



Human Rights In Prison: An Critical Penological Study

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Abstract

“Crime is product of sick mind and jail must be a place of hospital where they are treated and cared.”

Gandhi

- *Mahatma*

The necessity is based on the need to treat humanely and protect the basic rights in the criminal judiciary has increased awareness on the topic of the rights of prisoners in India in recent years. This essay aims to give an in-depth analysis on the status of the rights of prisoners. In India, with a focus on the challenges that it faces, the extent to which existing legislation is being enforced is being highlighting. Action, and potential ways of reform. The research will examine some of the factors of rights of inmates, such as living situations, legal assistance, rehabilitation, and re-entry to society, and access to healthcare. The project uses a mix of qualitative and quantitative research techniques, such as stakeholder interviews, case studies, legal analysis, and literature reviews, to identify best practices and policy proposals for improving the protection of prisoners' rights, as well as shed light on the weaknesses and inadequacies in the current system. The study's conclusions ultimately seek to support the advancement of human rights and dignity for every person incarcerated inside the Indian criminal judiciary, as well as to add to the current conversation on criminal justice reform in that country.

Keywords: India's Criminal Justice System, Human Rights, Rehabilitation, Legal Framework, and Prisoners' Rights.

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1. Introduction

“It is stated that one cannot fully understand a country until they have visited its prisons. A country's treatment of its lowest inhabitants, not its highest, should be used to evaluate it”.

- Nelson Rolihlahla

*Mandela*³

Human rights are the inherent and inalienable rights that are granted to everybody if he or she is a person, irrespective of the conditions, his/her status, or actions. These rights are grounded in the concept of justice, equality and dignity and such rights do not evolve when an individual is in custody. In as much as it denies an individual freedom, being in jail does not deny him basic human rights. Although the prisoners are incarcerated, they still enjoy certain fundamental rights namely right to life, health, and dignity, right to counseling and protect against torture and cruel, inhuman, or a degrading treatment. The necessity of prison reforms, classification of prisoners and protection of the rights of inmates. It is important to acknowledge the rights of prisoners to not only maintain human nature but also ensure that the incarceration is curative and rehabilitative. The Indian Constitution, international documents like the ‘*Universal Declaration of Human Rights*’ of 1948 and the 1966. All of them can be used to affirm the ‘*International Covenant on Civil and Political Right*’ and court decisions. that prisoners are not objects but people, who, like any other people, must be treated fairly and humanely. punishment. Thus, the rule of law and promoting re-integration of inmates should be supported. Society as good citizens of society rely on the preservation of their human rights.

2. Conceptual Framework

The basic knowledge of the terms and processes involved in punishment and correction. and the conceptual structure of rehabilitation in criminal judicature is offered. penology. It explores the meaning and the use of penalty with the emphasis on its role in enforcing society. order through imposing legal penalty. In addition, the evolution of prison system throughout history. records the history of punishment shift in the archaic versions of punishment too. modern theories of correction stressing reform and reintegration. This paradigm aids in the understanding of the ways in which legal systems and social norms have shaped the objectives and ways of punishment across time.

2.1 Meaning and Scope of Penology

“*Poena*” (Latin: *poena*) is the Latin term of punishment and logos (Greek: logos) is the term of study. are the beginnings of the word penology. Penology therefore literally means the science of punishment. It is a subbranch of criminology that deals with the theory and practice of punishment. Simply put, penology is the science of criminal behavior, crimes and various kinds of punishment. and punitive measures against the wrongdoers. Penology is not limited to punishment that is understood as inflicting pain or vengeance. To convert criminals into law-abiding citizens, the contemporary penology has a very strong focus on the correctional and rehabilitative elements of punishment. It looks at a few criminal laws, including the death penalty, fines, probation, parole, and community service as well as more recent alternatives.

³“United Nations Organization, https://www.un.org/en/events/mandeladay/mandela_rules.shtml” (last visited October 1, 2025)

The broad and include law, sociology, psychology, ethics and policy. Self-reflection and the spiritual aspect of life were provided with a more multidisciplinary field of penology. The following headings help to understand its scope:

Examining Punishment: Various theories of punishment, including preventive, reformatory, retributive, and deterrent ones. The assessment of the efficacy of different penalties (such as fines, jail, the death penalty, etc.). The analysis of whether punishment makes offenders more resolute or less prone to crime.

Administration of Prisons: Prison administration, structure, and operations. The need for prison reforms, prisoner classification, and the defense of inmates' rights. The creation of alternatives to incarceration, like community-based prisons and open jails.

Reformation and Rehabilitation of Offenders: Probation, parole, vocational training, and prison education are some of the techniques used to reform and rehabilitate offenders. The sociological and psychological strategies for rehabilitating criminals and lowering recidivism and reintegrating inmates into society.

Preventive Aspects of Crime: Measures to prevent crime through social awareness, education, and appropriate law enforcement are known as preventive aspects of crime. Institutions, communities, and families all play a part in preventing crime. Investigation of the socioeconomic causes of crime.

Human Rights Dimension: Making sure that offenders' basic rights and dignity are not infringed upon by punishment. walking a fine between the interests of society and the rights of criminals. Compliance with international conventions like the 'Nelson Mandela Rules', which are the 'UN Standard Minimum Rules of the Treatment of Prisoners'.

2.2 Historical Evolution of Prison System

The changing attitude of the society towards crime is also periodically traced in the history of the Indian prisons⁴. The prison system in India has been operating excellently since ancient times to deter any repeat of crime by the offenders.

