

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 6 | Issue 5

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2023

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# Unveiling the Crisis of Human Rights Abuses in Indian Prisons: A Call for Reform, Rehabilitation, and Justice to Preserve Human Dignity behind Bars and Beyond

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NOORU MOHAMMED<sup>1</sup>

## ABSTRACT

*For the sake of justice, human dignity, and a just society, it is critical to address human rights violations in Indian prisons, such as poor healthcare, torture, and protracted pretrial detention, which not only harm prisoners but also violence and crime. This study examines the serious problem of human rights abuses within the Indian penal system, shedding light on the situation of those who are imprisoned and the structural flaws that contribute to these abuses. In order to thoroughly examine the difficulties and opportunities for reform within the Indian prison system, this research paper uses a multifaceted methodology that combines an extensive literature review, legal analysis, and case studies. It serves as a wake-up call by outlining pervasive human rights abuses, holding authorities responsible, and presenting evidence-based suggestions for significant reforms. The serious consequences of human rights violations in prisons for both individuals and society at large give rise to the urgency of this research. The larger objective of enhancing the rule of law and upholding justice and equity in India is furthered by protecting prisoners' rights. This paper is a strong call to action for comprehensive prison reform that prioritizes rehabilitation, reintegration, the inherent worth of everyone, even those who have committed crimes, and promoting a criminal justice system that is fairer and more compassionate.*

**Keywords:** Human Rights, Prisoners' Rights, Criminal Justice system, Legal Frameworks, Oversight Mechanisms.

## I. INTRODUCTION

Justice Durga Das Basu and States “Human rights are those minimal rights, which every individual must have against the State, or other public authority, by virtue of his being a member of human family’ irrespective of any consideration provide them with justice.”

Human rights are fundamental rights that ensure the freedom of all individuals worldwide.

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<sup>1</sup> Author is a student at Markaz Law College, Kozhikode, India.

These rights are universal and recognize basic human needs and demands. Every country should ensure its citizens have access to these rights, and they should be incorporated into its constitution. Human rights are inherent to all individuals, regardless of their nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. All individuals are equally entitled to these rights without discrimination, as they are fundamental to their human nature. Universal human rights are often expressed and guaranteed by law, such as treaties, statutes, customary international law, general principles, and sources like the Universal Declaration of Human Rights. Governments are obligated to act in certain ways or refrain from certain acts to promote and protect human rights and fundamental freedoms. Non-discrimination is a key principle in international human rights law, present in all major treaties and conventions like the Convention on the Elimination of All Forms of Discrimination against Women. This principle applies to everyone and prohibits discrimination based on categories such as sex, race, and color. At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.

## **II. UNDERSTANDING PRISONS AND PRISONERS: A HOLISTIC PERSPECTIVE**

The Prisons Act, 1894 defines prisons as any jail or place used permanently or temporarily under general or special orders of the state government for the detention of prisoners<sup>2</sup>. In India, prisons are institutional facilities under the jurisdiction of the state government where convicted offenders serve longer sentences. A prisoner is a person who is kept in prison as a punishment for a crime they have committed or are awaiting a trial. The term "prisoner" means any person for the time being in prison as a result of any requirement imposed by a court or otherwise that he be detained in legal custody<sup>3</sup>. The modern prison system in India, conceptualized by TB Macaulay in 1835, is managed and administered by State Governments under the Prisons Act, 1894 and the Prison Manuals of the respective State Governments. The Ministry of Home Affairs provides regular guidance and advice to States and UTs on various issues concerning prisons and prison inmates. The Indian socio-legal system is based on non-violence, mutual respect, and human dignity of the individual. By committing a crime, a person does not change from being human and still is endowed with all the aspects which demand him to be treated with human dignity and respect that a human being deserves. Human rights are necessitated because of the reason of human life. Being in a civilized society organized with law and a system as such, it is essential to ensure for every citizen a reasonably dignified life. Today prisons serve mainly three purposes: custodial, coercive, and correctional. Prisons were originally designed

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<sup>2</sup> Section 3 of prisoner's act 1894

<sup>3</sup> section 1 of the Prison Security Act, 1992

to offer painful, required isolation from society, with characteristics such as strict security measures, harsh discipline, and tedious daily routines. Inmates' freedom must necessarily be constrained against their will during their time inside the prison. Prisonization symbolizes a system of punishment and institutional placement of under trials and suspects during the period of trial. Since a society without crime and criminals cannot exist, the institution of prison is indispensable in any country. The isolated lives of the criminals and the incapacity of the inmates to commit any crime fulfil the preventive purpose of detention. It not only helps to control crime in society but also helps the inmate rehabilitate and repent for their deeds. Inmates cannot be given the same punishments for different offences. The introduction of modern 'classification methods' in prisons is essentially directed to meet this end. Three categories can be used to group prisoners: pre-trial inmates, prisoners under trial, and convicted inmates. The appropriate court sentences them to incarceration as part of their punishment.

