

From Punishment to Rehabilitation: Evaluating the Role of Reformative Justice in the Indian Criminal Justice System

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Abstract: *Indian courts and policy documents have long affirmed that the purpose of punishment is not merely to inflict suffering but to reform the offender and restore him or her to society. This article evaluates how far that reformative ideal is realised in practice. It examines the theory of rehabilitation and its critics, traces the ideal through the Constitution and the Supreme Court's jurisprudence, and surveys the institutions through which it is meant to operate: probation, juvenile justice, prison programmes, parole, furlough and remission. It then documents the gap between aspiration and practice, arising from overcrowding, a high proportion of undertrial prisoners, staff shortages, weak aftercare and arbitrary release decisions. Drawing on comparative and empirical evidence, including the risk-need-responsivity model and the Nordic experience, the article argues that reformative justice remains a principle in search of an institutional structure. It proposes reforms centred on individualised rehabilitation plans, strengthened probation and aftercare, transparent release criteria, and the integration of reformative objectives into sentencing, while respecting the limits that proportionality and public safety impose.*

Keywords: reformative justice; rehabilitation; prison reform; probation; parole; remission; Model Prisons and Correctional Services Act 2023

I. INTRODUCTION

The proposition that punishment should aim at reform is among the most frequently repeated in Indian criminal jurisprudence. It appears in judgments of the Supreme Court, in the reports of reform committees, in the stated objectives of prison legislation, and in the speeches of public officials. Mahatma Gandhi's formula that one should hate the sin and not the sinner is invoked so often that it has become a cliché of Indian penal discourse.

The reality that the prisoner meets is different. Prisons across India operate above their sanctioned capacity, a very large proportion of those detained have not been convicted, and the programmes that might prepare people for release are limited and unevenly available. The gap between the language of reform and the conditions of confinement is the subject of this article.

The article proceeds as follows. Part 2 outlines the theory of rehabilitation and its critics. Part 3 traces the reformative ideal through the Constitution and judicial decisions. Part 4 describes the institutions and instruments through which reform is supposed to operate. Part 5 examines the gap between aspiration and practice. Part 6 considers critical perspectives, Part 7 draws on comparative experience, and Part 8 proposes reforms. The central argument is that India does not lack a commitment to reformative justice; it lacks the institutional design, resources and accountability that would turn the commitment into a working system.



II. THEORETICAL FOUNDATIONS

2.1 The reformatory theory

Reformatory theory holds that the proper aim of punishment is to change the offender so that he or she will not offend again. It treats crime as a product of personal, social or economic circumstances that can be addressed, and it views the offender as capable of change. The theory gained influence in the nineteenth and twentieth centuries and shaped the creation of probation, juvenile courts, parole and indeterminate sentences. Its practical expression is the correctional institution, which is intended to educate, treat and prepare the offender for return.

2.2 Criticisms

Reformatory theory has been criticised on several grounds. One concerns coercion: C.S. Lewis argued in his essay on the humanitarian theory of punishment that a system which treats the offender as a patient to be cured may justify indefinite intervention, disconnected from what the offender actually did. A second concerns proportionality: if the length of detention depends on progress in treatment and not on the gravity of the offence, the principle of just deserts is compromised. A third is empirical. Robert Martinson's influential 1974 review gave rise to the "nothing works" doctrine, which asserted that rehabilitation programmes had little effect on reoffending, and contributed to a turn towards punitive policies in several countries.

2.3 The "what works" response

Later research qualified the pessimism. Work in the risk-need-responsivity (RNR) tradition, associated with Andrews and Bonta, concluded that programmes can reduce reoffending if they follow three principles: services should be matched to the offender's risk level (the risk principle), they should target the factors that drive that person's offending (the need principle), and they should be delivered in a manner suited to the person's learning style and circumstances (the responsivity principle). Programmes that ignore these principles, or that are applied to low-risk offenders in ways that expose them to higher-risk peers, may be ineffective or counterproductive.