Ancient Indian prisons: During the Hindu and Mughal eras in India, the following forms of punishment were accepted: hanging, flogging, branding, mutilation, solitary imprisonment, mutilation, whipping, flogging, and death sentences. Self-reflection and the spiritual side of life were given more weight at this time. Prisoners were subjected to abuse, torture, and rigorous monitoring and control because of various forms of discipline.

British Indian prisons: Death sentence, hanging, lashing, branding, mutilation, starvation to death, and solitary confinement were all acceptable forms of punishment in India both under the Hindu and the Mughal rules. Prisoners were abused, tortured and tightly controlled and monitored. because of diversified types of Truth and Discipline. To protect the woman inmates against disease, in 1866, better facilities and hospitals were brought forth. To preserve uniformity with as far as Indian institutions are concerned, the

⁴ Rishu Anand and Abhirajan Dixit, "Prison System and Rights of the Prisoners: A Critical Analysis", International Journal of Law Management & [ISSN 2581-5369], Vol. 7 Issue 3; Pg. 3283 – 3295; 2024 (last visited October 3, 2025)

Prison Act came into existence in 1894. The then-existing Act provided the following. empowers itself to be able to set its rules on how the institution is run. Also, it abolished solitary imprisonment and segregated offenders into a few groups. A few initiatives were undertaken in 1907 to keep juvenile and adult offenders apart.

Sir Alexander Carddew led the '*Committee of Indian Jail changes*' 1919–20, which was established to suggest jail changes. The Committee condemned the use of corporal punishment in prisons and emphasized the necessity for a reformatory approach to offenders. It placed a strong emphasis on prisoners using constructive labor to support themselves. It was also emphasized that each jail's maximum capacity ought to be determined by its dimensions.

Indian prison after independence: The '*Indian Prison Act of 1894*' and the guidelines for prison management and administration included in the state prison manuals serve as the laws governing Indian prisons. According to India's first prime minister, Pandit Jawahar All Nehru, criminals should be helped rather than punished because they are mostly products of societal circumstances. Along with police and law and order, "jail" is listed in the seventh schedule of the Indian Constitution. A comprehensive facility for the care and reformation of prisoners, the contemporary Indian jail system places a strong emphasis on providing services including community service, educational and vocational training, and medical assistance.

In 1957, there was the creation of a committee consisting of drafting an '*All-India Jail Manual*' due to the recommendations of a United Nations technical expert on crime prevention and treatment of offenders, Dr. W.C. Reckless. The central agenda of the committee was the reformatory methods of probation and parole that were expected to reduce the burden of prisons.

The goal of prisoner reformation and rehabilitation is to resocialize and reintegrate the inmate into society by changing the inmate's behavior regarding values, norms, and attitudes through education, training, and treatment.

The '*Committee of All-India Jail Reforms*', which was set up by the Indian government in 1980, was led by Justice A.N Mulla. The Committee proposed that India should open a National jail Commission to modernize the jail system. It puts great emphasis on solving the existing dispute between state and union jail administration. To ensure that the jail staff is properly trained into different cadres, the Mulla Committee would propose the establishment of an All-India Service called the Indian Prisons and Correctional Service with the mandate of contracting prison officials. The categories of the offenders which the Committee proposed to segregate included the following: Undertrials served in different prisons, Separate institutions of minors and young offenders; separate jails of women, and separate prisons of seasoned criminals.

In 1988, Justice V.R Krishna Iyer headed the "*National Expert Committee on Women Prisoners*" which made recommendation of increasing the numbers of female police officers to fight the female and juvenile crimes. A new code of criminal Procedure Section 436-A was introduced, according to which the court shall free an undertrials prisoner on his own bond with, or without certainties should he have served half the maximum period of imprisonment provided for that crime.

3. Human Rights for Inmates

The idea that incarceration does not deprive people of their fundamental rights and dignity is emphasized by human rights and prisoners. The belief that convicts still have the right to basic human rights under both national and international law, regardless of their offenses, is reflected in its emphasis on providing humane treatment, equitable circumstances, and protection from abuse.

3.1 Evolution of Prisoner Treatment in India

India's historical approach to prisoner care has changed over the centuries according to political, social, and cultural influences. An outline of India's past prisoner treatment is provided below:

Ancient Period: Fines, physical punishment, banishment, and incarceration were among the many ways that crimes were punished in ancient India. Chanakya (Kautilya) is credited with writing the ancient Indian book on statecraft and government known as the Artha shastra, which describes laws and penalties for many misdeeds, including incarceration as a form of punishment for some.

Medieval Period: Various monarchs and countries treated prisoners differently throughout this time. Institutions like the Kotwal (head of police) and Qazi (judge), which were established by Islamic kings, were involved in the administration of justice, including the punishment of criminals. Criminals, debtors, and political prisoners were all housed in prisons.

Colonial Era: The British colonial power had a significant influence on how prisoners were treated in India. In 1770, the British government initiated a structured prison system that used the first modern prison to be constructed in Kolkata (then Calcutta). One of the laws and regulation that was enforced by the colonial authorities concerning prisons and inmates was the Indian Prisons Act of 1894 that set out the policies through which prisons and prisoners would be managed and administered.

Independence and the Post-Independence Era: In the year 1947, India inherited the British jail system upon achieving its independence. The conditions of inmates were changed and the jail system reformed. The citizens, the convicts are not excluded, have some basic rights which are outlined in the 1950 Indian Constitution such as 'the right to life and personal liberty' (Article 21) and 'the forbidden practice of cruel treatment or punishment' (Article 20).

