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Open Prison Systems in India: Law, Effectiveness, and Their Contribution to Penal Reform

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Abstract

This paper critically examines the legal framework, effectiveness and reformative potential of open prisons in India. It is situated against the backdrop of a chronically overcrowded and under-resourced prison system, where constitutional mandates of dignity, equality and humane treatment are frequently compromised, and where expert committees have projected open correctional institutions, policymakers and courts as a key reform strategy. Focusing on the interaction between constitutional norms, central and state legislation, model instruments such as the Model Prison Manual 2016 and the Model Prisons and Correctional Services Act 2023, and leading judgments including Rama Murthy v. State of Karnataka and Suhas Chakma v. Union of India, the study interrogates how open prisons are conceptualised in law and the extent to which they have been meaningfully integrated into India's correctional landscape.

Employing a doctrinal methodology, the research undertakes a detailed analysis of constitutional provisions, statutes, rules, prison manuals, model frameworks and judicial decisions to map the normative architecture of open prisons and to identify internal inconsistencies, normative tensions and implementation gaps. This doctrinal inquiry is contextually informed by secondary empirical material and policy reports on the distribution, occupancy and functioning of open prisons in selected states especially Rajasthan and Maharashtra where the model has been comparatively more developed, and contrasted with states where such institutions remain peripheral or non-functional. Through this combined doctrinal–policy analysis, the dissertation evaluates whether open prisons in India have in practice advanced stated goals of decongestion, rehabilitation and social reintegration, or whether restrictive eligibility criteria, administrative reluctance and structural inequalities have confined them to marginal, exceptional spaces within a predominantly custodial system.

The study argues that open prisons are not merely managerial responses to overcrowding, but sites where core constitutional values of dignity, equality and substantive due process must be operationalised in concrete institutional form. It contends that the uneven and exclusionary implementation of the open prison model across states raises serious questions of arbitrariness and indirect

discrimination, particularly with respect to women prisoners and other marginalised groups. The dissertation concludes by offering a set of legal and policy recommendations aimed at harmonising state frameworks with model instruments and constitutional standards, widening and rationalising eligibility criteria, enhancing transparency and accountability in selection and supervision processes, and embedding open prisons more centrally in a graded, rights-based correctional system. In doing so, it seeks to contribute to contemporary debates on prison reform in India and to re-imagine open prisons as integral components of a humane and constitutionally grounded penal policy.

Introduction

The Indian prison system is at a critical juncture, marked by chronic overcrowding, underfunding, and wide inter-state disparities in infrastructure and correctional practices. Recent data placed the overall occupancy rate of Indian prisons at around 120.8 per cent, with several regions exceeding 150 per cent, signalling a structural crisis rather than a temporary aberration. Overcrowding, coupled with delays in trial, poor living conditions, and inadequate access to healthcare and legal aid, has repeatedly attracted judicial censure and human rights criticism. Within this troubled landscape, open prisons or open correctional institutions (OCIs) have emerged in policy and jurisprudence as a key reformative alternative one that promises to decongest prisons while aligning punishment with the constitutional vision of dignified treatment and rehabilitative justice.

Open prisons, sometimes described as minimum-security prisons, open-air camps or "prisons without bars", are institutions where security rests more on trust, responsibility and self-discipline than on walls, cells and armed guards. They allow selected prisoners to live in relatively non-custodial, community-like settings, often with the opportunity to work, earn wages, maintain family contact, and participate in education or vocational training, subject to specified conditions. In India, the open prison model has developed unevenly across states, with Rajasthan and Maharashtra together accounting for a disproportionate share of such institutions and their inmate population. One study tells that there are about 69 open jails in the country, of which Rajasthan has 29 and Maharashtra 13, and that nearly 60 per cent of prisoners housed in open prisons are concentrated in these two states. Simultaneously, many states have formally established open prisons that remain under-utilised, reflecting a gap between legislative or policy intent and actual implementation[1].

The legal and policy framework governing prisons in India remains rooted in the colonial Prisons Act, 1894 and the Prisoners Act, 1900, supplemented by state prison manuals and rules that vary significantly from one jurisdiction to another.

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[1] KNOBLAUCH, JOY. "Open Prisons: Dematerialization of The Building but Not the Architect." The Architecture of Good Behavior: Psychology and Modern Institutional Design in Postwar America, University of Pittsburgh Press, 2020, pp. 97–129. JSTOR, https://doi-org.rgnul.remotexs.in/10.2307/j.ctvzgb8dq.7. Accessed 13 Apr. 2026.