2.4 A limited and principled version

The most defensible modern view treats rehabilitation as a goal that operates within limits set by proportionality. The seriousness of the offence and the offender's culpability set the maximum extent of punishment, and rehabilitation shapes how the sentence is served and what support is provided. Under this view, reformatory justice is not an alternative to accountability; it is a way of making accountability constructive. It also respects the offender's autonomy, treating participation in programmes as an opportunity and not a condition of freedom wherever possible.

III. THE REFORMATORY IDEAL IN INDIAN LAW

3.1 Constitutional foundations

The Constitution does not mention rehabilitation in terms, but its values point towards it. Article 21 protects life and personal liberty, and the Supreme Court has read into it a right to live with dignity, including within custody (*Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981)). The Directive Principles speak of the State's duty to secure the health and development of children (Article 39) and to raise the level of nutrition and public health (Article 47), and they describe a social order informed by justice. Together these support a penal system oriented towards human dignity and reintegration.

3.2 The Supreme Court on reformation

The Court has repeatedly affirmed the reformatory goal. In *Mohd. Giasuddin v. State of Andhra Pradesh* (1977), Justice Krishna Iyer wrote that the offender is to be seen as a victim of circumstances in need of correction, that the sentencing judge should consider the offender's background and prospects, and that punishment should be rehabilitative in its orientation. In *Sunil Batra v. Delhi Administration* (1978, 1980), the Court held that prisoners retain their fundamental rights save those necessarily curtailed by confinement, and that the courts have a supervisory role over prison administration. In *Maru Ram v. Union of India* (1981), the Court emphasised the reformatory role of remission. In *Bachan Singh v. State of Punjab* (1980), the Constitution Bench required that death be imposed only where the



possibility of reform is unquestionably foreclosed, a standard that makes rehabilitation central even to capital sentencing.

On prison conditions, the Court has issued a series of directions. *Rama Murthy v. State of Karnataka* (1997) identified key problems of Indian prisons, including overcrowding, delay in trials, understaffing and lack of medical care, and called for reforms. In proceedings titled *In re: Inhuman Conditions in 1382 Prisons* (2016), it took suo motu cognisance of prison conditions and issued directions on overcrowding, legal aid and the release of eligible undertrials. In *State of Gujarat v. Hon'ble High Court of Gujarat* (1998), it held that prisoners who perform labour should receive reasonable wages, not nominal sums, with part of the wages applied to victim compensation.

3.3 International standards

The United Nations Standard Minimum Rules for the Treatment of Prisoners, revised in 2015 as the Nelson Mandela Rules, state that the purposes of a prison sentence are to protect society against crime and to reduce recidivism, and that these are to be achieved by ensuring that the period of imprisonment is used to the fullest extent possible to prepare prisoners for reintegration through education, vocational training and work. The Bangkok Rules (2010) address the particular needs of women prisoners. These instruments provide benchmarks against which Indian practice can be measured.

IV. INSTITUTIONS AND INSTRUMENTS OF REFORM

4.1 Probation

The Probation of Offenders Act, 1958 allows courts to release certain offenders, particularly first-time and young offenders convicted of less serious offences, on probation of good conduct under the supervision of a probation officer, or after due admonition, instead of sentencing them to imprisonment. The corresponding provision of the Code of Criminal Procedure, 1973 (now carried into the Bharatiya Nagarik Suraksha Sanhita, 2023, or BNSS) operates alongside it. In *Ratanlal v. State of Punjab* (1964), the Supreme Court emphasised the reformatory purpose of the Act and urged its liberal application to young offenders. Despite this, probation is under-used. Courts are often unfamiliar with it, probation officers are few, and the infrastructure for supervision is limited.

