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# Indian Prison System

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## ABSTRACT

*For various people, the word "prison" could refer to different things. It is regarded by the steady legal system as the final destination of offenders. For the offender, it can be a hidden risk or an inevitable humiliation. It serves as a haven for the socially marginalized. It can be the sole location where some lonely people can find something like a title. It is where prison guards are employed. The psychologist sees it as a location of profession as a jail behaviour researcher. However, for thousands of individuals, the experience slows down time, which groups people together, separates them, and modifies their living circumstances. The aim of this study is to identify vulnerabilities within the prison system and examine instances of inhumane treatment, including inhumane living conditions, overcrowding, violence within the prison, inadequately trained personnel, staff shortages, inadequate budgetary allocation, inhumane treatment of prisoners, mental and sexual abuse, delayed legal aid, inmate torture, and prison suicides. The author will also go over the future of contemporary prison reformatory standards to guarantee inmates' fundamental human rights and the state's obligation to foster inmates' cognitive understanding of care.*

## KEYWORDS

*Prison, Inmates, Punishment, Human Rights, Undertrial Prisoners*

## INTRODUCTION

Traditionally, a "prison" has been characterized as an institution where individuals are detained until their trial or imprisoned when serving their sentence. Prison serves as an institution that treats offenders as deviants, allowing for fewer surveillance and constraints on them while they are inside. The criminal justice system in India has included prison administration and management since ancient times. At the policy-making level, the criminal justice system—which includes the police,

courts, and prison administration and management—is being examined. In fact, the criminal justice system has never previously faced as much criticism over the human rights of those imprisoned as it is right now.<sup>1</sup>

Prisons are environments that are likely to contain a high number of socially excluded people. However, the prisoners do not exist in a vacuum as they have lives before imprisonment and return to these lives on release. The way in which they choose to learn and participate in society before prison, during their sentences and upon release, are important. Even though prison administration and management in India is an important limb of the criminal justice system, it has suffered neglect and lack of recognition. A lot has been talked about the police, a little less about the courts and almost nothing about prisons and prisoners.

The public needs to be made aware of the issues surrounding the prison management in order to give this important field of social concern more attention. Indian jails are renowned for the denial of numerous civil and fundamental rights, a physically and spiritually abusive prison environment, status degradation, sexual perversions, and secondary criminality, all of which render the promise of convict redemption hollow. The majority of Indian prisons were built as part of the British Raj's colonial design to imprison individuals in degrading conditions behind high walls for as long as possible. The main characteristics of jail administration in independent India are mostly unchanged from those in British India.

### **HISTORY OF INDIAN PRISON SYSTEM**

The history of the prison system can be broadly classified into Three stages. During the first phase, which lasted until the middle of the 16th century, the main function of the prison institution was to house

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<sup>1</sup> Rahul Panchal, *20+ Differences Between Jail And Prison (Explained)*, (May 22, 2023), <https://thenextfind.com/jail-prison-differences-between/> (last visited Aug 21, 2024).

prisoners awaiting trial or serving out their sentences in safe and secure parts of towns or cities. Prison as a method of punishment for specific kinds of criminals, particularly young ones, was experimented with in the second phase. The third stage saw the widespread adoption of imprisonment as a replacement for all capital punishments.

**Ancient India:** In the past, a prison in India served only as a place of confinement for criminals before trial, verdict, and implementation of the ruling. The foundation of ancient society was established by the precepts articulated by Manu and expounded by Yagnavalkya, Kautilya, and other scholars. Among the several forms of physical punishment, including branding, hanging, mutilation, and death, imprisonment was the least severe kind of punishment that was known to be significant in ancient Indian penology.

In the Hindu scriptures, the penalty for an evildoer is to put him in prison and exclude him from society. Imprisonment was primarily intended to keep the offender away and prevent members of the community from becoming corrupt. These jails were complete dark holes that were unlit, wet, and cold.

**Medieval period:** The legal system in the mediaeval India is similar to Ancient India and existing Muslim rulers seldom. During the Mughal period source of law is the Quran. Crimes were divided into three groups:

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1. Crime against God,
2. Crime against State,
3. Crime against Private person.

The punishments for these crimes were divided into four categories that is Hadd, Tasir, Quisas and Tasir. Imprisonment was not considered as a punishment in the case of ordinary criminals. It was primarily employed

as a tool for incarceration. In various regions of the nation, there were fortresses where convicts pending trial and punishment were being held.