Recognising the antiquated nature of this framework, the Union government and various expert bodies such as the All-India Committee on Jail Reforms (Mulla Committee) and the Justice Krishna Iyer Committee have repeatedly recommended a shift from purely custodial to correctional and community-based models of incarceration, including graded custody and open institutions. In response to these recommendations and to judicial directions, the Ministry of Home Affairs issued the Model Prison Manual 2016, which seeks to harmonise state prison laws and explicitly promotes graded custody and open institutions as key mechanisms of reformation and rehabilitation. More recently, the Model Prisons and Correctional Services Act, 2023 has been framed to replace the outdated 1894 legislation and to embed correctional and rehabilitative principles more firmly in statutory form, including provisions for open and semi-open institutions.

The Supreme Court has played a pivotal role in foregrounding the rights of prisoners and positioning open prisons within a constitutional framework of human dignity, equality and non-arbitrariness. In Rama Murthy v. State of Karnataka[2], the Court identified nine systemic problems afflicting Indian prisons, including overcrowding, delay in trial, torture, neglect of health and hygiene, and lack of rehabilitative opportunities, and underscored the need for comprehensive reforms, explicitly endorsing the expansion of open-air prisons. The Court observed that open-air prisons are financially less costly than closed institutions and better suited to ensure that prisoners emerge as reformed individuals rather than hardened offenders, recommending that such institutions be established at least at all district headquarters. This jurisprudential trajectory has been carried forward and deepened in subsequent decisions that treat prison reform, including the establishment of open prisons, not as a matter of executive grace but as a constitutional obligation under Articles 14, 15 and 21[3].

Open Prisons System: Definition and Status

According to Black's Law Dictionary, — A prisoner is a person who is deprived of his liberty; one who is against his/ her will kept in confinement or custody. A person restrained of his liberty upon any action, civil or criminal.

According to Merriam Webster Dictionary, —open prison is a prison in which prisoners are allowed more freedom than in other prisons a minimum-security prison.

[2] 1997 (2) SCC 642

[3] LEITCH, A. "The Open Prison." The British Journal of Delinquency, vol. 2, no. 1, 1951, pp. 25–33. JSTOR, https://www-jstor-org.rgnul.remotexs.in/stable/23640353. Accessed 03 Mar. 2026.

According to Collins Dictionary, —an open prison is a prison where there are fewer restrictions on prisoners than in normal prison.
Open prison or prison without bars is the other name for a minimum-security prison. The true measure of the openness of any open prison should be where authority and management are transferred to the inmates.

The level of freedom from physical constraints is minimum. It means that a prison is open and is depended on these four different aspects:

(i) Open to prisoner's i.e. inmates can go outside during the day time but must return by the evening in prisoners open air camp,
(ii) Open in security is free, i.e., there is no safeguards to escape, such as walls, doors, locks, and armed guards inside the open-air camp of prisoners.
(iii) Open to organizational transparency is focused on the self-responsibility, self-discipline, and self-government of prisoners; and
(iv) Open to the public, i.e., people can visit the prison and meet prisoners inside the prisoners open air camp.

The aim of establishing open prisons for the convicts is to reduce overcrowding of prison, encourage good behavior, train in self-confidence, provide secure permanent jobs for public works, prevent discontent, provide hope for convicts facing long-term imprisonment, train in life skills, explore suitability of releasing prisoners in society and enable prisoners to live with their family members.

The Concept and Working of Open Prison in India

The open prison is based on the accepted fact that not every convict should be sent to a prison. The 1955 United Nations Convention on the Prevention of Crime and Treatment of Offenders in Geneva described the open prison as follows: —The absence of physical or material safeguards against escapes (walls, locks, bars, armed or speeded security guards) and an autonomous system of duty to the which community are characteristic of an open prison.
The idea behind encouraging open prison system is to help the prisoners align and socialize with the external world, rehabilitate and reform in order to adjust to the external environment once the imprisonment term is over. However, depending on the award of sentence and prevalent laws, a prisoner who was sentenced to life imprisonment in prison, may be granted confinement in an open-air prison[4].
Further, the prisoners who have already spent the majority of their term of imprisonment in a closed prison and have shown good behavior during this period, should be are eligible for open prisons. In open prisons, minimum

[4] H. M., and Hugh J. Klare. "Prison Reform." The British Journal of Delinquency, vol. 7, no. 2, 1956, pp. 148–51. JSTOR, https://www-jstor-org.rgnul.remotexs.in/stable/23640629. Accessed 8 Apr. 2026.

protection is ensured, and inmates can participate in different jobs, which can help them in earning a livelihood like farming.

