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Prison Administration in India

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Picture a jail built for 100 people that holds 130. Most of them have not been found guilty of anything. They are waiting for trial.

This is the daily picture in many Indian jails. To understand why, start with one question: who is in charge of prisons?

This lesson covers the old 1894 law, the new Model Act of 2023, and the rights a prisoner keeps.

Prison administration, at a glance

- **Subject:** State List, Entry 4 of the Seventh Schedule.
- **Base law:** the Prisons Act, 1894 still governs jails in most States.
- **New template:** the Model Prisons Act, 2023 aims at reform, not just punishment.
- **Rights:** Article 21 protects even undertrials and convicts.

Undertrial: a person in jail while the trial is still going on. **Parole:** a temporary release of a convict on conditions. **Model Act:** a template law from the Centre. States may copy it, but do not have to.

Who Runs India's Prisons?

Which government is in charge of prisons?

The answer surprises many students. It is not the Centre. It is each State.

“Prisons” is **Entry 4 of the State List** in the Seventh Schedule. The entry also covers reformatories, Borstal institutions and the persons detained in them.

So each State government makes its own rules and runs its own jails.

The Centre can only advise, fund and share good practice. It has done this through a model prison manual and grants for better jails.

Sources: indiankanoon.org

> **Quick check 1.** Prisons are a Union subject in the Seventh Schedule. *(True or False?)* See answer ↓

Remember: Prisons = State List, Entry 4. A “Union subject” option is always a trap.

What Did the 1894 Prisons Act Set Up?

What is the Prisons Act, 1894?

The old law is from the British days. It was written to keep order, not to reform people.

The **Prisons Act, 1894** is the base law for prison administration. It kept prisons under the control of the provincial governments, now the States.

Its spirit was **custody and punishment**. For over a century, the same frame stayed in place.

Sources: indiankanoon.org

What rules does the 1894 Act actually lay down?

Section 4 makes the State Government provide prison accommodation. Section 5 says an Inspector-General of Prisons is appointed for each State.

Section 27 sets the rules for separating prisoners:

- women are kept apart from men
- young male prisoners are kept apart from adults
- unconvicted prisoners are kept apart from convicted ones
- civil prisoners are kept apart from criminal prisoners

These rules still matter, because the Model Act keeps the idea of separation.

Sources: indiankanoon.org

What Does the Model Prisons Act, 2023 Change?

Which old laws does it gather?

The Centre wrote a new template in 2023. It gathers three old laws into one clean text.

It pulls together the **Prisons Act, 1894**, the **Prisoners Act, 1900** and the **Transfer of Prisoners Act, 1950**.

The Ministry of Home Affairs announced it on 12 May 2023. The Bureau of Police Research and Development drafted it.

Sources: pib.gov.in

What is the new goal?

The goal shifts from custody and punishment to **reformation and rehabilitation**.

The Act speaks of legal aid for inmates who cannot pay a lawyer. It gives weight to the dignity and health of inmates.

It provides for parole, furlough and early release to reward good conduct.

It also adds safety for women and transgender prisoners, vocational training, and the use of technology in prison management.

Sources: pib.gov.in

Think it through: why combine three laws?

Show the answer

Three separate old laws meant overlapping rules. One modern text is easier to follow and update. It also lets the new goal of reform run through every rule.

Point	Prisons Act, 1894	Model Prisons Act, 2023
Main goal	Custody and discipline	Reform and rehabilitation
Laws covered	One Act	Three old laws assimilated
Legal force	Law in force in the States	Template only

Is the Model Act Binding on the States?

Why is the Model Act not binding?

This is the most tested point. A model is only a model.

Prisons are a State subject. So States must choose to adopt the Model Act. It is **not binding**.

The MHA itself calls it a guiding document. A State may adopt it with changes and repeal the three old Acts in its area.

Reform therefore moves at a different speed in each State. A State with strong will and funds can move fast. Another may keep its old rules for years.

Sources: pib.gov.in

Quick check 2. The Model Prisons Act, 2023 is binding on every State. *(True or False?)* See answer ↓

Why Are Indian Prisons Overcrowded, and What Helps?

What causes overcrowding?

Overcrowding is the oldest problem in the system. A large share of inmates are undertrials. They wait because trials are slow.

In **Hussainara Khatoon** (1979), newspapers reported undertrials jailed for 5, 7 or 9 years. A few had waited over 10 years. Their trial had not even started.

Sources: indiankanoon.org

What helps reduce it?

- **Free legal aid** helps poor inmates get a lawyer. NALSA works on this.
- **Parole and furlough** allow temporary release.
- **Premature release** moves eligible convicts out sooner.