**Modern era:** The present prison system of our country is of the British rule. It was a creative creation of the colonial rulers our local penal system with the motive of making imprisonment a terror to wrong doers. Our criminal reforms marked a significant step forward in history, allowing us to abolish our previous system of barbaric punishment and replace it with jail as the primary form of punishment for crimes. In 1784, the British Parliament empowered the East India Company to reign over India. There were some attempts also made to introduce improvement in the administration of the law and justice. There were 143 civil jails, 75 criminal jails and 68 mixed jails presented at that time. These jails were the extension of Mughal rule which were managed by the members of the East India Company.

### **DIFFERENT TYPES OF PRISONS**

There are three prison categories in India:

The Taluka, District, and Central levels (also referred to as the zonal or range levels). Sub-jails, district jails, and central jails are the names given to the jails at these levels, respectively. From sub jail to central jail, the infrastructure, security, medical, educational, and rehabilitation facilities are generally better. Other sorts of jails include women's jails, special jails, open jails, and Borstal schools.

- 1) Central Prison:** The conditions for splitting a jail into a central jail range from state to state. All state central jails have one thing in common: those who are held there are individuals who have been given lengthy prison sentences exceeding two years. These prisons are designed to house lifers and those who commit horrific crimes. An attempt is made to restore the inmates' morality and integrity in this kind of prison.

- 2) **District Prison:** There is not much difference between the central jails and district jails. District jails are the main jails for those states and union territories where there is no central jail. India has a total of 379 district jails.
- 3) **Sub Jails:** These sub-jails serve as the equivalent of sub-divisional jails in India. These minor facilities are located at the state's sub-divisional level. Because these jails are lower-level establishments, they have a better layout and are more orderly. In India, there are nine states with a larger than average number of sub jails.
- 4) **Open Jails:** The names of these types of jails may seem paradoxical, yet this is correct. The minimum-security prisons are these ones. The Rajasthan Prison Rules define open jails as prisons that do not have walls, bars, or locks. Only offenders with convictions who demonstrate good behaviour and meet the conditions established in the prison regulations are permitted access into these facilities. These jails maintain minimum security while enabling convicts to work in agriculture and support their families.
- 5) **Special Jail:** These jails provide specialized accommodations for prisoners and are the highest security institutions. Prisoners belonging to a specific class or classes reside in these jails. Individuals imprisoned in special jails include individuals guilty of acts of terrorism, violent crimes, repeat criminals, major infractions of prison regulations, and violent and aggressive behaviour toward other prisoners. In India, there are forty-three special prisons.
- 6) **Women's Jails:** Jails designated specifically for female inmates are known as women's prisons. The purpose of these jails is to keep the female inmates secure. The staff workers in these jails are women. These prisons are located at the district, subdivisional, and central levels. In India, there are twenty women's prisons. Due to the

restricted capacity of women's jails, the majority of female inmates are housed in other types of jails. Kerala and Tamil Nadu each have three jails for women, compared to Maharashtra's five.

- 7) **Borstal School:** It is a type of juvenile detention centre used exclusively for holding minors or juvenile delinquents. Its main aims, then, are to care, redeem and reform juvenile offenders in a child-friendly environment without contaminating the prison milieu. The juveniles' various educational and vocational training is provided by Borstal School with the aid of veteran educators. Education, training and moral guidance through study occupy the most important position for juvenile reformation and for preventing criminal activity.
- 8) **Other Jails:** Jails which do not fall under the above-mentioned categories then these jails are come under the category of other jails. Only three states have other jails. The name of these states is Karnataka, Kerala and Maharashtra and each state have one other jail. Karnataka has the highest capacity to keep the inmates in other jail after that Kerala and then Maharashtra has. In spite of these state no other state or union territories of India have other jails.

### **CLASSIFICATION OF PRISONERS**

Prison inmates lodged in Indian prisons are categorized as Convicts and Undertrials.

A **convict** is "a person found guilty of a crime and sentenced by a court" or "a person serving a sentence in prison".

An **undertrial prisoner** is an accused person who is kept in judicial custody during the time their case is being heard in the court.

According to the Prisons Act 1894 talks about the following types of prisoners: -

**Section 23-** Convict officers. Prisoners who have been appointed as officers shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860 (45 of 1860).