Need of Open Prison

The following factors should be considered for creating open prisons:

1. To ensure that these walled entities have less congestion than closed ones, i.e. there should be no overcrowding.
2. To ensure that the prisoners use more natural resources and not increase domestic demand.
3. Preserve a safe and free environment to allow prisoners to feel free to become a reformed person and change their attitude towards society.
4. To decrease the amount spent on the prison security arrangements. In an open prison, the security provisions are just minimum, and thus there are fewer expenses.

Philosophy of Open Prisons

The concept of open prison should be treated as a disciplinary solution before expecting a change in the behavior of inmates. The evaluation of open prison system can be based on the following:

A. Basic Philosophy of open-prisons
B. Advantages of Open prisons
C. Open prison as a crime prevention tool

A. Basic Philosophy of Open Prisons

(i) This framework allows the prisoner to enjoy his fundamental rights without any violation. Such attributes make the open correctional institution different from other systems.

(ii) The open prison correctional institution should be independent theoretically, but it may be a part of another institution e.g. a supplementary building.

(iii) Prisoners may be sent at the beginning or after serving a part of the imprisonment in a separate facility as per the prison system of each country.

(iv) The criterion for selecting prisoners for admission to an open prison system should not be dependent on the specific category of offender (penal or correctional) or even the duration of sentence, rather the capacity of the open prison. It is important to emphasise that social readjustment is more likely to be achieved through this system rather than the other prison system. A medico psychological test and a social investigation should be conducted to select the prisoners as much as possible for moving to open prison system.

(v) Any prisoners who are unable to adjust to open prison care or whose conduct may cause significant harm to the open prison system or has adverse impact on the behavior of fellow prisoners should be moved to a different form of facility and not retained in open prison system.

(vi) The effectiveness of an open correctional prison system depends on the fulfillment of the following conditions:

The Indian Penal Code, 1860

The Indian Penal Code was drafted by the First Law Commission, chaired by Lord Macaulay and three commissioners Macleod, Anderson, and Millet. The law commission was formed in 1834 to research the jurisprudence, powers, and rules of the courts and police forces. Before the Commission, Lord Macaulay noted

> *"I have no idea that no country has ever had such a need for a law code like India, and I also believe that there has never been a country in which the desire could be supplied so easily. Our theory is simply this-uniformity when it is possible; variety when it is required, but certainty in all situations."*

They drew upon the English laws, Indian laws, the Louisiana Code, and Napoleon Code of Livingstone and regulations. In the drafting of the Criminal Code in 1837, the Commission drafted the Indian Penal Code too. The Code was reviewed in 1847 by another Commission. The Code was then updated but was not put before the Legislative Council until 1856 when two Governor-General, who were members of the Council of India, updated the Code. After the approval of the Governor-General on October 6, 1860, it finally came into force.

While posterity hailed Macaulay's Code as a beautiful work, many people were critical of it, too. Rankin, for example, stated –

"The criminal Code is one of Indian Legislature's most praised acts and has served its goal quite well despite many of its shortcomings. It is hardly possible to say that his sentences are other than monstrous. Today, no civilized country imposes such heavy penalties as the penal Code. The hard sentences in England have long gone out of fashion, and the smell for sainthood and purity synonymous with the Penal Code does not diminish indigenous legislative bodies' desire to fully reconsider the sentences and put them into line with current civilized norms.' "To date, there is no opposition from the Muslim legal counsel of 1860, when the penal code was enacted." "Eastern Bengal is saying that each little herd boy has a red shadow under one arm and a copy of the penal Code under the other."

Muslim jurists have shown tremendous respect for the Shariah laws throughout history. We witness many occasions where they raised their voices when a king tried to take some action against the Shariah law. Thus, it remains a mystery as to what stopped them from raising any opposition in implementing the Penal Code. We find several similarities in the concept and practices of Islamic criminal law in Tazir in the Penal Code provisions, which may be the reason for the same. It is

often alleged that Islamic criminal law without some rules of qisa and diya and hadd is at the root of the penal Code of 1860[5].