3.2 Concept of Human Rights in Criminal Jurisprudence

Every person, regardless of their status or behavior, has certain inherent and inalienable rights that must be upheld and preserved even in cases when they are charged with or found guilty of a crime. This is the foundation of the concept of human rights in Indian criminal jurisprudence. The moral and legal cornerstone of criminal justice is human rights, which guarantee that the State's authority to make arrests, hold people in custody, and administer punishment is used in a way that respects justice, fairness, and human dignity.

One of the greatest steps to projecting a more compassionate and open criminal justice system in India and making it more rights oriented. concerned is the integration of the idea of human rights in criminal law into the new. criminal law, the 'Bharatiya Nagarik Suraksha Sanhita' (BNS), 2023, the 'Bharatiya Nyaya Sanhita'. The 'Bharatiya Sakshya Adhinyam' (BSA), 2023, and (BNSS), 2023. These codes replaced the 'Indian Penal Code' (IPC), 'Code of Criminal Procedure' (CrPC) and Indian Evidence. The following acts,

respectively, are an act of the colonial period, which is aimed at enhancing procedural justice and protection. the freedom and the dignity of every human being of the deprived ones. The principal work is to protect the human rights of prisoners and the individuals who are under trial. 'Bharatiya Nagarik Suraksha Sanhita'⁵ 2023, that governs criminal procedures. It includes several pauses that, through their adherence to Article 21 that requires impartial, timely, and humane procedures, reinforce. constitutional requirement which is right to life and personal liberty. To address the issue of long sentences and prison overcrowding, the BNSS under Section 479 (which is identical) the release of undertrial prisoners who have been held can be made under to Section 436A of the CrPC). Serving one-half of the maximum sentence provided by the offense. Also, it requires sickness. inmates and women are given specific treatment. To ensure transparency and reduce. The BNSS also encourages the use of electronic means to collect the evidence because of unnecessary delays. and holding proceedings. Another is the necessity of the BNSS that search, seizure and arrest operations should be taped. radical change that enhances accountability and safeguards the rights of the accused by law enforcement. against torture and other inhuman treatment during detention. Individual standards when it comes to arrests are clear. as mentioned in the BNSS in Section 184 and which says that a person can only be taken into. custody upon need and not only because of suspicion. Human rights protection against. This clause supports arbitrary detention. Section 192 also demands that the person under arrest should be informed of the causes of his arrest and his or her. basic right to defense, that is a right provided by Article 22(1) of the Constitution. They introduce a more rehabilitative and reformatory approach to punishment. The IPC is replaced by Bharatiya Nyaya Sanhita⁶ (BNS), 2023. It puts an emphasis on community service, probation as well as restorative justice in place of jail time on some offenses, despite its persistence. the most significant criminal laws. The United Nations Standard Minimum Rules on Treatment. of Prisoners '(also called Nelson Mandela Rules)', that endorse humane treatment and among the international human rights standards that are in line with are reformation of criminals. this shift of a deterrent to a reformatory penal philosophy. To strengthen the responsibility of prison officials and law enforcement, the BNS also provides harsh treatment of crimes such as torture or violence by personnel employees during their duty. They are in custody.

The acknowledgment of digital and electronic evidence as the main types of evidence is among the means through which the Bharatiya Sakshya Adhiniyam⁷(BSA), 2023, which governs the rules of evidence, promotes human rights preservation. This assists in preventing wrongful convictions and encourages justice. It also establishes the right to remain silent, the presumption of innocence and the requirement that guilt be proved beyond a reasonable doubt, all of which are also important elements of the human rights system of criminal justice. Taken collectively, the BNS, BNSS and BSA laws signify a paradigm shift in the criminal justice system of India, as it was before, the system is no longer controlled by the colonial regime, but rather by the citizens, and its emphasis is on the protection of the dignity of the individual, the preservation of procedural justice, and the reformation and rehabilitation of the offenders. They signify the universal obligations of India to the international community as stated by the 1948 universal declaration of

⁵ The Bharatiya Nagarik Suraksha Sanhita, 2023 [No. 46 of 2023]

⁶ The Bharatiya Nyaya Sanhita, 2023 [No. 45 of 2023]

⁷ The Bharatiya Sakshya Adhiniyam, 2023 [No. 47 of 2023]

the human rights and the 1966 international covenant on civil and political. Rights and the constitutional objective of an effusive justice system in keeping with the affirmation of Articles 14, 19, and 21.

3.3 Constitutional Framework on Human Rights in India

In India, prisons and persons in prison are included in 4, List II, Seventh Schedule, state List in the constitution. As a result, state governments are mostly in charge of managing and running prisons. The preservation of human rights, especially those of prisoners, is based on the Constitution of India⁸, which is the supreme law of the land. The Constitution's extensive protections of fundamental rights under Part III have been construed by courts to apply to everyone, including those who are deprived of their freedom, even though it does not contain specific provisions addressing prisoners' rights alone. The tenet is that incarceration just restricts certain liberties required for confinement and does not deprive someone of their basic human dignity; a person does not cease to be a human being upon conviction.

