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## The Legal Framework Governing Prisons in India: A Critical Analysis

Author  
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# The Legal Framework Governing Prisons in India: A Critical Analysis

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## **Abstract**

*The prison system constitutes an integral component of the criminal justice administration in India, serving not only as a mechanism for punishment but also as an institution for reformation and rehabilitation. Despite constitutional guarantees and statutory safeguards, Indian prisons continue to face persistent challenges such as overcrowding, custodial violence, inadequate healthcare, undertrial detention, poor living conditions, and lack of effective rehabilitation mechanisms. This paper critically examines the legal framework governing prisons in India and evaluates its effectiveness in ensuring the protection of prisoners' rights and the administration of humane custodial justice. The study analyses the constitutional provisions, statutory enactments, judicial precedents, and international human rights standards that regulate prison administration in India. Particular emphasis is placed on the Prisons Act, 1894, Prisoners Act, 1900, Model Prison Manual, 2016, and the role of Articles 14, 19, and 21 of the Constitution of India in safeguarding the dignity and fundamental rights of prisoners. The paper further examines landmark judicial pronouncements such as *Sunil Batra v. Delhi Administration* and *Hussainara Khatoon v. State of Bihar*, which significantly expanded the scope of prisoners' rights and emphasized the need for prison reforms. Adopting a doctrinal and analytical methodology, the research identifies major gaps in the implementation of prison laws and highlights the disconnect between legal norms and prison realities. The study argues that the existing legal framework remains largely colonial in structure and insufficiently responsive to contemporary human rights standards and correctional objectives. It further explores the need for modernization of prison administration through policy reforms, judicial oversight, improved infrastructure, and rehabilitation-oriented approaches. The paper concludes that meaningful prison reform requires a rights-based and human-centric approach that balances state security interests with the constitutional mandate of dignity, equality, and access to justice. Strengthening accountability mechanisms and ensuring effective implementation of prison laws are essential for transforming prisons from punitive institutions into centres of correction and social reintegration.*

**Keywords:** *Prison Administration; Prison Laws; Prison Reforms; Prisoners' Rights; Custodial Justice; Undertrial Prisoners; Human Rights; Prison Governance; Correctional Administration; Constitutional Rights; Prison System in India; Rehabilitation and Reformation.*

## **Legal Framework Governing Prisons in India**

Laws managing India's prisons come tangled, uneven at times. Centuries mold them - British control long ago, then new rules after freedom, court decisions shifting slowly, laws adjusting lately. Together they form a mix: powers here, responsibilities there, rights somewhere else, all bumping into each other inside jails today. To weigh prison privatization fairly, one must see this landscape clearly. How far companies might run detention centers depends entirely on where law allows - and blocks - their entry. Without knowing these boundaries, judgments risk missing the mark. Mapping unfolds here through five separate yet linked domains. Starting with constitutional roots, the discussion shows how prisoner entitlements and governmental duties take form. Following this foundation, statutes enter the picture - the Prisons Act of 1894, along with later versions - turning broad promises into daily practice. Shifting view, case law emerges as a powerful influence, built over years of rulings that directly affect how prisons operate. Next come structures meant to supervise and manage correctional institutions, offering insight into their function today. Lastly, legal boundaries around private involvement in running jails come under review, revealing where opportunity stands within current constraints.

### **3.1 Constitutional Foundations of Prison Governance**

#### **Fundamental Rights Inside Prisons**

Behind bars, the law still breathes. Though India's founding document skips any specific rule about jails or those inside them, judges have shaped meaning where silence sits. From Article 14 through 22, fairness finds its way into cells. Rights shift, stretch, respond - even when walls close in. What stands written grows deeper under courtroom light.

