Criminal Justice Committee Study Guide

Criminal Justice: Introducing Reforms to the Prison System
Definitions

- **Section 436A of the Indian Code of Criminal Procedure**: allows people who have been put under trial to be released on a personal bond if they already faced at least half of the maximum term of imprisonment that they would have faced if they were convicted.

- **Provisional detention**: is the process of detaining a person who has been arrested and charged with an offense until their trial.

- **Restorative justice**: is an approach to criminal offences which involves the victim, the offender, their social networks, justice agencies, and the community, in which a meeting is arranged between the the victim and the offender to discuss who was harmed by the crime and how.

- **Plea agreement**: An arrangement, between the state and the defendant in a criminal case, in which the defendant agrees to acknowledge some level of guilt for a lesser sentence than the original penalty usually given for the crime/s charged.

- **Commonwealth**: an independent country or community.

- **Recidivism**: a tendency to relapse into a previous condition or mode of criminal behavior.

- **Penitentiary**: a prison, generally reserved for serious offenders; originally referred to as an institution where inmates would seek to show penitence, or regret, for their crimes. In the U.S. federal prison system, a penitentiary is a maximum-security facility.

- **Pardon**: the use of executive power of a Governor or President to forgive a person convicted of a crime, thus removing any remaining penalties or punishments and preventing any new prosecution of the person for the crime for which the pardon was given.

- **Prison overcrowding**: is a social phenomenon occurring when the demand for space in prisons in a jurisdiction exceeds the capacity for prisoners.

- **Social Reintegration programs**: are designed to provide assistance to formerly incarcerated persons in getting job training and finding a job. Ideally, a reintegration program prevents a formerly incarcerated person from committing another crime by helping that person secure a good job.
• Monitoring mechanisms: are mechanisms established to monitor the effective implementation of a specific system’s rules. It will assist each State in assessing its level of implementation of the Rules and in measuring its progress.

Background

Prison reform is any attempt to improve prison conditions. The criminal justice system effectively curtails the liberty of people for indefinite time periods even though their guilt has not been proven. Unfortunately, in the criminal justice system, prisons and prisoners get minimal attention, in which they are being convicted.

In many commonwealth countries, prisons are full to overflowing with people that are not yet proven guilty of a crime. Not to mention the rapid growth of the prison population in many countries.

Crime prevention and criminal justice strategies must be gender-responsive and respect the rule of law.

Some major areas of discussion involved in prisons include: prison overcrowding, poor health services, lack of social reintegration programs, lack of information systems and strategic planning, lack of inter-institutional communication, lack of inspection and monitoring mechanisms, lack of support of, and information for civil society, lack of economic and human resources, as well as increasing numbers of prisoners with special needs that are rarely addressed within prisons.

Treaties and Organizations

NCRB (National Crime Records Bureau): is an Indian government agency responsible for collecting and analysing crime data as defined by the Indian Penal Code and Special and Local Laws.

UNODC (United Nations Office on Drugs and Crime): One of its key tasks is to produce and disseminate accurate statistics on drugs, crime and criminal justice at the international level. UNODC also works to strengthen national capacities to produce, disseminate and use drugs, crime and criminal justice statistics within the framework of official statistics.

Current Situation

Crime prevention and criminal justice strategies must be gender-responsive and respect the rule of law, therefore incorporating human rights law and principles. Acting as the custodian of the UN standards and norms in crime prevention and criminal justice, promoting human rights, UNODC (United Nations Office for Drugs and Crime) assists member states in reforming their criminal justice systems in order to be effective, fair and humane for the entire population.
Situation in Relevant Countries

- **India**: With an occupancy rate of 114.12% for its 1401 prisons and an extremely high pre-trial detainee population rate of 67.2%, the condition of Indian Prisons is as worrisome. India ranks 5th in the world in prison populations, with 419,623 imprisoned.

- **United States**: 25% of the world's prisoners are held in the United States, and it holds 50% of the world's prisoners who are in solitary confinement. Mainly in Mississippi, the prison population has begun to tick back up, from 18,964 in January 2018 to 19,697 last week, largely due to probation and parole revocations putting offenders back behind bars. If current trends continue, Mississippi will have more inmates in 2020 than it did before the reform became law. Mississippi also lacks the programming to help offenders transition from prison to their communities, according to the task force that spearheaded the legislation.