The Model Prison Manual, 1860

The Indian Government appointed an all India Prison Manual Committee in 1857 that drafted the Model Prison Manual, which came into being in 1860.8 The manual became a model for various Indian States and Union Territories to adopt their new prison handbook. It contains the following provisions:

(i) Recruitment / personnel selection
(ii) Discipline of the staff
(iii) Staff welfare
(iv) Admission of a prisoner‘s separation preparation for institutional adjustment
(v) Units of reception
(vi) Quarantine intervals
(vii) Study of Inmates
(viii) Higher education, work, leisure
(ix) Inmate Classification

The Prisons Act, 1894

The Prisons Act of 1894 underlined the current administration and management of the prison in India. There has been no substantive reform to this Act. But, even after that, the review cycle of prison problems in India persisted. In the 1919-20 Indian Prison Committee report, the prison administrators ‘objectives were identified for the first time in prisons history as the offenders’ reforms and rehabilitation. Several central and state-owned committees and commissions have highlighted the humanization of prison conditions. There is an intense focus on the need to reform and simplify the prison rules.

In 1935, the Government took the subject matter from the central list under local jurisdiction, thereby further diminishing the likelihood that prisons could be systematically enforced on the national level. The states ‘administrations also have their guidelines on day-to-day prison management, prison care, and procedures. In 1951, the Indian Government appointed Dr. W.C. Reckless, United Nations corrections consultant, to research the prison system’s management and recommend policy reforms. His research entitled ‘Indian Prison Administration called for prisons to be turned into rehabilitation centers. The Review of Old Prison Manuals was also recommended. In 1952, Dr. Reckless’s

[5] Bhandari, Asha. “Women Prisoners and Their Dependent Children: A Study of Jaipur and Jodhpur Central Jails in Rajasthan.” Sociological Bulletin, vol. 65, no. 3, 2016, pp. 357–79. JSTOR, https://www-jstor-org.rgnul.remotexs.in/stable/26369541. Accessed 13 Apr. 2026.

recommendations concerning prison reform were also supported by Prison Inspectors General's eighth conference. [6]

Conclusion

The conceptual journey of punishment in India has transitioned from a rigid, colonial-era retributive framework toward a progressive, humanitarian reformative model. Historically, the retributive theory of punishment was the dominant paradigm, encapsulated by the doctrine of *lex talionis*—the law of retaliation. This approach viewed punishment as a moral payback, emphasizing that the offender deserves to suffer in proportion to the harm they caused. The Indian Penal Code (IPC), formulated during British rule, reflects these retributive roots through its system of graded punishments, where severe sentences such as life imprisonment and the death penalty were intended to enforce moral accountability and provide victims with a sense of justice. However, contemporary criminologists and the Indian judiciary have increasingly identified the limitations of retribution, arguing that it often descends into mere vengeance and fails to address the underlying causes of criminal behavior. Parallel to retribution, the deterrent and preventive theories have also shaped Indian prison legislation. The deterrent theory seeks to use punishment as a warning to the general public, while the preventive theory focuses on disabling the offender through incapacitation—typically by locking them away behind high walls and iron bars. While these theories aim to protect society, they often overlook the psychological and social health of the incarcerated individual. In contrast, the reformative theory represents a fundamental shift in thinking; it views the offender as a person capable of transformation. This philosophy treats the criminal rather than just the crime, seeing the individual as a "sick" person who deserves treatment in the form of rehabilitation. Open prisons emerged as the most practical and sophisticated experiment of this reformative philosophy.

The transition to reformative justice is also supported by the concept of restorative justice, which focuses on repairing the harm caused by the crime and making the victim whole. Open prisons, or "prisons without bars," function as a bridge between the total isolation of traditional jails and the free society. They are designed to mitigate the phenomenon of "prisonization," which refers to the negative psychological impacts of institutionalization, such as the loss of agency and the hardening of criminal tendencies. By providing a semi-free environment, open prisons allow inmates to maintain self-discipline, engage in productive labor, and sustain family ties, all of which are critical for social reintegration. The origins of the open prison system in India can be traced back to 1905, when the first open facility was established in the Bombay Presidency. During this early stage, the primary objective was not necessarily reformation but the utilization of

[6] Ezrachi, Ariel, and Jiøi Kindl. "Criminalization of Cartel Activity – A Desirable Goal for India's Competition Regime?" National Law School of India Review, vol. 23, no. 1, 2011, pp. 9–26. JSTOR, https://www-jstor-org.rgnul.remotexs.in/stable/44283736. Accessed 13 Apr. 2026.