### **III. LEGAL SAFEGUARDS FOR PRISONERS' RIGHTS**

Justice P.N. Bhagwati emphasizes the importance of respecting and protecting human rights in criminal proceedings. Everyone has a right to be treated with dignity and basic rights, regardless of their status, circumstance, or nature.

#### **(A) International instruments for prisoners' rights**

Article 5 of the Universal Declaration of Human Rights states that no one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment. Article 7 of the International Covenant on Civil and Political Rights, 1966 creates an obligation for state parties to ensure no one is subjected to such treatment. Prisoners often face stigma, as the government aims to avoid contact with society and restrict their freedom of mobility.

The Universal Declaration of Human Rights, initiated by the General Assembly of the United Nations in 1948, outlines principles of justice administration. It includes provisions prohibiting torture, cruel, inhuman, or degrading treatment or punishment, life, liberty, security of person, arbitrary arrest, detention, exile, and presumed innocence for those charged with a penal offense<sup>4</sup>.

The principal international instrument for the defense of prisoners' rights is the International Covenant on Civil and Political Rights (ICCPR). Since India accepted the Covenant in 1979, it is required to implement its provisions into national legislation and government policy. According to the International Covenant on Economic, Social, and Cultural Rights (ICESR),

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<sup>4</sup> Art 1, Art 3, Art 9, Art 11 of UDHR

prisoners are entitled to the best possible physical and mental health conditions.

A person is protected against all forms of torture and other inhumane and cruel treatment under the 1975 Declaration on Protection from Torture, which works in conjunction with the principles of human rights. In 1975, the UN General Assembly passed a resolution protecting torture, which was in accordance with an individual's human rights standards.

Separate housing for juvenile and child detainees from adult prisoners is required by general UN directives. The Basic Principles for the Treatment of Prisoners (1990), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), and the Protection of All Persons under Any Form of Detention or Imprisonment (1988) are further UN directives.

The provision "Prohibiting the use of torture" was included in the Universal Declaration of Human Rights (UDHR) under Article 5, which made it possible to include this right in the vast network of other international and human rights treaties. The UDHR's prohibition against torture was also incorporated in the International Covenant on Civil and Political Rights (ICCPR), which was accepted by the UN in 1966.

In order to increase the effectiveness of the global campaign against the use of torture, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) was established in 1984. The pact was approved by 136 nations in total. India is one of the few nations to have ratified the treaty but not signed it, doing so in 1977.

Key standards and norms related directly to prison reform include the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment, Basic Principles for the Treatment of Prisoners, the UN Declaration on the Protection of All Persons from Enforced Disappearance, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Code of Conduct for Law Enforcement Officials, the use of Force and Firearms by Law Enforcement Officials, Safeguards guaranteeing protection of the rights of those facing the death penalty, UN Recommendations on Life Imprisonment, and the Kampala Declaration on Prison Conditions in Africa and the Arusha Declaration on Good Prison Practice.

### **(B) Laws Protecting Prisoners' Rights in India**

The Indian legal framework aims to protect the human rights of individuals in police custody, with the Constitution guaranteeing the right to life and personal liberty. Courts have recognized

violations of these rights, such as *Ragbir Singh v Haryana*<sup>5</sup> and *D.K. Basu v WB*<sup>6</sup>. Article 22(1) of the Constitution provides for an arrested person to be informed of their arrest grounds and has the right to a legal practitioner of their choice. Article 22(2) requires an arrested person to be produced within 24 hours before the nearest Magistrate.

Article 20(1) restricts the penalty imposed under the law in force at the time of the offence, prohibits double jeopardy<sup>7</sup>, and guarantees the right against self-incrimination<sup>8</sup>. Article 32 and 226 allow filing a writ of Habeas Corpus against illegal detention. The Criminal Procedure Code, 1973 (CrPC) states the procedures to be followed by police officials to protect the rights of arrested persons. The Indian Penal Code, 1860 (IPC) is a substantive law that protects the rights of an individual against acts of cruel treatment by police officials and acts of torture.

The *Tuka Ram and Anr v State of Maharashtra* case<sup>9</sup> highlighted the abuse of power by police forces and the need to safeguard the rights of victims, especially considering the power imbalance. The Indian Evidence Act identifies the possibility of a suspect/arrestee giving a confession under duress or coercion, safeguarding the interests of such individuals under Sections 24, 25, 26, & 27.