The foundation of the rights of prisoners is Article 21 of the Constitution that says that no one will be deprived of his life or personal liberty except with the help of the procedure that is provided by the law. Article 21 has been broadly interpreted by the judiciary to include the right to human dignity, decent conditions of confinement, protection against torture, right to a speedy trial, right to legal assistance, and health. The case of '*Sunil Batra v. Delhi Administration*'⁹ was ruled over by the Apex Court that prisoners are entitled to enjoy basic freedoms if their liberties are not limited because of their detention. The Court also highlighted that inhumane treatment and detention in isolation is against Article 21. Equally, the right to a quick trial was recognized as an essential part of the right to life and personal liberty by the Apex Court in the case of '*Hussainara Khatoon v. State of Bihar*'¹⁰.

Article 20 of the Constitution provides a lot of protective measures for the people that are accused of or convicted of crimes. Article 20(1) prohibits ex post facto criminal laws to make sure that one is not punished for a crime that was not criminal during the occurrence of the act. Article 20(2) of the criminal judicial system, which guarantees protection against the issue of double jeopardy, and Article 20(3), which protects the right to self-incrimination, safeguards the integrity and equity of the criminal judicial system. These rights that ensure that criminal procedures are administered in accordance with due process of law are fundamental to prisoners and the accused awaiting trial. Article 22 provides procedural protection of the arrested individuals and is the basis of pre-trial human rights protection. It stipulates that any individual who is arrested should be taken to the magistrate within a period of twenty-four hours after their arresting, be informed of the reason for his arrest, and have a chance to consult any lawyer of his own choice. The article also prohibits detention that takes more than twenty-four hours unless justified by the decision of a judge except in the case of preventive custody. These provisions aim at preventing illegal detention and arbitrary arrest as these are some of the primary causes of violation of human rights in jails. Besides fundamental rights, inmates can be treated ethically because the Directive Principles of State Policy (Part IV) provide a sense of morality. Article 39A enhances access to justice by indigent inmates, as it mandates the State to provide equal justice and free legal assistance to indigent people who cannot

⁸The Constitution of India

⁹ AIR 1978 SC 1675

¹⁰ AIR 1979 SC 1369

secure it. Articles 41 and 42 in its indirect relation to the operation of prisons and reform addresses the State duty of aiding and human conditions.

Therefore, in accordance with the values of justice, equality, and human dignity, India's constitutional framework views prisons as institutions of reformation and rehabilitation rather than just sites of punishment. Except for the limitations imposed by incarceration, prisoners are guaranteed the same human rights as regular citizens by the combined impact of Articles 14, 19, and 21, sometimes known as the Golden Triangle of the Constitution.

3.4 International Human Rights Standards

The rights of prisoners are an important part of the international human rights law¹¹, admitting that even deprived of their freedom people retain their fundamental freedom and inherent human dignity. To be able to provide certain minimum principles on how inmates should be treated and how criminal justice systems should be administered, the international community has embraced several conventions, covenants, declarations and regulations under the United Nations and other international organizations. Based on these provisions, jailing is not just a punishment but a correctional facility, rehabilitation and integration of criminals into society.

The Magna Carta of Human Rights, also referred to as the “*Universal Declaration of Human Rights*” (UDHR), 1948 is the foundation of human rights protection at the international level. Although there is an explicit ban on torture and other inhuman, cruel, or humiliating treatment or punishment in Article 5 of the UDHR, there is also Article 3 of the document guaranteeing the right to life, liberty, and personal security. Also, Article 9 will ensure that no one will be arbitrarily detained, arrested or exiled. These lines underscore how common it is that imprisonment should not lead to deprivation of basic human dignity.

Not as extensive but a more detailed legal approach to the humane treatment of prisoners is given in the so-called “*International Covenant on Civil and Political rights*” (ICCPR), 1966, which is based on the UDHR. “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person,” according to Article 10(1) of the ICCPR. Furthermore, Article 7 forbids torture and cruel or degrading punishment, while Article 14 guarantees the right to a fair and prompt trial. India is required to respect these principles as a State Party to the ICCPR, and Indian courts have frequently done so when interpreting constitutional rights under Articles 20, 21, and 22 of the Constitution.

Adopted in 1955, the United Nations Standard Minimum Rules for the Treatment of Prisoners were updated in 2015 to become the Nelson Mandela Rules. These Rules are authoritative standards for the humane treatment of inmates around the world, but they are not legally binding. The Mandela Rules place a strong emphasis on maintaining family contact, preventing torture and other cruel treatment, providing adequate diet and sanitation, providing medical care, education, and vocational training, as well as respecting the inmates' inherent dignity. Because of their intrinsic worth and dignity as human beings, all inmates must be treated with respect, according to Rule 1 of the Mandela Rules. To guarantee that

¹¹ Human Rights and Prison “A Compilation of International Human Rights Instruments concerning the Administration of Justice” available at <https://www.ohchr.org/sites/default/files/Documents/Publications/training11Add1en.pdf> (last visited October 4, 2025)

incarceration does not result in bodily or mental suffering, the updated Rules also included new requirements for medical treatment, disciplinary actions, and solitary confinement.

Furthermore, the treatment of specific prisoners is covered by a few specialized international treaties. To address the unique requirements of women, such as maternity care and protection from gender-based violence, '*the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules, 2010)*' place a strong emphasis on gender-sensitive prison administration. In the same way, in the case of young criminals, rehabilitation and reintegration takes precedence over punishment in the name of '*United Nations Standard Minimum Rules of Juvenile justice administration (Beijing Rules, 1985)*'.