4.2 Juvenile justice

The Juvenile Justice (Care and Protection of Children) Act, 2015, is the most deliberately reformatory statute in the criminal justice system. It establishes Juvenile Justice Boards, prescribes dispositions such as counselling, community service, group counselling and release after advice or admonition, and provides for institutional care that emphasises education and rehabilitation. The Act permits a preliminary assessment of children aged sixteen to eighteen alleged to have committed heinous offences, which may result in their trial as adults, a feature that the Supreme Court has construed carefully; in *Shilpa Mittal v. State of NCT of Delhi* (2020), it held that offences that carry a maximum of more than seven years but no prescribed minimum of seven years are "serious", not "heinous", for this purpose. The Court had earlier upheld the age of eighteen in *Salil Bali v. Union of India* (2013).

4.3 The prison regime

Prisons are a State subject, governed by the Prisons Act, 1894, and State rules, together with the Model Prison Manual of 2016 and the Model Prisons and Correctional Services Act, 2023, which the Union Government prepared as a template for States. The 2023 Act, intended to replace colonial-era provisions, speaks of reformation and rehabilitation, provides for open and semi-open institutions, special provisions for women and transgender prisoners, vocational training, legal aid, and mechanisms for parole, furlough and remission. As a model law, it takes effect only when States adopt it.

Some institutions have shown what is possible. Open prisons, in which carefully selected prisoners live with families, work outside and return at night, have operated for decades in States such as Rajasthan, and have reported low rates of absconding. Prisons in some places run education programmes, including through the Indira Gandhi National Open University and the National Institute of Open Schooling, and vocational programmes in weaving, carpentry, baking and



information technology. Tihar Jail in Delhi has been prominent for such initiatives. These are, however, exceptions that depend on administrative leadership, not entitlements that every prisoner can claim.

4.4 Parole, furlough and remission

Parole and furlough allow temporary release, ostensibly to maintain family and social ties and to prepare for reintegration. They are governed by State rules, which differ widely in eligibility, procedure and the discretion of authorities. The Supreme Court in *Asfaq v. State of Rajasthan* (2017) recognised that parole serves reformative purposes and that its denial must be based on reasons, not on the seriousness of the offence alone.

Remission of sentence is governed by sections 432 and 433A of the CrPC (now corresponding provisions in the BNSS) and State policies. For life convicts, release is subject to a minimum period of fourteen years. In *Laxman Naskar v. Union of India* (2000), the Court identified relevant considerations for premature release: whether the offence affects society at large, the likelihood of recurrence, the offender's capacity to reoffend, whether any fruitful purpose is served by continued incarceration, and the socio-economic condition of the offender's family. This is a rehabilitation-oriented checklist, but its application has been inconsistent. In *Bilkis Yakub Rasool v. Union of India* (2024), the Court quashed the early release of eleven convicts in a mass crime case on the ground that the State of Gujarat was not the appropriate government, a decision that highlights the risk of arbitrariness in release decisions.

V. THE GAP BETWEEN ASPIRATION AND PRACTICE

5.1 Overcrowding and undertrial detention

The National Crime Records Bureau's *Prison Statistics India* reports have consistently shown occupancy rates well above official capacity and undertrial prisoners forming roughly three-quarters of the population. These conditions undermine every reformative objective. Meaningful education, counselling or vocational training is impossible where basic space, hygiene and security are strained. The detention of large numbers of undertrials also exposes people not yet convicted to the conditions and associations of prison. The provision of the BNSS (section 479) permitting release of undertrials who have served a fraction of the maximum sentence, particularly first-time offenders, offers a potential remedy, and the Supreme Court has pressed for its implementation, but its effect depends on legal aid and administrative follow-through.

5.2 Staffing and resources

Prison administrations face significant vacancies, particularly of specialised staff such as welfare officers, psychologists, counsellors and medical personnel. Rehabilitation depends on such personnel. Without them, programmes are delivered, if at all, by custodial staff without training, and risk assessment is not done in any systematic way.

5.3 Health, mental health and substance dependence

Many prisoners have health needs, including mental illness and substance dependence, that bear directly on the prospects of rehabilitation. The Mental Healthcare Act, 2017 creates entitlements to care that apply to prisoners, but provision in practice is limited. Treating these needs is a precondition of effective reformative work.

