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What is the Model Prisons Act announced by the MHA?

With an intent to replace antiquated colonial era prison laws, the Model Prisons Act 2023 will shift the focus of incarceration from "retributive deterrence" to "reform and rehabilitation".

Written by [Khadija Khan](#)

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 **NewsGuard**




Centre Jail Tihar in New Delhi, Monday, May 10, 2021. (Express Photo by Amit Mehra/Representational)

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The Ministry of Home Affairs (MHA) announced that it has finalised the **preparation of the Model Prisons Act, 2023**, to replace the existing 130-year-old colonial law in an attempt to shift the focus of incarceration from “retributive deterrence” to “reform and rehabilitation”.

Intending to provide guidance and address gaps in the existing prison laws, the **2023 Act seeks to bring in the use of technology in prison management, make provisions for the grant of parole, furlough, and remission, and introduce special provisions for women and transgender inmates.**

What is the backdrop against which the 2023 Act is being introduced?

Announced on May 12, the **Model Prisons Act, 2023**, is being introduced following the spate of killings and gang violence within prisons. One such incident was the **killing of 33-year-old Tillu Tajpuriya**, who was allegedly **stabbed to death** by members of a rival gang inside Tihar jail.

Besides this, last year, in November, the National Investigation Agency (NIA) asked the Union Home Ministry to **shift several dreaded gangsters** lodged in north

India's prisons to those in the southern states. The NIA's request to move nearly 25 gangsters was driven by the presence of a "criminal nexus operating from inside prisons in Delhi, Punjab, Haryana, and Rajasthan."

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Moreover, Union Home Minister Amit Shah had announced that a change in the prison law was in the works while calling for a rehabilitative view of prisoners and jails. Speaking at the inauguration of the **6th All India Prison Duty Meet 2022 in Ahmedabad**, Shah had said that India's incarceration system is prone to abuse since it was set up by the British to subjugate political prisoners.

Similarly, MHA's statement from May 12 read that the pre-Independence Prisons Act, 1894, focused on keeping criminals in custody and enforcing discipline and order in prisons, leaving "no provision for reform and rehabilitation of prisoners". Owing to new perspectives evolving on prisons and prison inmates, globally" in the last few decades, the Ministry reasoned that prisons are not seen as "places of retributive deterrence" today but instead as "reformatory and correctional institutions" where prisoners transform and rehabilitate back into society as law-abiding citizens.

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Thus, the MHA assigned the task of revising the Prisons Act, 1894, to the **Bureau of Police Research and Development**. The bureau, after holding wide-ranging discussions with state prison authorities and correctional experts, among others, prepared the draft, which culminated in the 2023 Act.

What are the new provisions being proposed?

In an attempt to overhaul the colonial 1894 Act, the Model Prisons Act **seeks to create provisions for the grant of parole, furlough, and remission to prisoners to encourage good conduct.**

Additionally, it aims to provide separate accommodation for women and transgender inmates, ensure the physical and mental well-being of prisoners, and focus on the reformation and rehabilitation of inmates.

The new Act also intends to bring about “attitudinal change towards prisoners” and initiate vocational training and skill development for prisoners for their reintegration into society.

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The 2023 Act also seeks to bring about “transparency in prison management” and includes provisions for security assessment and segregation of prisoners; individual sentence planning; grievance-redressal; prison development board; use of technology in prison administration; and protecting society from criminal activities of hardened criminals and habitual offenders. Provisions for establishing high-security jails and **open, semi-open jails** have also been inserted.

Apart from this, new measures for prisoners to video conference with courts have also been introduced. However, if a prisoner is using prohibited items like mobile phones in jail, they will be punished for it.

Along with the Prisons Act, 1894, the Prisoners Act, 1900, and the Transfer of Prisoners Act, 1950’ have also been reviewed by the MHA, and their relevant provisions have been assimilated into the Model Prisons Act, 2023.

What were the previous prison laws?

The first legislation that governed the management and administration of prisons in India was the Prisons Act, of 1894. It defined a “prison” as “any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners”, excluding police custody and subsidiary jails. Further, it demarcated prisoners into three different categories

according to the nature of their crimes, such as “criminal prisoner”, “convicted criminal prisoner” and “civil prisoner”.

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The 1894 Act dealt with provisions for accommodation, food, clothing, bedding segregation, and the discipline of prisoners, including solitary confinement. It also laid down provisions for the prisoners’ employment, health, and visits. However, the act had no provisions for reformation or rehabilitation and permitted “whipping, provided that the number of stripes shall not exceed thirty,” albeit for only male prisoners. Moreover, this Act did not apply to “civil jails in the State of Bombay, outside the city of Bombay, and those jails administered under the provisions of Sections 9–16 of the Bombay Act, 1874.

Thus, the Prisoners Act 1900 was introduced with the objective of consolidating the “several acts relating to prisoners” and replacing the “separate enactments by a single act, expressed more simply and intelligibly.” The Act dealt with the prisoners within presidency towns and those outside; it also included provisions on how to deal with lunatic prisoners and allowed prisoners to be removed from prisons on conditions like receiving death sentences and maintaining good behaviour within prisons.

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Besides these, there were other legislations, like the Transfer of Prisoners Act, 1950, which also provided for the removal of prisoners from one state prison to another.

However, presently, the jail manuals of each state also deal with the administration and management of its prisons.

Is the Model Prisons Act, 2023, binding on states?

As per the provisions of the Constitution, ‘prisons’ and ‘persons detained therein’ fall under the State List. This means that the responsibility of prison management

and administration solely vests with the state government, which alone is competent to make appropriate legislative provisions in this regard.

However, the MHA stated that owing to the critical role played by “efficient prison management” in the criminal justice system, the Centre finds it crucial to support the States and UTs in this regard.

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Moreover, since there were “several lacunae in the existing Prisons Act, which regulates the prison administration” in most states and UTs, the government thought it fit to revise the law to align it with “modern day needs and requirements of prison management”. The ministry also clarified while announcing the 2023 Act that it “may serve as a guiding document for the States” so that they may benefit from its adoption in their jurisdictions.

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