According to Article 21 of the Indian Constitution, prisoners have a number of rights, such as free legal representation, quick and fair trials, protection from torture and other cruel treatment, the right to see friends and consult with attorneys, the right to be freed from physical or mental shackles, and the right to be released or rehabilitated from bonded labor.

Prisoner rights are outlined in the Prisons Act of 1894 and include housing, sanitary conditions, safe confinement, medical examinations, separation, treatment, parole, and short-term release. The preservation of these rights is essential for the security and welfare of inmates. The right to life and personal liberty are guaranteed in Article 14 of the Indian Constitution, which emphasizes equality and reasonable classification.

Article 21's right to a timely trial is crucial since delaying the resolution of cases amounts to denying justice. However, because the Supreme Court disregarded the deadline for the trial of some crimes, the conviction charges were dropped in the interest of natural justice. Article 21 is also broken when inmates are held indefinitely without justification.

A fundamental component of Article 21 requires the state to assist individuals who cannot pay

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<sup>5</sup> 1980 AIR 1087 1980 SCR (3)277 1980 SCC (3) 70

<sup>6</sup> 1997 (1) SCC 416

<sup>7</sup> Article 20(2) of Indian Constitution.

<sup>8</sup> Article 20(3) of Indian Constitution

<sup>9</sup> 1979 AIR 185 1979 SCR (1) 810 1979 SCC (2) 143

it by requiring free legal aid. However, situations like financial crimes and prostitution could preclude the accused from receiving free legal representation. To ensure the rehabilitation of inmates and victim compensation, fair and equal wages must be paid.

The Indian Constitution's Article 39A deals with the duty of the state to offer free legal aid to accused inmates who are unable to hire a counsel because they lack the resources to defend themselves in court against criminal allegations. Other rights include the ability to post bail, access to necessities, protection from unjust jail sentences, the ability to leave, and special leave (such as furlough and parole).

In order to promote social justice and public equity while avoiding the high costs of holding the accused in custody, bail should be given to those who have no legitimate fear of escaping or avoiding appearance in front of the court.

The Supreme Court has consistently ruled that a person in prison is entitled to all fundamental rights, unless curtailed by the constitution or established by law. This was affirmed in the cases of *State of Andhra Pradesh v. Challa Ramkrishna Reddy* and *State of Maharashtra v. Prabhakar Pandurang Sanzgir*<sup>10</sup>. In *Charles Sobaraj v. Supdt Central Jail Tihar*<sup>11</sup>, the court determined that all rights granted to convicts under Articles like 14, 19, and 21 are dynamic and not static.

According to Articles 14, 19, and 21 of the Indian Constitution, prisoners in India are afforded basic fundamental rights. These rights include the right to be notified of the reasons for the arrest, to have a lawyer provide consultation and defense, to appear before a magistrate within 24 hours, and to be freed within 24 hours unless the magistrate issues additional orders.. The right to privacy is also given to prisoners who cannot be compelled to answer questions during an investigation<sup>12</sup>.

According to Martin Luther King Jr. Prisoners have the right to a prompt trial since justice delayed is justice denied. This right, which also pertains to punishing or defending the accused, is outlined in Section 309 of the 1973 Code of Criminal Procedure. One of the fundamental rights that prisoners have to protect their lives is the right to medical care.

In the *ADM Jabalpur v. Shivkant Shukla* case<sup>13</sup>, the supreme court held that illegal confinement is against the law. Article 20 of the Indian Constitution safeguards people from being convicted of crimes, stating that only crimes that were against the law at the time they were committed can result in conviction. Nobody can be forced to testify against themselves, either. Article 21

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<sup>10</sup>AIR 1966 SC 424: 1966 1 SCR 702

<sup>11</sup> 1978 AIR 1514 1979 SCR

<sup>12</sup> Art 21 of the constitution

<sup>13</sup> AIR 1976 SC 1207

guarantees the protection of life and individual freedom, declaring that these rights may not be taken away from anybody without following prescribed procedures.

In certain circumstances, the Code of Criminal Procedure offers protection against arrest and detention. These protections include the right to bail, the right to legal representation, the right to free legal aid, the right to a medical examination upon the arrestee's request, the right to be present during the trial, the right to obtain copies of the records, the right to appeal, and the right to humane treatment.

A comprehensive piece of legislation that safeguards inmates against physical harm, torture, and mental abuse is the Prisoner Rights Under Prisons Act, 1894. It provides for housing in prisons that abide by the Act's requirements, including the separation of convicts.