**Section 27.** Separation of prisoners. The requisitions of this Act with respect to the separation of prisoners are as follows:

1. In a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings or separate parts of the same building, in such a manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;
2. In a prison where male prisoners under the age of twenty-one are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;
3. Civil prisoners shall be kept apart from criminal prisoners. Association and segregation of prisoners. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

**Prisoners under Sentence of Death:** Every prisoner sentenced to death shall be searched by, or by order of, the Superintendent upon his arrival at the jail following his sentence, and all objects deemed harmful or inconvenient to leave in his possession shall be removed from him. Every such prisoner shall be held in a separate cell from all other convicts and shall be under the supervision of a guard both during the day and at night. Prison inmates are divided into three categories: convicts, undertrials, and detainees. Other factors that can be used to classify this population include gender, nationality, mental health, and so on.

**Adolescent Prisoner:** Any person who has been convicted of an offense punishable by imprisonment, or who has been ordered to provide security under Section 117 of the Code of Criminal Procedure, 1973, but has failed to do so, and who is at least 18 years old at the time of such conviction or failure to provide security. b) who was committed to jail custody while his trial was pending and was at least 18 years old at the time of commitment.

**Adult Prisoner:** Any prisoner who is more than 21 years of age.

**Casual Prisoner:** A convicted criminal, but not a habitual offender. Prisoner refers to any person who is involuntarily confined or incarcerated in a penal institution. Individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities pursuant to statutes or commitment procedures that provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing are all included in the definition.

**Convict Prisoner:** Any prisoner under sentence of a court exercising criminal jurisdiction or court martial and includes a person detained in prison under the provisions of chapter VIII of the Code of Criminal Procedure of 1973 and the Prisoners Act of 1900.

**Detenue Prisoner:** Any person detained in prison at the order of the competent authority under the relevant preventive laws.

**Habitual Offender:** A prisoner is classed as such in line with the terms of the law or rules. A chronic criminal offender, also known as a repeat offender, is someone who has been convicted of one or more crimes in the past and is now facing new charges. Although many habitual offenders commit the same sort of crime repeatedly, a person does not have to commit the same act in order to be classified as a repeat or habitual offender.

**Inmate:** Any person kept in an institution. An inmate is a person who lives in a specific place, especially someone who's confined there, like a prisoner. You can call yourself an Inmate if you get sent to your room, but usually inmates are behind bars.

**Military Prisoner:** A prisoner convicted by court martial. In some areas, prisoners in this type of facility might receive better treatment than prisoners who have committed other crimes, particularly because there are often strict rules about ethical treatment of prisoners that are externally monitored. Even so, the conditions inside a military prison may not be as transparent as they seem, and prisoners may be treated very poorly in some cases. Most countries have a military prison system of some sort, but some are more defined than others. The first type of military prisoner housed in this type of prison consists of people involved with the military who have committed a crime relating to the military. Typically, these prisoners have been convicted by a military court. In this sense, a military prison can be used to punish offenders. The other type of prisoner most often housed in a military prison is usually not guilty of committing a crime within the military, but rather is an enemy of the nation or an enemy combatant. Prisoners of war are usually held in this type of prison, but this is not a system explicitly designed to punish prisoners. There are many international rules regarding the treatment of this type of prisoner while within prison, and breaking these rules can have dire consequences for a country. Certain criminals may be considered particularly dangerous for a nation and may be housed in a military prison as well. These criminals, who may include terrorists or spies, are often more vulnerable to poor treatment than prisoners of war. It is sometimes considered acceptable to interrogate this type of prisoner to obtain information. Judgment of this type of criminal is also complex, so a prisoner of this sort may not even be guilty when he or she is sent to prison.

## **MAJOR PROBLEMS AND ACTS AGAINST HUMANITY IN PRISON**

Over time, the pervasive and common practice of torturing inmates is turning into something "normal" and acceptable. Human rights are expanding although the number and kind of criminal acts continue to increase. The treatment of a prisoner on trial is explicitly spelt out in the Indian Constitution read with UDHR and SMR (Standard Minimum Rules for Treatment of Prisoners). The seventh schedule of the Constitution says that management in India are by name or exclusively chargeable for state governments' Penalty Systems. Meanwhile, the scene inside jails tells an entirely different gramophone record. This part is an essay on the defining factors that have made India's prison system completely inefficient.

**Overcrowding of Prisons:** One major reason which all over responsible and directly affect the pathetic condition of Indian prisons is Over-crowded situation. Such overcrowding compromises the basic needs of prisoners, such as housing and food and medical care. The right to adequate standard of living and highest possible level attainable standards physical health mental Right overcrowding fundamental rights prisoners.