What lies at the heart of prisoner rights in India is Article 21, ensuring no one loses life or freedom without lawful process. Though written narrowly, judicial interpretation has stretched its meaning over time. Beginning with *Maneka Gandhi's* case in 1978, courts began seeing life as more than survival. Dignity became part of that existence through successive rulings. Expansion came gradually, yet firmly rooted in precedent. Looking at Article 21 broadly has led courts to identify several connected rights relevant within prisons. Speedy trial entitlement, established in *Hussainara Khatoon v. State of Bihar* (1980) as part of life and personal freedom, matters greatly given how most jailed individuals in India await trial. Because of this reality, timely hearings are not just procedural but tied to basic liberty.

Free legal assistance, drawn from Article 21 along with Directive Principle 39A, must be provided to anyone accused of crime. Over time, rulings have turned this into a binding obligation on the state. How inmates are handled also falls under judicial scrutiny - courts insist on humane conditions, access to proper healthcare, safety from abuse while in custody, and protection against cruel or humiliating acts. These protections emerge primarily through interpretations of Article 21, frequently supported by guarantees in Articles 14 and 22. Equality under the law, as set out in Article 14, applies even behind bars. Inside prisons, differences in treatment must not arise without clear reason. One inmate cannot face harsher conditions just because of who they are. When rules are enforced, fairness matters - punishments should match behavior, not personal bias. Access to services ought to remain balanced among those in comparable circumstances. Uneven discipline risks violating legal safeguards meant for everyone. When someone gets arrested, Article 22 steps in with key rules meant to shield undertrial detainees. From the start, a person must learn why they are being held - details matter here. Legal advice becomes available immediately; choosing who

provides it rests solely with the individual. Within one day after custody begins, appearance before a magistrate is required. These measures go beyond paperwork - they mark baseline rights built into India's constitution. How authorities treat people at this stage reveals much about fairness in practice. Without such checks, power could tilt too heavily toward the state.

### **Guidelines for Government Responsibilities**

Starting off differently, Part IV of the Constitution lays down wider duties for the government toward people it detains - beyond what rights can be enforced directly. Although these principles cannot always be claimed in court, judges often refer to them when explaining prisoner rights more fully. For instance, fair access to justice and no-cost legal help are pushed forward by Article 39A. Moving on, opportunities for employment, learning, and public support must be actively arranged under Article 41. Conditions at workplaces should remain fair and dignified, a point highlighted in Article 42 - especially significant yet rarely discussed within jails. Taken together, such directions shape how officials run correctional facilities, adding depth to basic liberties through judicial reasoning.

One reason this constitutional structure matters so much for privatization lies in how rights are understood. Should Article 21 protect more than just protection from random loss of freedom - say, guaranteeing humane treatment behind bars - the government can't pass off its duty simply by hiring outside firms to run jails. Because promises written into law stay fixed, even when logistics shift. Whoever runs the facility, responsibility still rests with the state. Thus, if prisons get outsourced at all, oversight and design must meet strict constitutional benchmarks - a condition stricter than what many other systems require.

### **Federalism and Legislative Authority**

Under the Seventh Schedule of the Constitution, prisons are listed in Entry 4 of the State List - this places their management largely under state authority.

Each of India's twenty-eight states and eight union territories holds power under the constitution to make laws about prisons, operating within the broader limits set by the Prisons Act of 1894 and protected individual rights. Differences between regions arise naturally because state-level rules, daily operations, and living environments inside jails often do not align. When it comes to allowing private companies a role in running correctional facilities, the split between state and national authority becomes especially relevant. A nationwide approach would have to work around this structure - possibly using sample laws offered by the central government for states to follow voluntarily. Alternatively, shared legal tools could apply only where both levels of government are allowed to act at once. Since "prisons" does not appear in the list meant for joint rule-making, Parliament cannot directly impose changes everywhere. That restriction turns sweeping reforms into longer processes shaped heavily by how much agreement exists among regional governments.

## **3.2 Statutory Framework: From the Prisons Act to the Model Prisons Act**

### **The Prisons Act 1894 As A Legacy of Colonial Rule**

Still in force today, India's main prison law dates back to 1894. Written under colonial administration, it emerged from a framework focused on dominance and punishment. Though more than one hundred years have passed since independence, its core design stays mostly unchanged. Shaped by imperial priorities, the system continues without significant structural updates.