Upon admittance, inmates must undergo a physical test, and the jailer is required to maintain a record of those results. Male, female, juvenile, unconvicted, and civil prisoners are all housed separately in accordance with Section 27. In accordance with inspection and guidelines set by the Inspector General, Section 31 permits civil inmates or unconvicted criminal prisoners to support themselves and acquire or receive necessities from private sources. Civil inmates may engage in any type of employment under Section 34 with the Superintendent's approval. The correct care for sick prisoners is outlined in Section 37.

Prisoners have the right to meet friends and relatives and consult lawyers, as recognized in Article 21. In cases such as *Dharmbir v. State of U.* P<sup>14</sup>., the court ordered the state government to permit family members to visit prisoners and their families under guarded conditions at least once a year. In *Jogindar Kumar v. State of U.* P<sup>15</sup>., the court observed that someone is entitled to be informed about their arrest and detention.

The Supreme Court has ruled that prisoners, detainees, or undertrials can seek compensation for violations of rights under police custody. In the case of *Peoples' Union of Democratic Rights Vs State of Bihar*<sup>16</sup>, the compensation amount was increased from Rs 10000 to Rs 20000, providing relief to the dependants of the deceased but not absolving the liability of the wrongdoer.

In *Prem Shanker vs. Delhi Administration*<sup>17</sup>, the Supreme Court addressed the constitutionality of hand-cuffing, arguing that it is prima facie inhumane and unreasonable. The court declared the distinction between prisoner classes obsolete and deemed hand-cuffing as a constitutional

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<sup>14</sup> 1979 AIR 1595 1980 SCR (1) 1 1979 SCC (3) 645

<sup>15</sup> 1994 4 SCC 260

<sup>16</sup> 1987 AIR 355 1987 SCR (1) 631

<sup>17</sup> AIR 1980 SC 1535



mandate. It also urged the court to pronounce on the constitutional validity of the "hand cuffing culture" in light of Article 21 of the Constitution.

*Satendar Kumar Antil v. Central Bureau of Investigation*<sup>18</sup> highlights the National Police Commission of India's report on the demoralizing effect of custodial torture on society. The report suggested that arrests during investigations may be justified in certain circumstances, such as grave offence cases, potential absconding and evasion of law processes, violent behaviour, or habitual offender behaviour.

*Joginder Kumar Vs. State*<sup>19</sup> emphasized the importance of arrests and the justification for their exercise. *Neelabati Bahera Vs. State of Orissa*<sup>20</sup> argued that convicts, prisoners, or undertrials are not denied their fundamental rights under Article 21 of the Constitution of India.

*Charles Shobraj v. Superintendent, Tihar Jail*<sup>21</sup> affirmed that a prisoner is eligible to basic freedoms guaranteed by the Constitution, except for the lack of certain rights. *A.k. Gopalan v. Union of India*<sup>22</sup> affirmed the wide and complete ambit of personal liberty by Article 21 of the Constitution, including substantive rights to personal liberty and the procedure prescribed for their deprivation. *Sheela Barse v. State of Maharashtra*<sup>23</sup> emphasized the constitutional requirement of legal assistance to a poor or accused arrested and put in danger of their life or personal liberty.

#### **IV. VIOLATION OF RIGHTS AND NEED FOR REFORMS IN INDIAN PRISONS**

Since ancient times, prison reform in India has been a major problem because to several issues like poor conditions, overcrowding, and a lack of financing. The jail system is underfunded, which results in inferior housing, healthcare, and rehabilitation programs. Prisoners have less options for education and skill development, which makes it more challenging for them to reintegrate into society. Numerous reports have also been made of human rights abuses occurring in Indian prisons, including poor medical attention, physical and emotional torture, and improper access to legal services..

India has the fifth-highest total number of convicts, with staffing shortages, overcrowding, and financial constraints being the main problems. The Indian government must concentrate on implementing comprehensive security measures to prevent illegal items from entering jails,

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<sup>18</sup> 10 SCC 773

<sup>19</sup> 1994 (4) SCC, 260

<sup>20</sup> 1993 (2) SCC, 746

<sup>21</sup> AIR, 1978 S.C. 1514

<sup>22</sup> AIR 1950 SC 27

<sup>23</sup> AIR 1983 SC 378

utilizing cutting-edge scanning technology, and conducting frequent, thorough searches of both visitors and prison personnel in order to address these problems.

Even individuals who are in prison have their fundamental rights upheld by the Indian Constitution. However, prisoners frequently experience cruel treatment, torture, and abuse in Indian prisons, where violations of human rights are widespread. Such violations can be avoided and dealt with the help of strict procedure implementation, enhanced employee training, and the establishment of impartial monitoring bodies. The preparation of offenders for a successful release into society through rehabilitation and reintegration is essential. Due to inadequate vocational training, academic opportunities, and psychological treatment, rehabilitation is currently in a poor state in Indian prisons, which contributes to a cycle of reoffending.