The agreements such as the '*American Convention on Human Rights*' (ACHR) and '*European Convention on Human Rights*' (ECHR) have provided strong judicial systems at the regional level, where the inmates can claim restitution of rights violations. Global norms pertaining to the case law of many organizations that include the '*European Court of Human Rights*' have really influenced the situation of detention and the outlawing of inhuman or degrading treatment.

India has been in the forefront in promoting these international standards of human rights as a member of the UN. All States and Union Territories have received the Nelson Mandela Rules from the 'Ministry of Home Affairs', which has instructed that they be translated into their native tongues and put into effect through the '*Model Prison Manual of 2016*' and, more recently, the '*Model Prisons and Correctional Services Act of 2023*'. These programs can be seen as indicative of India being serious in its endeavor to ensure that its internal prison system is aligned with international human rights.

Hence, the entire global human rights system accentuates that incarceration ought to and should not result in the denial of basic rights or dignity. According to the general understanding, prisons are not places for retaliation but rather for correction and social reintegration. Together with India's statutory and constitutional laws, these principles provide a comprehensive framework that guarantees that justice in incarceration is based on respect for human rights and humanity.

3.5 Judicial Acknowledgment of Human Rights

In promoting prisoners' rights, the judiciary has attempted to close the gap left by the legislature. By broadly interpreting 'Article 21 of the Constitution', the Apex Court of India has been instrumental in upholding and safeguarding the dignity of convicts in the country. The court's rulings upholding inmates' dignity opened the door for changes to the current prison administration regulations and provided information to many committees that were tasked with formulating suggestions about inmates' human rights.

The Court explicitly said in the ruling of '*T.V. Vatheeswaran v. State of Tamil Nadu*'¹², that everyone living in India, including convicts and freemen, is entitled to the Fundamental Rights enshrined in Articles 14, 19, and 21 and that these rights are unaffected by prison walls. The Apex Court's ruling in '*Bhim Singh v. Union of India*'¹³, improved the situation of convicts awaiting trial. It instructed state officials to assist in

¹²1983 SCC (2) 68

¹³["W.P. (Criminal.) No. 310/2005"]

the release of inmates awaiting trial who have completed half of their term. Additionally, it set a two-month timetable for district courts and jail officials to oversee the procedure.

The issue of the enormous number of people in jails awaiting trial has been discussed and has long captivated and attracted the attention of the courts. Recently, the Committee of Undertrial Review were established in each Indian district to examine the situations of convicts awaiting trial to prevent needless, protracted incarceration, in accordance with the apex Court's instruction '*Re-Inhuman Conditions in 1382 Prisons*'¹⁴. Regarding the delay release of undertrials, these Committees were instructed to investigate the causes impeding the application of Sections 436¹⁵ and 436A¹⁶ of the Criminal Procedure Code. To prevent those who are unable to provide bail bonds because of their poverty from being imprisoned only for their financial situation, Section 436 of the Cr.P.C. was amended.

The Apex Court of India gave significant guidelines in '*Re: Policy Strategy for Grant of Bail*'¹⁷ to guarantee that inmates are released as soon as they are granted bail and do not stay in jail needlessly because of procedural delays. Every time bail is granted, the Court mandated that the Jail Superintendent get a copy of the bail order and enter the date of the order in the e-prisons program. The Jail Superintendent is required to notify the Secretary of the District Legal Services Authority (DLSA) if the inmate is not freed within seven days of the date of the bail order. The DLSA will then assign a lawyer to assist the inmate in obtaining their release. The Court added that if the defendant is prepared to provide bail or a surety but requires time to set it up, provisional release may be granted in suitable circumstances. Additionally, it gave judges the authority to change or loosen bail requirements as needed and to take "*suo motu*" cognizance if bail bonds are not provided within a month of the bail order. The Court even proposed waving the local surety requirement if it delays the accused's release. By guaranteeing that no one is imprisoned after being legally entitled to freedom, these guidelines seek to uphold the right to personal liberty guaranteed by Article 21 of the Constitution.

The Supreme Court's seminal ruling on prisoners' rights is '*Ramamurthy v. State of Karnataka*'¹⁸. The court underlined the necessity of creating an "*All-India Jail Manual*" to guarantee uniformity in jail rules and stressed the value of rehabilitation over punishment. The Model Prison Manual (MPM), 2003, was passed because of the ruling.

In '*Re: Policy Strategy for Grant of Bail vs. Hameed*'¹⁹, a "*suo motu*" case, confirmed that when convicted individuals become eligible, the relevant governments must take them into consideration for early release and shouldn't waste time waiting for the inmates or their family members to request a sentence reduction. The court ruled that in cases where the relevant government has a policy outlining criteria for evaluating whether to grant premature release under Section 432 (suspension or remission of prison sentence) of the Criminal Procedure Code or Section 473 of the Bharatiya Nagarik Suraksha Sanhita 2023, the relevant

¹⁴'Writ Petition (CIVIL) NO.406/2013'

¹⁵'Criminal Procedure Code, 1973, Section 436, No.2, Acts of Parliament, 1973 (India) [Now in BNSS, Section- 478]'

¹⁶'Criminal Procedure Code, 1973, Section 436A, No.2, Acts of Parliament, 1973 (India) [Now in BNSS, Section- 479]'

¹⁷'Suo Motu Writ Petition (Crl.) No. 4/2021'

¹⁸1997 (1) SCALE 95

¹⁹'Special Leave Petition (Crl.) No. 529 of 2021'

government is required to evaluate the cases of all convicted individuals for premature release as soon as they qualify for consideration under the policy.

