

**HUMAN RIGHT PERSPECTIVE OF DATA PRIVACY, SURVEILLANCE
WITH REFERENCE TO MODEL PRISONS AND CORRECTIONAL
SERVICES ACT, 2023****Dr. Anjali Bondar¹, Mr. Rajaram Garud²**¹ Associate Professor, S.S.Maniyar Law College, Jalgaon.Email: abbondar@gmail.com² Research Scholar, S.S.Maniyar Law College, Jalgaon.**Abstract**

Prison reform in India has evolved from a punitive colonial legacy to a more rehabilitative and Human Rights centric approach. It was rooted in the society that the harsh treatments can correct the criminals but now a day reformation of criminals has focused. Indian prison system has undergone various phases of transformation which came due to Constitution of India, judicial interventions, social movements and legislative initiatives. This paper examines the introduction of reformative frameworks like Model Prison Manual, followed by Model Prisons and Correctional Services Act, 2023 with Human Right perspective. This Act replace the old legislation i.e. Prisons Act, 1894 and related laws. The aim of new Act is to modernize prison governance and move from punitive detention to rehabilitation, reformation and reintegration of prisoners. The Act has been circulated to states and union territories for adoption but till today no state has formally adopted it in full. This Act focuses on the dynamic security assessment and segregation of prisoners, use of technology and scientific interventions in prison administration. This Act also focus on the Grievance redressal, prison boards and individualized prisoner plans, Video conferencing with courts, rehabilitative services and vocational training to the prisoners. The Act also envisages enhanced use of surveillance and monitoring technology, both inside prisons and for inmates on temporary release i.e. Parole. This Act emphasizing International standards and Constitutional mandates which focus on the need for empathy-driven correctional practices for an inclusive model based on human rights, human dignity, transparency, education and post-release care to the prisoners.

Keywords: Human Rights, Prison Reform, Constitution, Surveillance.► *Corresponding Author: Dr. Anjali Bondar***1. Introduction**

The principal role of all civic societies is to punish criminals. The origins of prisons may be dated to antiquity. It was assumed that stringent seclusion and jail measures would rehabilitate the perpetrators. With the advancement of behavioural sciences, it became evident that the rehabilitation of criminals could not be achieved by incarceration alone. The efficacy of prisons as institutions for the rehabilitation of criminals and their reintegration into society has always been a *sin qua non* topic. Mahatma Gandhi rightly quoted that ‘hate the sin not the sinner’ and ‘criminal should treat like patient’ he focuses on reformation rather than punishment. He argued that even prisoners deserve respect and human treatment reflecting a society’s moral values. A significant

proportion of criminals, who are generally well-behaved and belong to respectable societal classes, succumb to crime owing to sudden impulsiveness, provocation, or situational conditions.

This Article prepared by using secondary data with and taking into consideration the Human Right aspect that they are also human being and no own born criminal sometimes situation, circumstances and surroundings compel to do the offence. The primary objective of incarcerating criminals is to rehabilitate them into honest, law-abiding individuals by instilling an aversion to crime and criminal behaviour. In practice, prison officials attempt to achieve convict rehabilitation by coercive and forceful techniques. Contemporary practices prioritise the rehabilitation of convicts for reintegration into communal life. This goal may be accomplished by probation and parole.

2. Historical Perspective of Prison Reforms in India

Prison system in India has a long history. The existence of prison found in our society from Vedic period where anti-social elements were identified by rulers kept them separately by the rulers that society will protect from crime. The origin of criminal jurisprudence in India traced from 4000 B.C. Rig-Veda, Ramayana, Mahabharata and Manav Dharamshastra discuss about the crime against person, crime against property, crime against administration and punishment for the same. The Ancient and medieval systems of prison punishment institutionalize the socio-political tendencies of the Hindu and Mughal periods of Indian history. The English ruler inherited a criminal Justice system which practiced very cruel and primitive methods of punishment. The jails were places terror and torture and prison administration were hard and implementing hard and rigorous punishment. Till today prison in India continue to be governed under old Prison Act, 1894. Thousands of under trials have been waiting for trials that their fate will decide by the court. So, the Indian Government has taken the efforts to enact new legislation with new technology for prison administration.

The Ministry of Home Affairs announced that it has finalised the preparation of the Model Prison and Correctional Services Act, 2023. This Act replaced the existing 130 year old colonial law in an attempt to shift the focus of incarceration from retributive deterrence to reformation, rehabilitation and social reintegration of prisoners. The Model Prison Manual 2016 and the succeeding Model Prisons and Correctional Services Act, 2023 emphasize reformation over mere custody for Indian prisoners while integrating technology for security. These documents balance surveillance needs with human rights, though data privacy remains underexplored explicitly. For prisoners, biometric data collection and monitoring raise tensions with fundamental right under Article -21 i.e. Right to life and personal liberty includes right to privacy and right to life includes dignified life. After the Puttaswamy judgment of the Supreme Court judgement.

3. Key Provisions in Model Prisons and Correctional Services Act, 2023

The 2016 Manual outlines prisoners' rights to human dignity, minimum living standards, communication and legal access, prohibiting treatment as "non-persons." It mandates biometric verification for visitors and integrates technology like CCTV and RFID inmate management system can also combination with face recognition system, access control system, video capture system which provides high-technology management to prison management without detailing data safeguards. The Act expands this via Section 18 use of technology in prison administration and Section 29 use of electronic tracking devices on prisoners which allowing biometrics, inmate tracking devices, and visitor photo and biometric records for security.