Starting things off, the law puts in place the core framework for how prisons are run. Prisoner types get sorted under defined groups through its rules. Responsibilities for staff who oversee jails come straight from this legislation. Meals, garments, and sleeping spaces fall under regulated conditions because of it. Discipline inside correctional facilities follows guidelines written into the act. Visitation rights appear covered alongside work opportunities for those locked up. Keeping separate kinds of offenders apart forms part of its requirements. At the top of each state's jail administration sits the Inspector-General of Prisons. This role exists only because the act brought it into being.

Looking back at the 1894 Act through today's lens reveals more by omission than inclusion. Absent are clauses guaranteeing legal assistance, yet absent too are clear rules for health services inside prisons. Medical treatment lacks defined benchmarks; similarly, programs meant to support reintegration into society do not appear. Oversight remains confined within official channels, while external scrutiny finds no foothold. Punishments once written into law - like isolation, food reduction, physical force - signal an approach built on control instead of reform. Though courts later removed certain harsh measures, the foundation stays rooted in authority over accountability. People behind bars show up in the text not as holders of rights but as issues needing containment. Responsibility shifts away from the state's duty toward those it detains, placing management before moral commitment. For the issue of privatization, what matters most is that the 1894 Act includes nothing - no clause, no rule, no hint - that allows or oversees handing prison operations to private entities. Although roles like staffing and managing inmate work are clearly outlined, each one is shaped exclusively as a duty belonging to the state. Because this law thoroughly covers a core exercise of state power, its failure to mention private involvement speaks volumes; rather than mere omission, it signals a deliberate choice to keep control within government reach.

### **The Model Prison Manual 2016**

Backed by growing concerns over outdated rules, the Ministry of Home Affairs introduced the Model Prison Manual in 2016 - meant to serve state-run prisons as a detailed reference. Though the 1894 Act remained weak, this new document aimed at improving daily management practices across facilities. Beginning with a clear break from outdated rules, the Manual reflects current thinking about how prisons should operate. Instead of copying old systems built during colonial times, it follows modern ideas about fairness and humane treatment. Health support inside facilities now includes both physical checkups and psychological help, ensuring broader coverage. Training opportunities appear alongside classroom learning, giving individuals paths toward useful skills. Attention shifts to specific groups - women, young people who offend, and those living with impairments - through tailored guidelines. Reporting problems becomes possible through new channels designed to hear concerns. Oversight grows stronger, especially where regional boards take responsibility for monitoring progress.

Though dated 2016, the guidelines permit private actors in some prison operations. Specifically, they allow outside engagement in job skills training, schooling efforts, medical care, and work programs inside facilities. Yet such roles are confined strictly to delivering support services overseen by public authorities. Functions tied directly to detention - like intake and release, maintaining order, handling infractions, or managing sentences - remain off-limits. Authority over any task involving enforced control stays firmly within state hands.

What emerges is a framework where only peripheral tasks shift outward, while power over restraint never leaves official grasp. Though called a guide, the Model Prison Manual holds no legal power of its own. Not passed by lawmakers, it cannot impose binding duties. States may choose to adopt its rules, yet many have done so only partially or not at all. Across regions, acceptance varies - some embrace parts, others ignore them outright.

### **The Model Prisons and Correctional Services Act 2023**

Now shaping policy discussions, the Model Prisons and Correctional Services Act, 2023 stands out among new legal efforts. Crafted by the Ministry of Home Affairs, it offers states a reference point when updating their systems. Though not binding, its framework influences how regions rethink detention practices. Guidance comes through example rather than mandate. Reform moves forward one adaptation at a time.

Nowhere is the contrast sharper than in how the new law sees prison goals versus the old one. Instead of just locking people away securely, it insists on rebuilding lives through reform and support after release. Each inmate must have a tailored plan guiding their time behind bars - no exceptions. Staying connected with loved ones becomes an acknowledged right under this framework. Outside walls gain purpose too, as open facilities and unpaid public work emerge as options instead of closed cells. Oversight changes shape: a central board takes charge nationally while regional groups form locally, both including voices beyond government circles.