The law also lets many undertrials seek release after serving part of the likely sentence.

Open prisons, such as those started by Sampurnanand in Uttar Pradesh, give trusted prisoners more freedom.

Sources: pib.gov.in

Do Prisoners Keep Their Rights?

Does a prisoner lose Article 21 in jail?

A prisoner does not lose all rights at the jail gate. **Article 21** protects life and personal liberty, even behind bars.

In **Hussainara Khatoon v. Home Secretary, State of Bihar (1979)**, the Supreme Court looked at undertrials jailed longer than their possible sentence.

Justice P.N. Bhagwati wrote that speedy trial is not named as a fundamental right. But it is implicit in Article 21.

The Court also said the procedure must be “reasonable, fair and just”. A procedure that is not so is unconstitutional.

Sources: indiankanoon.org

Can a prisoner go to court?

Courts can step in against ill-treatment and arbitrary detention. So a prisoner can approach the courts for humane treatment.

Jail does not close that door.

Sources: indiankanoon.org

> **Quick check 3.** A person loses the protection of Article 21 once they are in prison. *(True or False?)* See answer ↓

What Are the Exam Traps on Prison Administration?

- **Trap 1:** Prisons are a Union subject. They are in the State List.
- **Trap 2:** The Model Act binds the States. It does not.

- **Trap 3:** The Model Act keeps the old goal of punishment. Its goal is reform and rehabilitation.
- **Trap 4:** The Model Act merges two laws. It merges three.

Use one test. If the option says “binding” or “Union”, doubt it.

How Has This Been Asked in Exams?

Must Know

- Prisons are **State List, Entry 4**.
- The Model Prisons Act, 2023 is **not binding**. It aims at reform.
- Speedy trial flows from **Article 21**, shown in Hussainara Khatoon.

Good to Know

- The 2023 Act merges **three** old laws: 1894, 1900 and 1950.
- Section 27 of the 1894 Act separates **unconvicted** from convicted prisoners.

Great to Know

- The Bureau of Police Research and Development drafted the 2023 Act.
- Each State has an **Inspector-General of Prisons** under Section 5.

Practice MCQs

1. Under the Seventh Schedule, prisons fall under:

A. Union List

B. Concurrent List

C. State List

D. Residuary powers of Parliament

See answer ↓

2. Which of the following is the base law of prison administration in most States?

A. Transfer of Prisoners Act, 1950

B. Model Prisons Act, 2023

C. Prisoners Act, 1900

D. Prisons Act, 1894

See answer ↓

3. The Model Prisons Act, 2023 assimilates the provisions of how many older laws?

A. Three

B. One

C. Two

D. Five

See answer ↓

4. Which statement about the Model Prisons Act, 2023 is correct?

A. It binds all States once notified by the MHA

B. It focuses mainly on retributive deterrence

C. It applies only to Union Territories automatically

D. It is a guiding template that States may adopt

See answer ↓

5. Which Section of the Prisons Act, 1894 keeps unconvicted prisoners apart from convicted ones?

A. Section 27

B. Section 4

C. Section 3

D. Section 5

See answer ↓

6. In Hussainara Khatoon v. Home Secretary, State of Bihar (1979), the Supreme Court held that the right to speedy trial is implicit in:

A. Article 19

B. Article 21

C. Article 14

D. Article 32

See answer ↓

Answer Key

1. **C.**
   Entry 4 of the State List covers prisons and persons detained in them.
   ↑ Q1
2. **D.**
   The 1894 Act is the base law. The 2023 Act is only a template.
   ↑ Q2
3. **A.**
   It assimilates the Prisons Act 1894, the Prisoners Act 1900 and the Transfer of Prisoners Act 1950.
   ↑ Q3
4. **D.**
   It is a guiding document. Prisons are a State subject, so States choose whether to adopt it.
   ↑ Q4
5. **A.**
   Section 27 lists the separation rules, including unconvicted from convicted prisoners.
   ↑ Q5
6. **B.** The correct answer is **Article 21**. In Hussainara Khatoon the Court tied a speedy trial to the right to life and liberty. The case dealt with undertrial prisoners. Memory hook: speedy trial means Article 21. ↑ Q6

Quick-check answers

1. **False.** Prisons are in the State List, Entry 4. ↑ 1
2. **False.** It is a template. Prisons are a State subject, so each State must adopt it.
   ↑ 2
3. **False.** Article 21 protects prisoners too. Hussainara Khatoon built the right to a speedy trial on it. ↑ 3

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