➤ **Surveillance Measures**

Prisons must deploy CCTV, biometric access, cellular jamming and scanning to prevent contraband and escapes, especially for high-risk inmates. High-risk prisoners face enhanced surveillance, intelligence gathering and staff rotation to curb organized crime, with electronic devices mandatory for certain leaves. Visitor searches and biometric logging ensure controlled communication but uncensored letters to courts or officials are protected.

➤ **Data Privacy Concerns**

No explicit data privacy rules exist in the 2016 Manual or 2023 Act; biometrics align with the Criminal Procedure (Identification) Act, 2022, but courts critique intrusive collection as violating privacy under Article 21. *The Puttaswamy ruling (2017)* deems right to privacy is fundamental and applicable even in prisons with "reasonable restrictions" for security; yet electronic tracking on bail has been struck down as excessive absent consent.

➤ **Human Rights Balance**

Prisoners retain rights within imprisonment limits, as per Supreme Court principles no dehumanization, human rights entitlement and no added suffering. Vulnerable groups i.e. women, transgender, young offenders get separate facilities, but overcrowding and weak implementation persist, per National Crime Record Bureau data. Reforms via e-prisons and modernization aim at rehabilitation, but surveillance risks abuse without oversight like grievance mechanisms.

➤ **Data protection safeguards for tracking devices in Indian prisons**

Indian prisons lack explicit data protection safeguards for tracking devices under the Model Prisons and Correctional Services Act, 2023, relying instead on voluntary consent and general constitutional privacy protections. Courts enforce proportionality via Article 21, striking down non-consensual or invasive tracking as rights violations.

4. Judicial Perspective toward the Human Rights Protection and Prison Reform

K.S. Puttaswamy and Anr. v. Union of India and Ors (2017)

In this landmark judgement of The Supreme Court clearly stated that privacy is a fundamental right. This means that even prisoners have a right to protection of their personal information. Surveillance inside prisons must be reasonable, lawful, and necessary for security purposes. It should not violate human dignity. Therefore, while technology can strengthen prison safety, it must be used carefully. A proper balance between security needs and human rights protection is essential for fair and constitutional prison administration.

Supreme Court rulings prohibit continuous GPS or location tracking as bail conditions for accused or released prisoners, deeming them violations of privacy under Article 21. These apply to prisoners on bail or interim release, extending Puttaswamy principles against disproportionate surveillance.

Frank Vitus vs Narcotic Control Bureau (2024)

In this case Hon'ble Supreme Court declared the pivotal ruling and declares that it violates accused's right to privacy. The Court struck down a Google Maps pin-sharing condition, ruling it enable NCB real-time movement monitoring akin to confinement. Justices emphasized bail conditions cannot permit police to "continuously peep into private life," infringing liberty post-release.

Shoma Kanti Sen Vs. The State of Maharashtra & Anr. (2019)

In this case court allowed limited GPS sharing voluntarily, but post-Puttaswamy scrutiny demands proportionality.

5. Conclusion and Suggestions

Data privacy, surveillance, and human rights are closely connected in the context of Indian prisons. Even though prisoners lose certain freedoms after conviction, they do not lose their basic human rights under the Constitution of India. Article- 21 protects the right to life and personal liberty which includes the right to live with dignity. The Model Prisons and Correctional Services Act, 2023 aims to modernize prison administration by introducing reforms such as digital records, CCTV cameras and biometric systems. These steps may improve security and management but they also create concerns about misuse of personal data and excessive monitoring.

Indian prison reform serves as proof of national justice evolution because society now understands justice should focus on transformation rather than punishment. These days Indian justice has evolved from punitive laws of colonial times to use constitutional values such as dignity and equality and liberty as its foundation. A newly reformed prison system will evolve personal development in inmates alongside driving societal progress towards both social inclusivity and fair treatment of all citizens through its correctional institution reform

The Model Prison Manual of 2016 alongside the Model Prisons Act of 2023 serve atwo major reform initiatives that push for standardized prison management and bring in open prison programs and vocational training facilities as well as electronic record systems. The advancement of aftercare programs together with legal aid and psychosocial assistance is primarily due to the efforts of committees and NGOs. The focus on gender-sensitive and child-specific correctional frameworks, particularly through the Juvenile Justice Act, affirms India's commitment to restorative justice. Since prisons are a state subject in India, the adoption of the new act depends on the willingness of the state governments. However, many states may not show enough interest or commitment to implement the reforms due to a lack of funds, resources or political incentives. Following suggestions are given by researchers which are as follows.

➤ **Create awareness amongst public**

There is a need to create awareness among the public, media, civil society and policymakers about the need and benefits of prison reforms. This can help generate public support and pressure for implementing the reforms and reducing the social stigma associated with prisoners.

➤ **Enhancing coordination**

There is a need to enhance coordination among various agencies involved in prison administration such as state governments, judiciary, police, NGOs, etc. This can help ensure the smooth functioning of prison operations and avoid duplication or conflict of roles.

➤ **Monitoring and evaluation**

There is a need to monitor and evaluate the progress and impact of prison reforms regularly. This can help identify the gaps and challenges in implementation and take corrective measures accordingly. It can also help assess the outcomes and effectiveness of various reformation programs on prisoners' behaviour and well-being.

➤ **Sharing best practices**

There is a need to share best practices and learnings from other countries or states that have successfully implemented prison reforms. This can help adopt innovative solutions and avoid common pitfalls in implementing prison reforms.

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