Furthermore, in '*Re: Application of Section 479 BNSS*'²⁰, the court allowed the granting of bail to first-time offenders who had completed one-third of the maximum sentence and firmly applied Section 479 of BNSS to all undertrials retroactively. First-time offenders who have completed the required incarceration period are eligible for Section 479 BNSS, regardless of whether their case was filed prior to July 1, 2024, when BNSS went into effect.

In the '*Sukanya Shantha v. Union of India*'²¹ ruling, the Apex Court also addressed the caste-based inequality that permeates Indian prisons. It held that an aspect of State Prison guides that support labor assignment segregation under caste basis is unconstitutional and directed the States to modify their prisons operating guides to prohibit this practice of discrimination.

4. Fundamental Rights Entitled to Prisoners

The inmates in India are entitled to a variety of fundamental rights that ensure that they receive fair treatment, humane treatment and a chance to heal.

4.1 Right to Humane Treatment: The inmates have a right to dignity and respect. They should not be treated cruelly, inhumanly and in torture. The government must provide basic needs such as food, clothing, shelter and healthcare.

4.2 Right to Legal Representation: Inmates should have the right to a fair trial and right to legal representation. They can appeal their imprisonment, protect themselves and seek counsel. Free legal aid must be provided to the people who are unable to afford it.

4.3 Right to Healthcare: Prisoners should have access to drugs, medical services, and mental health services. It is the role of the jail administration to provide relevant healthcare.

4.3 Right to Communication and Family Visits: Inmates can communicate with loved ones through phone or mail as well as face to face visits. Any restrictions should be logical and needed because of security.

4.4 Right to Vocational Training and Education: To prepare to start life after release, inmates have a right to attend educational and skills building programs. Such programs facilitate rehabilitation and reduce frequent offences.

4.5 Right to Violence Protection: Prisoners should not be beaten, used, or abused by their fellow inmates or prisoners. Governments should ensure that they are safe.

4.6 Grievances and the Right to Legal Redress: The inmate is entitled to make complaints against his/her treatment or against the circumstances of his/her prison. Authorities should have some way of dealing with complaints and penalizing offenders who are found to be guilty.

²⁰In Re: Inhuman Conditions in 1382 Prisons (Order dated Aug.23, 2024)'

²¹[2024] 10 S.C.R. 493

4.7 Right to Privacy: Under the security parameters, inmates have a right to personal privacy, including the privacy of personal information and absence of unlawful searches.

4.8 Right to Religious Freedom: Prisoners can exercise their belief or religion if it does not interfere with safety or order. Where religion is feasible, it must be accommodating to the authorities.

4.9 Right to Rehabilitation and Reintegration: To be successfully reintegrated into society upon release, prisoners must get access to services such as job training, counselling, or drug addiction treatment.

A prisoner who is confined there is not deprived of any of his basic rights, even though it is true that he does not have the same rights as other people because of the shackles placed on him by the government. Case laws are used to determine these rights. As time goes on, the judiciary comes to see that prisoners should have basic rights since they are human too. Therefore, the following significant decisions by the Indian Supreme Court and other high courts have been made regarding prisoners:

The high court of Madhya Pradesh in '*S.P. Anand v. State of Madhya Pradesh*'²² has addressed in detail the fundamental rights that inmates have even when their freedom has been restricted.

In '*State of Gujarat v. High Court of Gujarat*'²³, the Apex Court ruled that inmates should get compensation for the labor and work they perform while incarcerated.

In '*State of Maharashtra v. Asha Ram Gawli*'²⁴, the Apex Court noted that poor jail administration frequently results in rights violations for inmates.

By improving their security and health care initiatives in India, the Supreme Court established some criteria for specific authorities in the case of '*R.D. Upadhyaya v. State of Andhra Pradesh*'²⁵.

In '*State of Maharashtra v. Sayyad Noor Hasan Gulam*'²⁶, the Bombay High Court ruled that convicts should be categorized based on their offenses rather than those committed by police.

In '*Zoil Nath Sarmah v. State of Assam*'²⁷, the High Court of Guwahati ruled that a system of prison visits should be in place.

In '*Rama Murthy v. State of Karnataka*'²⁸, the Apex Court ruled that inmates have the right to lodge complaints against the government and that each jail needs to have a complaint box where inmates can lodge their grievances. Jail treatment conditions, prisoner classification, jail labor, the prison visitation system, discipline and security, and the complaint procedure are among the issues brought up in this case.

²²AIR 2007 M.P 166

²³ AIR 1998 SC 3164

²⁴ AIR (2004) 5 SCC 175

²⁵ AIR 2006 SC 1946

²⁶ 1995 Cri LJ 765

²⁷ 1992 Cri LJ 2072

²⁸ AIR 1997 SC 1739

5. Challenges within the Prison System

There are a few issues that are prevalent in all Indian jails, and in many undeveloped nations, the situation is probably the same or worse. Over the years, critics have frequently focused on issues including overcrowding, protracted substandard living conditions, lack of treatment, etc. Below is a discussion of some of the main issues facing India's jail systems.

5.1 Overcrowding: There has been worried about jail overcrowding, especially among inmates awaiting trial. Without the cooperation of the police and courts, this would not be possible. The criminal judicial system's three wings to alleviate overcrowding, the system would need to function in unison, and to do so, the trial population would need to decline. The police's difficulty to quickly provide witnesses, the need for adjournments by a defense attorney (which could be a technique to hurt or assist the client), and speedy trials (complex procedures). Although fast track courts have been very beneficial, the issue of pendency has not changed in any appreciable way. If the current "adjournments culture" persists, expanding the number of courts has not produced the intended results²⁹.