As per the statistics published by the National Crime Record Bureau, as on 31.12.2022, there were 573220 prisoners in various prisons of the country against its total authorized capacity of 436266 prisoners. Out of this, the number of undertrial prisoners was 434302 which constitute 75.8% of the total prison population. The prisons in India are overcrowded to the extent of 131.4%. In case of **Arnesh Kumar vs State of Bihar**<sup>2</sup> the police were asked not to effect unnecessary arrests, especially in cases that involve jail terms less than seven years.

**Criminal behaviour and Inter-Gang Violence:** Inmates in Indian prisons frequently use gangsterism and inter-gang violence as a way to establish dominance and supremacy over other inmates. Pre-incarceration conflicts

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<sup>2</sup> (2014) 8 SCC 273

that continue or worsen in the prison setting could be the source of this violence. Such violence can also result from seemingly insignificant conflicts over things like who gets to share the food, who gets to use the restrooms and other facilities, where to sleep, and where to get necessities like clothes, soap, oil, and utensils. The ensuing confrontations may give rise to theft and other aggressive behaviours. The most heinous instance of prison violence was seen in ***Khatri v. State of Bihar***<sup>3</sup>, where 80 alleged criminals were doused in acid and needle punctures, causing them to become blind. In the case of *Sunil Batra v. Delhi Administration*<sup>4</sup>, a convict, Sunil Batra, reported violence in prison to the Supreme Court. The court held that prisoners should be protected from corporal punishment and violence.

**Corruption and Exploitation:** The corruption in prisons have been Rampant in India. Prison officials who are corrupt may abuse and exploit their inmates. Demands for bribes, forced labour, and other forms of exploitation might fall under this category. Corruption may be systematised in some administrations, forming a chain that extends from the lowest ranks of prison staff to the highest levels. Stronger inmates will have better living conditions and access to special benefits, but the rights of the weaker inmates will be disregarded. Corrupt activities amongst prisoners themselves are also frequent; for example, inmates are frequently required to pay leader inmates for food, access to specific prison areas, or even the assignment of a bed. Inmates who lack financial resources and are not under the protection of a more senior prisoner may face physical and/or sexual abuse.

**Physical torture and sexual abuse:** There are many testimonies about the physical torture or, especially with women inmates in police stations and prisons. This includes neglect, psychological abuse and physical

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<sup>3</sup> 1981 SCR (2) 408 1981 SCC (1) 627

<sup>4</sup> (1978) 4 SCC 409

violence. Women prisoners are particularly vulnerable to custodial sexual abuse. In some countries, female prisoners were even held together with male inmates, a situation that exposed them to rampant sexual abuse and violence. A book reviewing prison services in Punjab, reported that, to get food supplements, or blankets in winter, class c-prisoners must fan the convict officers, or massage their legs, or even perform sexual favours for them.

**Poor health and sanitation facilities:** Lack of adequate hygiene in many prisons has caused various infectious diseases, making it easier to spread between prisoners. Basic medical attention is often not available to prisoners. The majority of convicts housed in prisons are from socioeconomically deprived backgrounds, where illness, starvation, and a lack of access to healthcare are commonplace. Infectious and communicable diseases spread quickly amongst such individuals when they are crammed together in unsanitary conditions. There are reports that show a markedly higher rate of communicable diseases, including tuberculosis, in Indian prisons than in the general population. The NCRB report on prison statistics highlights that many prisons lack proper medical facilities and health personnel. In *D.K. Basu v. State of West Bengal*<sup>5</sup>, the Court emphasized that adequate medical care must be provided to prisoners as part of their right to life. In the case of *Charles Sobhraj v. Superintendent, Central Jail, Tihar*<sup>6</sup>, the Supreme Court emphasized the necessity of prisoner rights, including proper living conditions and medical care.

**Human Right Violations:** Prisons in India face three structural constraints. First, overcrowding, due to the high proportion of undertrials within the prison population, second, understaffing, and third, underfunding. This results in the violation of human rights which include

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<sup>5</sup> (1997 (1) SCC 416)

<sup>6</sup> AIR 1978 SC 1514

degrading treatment, custodial deaths, physical and mental torture, poor health system, lack of provision of medical aid, lack of proper nutritious food, inadequate supply of water, forced labour, not producing prisoners to the court of law, and frequent clashes between the inmates and authorities of the prison. A delay in trials further adds to the problem.