Mafia dons and gangsters were recently killed in Uttar Pradesh, which has led to severe worries about extrajudicial murders and violations of human rights. Due to the lack of transparency and accountability, the public today sees the process with skepticism and mistrust. The revamping of jail reforms and accountability in India calls for coordinated action from numerous parties. The judicial system, the executive branch, the media, and civil society all have crucial responsibilities to play in bringing about real reform in the prison system. Through public interest lawsuits, prison inspections, and the issuance of directives, the court plays a significant role in prison reform by ensuring justice and responsibility.

To address its flaws and assure the welfare of its convicts, India's prison system needs to be upgraded. India may move toward a more just and equitable prison system by emphasizing technical advancements, addressing human rights violations, and fostering rehabilitation and reintegration.

Overcrowding, extortion, corruption, lack of legal help, substandard housing conditions, torture and sexual abuse, a staffing deficit, deaths in custody, poor infrastructure, and unsuitable living conditions are just a few of the issues the Indian jail system faces. Due to the severe psychological effects of these conditions, convicts are more likely to develop criminal tendencies and experience despair, claustrophobia, anxiety, panic attacks, and tension.

The "strict" class system in India's jail system, where only a tiny percentage of inmates from the top and middle classes receive special perks, contributes to inequality of treatment. Lack of openness makes the problem worse because the Right to Information (RTI) Act is not properly recognized inside the judicial system.

In India, there were 22,918 female convicts as of 2021, 1,650 of them were pregnant. Of these, 1,418 were awaiting trial, 216 were found guilty, and 16 are still missing. Given that issues like

good dietary practices, educational opportunities, and play areas for children imprisoned with their mothers are rarely addressed, the absence of adequate space in jails for women convicts raises concerns about their well-being.

Seven in 10 Indian prisoners are awaiting trial, with 28.6% of undertrials being illiterate and 40.7% not educated beyond Class 10. The Indian justice system is complex and cumbersome, making it difficult for the general public to understand it<sup>24</sup>.

In India, police officers are not given enough latitude to look into high-profile cases, which encourages political class interference. These problems are exacerbated by poor jail infrastructure, extreme overcrowding, unsafe living circumstances, harassment and abuse, and poor contact with prison administration and judicial authorities.

India's prison population faces a variety of difficulties, such as extortion, drug addiction, mental illness, and drug use. They lose their freedom, which makes it difficult for them to communicate with their loved ones and friends and may cause them to feel guilty. Drug misuse is a big problem, and many people are arrested for violating anti-drug laws. Prison employees and guards frequently engage in corruption and extortion, having significant control over convicts and looking for quick money.

Another issue is the non-separation of detainees, as the Standard Minimum Rules for the Treatment of Prisoners established by the United Nations in 1955 provide for separating male prisoners from female prisoners, juvenile offenders from adult offenders, and civil offenders from criminal offenders. Numerous issues confront women prisoners in India, such as insufficient nutritional intake, poor sanitation and hygiene, and incidents of custodial rape. To overcome these challenges, the Krishna Iyer Committee on Jail Reform advises hiring more female officials.

Concern has been raised about overcrowding, the protracted incarceration of convicts awaiting trial, bad housing circumstances, a lack of therapeutic options, and claims that prison staff members have been callous or cruel in their treatment of detainees. The number of people awaiting trial must be dramatically reduced in order to reduce jail congestion. Prison staff and guard corruption are widespread issues around the world, made worse by low pay and bribery.

Numerous prisons around the nation still have unhealthy living conditions due to a lack of staff and inadequate training. For people who cannot afford legal representation, India's legal aid system is insufficient; solutions include speeding up the legal system and plea bargaining. Legal

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<sup>24</sup> National crime records bureau (NCRB) 2022

scholars at the University of Delhi argue that the entire system of legal assistance need law change and that legal aid in prisons is also necessary.

The number of prisoners in India's jail system has increased from over 466,000 in 2020 to over 554,000 in 2021, which presents serious issues for the institution. According to figures from the National Crime Records Bureau, there are currently 5,54,034 inmates across India, compared to a total jail population of 4,25,609. Significant human rights breaches have also occurred in India in 2022, including extrajudicial killings, arbitrary arrests, and violence against religious and ethnic minorities.

India has 371,848 prisoners in pre-trial detention, with 76% of all prisoners awaiting trial. The country ranks second among the 54 Commonwealth countries, with many of whose legal systems continue to reflect a colonial legacy. There have been reports of government or its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and terrorists<sup>25</sup>.