Though focused on broader governance, Section 55 draws clear lines around what prison duties can shift outside government control. Private groups - including nonprofits and firms - may step into roles like teaching job skills, running classes, offering health care, or providing mental health support behind bars. Yet authority over guarding inmates, enforcing order, holding records, and managing confinement stays strictly with public officials. Where partnerships do happen, written contracts must lay out how well work should be done, when monitors can check progress, and under which terms cooperation ends. Such arrangements come alive only if these rules are met.

Though designed as a sample statute, the 2023 Act lacks immediate legal force anywhere. Each jurisdiction must pass it into law individually - progress that typically unfolds slowly, uneven across regions in both timing and accuracy to the original design. Still, because it outlines how limited private roles might work in non-secure youth programs, it stands as today's most thoughtful proposal, offering courts and lawmakers a legally sound structure for narrowly defined outside engagement.

Among related laws stands the Code of Criminal Procedure, 1973 - largely superseded now by the Bharatiya Nagarik Suraksha Sanhita, 2023 - that shapes rules on pre-trial custody, release conditions, and court-ordered holding. A distinct system for minors accused of offences emerges through the Juvenile Justice (Care and Protection of Children) Act, 2015. Movement across state lines involving incarcerated individuals falls under the scope of the Transfer of Prisoners Act, 1950.

### **3.3 Judicial Pronouncements and the Evolution of Prisoner Rights**

#### **Foundational Cases Shaping Prisoner Rights**

What began as legislative silence found voice through judicial action. Indian prison law evolved under court pressure more than parliamentary design. Starting in the late 1970s, key rulings quietly shifted ground. Prisoners stopped being seen merely as inmates managed by officials. Instead, they gained standing as people entitled to fundamental rights. Constitutional safeguards started applying where none had before. The judiciary stepped into spaces laws left empty. Prisoners keep core rights even behind bars - this truth took shape clearly in *Sunil Batra v. Delhi Administration* (1978). Though locked up, people are not stripped of constitutional protection by default. Instead, the Supreme Court stated plainly: loss of freedom does not erase dignity or legal standing. What remains intact includes life and liberty under Article 21, equal treatment per Article 14, along with others. These apply unless specific limits come with valid detention itself. Nowhere else had a court moved so far by using its writ power to inspect jails firsthand, then demanding fixes from officials when rights were breached. Only here did such authority reshape imprisonment into a matter of constitutional concern - turning state conduct toward inmates into something judges could monitor closely over time.

Years passed behind bars - longer than any punishment could justify - for many held without conviction in Bihar. A ruling came down through *Hussainara Khatoon v. State of Bihar* (1980), changing their reality overnight. Though accused, not convicted, these individuals saw freedom delayed by years, sometimes decades. Because of this, justice could no longer wait; release became necessary. What emerged was clarity: speed in trials is not optional - it belongs within personal liberty under Article 21. Once seen as mere procedure, timely hearings now stood protected by law. States then faced new expectations - to act, to reform, to prevent such delays from repeating. When jail time before judgment exceeds legal limits, rights are broken. Silence from authorities can no longer excuse inertia in courts or at police stations. The system must respond - not just once, but continuously - whenever delay threatens fairness.

What began as a legal question soon revealed deeper implications when the case *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981) expanded the meaning of life beyond mere survival. Far from limiting protection to freedom from violence, the ruling framed existence as incomplete without dignity. Included within this vision were essentials: food sufficient in quantity and quality, garments fit for human wear, access to health services. Reading was not treated as luxury; neither was writing nor receiving those who wish to visit. Rather than see Article 21 as only blocking state cruelty, judges viewed it as demanding active effort - requiring authorities to create livable conditions. Protection, then, meant doing more than abstaining from harm.