5.2 Corruption: Corruption³⁰ among guards and their less serious counterparts, staff corruption is common in jails all over the world. Given the high power that guards enjoy over prisoners, despite the anticipation of such problems, they are exacerbated by the comparatively low remuneration of guards. The inmates supplement the compensation of the guards with deceptive bribes to obtain some special treatment or contraband.

5.3 Unhealthy Living circumstances: Overcrowded prisons are characterized by unhealthy living circumstances³¹. Although some prisons have been reformed to resolve some of the problems facing them like sanitation, clothing, and food, there are still a few prisons in the country that have poor living conditions. After a popular businessman died in Tihar high security of India in 1995. A special commission of inquiry called Central Jail was formed. In 1997, the commission discovered that there were 10,000 inmates in that prison whose health was at serious risk due to overcrowding, deplorable sanitary standards and inadequate medical facilities. To be better in prison conditions does not mean that prison life has to be put in greater ease, but it is to become more humane and reasonable concerning the prisoners.

5.4 Lack of Employees and Poor Training: About 50,000 employees at various ranks are authorized to work in Indian prisons. The prisoner-to-staff ratio is roughly 7:1, meaning that there is one prisoner staff member for every seven inmates, indicating a scarcity of prisoner staff members. In the UK, three inmates are served by two prisoner personnel. Based on the ratio, we can conclude that India requires more prison staff to run the institution effectively, but there should be a requirement that staff members receive adequate training on how to manage the jail and its inmates. Given the current circumstances, we can conclude that prisoner staff members lack proper training. Therefore, both quantity and quality of prisoner staff are required³².

²⁹Ministry of Home Affairs, "Prison Statistics India 2022," National Crime Records Bureau (NCRB) Report, p. 8–14.'

³⁰R.K. Tiwari, "Corruption in Prisons: Socio-legal Perspective," Indian Journal of Criminology, Vol. 49, No. 2, 2021, pp. 38–49.

³¹Ministry of Home Affairs, "Justice A.N. Mulla Committee Report on Prison Reforms," Government of India, 1997.

³²Penal Reform International, "Global Prison Trends 2024," pp. 33, 41; NCRB, "Prison Statistics India 2022," p. 15.

5.5 Unfair treatment while incarcerated: According to a Human Rights Report, this is especially true in nations like India and Pakistan where the jail system is "rigid." It claims that a minority of inmates who belong to the upper and middle classes are given special treatment under this system, regardless of the offenses they have committed or the way they choose to pass the time behind bars. Since we punish different prisoners differently for the same offense, this is illegal³³. This ought to be eliminated since it contributes to the jail system's dysfunction and increases corruption.

5.6 Inadequate prisoner program: There are those inmates who have been subjected to a new program that has been developed after being affected by overcrowding, staff shortages, among other problems. An example is the Art of Living program at Tihar Jail, which was introduced two lessons a month and followed on the weekends. The inmates are taken through two classes each year. The Srijan project aimed at offering social rehabilitation³⁴. Yet, these initiatives are few as compared to the number of jails. Even in few jails, there are no well-organized programs that involve post-prison monitoring, vocational training, pre-discharge counseling, and active daily activities. Prisoner are also human beings, thus there is need to offer them more appropriate prison programs to facilitate their own reform.

5.7 Lack of legal aid: India does not provide legal aid to persons who cannot afford an attorney until the trial but not when the detainee is being taken to remand court. The lawyers are not available when most of them require this type of assistance. The other problem with the legal assistance panels is the lack of sufficient and efficient lawyers. Every now and then, there are several proposals that go out to speed up the trial processes to reduce the number of inmates in the trial waiting lists. According to NIMHANS-National Commission of Women, a study carried out in the Central Prison of Bangalore had concluded the same³⁵.

5.8 Physical Abuse: Another unsolvable issue in Indian prisons is the physical abuse of inmates by staff members. In India, beatings of prisoners are a norm in most of the prisons without any justification. The women prisoners are also vulnerable to sexual abuse in India. A book reviewing Punjabi prison services reveals that the class c prisoners are required to fan, massage or even give sexual favors to the correctional officers to be allowed food supplements or blankets when it was cold. Teasers, harassers, abusers, and even torturers are employed to break inmates, but this should not be allowed because it is against the law³⁶.

5.9 Rape in Custody: In India, there are differences in the likelihood of custodial rape³⁷ between states and jails. Few occurrences occur by accident, and many go unreported or unrecognized. According to some crime statistics, rapes in detention appear to be on the rise in India. The risk of rape in detention is especially high for women who are held by the police. If rape victims remain silent, only the victim and her rapist or rapists will ever know. If the rapists are police, there is a significant fear of additional

³³ Human Rights Watch, "Broken System: Dysfunction, Abuse and Deaths in Indian Prisons," HRW Asia Report, 2023.

³⁴ "Kiran Bedi", "It's Always Possible: Transforming One of the Largest Prisons in the World," Sterling Publishers, 2006, pp. 77-95.

³⁵ NIMHANS/National Commission for Women, "Mental Health Status of Prisoners in Bangalore Central Prison," Report, 2022.

³⁶ S. Rajendra, "Custodial Violence in Indian Prisons: A Legal Study," International Journal of Law and Society, Vol. 10, 2023, pp. 99-114.