Human rights violations in India differ amongst societies. Unjust accusations made by prison staff, inhumane living conditions, overcrowding, and extended detention of those awaiting trial have all been brought up by critics.

**Lack of Legal Aid:** In India, legal aid to those who cannot afford to retain counsel is only available at the time of trial and not when the detainee is brought to the remand court. Since the majority of prisoners, those in lock up as well as those in prisons have not been tried, absence of legal aid until the point of trial reduces greatly the value of the country's system of legal representation to the poor. Lawyers are not available at the point when many of them mostly need such assistance. A workshop conducted by the Commonwealth Human Rights Watch in 1998 in Bhopal, focused on several aspects related to legal aid. It was pointed out that 70% of the prison population is illiterate and lacks an understanding of prisoner's rights. Thus, the poor in prison do not always get the provisions in law though the State is obliged to provide legal aid. In ***M H Hoskot v State of Maharashtra***<sup>7</sup>, it was held that the state is duty bound to ensure that the right to free legal aid under Article 39A is made available to the prisoner.

### **PRISON REFORMS IN INDIA**

The concept of modern prison in India was originated by Thomas Macaulay in 1835. A Prison Discipline Committee was appointed which submitted its report on 1838. While rejecting all humanitarian needs and prisoner reform, the committee recommended harsher treatment. Following the

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<sup>7</sup> (1978) 3 SCC 544

recommendations of the Committee, Central Prisons were constructed from 1846. The contemporary Prison administration in India is thus a legacy of British rule. In 1864, the Second Commission of Inquiry into Jail Management and Discipline made similar recommendations as the 1838 Committee. Furthermore, this Commission recommended certain changes to the diet, clothing, bedding, and medical care of prisoners as well as their housing.

The Fourth Jail Commission was established in 1888. Its recommendations formed the basis of a consolidated prison bill. A committee of experts on jail management specifically looked into the provisions pertaining to crimes committed in jail and their penalties. With Viceroy Assent, the draft bill became a law in 1894. This Act serves as the foundation for India's current system of jail management and administration. Since it was first enacted, this Act has hardly changed significantly. Still, the process of reviewing India's prison issues went on. For the first time in the history of prisons, "reformation and rehabilitation" of offenders were recognised as the goals of prison in the 1919–20 Indian Jail Committee report.

After independence, various Committees were appointed to improve the condition of prisons in India. In 1951, the Government of India invited the United Nations expert on correctional work, Dr. W.C. Reckless, to undertake a study on prison administration and to suggest policy reforms. His report titled 'Jail Administration in India' made a plea for transforming jails into reformation centres. He also recommended the revision of outdated jail manuals. In 1952, the Eighth Conference of the Inspectors General of Prisons also supported the recommendations of Dr. Reckless regarding prison reform. In order to create a model prison manual, the Indian government formed the All-India Jail Manual Committee in 1957. In 1960, the committee submitted its report.

### **Model Prison Manual**

The Model Prison Manual 1960 is the guiding principle for prison management in India. Under this a working group was formed whose task was to look into the reformatory angle into the prison reform. It also made an important recommendation with regard to the classification and treatment of offenders and laid down certain principles.

### **The Mulla Committee 1980**

The All-India Committee on Prison Reforms, also known as the Mulla Committee, recommended various measures to enhance prison conditions and administration.

- Improving prison condition by making available proper food, clothing, sanitation,
- Regular public and media visits to prisons for transparency.
- The prison staff to be properly trained and organized into different cadres. Setting up an All-India Service called the Indian Prisons & Correctional Service.
- Reduction of under-trial prisoners through expedited trials.

### **The Krishna Iyer Committee**

By 1987, the Krishna Iyer Committee on Justice had been commissioned to investigate the status of Indian female prison inmates. The report suggested that more women be recruited into the police force because of their unique role in handling crimes against women and children. It also highlighted the need for better facilities and support for women and child criminals within the prison system.

### **Subsequent Developments in Prison Reforms**

Pursuant to the Supreme Court's directive in ***Ramamurthy vs. State of Karnataka***<sup>8</sup> to standardize prison laws and draft a model prison manual,

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<sup>8</sup> AIR ONLINE 2002 SC 885

a committee under the Bureau of Police Research and Development (BPR&D) was established. In 1999, the Government of India circulated a draft Model Prison Management Bill (The Prison Administration and Treatment of Prisoners Bill, 1998) to the States to replace the Prisons Act of 1894, although this Bill remains pending finalization.