One ruling found routine shackling unlawful under India's Constitution. Prem Shankar Shukla challenged Delhi authorities in 1980, arguing that automatic handcuffs violated basic rights. Instead of accepting standard procedures, judges questioned their necessity. Only when evidence shows real danger should such force apply. Dignity matters, even behind bars - so said interpretations of Articles 14, 19, and 21. Not habit or convenience, but actual risk must justify restraint. Courts began looking closer at daily jail routines after this case emerged. Small choices within prisons now face legal review. Management habits once ignored are now weighed against fundamental freedoms.

## **Systemic Reform with Ongoing Oversight**

In *Rama Murthy v. State of Karnataka* (1997), the Supreme Court delivered its fullest review yet of India's jail environments. Though focused on one case, it exposed widespread breakdowns - jails bursting beyond capacity, filth-ridden facilities, missing health services, prolonged pre-trial confinement, physical abuse, scarce legal help, and zero efforts at prisoner reintegration. Because past rulings had little lasting effect, judges insisted continuous oversight was necessary instead of isolated directives. Following this, authorities at both regional and national levels received clear mandates meant to dismantle persistent flaws within the system. What emerged was not just a verdict but an evolving mechanism through which courts could track reform progress over time.

Beginning with a 1997 ruling, *D.K. Basu v. State of West Bengal* tackled abuse during detention, setting clear rules for how arrested individuals must be handled - medical checks right after arrest became mandatory, record-keeping essential, relatives had to be informed quickly, while officials violating these faced penalties. While focused on police stations at first, courts later used the same ideas inside prisons too.

Among India's major correctional facilities, a sweeping review began in 2013 when the Supreme Court acted on its own initiative regarding *Re: Inhuman Conditions in 1382 Prisons*. Though concluded only by 2016, the findings exposed severe congestion within cells, too few personnel managing operations, broken health services, along with a vast number of detainees awaiting trial without conviction. Instead of dismissing such shortcomings as routine mismanagement, judges framed them as breaches of fundamental rights guaranteed under the Constitution. States received specific orders - each corrective measure tied directly to restoring legal duties owed to incarcerated individuals. Responsibility was placed squarely upon regional authorities overseeing penal institutions, making evasion harder through institutional design.

## **Judicial Views on Privately Run Prisons**

One step back, India's courts have yet to deliver a clear verdict on whether handing prisons fully to private hands fits within the Constitution. Still, patterns in past rulings shape how this debate unfolds. Rooted in rights under Articles 14, 21, and 22, judges repeatedly stress that the government must personally uphold its duties to inmates - these cannot simply be passed off. Over forty years, tools like writ petitions emerged, aimed squarely at public officials who run jails. Such checks might stumble when faced with profit-driven companies shielded by corporate structures. Nowhere is the answer clearer than here: still undecided stands the status of private prison operators as 'State' under Article 12 - hence their exposure to constitutional duties remains uncertain. Shaping this debate, rulings by India's highest court imply bodies carrying out public roles through state backing might count as part of the State. From *Ajay Hasia versus Khalid Mujib Sehravardi* (1981), evolving into *Pradeep Kumar Biswas* against the Indian Institute of Chemical Biology (2002), criteria have emerged - function character, extent of governmental oversight, financial origins guiding inclusion. With time came structure, yet ambiguity lingers. Should these criteria apply to a fictional private prison firm, incarceration - though managed privately - remains a core state duty, carried out only through official permission. Funded by taxpayer money, its operations fall under regulatory review and monitoring by authorities. Given this setup, courts might classify the company as acting on behalf of the State per Article 12. As a result, constitutional obligations to prisoners could still

hold, even if ownership lies outside government. Still, assuming protection under Article 12 could be confirmed, actually enforcing constitutional rights against privately run facilities brings separate difficulties. Where state-run prisons have grown accustomed to legal oversight - prison administrators showing up in court, keeping files open for judges, acting on supervision rulings - that mindset might not exist within companies shaped by profit motives and answerable mainly to investors, not citizens.