## **V. OVERCOMING THE CHALLENGES OF INDIAN PRISONS AND REFORMS**

Thomas Babington Macaulay denounced the cruel circumstances in jails in 1835 and proposed setting up a committee to improve discipline. This resulted in the formation of the Prison Discipline Committee, which delivered its report in 1838 and suggested tougher punishment while opposing any improvements and requests for humane treatment of convicts. The Minute by TB Macaulay, published in 1835, is where the idea of the modern prison in India first surfaced. It was based on the idea that even the finest criminal legislation would be ineffective in a community without effective means of punishing offenders.

Similar recommendations were made by the 1838 Committee and the Second Commission of Inquiry into Jail Management and Discipline in 1864 about prisoner accommodations, dietary enhancements, clothing, bedding, and medical care. A regimentation system was established by the Second Commission of Inquiry, and in 1877, a conference advocated a jail law. Subsequently, a draft prison Bill was prepared but was never passed.

Without a single jail code, according to the Fourth Jail Commission, which was established by governor-general Lord Dufferin in 1888, uniformity in prison management could not be attained. The Prisons Act, 1894, which currently oversees prisons in India, was formed as a result of a consolidated jail bill that called for severe punishment.

The first efforts to reform prisons were made by K F Rustamji in the 1980s, when he highlighted

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<sup>25</sup> National crime records bureau 2022

the conditions in which the country's prisoners were living. After the emergency period, many conscience-stricken people took to filing Public Interest Litigations to voice the plight of the prisoners and better their conditions. A number of judgments from landmark cases, such as the *Hussainara Khatoon v. State of Bihar*<sup>26</sup>, the *Sunil Batra case*<sup>27</sup>, the *Maneka Gandhi case*<sup>28</sup>, and the case of *Bhagalpur*<sup>29</sup>, came as a distress call to the prisoners.

The socialistic approach, educational approach, reformative and therapeutic approach, recreational approach, penalties, and suspended sentences are all approaches used in the context of reform. While educational approaches concentrate on giving inmates the chance to seek education and training, socialist approaches strive to encourage the growth and development of an offender. Reformative and therapeutic approaches put equal emphasis on leisure activities while reforming the individual through various means, such as counseling or psychoanalysis.

Parole, fines, suspended sentences, and community service are examples of alternatives to punishment used in the context of reform. Parole allows convicted criminals to return to society under specified constraints by granting them a portion of their freedom or reducing their restrictions. For many breaches, including less serious ones committed by first-timers, fines are a frequent punishment. Both unconditional and conditional sentences can be suspended, and prisoner trust and support can be developed through community service projects.

Another kind of restitution for crimes committed by offenders is community service, which entails unpaid volunteer labor in the community. This is possible despite incurring further forms of punishment like probation, fines, or restitution. For some crimes and offenders, there are also diversion programs that allow participants to meet requirements and have their charges dropped.

Other solutions include raising salaries, hastening court proceedings, separating minors, women, and first-time offenders from older offenders, building more jails, and enhancing judicial system openness. These steps are intended to assist inmates in leaving custody and to reduce prison overcrowding.

The Center has introduced a unique program called "Support for Prisoners" to offer financial assistance to low-income inmates who are unable to pay their fines or bail. The organization responsible for carrying out this plan is the Ministry of Home Affairs. One of the program's main components is financial support for states to help poor convicts who cannot obtain bail or are released from prison owing to unpaid fines. Technology-driven solutions will be

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<sup>26</sup> 1979 AIR 1369, 1979SCR (3) 532

<sup>27</sup> 1978 4 SCC 409

<sup>28</sup> AIR 1978 SC 597

<sup>29</sup> 1981 SCR (2) 408, 1981 SCC (1) 627

implemented to make sure that the impoverished convicts receive the benefits.

The Modernization of Prisons (MoP) Project is one of many projects the Indian government has started to enhance conditions in jails and prisons. It intends to give states and Union Territories (UTs) financial support so they can use contemporary security equipment in their jails. Through digitization, the E-Prisons project seeks to improve jail management efficiency. Legal services for prisoners are covered in great depth in the 2016 Model Prison Manual. After consulting the relevant High Courts, Fast Track Courts (FTC) are created.

The "Model Prisons Act, 2023," a new law allowing prisoner reform and rehabilitation, has been finalized by the Center. This Act replaces the "Prisons Act, 1894," which was passed prior to independence and was primarily concerned with keeping offenders in custody and maintaining discipline and order in prisons. The Act makes provisions for parole, furlough, and remission to prisoners to encourage good behavior, makes special provisions for women and transgender inmates, and places a focus on the reformation and rehabilitation of inmates in order to close gaps in the current Prisons Act.

