners. The data provided does not show the complete requirement for and accessibility of integrated aftercare services.
8. **Implementation Dependence:** There are judicial standards requiring the adoption of administrative rules to be implemented by a State's correctional agencies to effectuate the desired changes brought about by model correctional legislation.

8. CONCLUSION

The term "recidivism" describes the repetition of a crime by an offender. It is not a description of an individual's personal identity. Classifying individuals as "habitual offenders" by administrative order has little to no correlation with determining the likelihood of future criminal behaviour. The correctional statistics and reports, mainly, indicate a lack of prison capacity, staff shortages and post-release support, and do not show the influence of correctional interventions. Effective correctional policy requires analysis of results and avoids assuming that participation in a correctional programme equals desistance.

Indian constitutional law also endorses this position. Reformative sentencing and the avoidance of custodial cruelty entail that sentencing authorities should not treat prisoners in an undignified or harsh manner. Classifying prisoners in an open prison does not remove the obligation to provide for the safety of the community. The obligation to provide community safety is as important as the obligation to administer a sentence. To reconcile the two, protective measures and prison programmes should be designed rationally and offered to all prisoners. These programmes and measures should be concomitant with community safety.

This study argues that the responsibility for offender reintegration should begin at the assessment for admission to prison and continue beyond release to ensure a stable environment. Employment and other positive activities should be reintegrated along with family and social contacts. Reintegration should be achieved through a coordinated effort of the state and local agencies. The study suggests that the best way to protect the social safety net and guarantee that imprisoned persons have the opportunity to make something of themselves is to ensure that the imprisoned individuals are monitored throughout the period of their incarceration and that meaningful interventions are made to protect that opportunity.

9. SUGGESTIONS

The following measures respond directly to the identified legal, statistical and institutional deficiencies.

1. **Adopt a Standard Recidivism Definition:** The Ministry of Home Affairs and prison departments should agree on standard definitions for re-arrest, reconviction and reincarceration. Transparency in reporting release cohorts, observation periods and the reasons for excluding individuals from national reports, would enable comparative analyses to be made.
2. **Create Privacy-Protective Release-Cohort Monitoring:** States should create secure, restricted systems to link release information to subsequent offences. States should make de-identified aggregate information on offenders available on a routine basis, e.g. the number and/or rate of returns to custody within 1, 2, and 3 years.
3. **Fill Specialist Correctional Vacancies:** Prioritising appointments to sanctioned posts for Probation, Welfare, Psychological and Medical services, is the immediate concern of the States. Periodic statements regarding vacancies and service coverage should be issued along with prisons' periodic reports.
4. **Introduce Individual Rehabilitation Plans:** prisons should appraise inmates' educational, medical, familial, and occupational concerns and formulate plans to address them. Plans should be revised regularly. The decisions concerning an inmate's participation in a given activity, and/or his/her eligibility to engage in such activity should be communicated to the inmate. Decisions should be subject to review in the grievance process.
5. **Recognise and Certify Prison-Based Skills:** State correctional departments should team up with accredited training providers to offer offenders the opportunity to gain portable qualifications. Pre-release programmes should include support in finding employment, rather than only offering the opportunity to attend training.
6. **Guarantee Structured Pre-Release Planning:** Transition arrangements should begin well in advance of the legal release date from custody. Arrangements should include relevant documentation and provision for healthcare needs.
7. **Expand Fair Access to Open Correctional Institutions:** States should implement the Supreme Court's directives on women's eligibility for transfer to open correctional institutions, their access to those institutions and the effective utilisation of available capacity. Rejection or transfer decisions should be individualised and reviewed periodically.
8. **Support Family and Community Contact:** Prison authorities must offer affordable and safe visitation options, including remote visitation. Hardships created by distance must be considered. Domestic violence must be considered, as well as the wishes of victims.
9. **Integrate Health and Aftercare Services:** State prison and health and social welfare departments should reach agreement on protocols to ensure release, consent and referrals to District Services. The

provision of medication, treatment and counselling services in the immediate post release period should be guaranteed.

10. **Evaluate Programmes Independently:** University, state government and legal services programmes should evaluate their programmes using comparable outcomes and ethical check and balances. Reports of evaluation should differentiate involvement, completion, employment and post-programme convictions and should not overstate or attribute programme outcomes to other factors.\

BIBLIOGRAPHY

PRIMARY SOURCES

Statutes

1. The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023)
2. The Bharatiya Nyaya Sanhita, 2023 (Act No. 45 of 2023)
3. The Constitution of India, 1950
4. The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act No. 2 of 2016)
5. The Legal Services Authorities Act, 1987 (Act No. 39 of 1987)
6. The Model Prisons and Correctional Services Act, 2023
7. The Probation of Offenders Act, 1958 (Act No. 20 of 1958)
8. The United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015 (General Assembly Resolution 70/175)

SECONDARY SOURCES

Books

1. Cullen, F. T. and Jonson, C. L., Correctional Theory: Context and Consequences (SAGE Publications, Thousand Oaks, 2nd edn., 2016).
2. Maruna, S., Making Good: How Ex-Convicts Reform and Rebuild their Lives (American Psychological Association, Washington, D.C., 1st edn., 2001).
3. Petersilia, J., When Prisoners Come Home: Parole and Prisoner Reentry (Oxford University Press, New York, 1st edn., 2003).
4. Shankardass, R. D. (ed.), Punishment and the Prison: Indian and International Perspectives (Sage Publications, New Delhi, 1st edn., 2000).
5. Travis, J., But They All Come Back: Facing the Challenges of Prisoner Reentry (Urban Institute Press, Washington, D.C., 1st edn., 2005).

Articles

1. Uggen, C., "Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism", 65 American Sociological Review 529 (2000).
2. Visher, C. A. and Travis, J., "Transitions from Prison to Community: Understanding Individual Pathways", 29 Annual Review of Sociology 89 (2003).

Reports

1. National Crime Records Bureau, "Prison Statistics India 2024" (Ministry of Home Affairs, Government of India, 2026).
2. United Nations General Assembly, "United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)" (Resolution 70/175, December 17, 2015).