5.4 Women, children and special groups

The Krishna Iyer Committee on Women Prisoners (1987) drew attention to the particular circumstances of women in custody, and children who live with their mothers in prison have been the subject of directions of the Supreme Court in *R.D. Upadhyay v. State of Andhra Pradesh* (1996). Gaps remain in separate facilities, childcare, education, and skills training suited to the needs of these groups. Older prisoners, persons with disabilities and transgender prisoners present further challenges.

5.5 Release decisions and aftercare

Parole, furlough and remission are the points at which reformative objectives should guide decisions, but the criteria are often vague, the processes slow, and the outcomes unpredictable. Inmates from poorer backgrounds, without legal assistance or family support, are less likely to benefit. Post-release support, such as housing, employment, counselling



and links with community organisations, is minimal. Without it, the progress made in custody may be lost, and the stigma of conviction may close off legitimate livelihood options.

5.6 Limited evidence

The evaluation of rehabilitation depends on data, and Indian data on recidivism and programme outcomes is limited. Official statistics report the proportion of convicts with previous convictions, but they do not track people after release in a systematic way, and they are an unreliable measure of reoffending. Without outcome data, it is difficult to identify which programmes work, to hold institutions accountable, or to justify investment.

VI. CRITICAL PERSPECTIVES

6.1 Paternalism and autonomy

A reformatory system must be careful not to treat prisoners as objects of treatment. Programmes should be voluntary where possible, and participation should not be coerced by making release depend on conformity with a particular model of the good citizen. The concern is especially acute where parole or remission is conditioned on behaviour that is difficult to assess objectively.

6.2 Proportionality and public safety

Reformatory aims cannot justify sentences longer than the offence warrants, nor can they justify releasing dangerous persons without regard to public safety. A defensible system requires a risk assessment that is evidence-based and transparent, and a clear statement of the weight to be given to rehabilitation relative to other aims. The decision in *Laxman Naskar* offers a model of a multi-factor test, but its application requires structured risk assessment and reasoned decisions.

6.3 Victims

Reformatory justice may appear to prioritise the offender at the expense of the victim. This need not be so. Victims have an interest in preventing reoffending, in receiving compensation, and in understanding the outcome. Policies should keep victims informed of release decisions and consider their views, and should integrate compensation and, where the victim wishes, restorative processes with rehabilitation efforts.

6.4 Resource constraints and priorities

Rehabilitation is resource-intensive, and prisons compete with other public needs for funding. But the cost of ineffective detention, in the form of overcrowded prisons, repeated cycles of offending and the social costs borne by families, is also substantial. Investment in probation, community supervision and release planning is generally less expensive than imprisonment, and may therefore be a more efficient use of resources.

VII. COMPARATIVE AND EMPIRICAL PERSPECTIVES

7.1 The Nordic experience

Norway is widely cited for a correctional philosophy based on the "principle of normality", under which life in prison should resemble life outside as far as possible, the only punishment being the loss of liberty. Its prisons emphasise education, work, and preparation for release, and it reports reoffending rates that are among the lowest in Europe. Scholars caution that the Nordic model rests on a small population, high public trust and substantial public spending, and cannot be copied without adaptation. But its lesson, that humane conditions and purposeful activity are compatible with security and are associated with better outcomes, is relevant.

7.2 Singapore

Singapore has combined a strict criminal law regime with extensive reintegration programmes, including a Yellow Ribbon Project that seeks to change public attitudes towards ex-offenders and to support employment after release. The programme illustrates the importance of the community's role in rehabilitation, since reintegration depends on the willingness of employers and neighbours to accept the returning offender.



7.3 Evidence on effective programmes

The RNR literature and subsequent meta-analyses suggest that well-designed programmes, particularly cognitive-behavioural interventions, education and vocational training, and treatment for substance dependence, can reduce reoffending, with effects that are modest but meaningful. Programmes are more effective when delivered by trained staff, targeted to higher-risk offenders, and followed by community support after release. These findings provide a principled basis for the design of Indian programmes, which should be piloted, evaluated and adapted to local conditions.