### **3.4 ADMINISTRATIVE MACHINERY AND OVERSIGHT MECHANISMS**

#### **The Way Prisons Are Run**

Top responsibility for jails in India rests with a senior official - called either Director General of Prisons or Inspector General, depending on the state - who leads the entire correctional setup at the state level. Beneath that central figure come regional and district supervisors overseeing broader coordination across facilities. Daily operations inside each jail fall under the control of its superintendent. Oversight trickles down through layers, ensuring structured supervision from top to ground level. Most prison workers enter their roles via official state hiring systems, falling under civil servant status bound by standard employment regulations. Although the law sets baseline education requirements and expected behaviors for these officers, actual enforcement differs widely depending on location. Instead of uniformity, preparation happens mainly at regional academies focused on corrections instruction. Above them operates a central body based in Lucknow, enhancing skills through higher-level courses while also guiding studies nationwide.

How power moves through the system shapes what happens when prisons shift toward private control. Because state governments are so tightly woven into how facilities operate today, outside management cannot enter without altering more than just laws - it must reshape habits, learning systems, supervision norms, and who answers to whom. Right now, responsibility follows a clear ladder: officers report upward through superintendents, then directors general, then officials in government buildings, finally reaching lawmakers and judges. Slotting in a corporate provider scrambles that path, blurring lines until contracts and oversight rules step in to steady things again.

#### **Oversight Bodies and Monitoring Mechanisms**

Not every check on India's jails carries equal weight. Some watchdogs hold real influence, others less so - despite all being tasked with supervision. Starting off, the National Human Rights Commission (NHRC) was created by the Protection of Human Rights Act, 1993, and holds authority concerning jail environments. Investigations into inmate grievances - filed either by detainees or someone acting on their behalf - fall within its scope; so do self-initiated probes without external prompting. Moving beyond paperwork, it may enter any facility managed by a state body to assess living standards firsthand. Findings often lead to advisories directed at central or regional administrations. Over time, consistent oversight has produced regular updates highlighting issues like excessive population density behind bars, fatalities during custody, access to healthcare, and prolonged stays of unconvicted individuals. Still, because these conclusions lack legal force, real-world impact depends entirely on whether officials decide to act. When authorities ignore such guidance, little changes despite documented concerns.

Though useful for oversight, the information relies on submissions from state authorities, possibly missing details about specific jail environments. Published every year by the National Crime Records Bureau - part of the Ministry of Home Affairs - the report called Prison Statistics India outlines critical metrics like inmate numbers, trial status, healthcare access, staffing levels, and space usage across regional correctional centers. Because it compiles figures provided externally, gaps can exist between reported statistics and actual facility realities. From overcrowding trends to delays in legal processes, each edition reflects patterns that shift slightly with time and governance approach.

From time to time, a District Magistrate or Sessions Judge steps into prison facilities under their area of authority - this access is written into law through the Prisons Act and CrPC. Not every courtroom figure uses it, yet those who do bring real scrutiny where central agencies often lack reach. What unfolds inside cells may hinge less on rules than on whether judges choose to show up. Some take notes, others pass by once yearly; outcomes shift with personal habits rather than systems. Local courts could shape accountability simply by walking through gates - if they walk at all.

Though differing in reach and depth, State Human Rights Commissions lend support through review mechanisms. Legal oversight gains ground when the Bar Council steps into advisory roles. Law schools offer student-run clinics that probe systemic gaps. Civil groups such as the Commonwealth Human Rights Initiative bring added scrutiny from outside government structures. Access remains uneven across these actors, limiting consistent impact. Monitoring sharpens where data flows freely. A key shift came with the 2005 Right to Information Act. This measure opened channels once closed. Prisoners now request records on living conditions. Families inquire about staffing choices or spending patterns. Policies face public questioning more often than before.