In 2003, a Model Prison Manual was developed through national consensus on prison reform issues and distributed to State Governments for guidance. Recognizing evolving conditions and insights, an expert committee was formed in 2014 to revise and update this Manual. The committee's extensive review led to the draft Model Prison Manual of 2016, which was finalized with the Home Ministry's approval and disseminated to States and Union Territories. This updated Manual aims to ensure uniformity in prison administration and management, featuring improvements in prison computerization, special provisions for women prisoners, aftercare services, prison inspections, rights of death-sentenced prisoners, repatriation of foreign prisoners, and enhanced focus on prison staff.

### **Steps Taken by Government of India for Administration of Prison Reforms in India**

- To appoint Review Committees for the under-trial prisoner population at the state and district levels.
- To hire part-time or full-time law officers in prison and give legal help to impoverished and vulnerable prisoners
- To closely abide by the Code of Criminal Procedure, 1973 rules regarding the allotted amount of time for an investigation and inquiry
- Creating a time-bound strategy for enhancing the living conditions of convicts with a focus on water supply, sanitary facilities, and electrical and submitting it to the Ministry of Home Affairs for approval (MHA)

- To create a State Board of Visitors to regularly inspect prisons and provide the State Government with a report on their conditions.

In case of ***Babu v. State of U.P***<sup>9</sup>, the SC held that the focus of punishment has now change to reformation and rehabilitation. Alternatives such as meditation and study classes should be given in petty offences. Community services in the new laws has been provided as a form of punishment in the following offences such as theft, defamation against president, vice president, etc, attempt to commit suicide, causing annoyance due to intoxication.

Therefore, Prison reform is not just about prison buildings, but what goes on inside them that needs to be changed. The focus must be on the human rights of prisoners besides improving their amenities. The emphasis on correctional aspect needs to be strengthened through counselling programmes by experts.

### **RIGHTS OF PRISIONERS IN INDIA**

- **Right of Prisoners under Indian Constitution**

Every person in India is ensured of equal treatment before the law or given equal legal protection while on Indian soil as per the Constitution of India. The rights of prisoners are not mentioned specifically, but the case T.V Vatheeswaran v. State of Tamil Nadu held that both convicts and freemen are guaranteed protection by Articles 14, 19 and 21. The Indian courts particularly the Supreme Court have recognized the human rights of prisoners in India. It has been stressed by the Supreme Court that prisoners should be shown honour as well as kindness, however they came to be imprisoned.

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<sup>9</sup> 1978 AIR 527

As Mahatma Gandhi once said, “Criminality is a sign of mental disturbance and jails should provide therapeutic environment.”

**Article 14 of the Indian Constitution:** Like any other citizen, prisoners have a right to basic human rights, including the provision of wholesome food. Article 14 of the Constitution ensures that everyone is treated equally by guaranteeing equality before the law and equal protection under the law. Consequently, the notion of reasonable classification and the principle that like things should be treated alike were provided by Article 14. Using this article as a foundation and guide, prison officials can identify various prisoner groups and their classifications with the goal of reformation.<sup>10</sup>

**Article 19 of the Indian Constitution:** Article 19 of the constitution guarantees the six liberties to every Indian. However, because of the nature of these freedoms, prisoners are unable to use some of them. Two examples of fundamental rights that convicts are denied by virtue of their conviction are the freedom to practise their profession and the freedom to travel freely throughout India's territory.<sup>11</sup>

**Article 21 of the Indian Constitution:** It states that “*no person shall be deprived of his life or personal liberty except according to the procedure established by law.*” It is evident from Article 21 of the Indian Constitution that it is open to both individuals who are free and those who are incarcerated. Article 21 requires the State to protect everyone's life, regardless of their guilt or innocence.

In the case of ***State of Andhra Pradesh v. Challa Ramakrishna Reddy***<sup>12</sup>, the Supreme Court observed that the right to life is one of the basic human rights and held that even a prisoner, be he a convict or under

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<sup>10</sup> Ritesh Kumar, *Rights of Prisoners under Indian Law*, Legal Desire Media and Insights (Sep. 15, 2017), <https://legaldesire.com/rights-prisoners-indian-law/> (last visited Aug 21, 2024).

<sup>11</sup> India Const., art. 19.