VIII. TOWARDS A WORKING SYSTEM OF REFORMATIVE JUSTICE

8.1 Individualised rehabilitation plans. Every convicted prisoner should receive, on admission, a structured assessment of risk and needs, including education level, skills, health, mental health, substance use and family circumstances, and an individual plan updated periodically. Plans should be the basis of programme allocation and of release decisions.

8.2 Statutory recognition of reformative purposes in sentencing. A statutory statement of sentencing purposes should include rehabilitation and reintegration alongside proportionality, so that courts weigh them expressly. Sentencing hearings should receive pre-sentence reports that address prospects of reform, and courts should be encouraged to use probation and community service where appropriate.

8.3 Strengthening probation. The probation service should be expanded, professionalised and integrated with courts and community organisations. The community service provision introduced by the Bharatiya Nyaya Sanhita, 2023 requires operational rules on supervision, hours, agencies and enforcement, and probation officers are the natural body to administer it.

8.4 Adoption and implementation of the 2023 Model Act. States should adopt the Model Prisons and Correctional Services Act, 2023 or equivalent legislation, with funding commitments, timelines and independent monitoring. Open and semi-open institutions should be expanded, with transparent criteria for selection.

8.5 Transparent release criteria. States should adopt clear, published criteria for parole, furlough and remission, based on a structured assessment that addresses risk, conduct, family circumstances and progress against the rehabilitation plan. Decisions should be reasoned, timely and subject to review, and should not turn on factors such as caste, religion or political connection. The *Laxman Naskar* factors can be a starting point.

8.6 Education, work and wages. Prison education should be strengthened and linked to recognised certification, and work should be meaningful, skills-based and paid at reasonable rates, consistent with the Supreme Court's direction on wages. Partnerships with industry and skill development bodies can help to connect prison training with employment after release.

8.7 Health and mental health. Prison health services should be integrated with public health systems, with screening on admission, treatment of mental illness and substance dependence, and continuity of care after release.

8.8 Aftercare and community reintegration. A system of post-release support should be established, with housing assistance, employment links, counselling, and support groups, delivered through probation services and civil society organisations. Measures to reduce the stigma of conviction, such as restrictions on the use of old records for employment, deserve consideration.

8.9 Reducing the prison population. Reformative efforts will fail in overcrowded prisons. Wider use of bail, effective implementation of provisions for release of undertrials, decriminalisation of minor offences, and non-custodial sanctions would all help to create conditions in which rehabilitation is feasible.

8.10 Data and evaluation. A national system should collect data on programme participation, completion, release outcomes and reoffending over a defined follow-up period, enabling independent evaluation. Programmes should be assessed against evidence and discontinued or modified if ineffective.

8.11 Victim engagement. Victims should be informed of release decisions and have an opportunity to be heard, and rehabilitation planning should take account of compensation and, where the victim agrees, restorative contact.



IX. CONCLUSION

The reformatory ideal in Indian criminal justice is long-standing and widely shared. It has support in constitutional values, in the reasoning of the Supreme Court, in the design of the juvenile justice and probation statutes, and in the international standards India has endorsed. Its weakness is not in principle but in implementation. Overcrowded prisons, a large undertrial population, limited staff and services, inconsistent and opaque release decisions and the near-absence of aftercare mean that for many prisoners the reformatory promise is not realised.

Closing this gap requires institutional design as much as rhetorical commitment: assessments that identify needs and risks, programmes that are evidence-based and adequately resourced, clear and reasoned criteria for release, and support in the community after release. It also requires humility about the limits of rehabilitation. It cannot justify disproportionate sentences, nor can it replace the protection of the public in cases of continuing danger. Within those limits, a system that treats reformation as a measurable objective, and that holds itself accountable for results, would serve prisoners, victims and society alike. The test of a reformatory system is not what its statutes say about reform but what happens to the person who walks out of the prison gate.

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