- **United Kingdom**: The prison system in England and Wales is in an “appalling” state of crisis, lacking decency or security and no clear plan for desperately needed change, MPs have warned in a report that raises questions over the government’s pledges on prisons ahead of an election.

Timeline

- **The 1680s**: William Penn (the founder of Pennsylvania) reserved that punishment for just two crimes in Pennsylvania: murder and treason.

- **The 1700s**: Those convicted of crimes often faced physical punishment, people began developing the thought that imprisoning criminals would protect society. The founders of a prison in Philadelphia believed that inmates should be treated humanely and should repent in part through physical labor in which work would aid the convicts' rehabilitation.

- **Mid-1800s**: Women were placed in large holding cells with men, and where often sexually abused and raped, even by the guards (who were men). But eventually a separate prison for women was built, and they were also being supervised by female guards. At the end of 1800 Enoch C. Wines (a prominent reformer of that time, became secretary of the NYPA in 1862), suggested the the prisons be run by professionals in the field.

- **The 1900s**: Among the most significant innovations of that period were probation, parole, and sentencing changes. Probation became widespread during the first decade of the twentieth century. A person sentenced to probation underwent counseling and was supervised by a probation officer. The practices of parole and indeterminate sentencing also became widespread in the early 1900s. Many states created laws
allowing for prisoners to reduce their sentences through good behavior. Both of these systems were flawed from the beginning. Many members of the general public opposed parole, believing that criminals were returned to society too soon under this system.

- **After World War II (1939–45):** the construction of new prisons was extremely expensive, so many states chose simply to add new prisoners to the existing structures. Thus began the overcrowding of prisons. Overcrowding led to or added to other problems in prisons, including unsanitary living conditions, unsafe and low-quality food, overtaxed plumbing systems, and insufficient medical care and psychological counseling.

- **1950s and 1960s:** prison reformers also experimented with various methods of helping inmates adjust to life outside prison. In addition, relations between prisoners and guards and between black and white inmates grew increasingly tense.

- **21st Century:** overcrowding has remained a significant problem in prisons across the United States. Calls for tougher punishments for criminals led to mandatory sentencing laws during the 1990s. These laws gave judges almost no flexibility in determining sentences for the offenders.

- For more detailed information: [The Prison Reform Movement](#).

**Critical Events**

**The 2012 Nirbhaya Case:** This gruesome rape sparked outrage from all sections of the society across India. A woman was beaten, gang raped, and tortured in a private bus by six different men, including the driver. All the accused were arrested and charged with sexual assault and murder. The legal system remains slow to hear and prosecute rape cases. Almost all men faced the death penalty.

**Questions to Consider**

- There are now more than 200,000 women behind bars and more than one million on probation and parole. Many of these women struggle with substance abuse, mental illness, and history of physical and/or sexual abuse. What can be done to help these women and successfully reintegrating them into society?

- For some patients, poor medical care turns a minor sentence into a death sentence. What can be done to improve medical care in prisons?

- How is your country affected by the situation?

- What is your country’s position on pre-trial detention?
• How can prison management systems be changed? And how will it affect the prisoners?

• What are alternative measures and sanctions that can be used to discipline prisoners and successfully reintegrate them into society while respecting their basic human rights and needs?

• How can we most effectively achieve social reintegration?

• Does your country give pardons to detained defendants often?

• How do inhumane living conditions in prison affect the prisoner and the process of social reintegration?

• Should a country advance prisoners in their own country over foreign prisoners?

• How can a country help minimize crime and mistreatment of prisoners in prisons?

• How can we reduce the number of people who are rearrested?

Relevant Media

Graphs and Statistics:
Videos:

President Trump 2019 Prison Reform Summit and First Step Act Celebration

Useful Resources

Commonwealth Human Rights Initiative - CHRI

Why Promote Prison Reform?

Prison Safety and Reform as Presented to the British Parliament by the Ministry of Justice

Prison Reform

The Social Reintegration of Offenders and Crime Prevention in Canada


CHRI, CSNSR IN ODISHA LAUNCH NEW REPORT ON CRIME AND POLICING

SECOND NATIONAL REPORT ON PRISON MONITORING IN INDIA
Bibliography