prisoners as unpaid labor for public works projects. However, the concept evolved significantly in the post-independence era, as constitutional values of human dignity began to permeate prison administration. The first open prison annexe in independent India was set up in Lucknow, Uttar Pradesh, in 1949. This was followed by a full-fledged open facility in 1953, where inmates were engaged in the construction of the Chandraprabha dam. This project was so successful that it inspired the then-Chief Minister of Uttar Pradesh to announce that all such camps would be named after Dr. Sampurnanand, a pioneer of the movement.
In 1952, the Hague Conference further solidified the international standing of open-air camps, proposing them as a means for prisoners to lead a "near-community life" after completing a portion of their sentences. In India, the All India Jail Committee of 1836 had initially explored the idea, but it was the 1956 All-India Committee on Jail Reforms that truly laid the groundwork for modern facilities. The most influential body, however, was the Mulla Committee (1980-83), which advocated for the nationwide expansion of open prisons, citing their role in reducing overcrowding and facilitating re-socialization. The development of the Sanganer Open Air Camp in Rajasthan in 1963 marked a turning point in Indian penology. Known as the Sampurnanand Khula Bandi Shivir, it introduced the revolutionary concept of allowing inmates to live with their families while serving their terms. This model recognized that the "temptation" of living with family is the greatest motivator for a prisoner to remain rule-abiding and productive. Over the decades, Rajasthan emerged as the leader in this sector, currently operating 41 open prisons, followed by Maharashtra with 19. As of 2022, there are 91 open jails across 17 states in India, with a total capacity of 6,043 inmates.

The legal governance of Indian prisons is characterized by a tension between outdated colonial statutes and progressive constitutional interpretation. The Prisons Act of 1894 remains the foundational legislative underpinning, yet it has been widely criticized for focusing exclusively on confinement and discipline while ignoring reformation and rehabilitation. Section 3 of the Act provides definitions for various types of prisoners, and Section 27 mandates the separation of different categories, such as male and female prisoners, and undertrials from convicts. However, the Act lacks specific provisions for open correctional institutions, leaving their regulation largely to state-specific rules, such as the Rajasthan Prisoners Open Air Camp Rules of 1972. In the absence of comprehensive central legislation, the Supreme Court of India has used its writ jurisdiction to expand the rights of prisoners under the Constitution. Article 21, which guarantees the right to life and personal liberty, has been interpreted to protect prisoners from cruel treatment, torture, and inhuman conditions. In the landmark *Sunil Batra v. Delhi Administration*[7] (1978) case, the Court rejected the

[7] 1980 AIR 1579

"hands-off" doctrine and ruled that fundamental rights do not flee a person upon entering prison. The Court emphasized that prisons must be institutions of transformation where every individual is entitled to human dignity and a chance at reintegration.

The legal framework is further supported by Article 14 (Equality before law), Article 19 (Freedom of speech and association), and Article 39A, which guarantees free legal aid to indigent prisoners. International standards, such as the UN General Assembly's Nelson Mandela Rules (2015), also advocate for open prison systems as a means to uphold prisoner rights and aid rehabilitation. More recently, the Model Prisons and Correctional Services Act of 2023 has been introduced to replace the 1894 Act. This new Act explicitly defines open correctional institutions as facilities offering eligible prisoners more freedom to assist in their rehabilitation, thereby providing a modern statutory basis for their operation. High-level committees have consistently driven this reform, most notably the Mulla Committee (1980-83), which produced a detailed blueprint for restructuring prison administration and proposed a draft national policy. One of its key findings was the efficacy of open prisons in reducing the psychological burden of incarceration and preventing the contamination of first-time offenders by hardened criminals. Following this, the Justice Krishna Iyer Committee (1987) was appointed to study the status of women prisoners, emphasizing the need for gender-sensitization and separate prisons for women. It made recommendations regarding the rights of pregnant prisoners and the care of children living with their mothers in jail, suggesting crèches, nurseries, and proper nutrition.

Suggestions

1. The evolution of the Indian penal system symbolises a dramatic ideological movement from the retributive and deterrent models of the colonial era to a modern, reformative, and rehabilitative framework. This transition has occurred over the course of the past several decades.
2. Historically, the British administration viewed of prisons as tools of state control, with the intention of isolating criminals from society and subjecting them to laborious work as a form of punishment to serve as a deterrent to others. This paradigm was most significantly rooted in the Prisons Act of 1894.
3. It was believed that the major instrument of punishment and reflection on transgression would be the restriction of social relationships, including those with family, friends, and the community. This "caging" paradigm was founded on this assumption.
4. As the sociological knowledge of crime developed, the general opinion turned toward the "Reformative Theory" of punishment. This theory proposes that criminal behaviour is frequently a consequence of social, economic, or

psychological "diseases" that call for treatment rather than merely being isolated from society.

5. The open prison system, often known as "minimum security prisons," "prisons without bars," or "open-air camps," is based on the notion of self-discipline and trust rather than physical barriers. This is the conceptual foundation upon which the open prison system is built.

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