The establishment of a prison development board, security assessment and segregation of convicts, personalized sentence planning, grievance redressal, and a focus on the prisoners' physical and emotional wellbeing are some of the key components of the new Model Prisons Act. The Act also specifies how technology can be used to administer prisons, including video conferencing with courts and technological and scientific solutions. As well as protecting society from the criminal activity of hardened criminals and habitual offenders, it also provides for the building and administration of open jails and high-security prisons. In September 2022, India's highest court voiced worry over the state of the nation's prisons and proposed the concept of constructing private prisons with the help of major corporations. According to a 2019 assessment on prisons by the National Crime Records Bureau, the country's jails had an average occupancy rate of 118%, housing more defendants awaiting trial than actual criminals. Between 27.7% and 21.5% of prisoners were literate, and 41.6% did not finish the 10th grade.

Only 2.2% of the country's total 2019–20 prison spending—6818 crores—went toward social and educational/vocational costs. Prison violence and other criminal activity are prevalent due to the lack of necessary staff on site, and 33% of the positions for jail employees are vacant.

The urgent need for jail reform was clearly underlined in the report. Due to a lack of employees, there are more gang fights, cliques, extortions, and illegal activities including drinking, smoking, and threatening. Prisons thus fall short of their ostensible purpose of preventing crime.

In *Shri Rama Murthy v. State of Karnataka*<sup>30</sup>, the Supreme Court outlined nine problems with prisons, including overcrowding, delayed trials, torture, disregard for their health and hygiene, inadequate food, and inadequate clothing.

Recreational facilities, such as religious and national holidays enjoyed by everyone inside the institutions, are a part of jail reforms and rehabilitation. Government funding and NGO involvement are used to provide educational facilities, and study centers for the National Institute of Open Schooling (NIOS) and Indira Gandhi National Open University (IGNOU) have been constructed inside Tihar Prison. Prisoner education on computers is being provided by computer training facilities there as well.

Inter-jail sporting tournaments, known as the Tihar Olympics, are organized as a key component of administration. Many volunteer organizations have helped to launch a significant number of yoga and meditation classes. There is a legal aid cell operating in every jail, and attorneys sent by the Delhi State Legal Service Authority and the Delhi High Court Legal Service Committee regularly visit these cells.

Within the jail, inmates have access to games and sporting events like the "Tihar Olympics" sports fests that take place during winter sports festivals. Every prison might build a drug rehabilitation facility to reduce drug usage and addiction. In order to appreciate the value of work and instill these values in their life outside of jail, prisoners can also work in a variety of factories.

Inmates can improve their behavior and develop into responsible citizens with the use of recreational programs including vocational training, education, computer courses, games, contests, yoga and meditation, creative art therapy, and painting. Inmates should be placed in jobs so they can regain their respect in society. Prisoners can also produce things like furniture, exhibits, and wooden chairs that can be sold or used by the public.

In order to encourage offenders to live better lives after their sentences are up and to unearth jewels from those who have fallen into the deep coal mine of crime, such programs should not be optional and should be firmly enforced by jail authorities. All convicts have a fundamental right to healthcare and health, and they are also entitled to the same standard of medical care as people living in the general public. However, because healthcare is typically provided inhumanely poorly in jails, this privilege is rarely used there. Access to underlying determinants of health, such as safe drinking water, adequate sanitation, safe food, adequate nutrition, and housing, safe health and dental services, healthy working and environmental conditions, health-

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<sup>30</sup> (1997) S.C.C. (Cri) 386

related education and information, and gender equality are all included in the right to health. The right to health also includes access to preventive, curative, reproductive, palliative, and supportive health care.

Creating a sustainable health strategy for prisoners requires first improving prison administration and circumstances. The effectiveness of public health measures depends on improving jail health, which is a critical component of public health. Therefore, it is crucial to collaborate with advocates and social activists across India in order to free inmates, especially poor ones who are going through trials and have been incarcerated for a long time. We can submit bail requests, request surety bonds, and in circumstances where the impoverished prisoners are unable to pay for the same, provide for monetary aid in partnership with NGO projects across India in order to support the poor prisoners in economic and social aspects.

The desired goal of reformation or rehabilitation of criminals is achieved through various tools and techniques in the institution of jail. Some of these tools and techniques include probation, parole, furlough, pardon, work release, open prisons, and open prisons. Probation is a period during which the convict ordered to undergo sentence remains under supervision, while parole is a conditional release of a prisoner under supervision. Furlough is given in cases of long-term imprisonment, allowing the prisoner to retain family and social ties and avoid the negative effects of a continuous prison life. Pardon is an act of mercy by which the prisoner is absolved from the penalty imposed on them, and in India, certain provisions in Article 72 and 161 of the Indian constitution provide that the President of India and the Governors of the states respectively are empowered to grant pardon, reprieve, or commute the sentence of any convict.