### **Gaps In the Current Oversight System**

Even with many oversight groups in place, clear shortcomings still mark how monitoring works today. For one thing, truly independent checks inside jails face limits - unlike England and Wales, where inspectors operate freely, here such authority does not exist fully or without conditions. Moving beyond access, information gathered by agencies like NCRB comes only in broad summaries per state, making it hard to spot issues in particular institutions. Problems deepen when misconduct occurs, since those who run prisons rarely face consequences; even though mistreatment behind bars happens often, few cases lead to legal charges against officers. Because oversight gaps already exist, the move toward prison privatization becomes more complicated. When today's public facilities lack proper monitoring, expecting better results from private firms - driven by contracts and profits instead of constitutional duties - seems unrealistic. Without stronger supervision systems built first, any shift to private management risks deeper failures. The present model offers too weak a foundation to support such change.

## **3.5 Legal Space for Private Participation: Possibilities and Constraints**

### **Limits On Letting Private Groups Make Public Rules**

One key issue around private prisons in India centers on how much authority the government can hand over to non-state operators while still meeting its duties under the Constitution. Depending on the type of task - supervision, maintenance, or administration - the level of

permissible transfer shifts. What matters is where a function falls along the custody continuum, because safeguards apply unevenly. Authority over prisoners cannot be treated as one single block to assign away. Limits tighten when core powers like discipline or release are at stake. On one extreme sit certain central duties tied directly to state control: taking individuals into prison, releasing them, keeping secure custody, enforcing discipline - such as applying penalties when needed - managing sentences along with parole decisions, and using force only where justified. Such roles stem from the foundational legal bond linking government and those it detains. Authority here emerges from a system that, after judicial proceedings, decides some must be held against their will.

One reason stands out: giving private groups power over fundamental state duties faces serious legal hurdles. Even if contracts are tight, they may not close the divide when authority shifts outside government hands. Courts have long held that certain responsibilities - especially those tied to personal liberty under Articles 14, 21, and 22 - cannot be passed on. When detention powers move to for-profit operators, accountability risks emerge. That split - between what the Constitution demands of the state and who actually runs prisons - proves hard to reconcile. Oversight weakens where profit motives enter spaces meant for public duty.

Though Indian courts do not phrase it exactly like other common law systems, the idea behind the sovereign functions doctrine still appears clearly in how they define state powers. When matters involve violence, holding people against their will, or imposing penalties, judges regularly classify these actions as core expressions of government control. Such roles come paired with deeper duties under the Constitution. Shifting them into private hands - especially when driven by financial gain - challenges the ability to preserve those essential checks on power. Whether oversight remains strong enough becomes harder to guarantee.

### **Legal Limits and Permissions**

Though outdated, the 1894 Prisons Act still shapes how custody services operate today. Instead of allowing outside involvement, it reserves all duties strictly for public authorities. Because the law says nothing about working with private groups, changes would have to come from Parliament. Without updated statutes, handing over prisons to non-state operators remains legally blocked. Starting with rehabilitation, the Model Prisons and Correctional Services Act, 2023 offers a workable path for limited private roles. Rather than full privatization, Section 55 allows states to bring in private groups for specific tasks like job training, learning programs, medical care, or mental health aid. Yet custody stays firmly under government oversight. Because India's Constitution limits how much power can be shifted outside public hands, this law walks a narrow line. It opens doors for outsiders to help improve inmate well-being, but never lets them touch detention decisions. Legal boundaries stay clear - support services may involve contractors, though holding prisoners remains strictly state-led. Ending there, the structure avoids overreach while enabling reform through partnership.

Should private entities take part in running prisons, rules under the 1970 Contract Labour law come into play. If companies manage inmate work behind bars - something seen quietly in certain locations - how those arrangements are defined legally shapes rights, responsibilities, and adherence to regulations. Though unofficial now, such setups could face scrutiny if classified as contract hiring.

## **The Accountability Problem and How Regulations Try to Fix It**

Though laws sometimes allow private involvement, holding operators responsible stays a core challenge. Their main duty lies in honoring agreements with authorities, rather than upholding inmates' fundamental rights. When tasks have defined results and straightforward fixes, contracts can work well enough. Yet when it comes to custody - where balance matters between safety and respect, control and fairness, structure and growth - the contract often falls short.