³⁷ NCRB, "Crime in India 2022: Custodial Rape Data," pp. 240-243.

retaliation because the women have little to no chance to voice their outcry following the rape and the victim's suffering because of the complaint.

6. Reformative Steps and Government Initiatives

In India, several programs and interventions have been put into place to alleviate the difficulties faced by inmates and advance their rights. Governmental entities, non-governmental organizations (NGOs), civil society, and foreign partners all contribute to these programs. The following are some important projects and actions:

6.1 Legal Aid Clinics: Establishing legal aid clinics within jails, to provide inmates, particularly individuals who neglect to hire counsel, with free legal guidance³⁸ and services. Such clinics help inmates to access justice, go through the law and learn their legal rights.

6.2 Enhancing Healthcare Services: Increasing the number of medical personnel, supplying necessary drugs and equipment, and making sure inmates have routine health examinations are all ways to improve healthcare services within prisons³⁹. Telemedicine services as well as mobile medical units are also being introduced to enhance healthcare access in rural areas.

6.3 Rehabilitation and Skill Development Programs: Initiating programs of rehabilitation⁴⁰ and skill development to provide education, job training and life skills to the inmates to enable them to integrate once they come back to society. The aims of such initiatives include reduction of recidivism and enhancement of employability

6.4 Legal Awareness Workshops: Parenting inmates on their legal rights, procedures, and avenue of legal redress by organizing legal awareness seminars and workshops. In cooperation with jail officials, NGOs, legal assistance groups, and law schools frequently host these workshops⁴¹.

6.5 Prison Education Programs: Providing both official and informal educational opportunities for prisoners to foster their personal growth and learning⁴². These initiatives include computer instruction, literacy classes, and distance learning courses offered by colleges and other educational establishments.

6.6 Counselling and Mental wellness Resources: Offering inmates counselling and mental healthcare to help them deal with stress, mental health issues, and psychological trauma. In correctional facilities, qualified counsellors, psychologists, and psychiatrists provide both individual and group therapy sessions⁴³.

6.7 Initiatives for Restorative Justice: Implementing restorative justice⁴⁴ techniques in prisons to encourage healing, rehabilitation, and reconciliation within the community. Restorative justice programs are aimed at allowing victims and offenders to liaise with each other, fostering accountability, and restoring the damage that criminal activity inflicts.

³⁸ National Legal Services Authority (NALSA), "NALSA Model Prison Legal Aid Clinics Scheme, 2018," Ministry of Law & Justice.

³⁹ Ministry of Health & F.W., "Prison Health Reforms: Review and Update," 2023 Update Circular

⁴⁰ Delhi Prisons Department, "Annual Report 2023: Rehabilitation Initiatives," pp. 14–22; K. Bedi, op. cit.

⁴¹ Commonwealth Human Rights Initiative, "Prison Reforms and Legal Awareness Workshops: Annual Overview 2023," pp. 8–15

⁴² Indira Gandhi National Open University, "Prisoner Education and Open Distance Learning," 2024 Circular

⁴³ NIMHANS, "Mental Health Interventions in Indian Prisons: Best Practices," Manual, 2022

⁴⁴ Ministry of Law & Justice, "Restorative Justice in Prison Administration: Pilot Project Reports," 2024.

6.8 Creating community-based rehabilitation: This initiative to aid ex-offenders in their reintegration into society is known as community-based rehabilitation⁴⁵. To give ex-offenders housing, work, counselling, and social assistance, these initiatives entail cooperation between government organizations, non-profits, employers, and community members.

6.9 Monitoring and Advocacy for Human Rights: Taking part in campaigns to push for policy changes, encouraging accountability for abuses, and increasing public knowledge of violations of prisoners' rights⁴⁶. The media, legal advocacy groups, and human rights organizations are essential in exposing and recording instances of violations of inmate rights.

6.10 International Cooperation and Technical Support: Working together, donor organizations, foreign governments, and international organizations can provide financing, technical support, and expertise for jail reform projects. International collaborations⁴⁷ facilitate knowledge sharing, training initiatives, and capacity building to increase the efficacy of actions meant to enhance the rights of inmates.

7. Conclusion

In the end, a just and democratic society must prioritize the protection of human rights in correctional facilities. Despite being denied their freedom, prisoners nonetheless have intrinsic human dignity that ought to be always upheld. To maintain order, to ensure safety, and the proper approach to the rehabilitation, the prisoners should be divided based on their gender, age, and the nature of the offense. Often, under trials, those who have been legally assumed innocent are enduring severe cases. physiological and psychological harm due to prolonged prison sentences and delayed trials, which highlights the urgency of the structural change.

Prisons should be centers of change and integration instead of simply being punishment centers. Policies such as probation, parole, open prisons, and vocational training are needed to convert criminals into law-abiding citizens. Jail reform requires sufficient funding, quality personnel and strict adherence to the human rights provisions stipulated in the 1948 '*Universal Declaration of Human Rights*' and '*Article 21 of the Indian constitution*' that safeguards the right of life and personal liberty.

All needs to guard these values include the right execution of jail manuals, judicial visits regularly, and better coordination among the police, the prison administration and the judiciary. Besides providing justice to prisoners, a human, open and reform-oriented jail system would also support the greater goals of crime prevention and the achievement of harmony in society.

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⁴⁵ Tata Trusts, "Project Second Chance: Community Rehabilitation of Released Prisoners," 2023 Report

⁴⁶ "People's Union for Civil Liberties (PUCL)", "Annual Prison Monitoring Report 2024," pp. 5–13.

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