Work release, which enables the prisoner to work for pay in society on a part-time basis, is seen as an effective reformation tool in contemporary criminal justice. This enables the inmates to adapt to their new working environment once they are released. The benefits of open prisons, such as those in Finland, include minimizing harm to offenders and society, reducing prison overcrowding, saving the state money by not having to maintain inmates in jails, and instilling a sense of social responsibility toward one's family and community.

## **VI. CONCLUSION**

the state of prisons and prisoners' rights in India is a critical but underdeveloped area in criminology and criminal justice. While the need for reform and rehabilitation within the prison system is evident, factors such as resource allocation, outdated legislation like the Prisons Act, and enforcement challenges hinder progress. Addressing these issues requires a coordinated effort that extends beyond the prison organization alone, involving economics, education, social



institutions, and values. Recommendations from various committees and legal cases emphasize the urgent need for comprehensive reform. To ensure human rights protection for inmates and create a conducive environment for their rehabilitation, the prison system must transform from places of fear and criminal activity into institutions of positive change. With a proactive judiciary and a commitment to upholding the dignity and liberty of all individuals, India has the potential to establish a more just and compassionate criminal justice system that respects prisoners' rights and promotes their reintegration into society.

### **(A) Suggestion**

Reorganized and consolidated suggestions for prison system improvement:

- **Inmate Access and Welfare:**
  - Implement touch-screen kiosk applications for prisoners to access their PDR, remission details, property and cash details, parole/furlough status, transfer information, and under-trial detention alerts.
  - Provide education classes, including literacy programs in English, for non-literate inmates.
  - Install mobile complaint boxes outside cells, controlled by independent inspection bodies, to address prisoners' concerns.
- **Sustainable Practices and Mental Health:**
  - Convert prison waste into biofertilizer for sale, sharing profits with inmates.
  - Accommodate mentally ill inmates in psychiatric wings or nearby mental hospitals. Consider early release for those not recovering after serving half of their maximum sentence.
- **Inmate Rehabilitation:**
  - Facilitate campus placements for inmates who complete their education within prisons.
  - Create a Prisoners Welfare Fund, with government contributions, to support discharged prisoners and their families.
  - Promote the use of probation services, including sensitization programs for judicial and law enforcement officers.
- **Legal Reforms and Community Engagement:**
  - Insert a new Section 357-A in the Cr.P.C, 1973, allowing compensation to crime

victims from prisoners' earnings.

- Amend Section 53 of the Indian Penal Code to include community service as a punishment.
- Modify Section 433 of the Cr.P.C to consider early release for lifers showing good prospects of reformation and rehabilitation.
- Encourage NGOs and philanthropists to participate in various treatment programs within prisons.
- Display prisoners' rights and privileges prominently in vernacular language and use pictorial aids for better understanding.
- Segregate adolescent offenders from adult prisoners, possibly in Borstal Schools.
- Justice System Improvements:
  - Ensure a fixed tenure for investigating officers to expedite investigations and trials.
  - Widen the role of the National Human Rights Commission in prison oversight.
- Infrastructure and Conditions:
  - Create a time-bound strategy for enhancing living conditions, including water supply, sanitation, and electrical facilities, and submit it to the Ministry of Home Affairs for approval.
  - Move prisons and allied institutions from the State List to the Concurrent List of the Seventh Schedule to the Constitution of India.
  - Implement proper scientific classification of prisoners based on the nature of their crimes, age, sex, and character.
- Human Dignity and Rehabilitation:
  - Improve living conditions in prisons, including accommodation, hygiene, sanitation, food, clothing, and medical facilities.
  - Allow prisoners to meet near relatives with privacy during visits.
  - Offer training programs for women prisoners in skills like tailoring, doll making, and embroidery.
  - Provide mental and manual productive work opportunities for educated inmates.

- Release prisoners during disasters and epidemics to protect their health.
- Community Awareness and Integration:
  - Launch media programs to change public perception of prisons and their management.
  - Enable media access to prisons for improved understanding.
  - Emphasize the entitlement of prisoners to trading, occupation, and profession under Article 19(1)(g) of the Indian constitution.
- Police System Reform:
  - Update the 200-year-old Police Act of the nineteenth century with a new Police Act, as recommended by the National Police Commission in 1977.

Overall, these suggestions aim to foster significant improvements in our prison system, ensuring better inmate welfare, justice system efficiency, and societal reintegration.

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