Starting off, international evidence shows success depends on precise rules governing every key part of running a facility. Inspection powers must be strong - allowing surprise checks plus complete entry without delay. Performance data ought to appear publicly, shared openly so anyone can review outcomes. When standards slip, penalties need to matter, hitting budgets or profits directly. Contracts should spell out how authorities step in fast if things go wrong, taking control when needed. Complaint systems work best when inmates can speak up through channels separate from company oversight.

What India has in place now falls short when it comes to sustained supervision. Instead of real-time tracking, there are only suggestions from the NHRC, broad crime data compiled by the NCRB, and occasional court visits - none of which create consistent accountability. Close, ongoing scrutiny would need to come first, long before any growth in private sector roles. Without such systems ready ahead of time, scaling up participation makes little sense.

## **A Tiered Approach to Function Level Permissions**

Putting together insights from constitutions, laws, and court rulings discussed here reveals a layered way to judge whether private involvement in India's prisons fits within legal boundaries. Though built on varied sources, the approach emerges clearly when patterns across cases and statutes are weighed one against another. Where rights meet policy, distinctions appear - not sharp lines, but gradients shaped by precedent and context. Each level reflects different concerns: fairness at intake, oversight during operation, accountability after outcomes. These layers do not sit side by side; they build upon each other like sediment hardened into structure over time. One cannot assess legality without passing through them step by step. Starting off, the initial level includes basic care duties - taking in individuals, releasing them, ensuring safety, managing behavior, applying force when needed, along with official documentation. Because legal frameworks, court precedents, and operational guidelines point in the same direction, it becomes clear these roles must stay under public control. Given their deep ties to constitutional duty, expressions of state power, and demands for transparency, allowing privately run, profit-driven entities to handle such tasks seems unworkable. At present, Indian law contains no provision authorizing private bodies to perform these responsibilities; shifting them outward would demand new legislation plus a strong constitutional rationale - one absent at this time.

Welfare and rehabilitation sit at the second level - covering health care, job training, schooling, mental health guidance, along with help returning to society. Though carried out behind bars and shaped by prison conditions, these tasks avoid direct control over inmates. Private groups appear in the Model Prisons Act, 2023, as possible partners in delivering such support. Evidence from other countries shows outside participation, if carefully managed, often lifts performance while adding skills governments might lack on their own. Still, constitutional rules remain: the state must guarantee services uphold rights under Articles 14 and 21. Using

private firms via contracts does not break those legal boundaries - as long as oversight stays firm. Third comes oversight of buildings and their operations - planning, building, repair, along with daily physical care. Though comparisons emerge elsewhere in infrastructure deals, this layer draws fewer legal questions about rights. Private companies funding and erecting jails, yet run by state authorities, appear already in places like South Africa, the UK, and Australia. Money matters matter - but scrutiny over laws feels lighter compared to handling inmates or social services.

Though incomplete, the layered structure clarifies key boundaries for private involvement in India's prisons. Shaped by constitutional values, laws, and court interpretations of state duties to inmates, these limits define where debate can occur. Because such oversight reflects core legal principles, any viable plan for privatized detention demands alignment rather than avoidance.

Out of this chapter's examination comes a clear sense of intricate legal terrain. Not outright banned, yet far from freely embraced - private engagement in Indian prisons sits within defined boundaries. Shaped by layers of duty, limitation, and potential, movement here demands caution. Minimum rights for inmates are fixed by the Constitution, immovable regardless of policy shifts. Laws then outline how such rights take shape in daily operations. Judicial rulings continuously clarify meaning, while also enforcing responsibility. On-the-ground execution depends on bureaucratic systems whose performance wavers across regions. For any private role to endure legally, alignment with constitutional principles becomes essential. This points toward support functions instead of control roles. Oversight must remain strong, independent, transparent. Accountability cannot weaken the State's core obligation - to uphold dignity and justice for every person held captive under its name.

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