<sup>12</sup> AIR 2000 SC 2083

trial, continues to enjoy all his fundamental rights including the right to life guaranteed to him under the Constitution. However, the convicts by mere reason of their conviction are deprived of some of their fundamental rights such as the right to move freely throughout the territory of India or the right to practice a profession. It was also held that on being convicted of the crime and deprived of their liberty in accordance with the procedure established by law, prisoners still retain the residue of constitutional rights.

In the landmark case of ***Sunil Batra v. Delhi Administration***<sup>13</sup>, an important defence of prisoners' rights was made. Justice Krishna Iyer stated that subject to reasonable prison management standards, convicts who are under sentence of death shall not be denied access to any communal facilities, including games, newspapers, books, moving around, or meeting other inmates and visitors.

- **Rights of Prisoners under the Prisons Act, 1894**

The Prisons Act of 1894 is the oldest piece of legislation that governs prisons in India.

The main goal of this Act is to protect prisoners' rights while also promoting their rehabilitation. In 2016, Parliament passed the Prisons (Amendment) Bill, 2016, which amended the Prisons Act, 1894 to protect and care for prisoners in the modern day, in compliance with the Indian Constitution, and to encourage their reintegration and socialisation back into society.<sup>14</sup>

**Some of the key rights granted to prisoners under Prisons (Amendment) Act, 2016, as well as the Prisons Act of 1894 are:**

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<sup>13</sup> (1978) 4 SCC 409

<sup>14</sup> Kavitha Iyer, *What Are the Rights of Prisoners in India?*, Legodesk (Mar. 30, 2020), <https://legodesk.com/legopedia/rights-of-prisoners-in-india/> (last visited Aug 21, 2024)

- ✓ Accommodation and sanitary conditions for prisoners.
- ✓ Provisions for the shelter and safe custody of the excess number of prisoners who cannot be safely kept in any prison.
- ✓ Provisions relating to the examination of prisoners by qualified Medical Officers.
- ✓ Provisions relating to separation of prisoners, containing female and male prisoners, civil and criminal prisoners and convicted and undertrial prisoners.
- ✓ Provisions relating to the prisoner's right to health.
- ✓ In the case of a pregnant prisoner, her diet and work allocation shall be determined as per medical advice.
- ✓ A pregnant prisoner shall be entitled to grant conditional parole for thirty days from the expected date of delivery or thirty days from the date of delivery if the delivery takes place while she is in prison.
- ✓ Provisions relating to the maintenance of hygiene or sanitation in jail premises so the prisoners could maintain their health.
- ✓ Provisions relating to the establishment of separate prisons to keep habitual and hardcore offenders separately from the first-time offenders and the offenders convicted for lesser crimes.
- ✓ Provisions relating to the skill training in prisons provided to the prisoners and conduct workshops and seminars on such subjects as would be helpful for rehabilitation of and for educating the prisoners

### **OTHER RIGHTS OF PRISONERS IN INDIA**

**Right to Live in Humane and Good Conditions:** The Supreme Court issued several directives in the case of *Upendra Baxi v. State of U.P.*,<sup>15</sup> to ensure that prisoners housed in the Agra Protective Home are not subjected to cruel or dehumanising treatment. This preserves the constitutionally guaranteed right to live in dignity (Article 21).

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<sup>15</sup> (1983) 2 SCC 308

**Right to Free Legal Aid:** A person's right to have their preferred lawyer represent them is guaranteed by **Article 22(1)** of the Indian Constitution. Legal assistance is also granted to the impoverished and marginalised groups in society, including those who are accused, under **Article 39A** of the Constitution.

The Supreme Court ruled in *M.H. Wadanrao Haskot Vs. State of Maharashtra*<sup>16</sup>, that access to legal representation is a necessary component of a fair process.

The Legal Services Authority Act (LSAA), 1987, also stipulates that any person in 'custody' is entitled to legal aid and the State may cover the cost if the individual is willing to accept it.

In *Sheela Barse Vs. State of Maharashtra*<sup>17</sup>, the Supreme Court directed that when a person is arrested, the police must immediately inform the nearest Legal Aid Committee and take steps to provide legal assistance.

**Right to Speedy Trial:** One of the fundamental rights guaranteed to prisoners in India by Article 21 is the right to a speedy trial. Both the accused and the innocent are entitled to this privilege. According to the Constitution, a trial must be just, equitable, and reasonable.

In the case of *Hussainara Khatoon v. State of Bihar*<sup>18</sup>, the Supreme Court highlighted the shocking situation where a significant number of individuals, including children, were incarcerated for extended periods while awaiting trial. The court expressed concern about the delay in trial, especially for those who could not afford bail. The Supreme Court held that a procedure that keeps a large number of people behind bars without trial for an extended period cannot be considered reasonable, just or fair and it

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<sup>16</sup> (1978) 3 SCC 544

<sup>17</sup> 1983 SCC (2) 96

<sup>18</sup> 1979 AIR 1369

does not conform to the requirements of Article 21.

The Hon'ble Supreme Court in the case of ***Rattiram v. State of M.P.***<sup>19</sup>, also held that the accused is entitled to a speedy trial. The whole purpose of a speedy trial is intended to avoid oppression and prevent delay.

**Right Against Custodial Violence and Death in Police Lock-ups or Encounters:** The right of Indian prisoners to be guarded from violence during their incarceration, which may take place in judicial or police custody. Custodial deaths, sexual harassment, and physical torture are examples of custodial violence. Nobody should be forced to endure torture or cruel, barbaric, or humiliating treatment.

In the case of ***Sunil Batra v. Delhi Administration***<sup>20</sup>, a convict, Sunil Batra, reported violence in prison to the Supreme Court. The court held that prisoners should be protected from corporal punishment and violence. In the case of ***State of Uttar Pradesh v. Ram Sagar Yadav and Ors***<sup>21</sup>, a farmer who refused to pay a bribe to a local police constable died under suspicious circumstances within six hours of detention. The Supreme Court convicted the accused individuals involved in the case.

**Right Against Handcuffing and Bar Fetters:** In the absence of compelling reasons, handcuffing arrested individuals or prisoners awaiting trial is not appropriate. The Supreme Court ruled that handcuffing is cruel and severe in the ***Prem Shankar Shukla v. Delhi Administration***<sup>22</sup> case. A person under trial must not be allowed to escape, but it is considered torture and humiliation to bind someone hand and foot, shackle their limbs, and make them stand in court for hours on end. In general, undertrial detainees shouldn't be placed in handcuffs or other fetters unless absolutely required.

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<sup>19</sup> (2012) 4 SCC 516

<sup>20</sup> (1978) 4 SCC 409

<sup>21</sup> 1985 SCR (2) 621

<sup>22</sup> 1980 AIR 1535 1980 SCR (3) 855

**Right to Information to any Friends, Relatives or Nominated Persons about arrest:** In accordance with **Section 50A of the Criminal Procedure Code** and the Supreme Court ruling in *Joginder Kumar v. State of UP*<sup>23</sup>, an arrested individual possesses the right to have a friend, relative, or any other person nominated by them informed of their arrest and the location of their detention. This right is integral to the protection of personal liberty under Articles 21 and 22(1) of the Constitution of India.

**Right to Reasonable Wages in Prison:** According to **Section 53 of the Indian Penal Code**, prisoners serving rigorous imprisonment may be assigned work; however, this does not mean that the work must be performed for free. **Article 23** of the Constitution defines "forced labour" as any work performed by an individual, whether they are a free person or a prisoner, for compensation less than the minimum wage.

In the case of *People's Union for Democratic Rights v. Union of India*<sup>24</sup>, the Supreme Court noted that labour or services provided for remuneration below the minimum wage constitutes forced labour. Such individuals can seek the enforcement of their fundamental rights by asking the Court to direct the payment of the minimum wage.

### CONCLUSION AND SUGGESTIONS

Prisons are no longer institutions intended only for the purpose of retribution and deterrence. They are now locations where prisoners are housed not as forgotten and abandoned members of society, but as human beings who must return to their communities as well-behaved and transformed individuals.

The post-independence period saw the creation of the Model Prison Rules, improved vocational training, opportunities for prison visits, sporadic oversight, and the implementation of a salary structure. Overall, there

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<sup>23</sup> 1994 SCC (4) 260

<sup>24</sup> 1982 AIR 1473 1983 SCR (1) 456

were evident efforts to change the jail ethos from one of brutality to humanism.

However, after the people's fundamental rights were upheld by the Constitution, lawmakers and the judiciary also started to take an active role in the rights of prisoners. Notwithstanding the fact that the inmates must adhere to the proper channel process while interacting outside of jail, the courts have acknowledged the letters and telegrams delivered by the prisoners and activated the legal system to safeguard them.