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# Rights of Under Trial Prisoners in India: A Juristic Study

# Kartik Soni<sup>1</sup>

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"Crime is the outcome a diseased mind and Jail must have the environment of a hospital for treatment and care"

- Mahatma Gandhi

*India of My Dreams (1947)* 

## **CHAPTER-I**

### INTRODUCTION

The concept of human rights and dignity is central to any civilized society, extending even to those accused of crimes. Under-trial prisoners—individuals detained while awaiting or undergoing trial without conviction—form a unique category within the criminal justice system that demands special attention. This study explores the legal framework, challenges, and evolving jurisprudence surrounding their rights. Historically, the treatment of under-trial prisoners has evolved from harsh medieval conditions to a more human rights-centric approach. The Universal Declaration of Human Rights (1948) set universal standards for humane treatment, emphasizing the protection of detainees' rights. However, despite such legal safeguards, under-trial prisoners constitute a significant proportion of the prison population worldwide, sometimes exceeding 70% in certain jurisdictions. This raises concerns about the efficiency of legal systems, the protection of fundamental rights, and the broader social and economic impacts of prolonged detention. This research is grounded in key legal principles, including the presumption of innocence, the rule of law, and natural justice. It examines international conventions, constitutional provisions, statutory laws, and judicial precedents that shape the legal protections for under-trial prisoners. The study categorizes these rights into four major areas: fundamental human rights, procedural rights, socio-economic rights, and special rights for vulnerable groups. It also evaluates the mechanisms for implementing these protections and the systemic challenges that hinder their effectiveness, such as overcrowding, delays in trials, and lack of legal aid. By adopting a comprehensive approach, this research contributes to ongoing discussions on criminal justice reform and human rights law. It provides insights that are relevant to academia, policymakers, and practitioners working toward a fairer justice system.

### RATIONALE OF THE TOPIC

The rights of under-trial prisoners represent a crucial area of study within criminal and human rights law. Despite constitutional and legal safeguards, systemic inefficiencies often result in prolonged detention and the violation of basic rights. Given that under-trial prisoners form a significant portion of the global prison population, this study is particularly relevant today. Beyond legal concerns, the socio-economic impact of pre-trial detention extends to families and society. Financial burdens, loss of employment, and social stigma affect not only the detainees but also their dependents. Additionally, administrative challenges such as overcrowding, inadequate prison facilities, and resource shortages further complicate the protection of prisoners' rights. Recent developments, including the impact of the COVID-19 pandemic and the growing role of technology in prison administration, have highlighted the urgent need for reform. This research aims to bridge gaps in existing literature by offering a comprehensive, comparative analysis of legal, administrative, and human rights aspects of under-trial detention.

### STATEMENT OF THE PROBLEM

Under-trial prisoners often find themselves trapped in a system meant to protect them but which, in practice, can be harsh and overwhelming. Even though many countries have laws and constitutional safeguards in place, these individuals still face lengthy detention, limited access to justice, and regular violations of their fundamental rights. This gap between the protections promised on paper and the reality behind bars is a serious problem in criminal justice systems around the world. One key challenge is navigating the legal procedures and red tape that prevent under-trial prisoners from getting a fair shot at justice. Court proceedings can drag on for so long that many remain in jail far beyond the length of any possible sentence. Complex or rigid bail requirements often keep them locked up simply because they can't afford to pay. Meanwhile, they frequently have inadequate legal representation—or none at all—making it hard for them to defend themselves. Courts also don't always keep a close eye on how prisons are run, so even though procedural protections exist, they're not always enforced. Administrative problems make the situation worse. Prisons are frequently overcrowded, with too few resources to ensure basic necessities like hygiene and healthcare. Under-trial prisoners might be housed with convicted inmates because of limited facilities, putting everyone at risk.

Outdated prison systems, a lack of technology, and disorganized record-keeping further weaken the management of these facilities and fail to protect individuals awaiting trial.

Human rights abuses remain a major concern. Conditions in some prisons are so poor that detainees have to endure humiliation and sometimes physical or psychological abuse. Dirty and cramped cells, poor nutrition, and barriers to staying in touch with family or lawyers can make the experience unbearable. Being locked away without a clear sense of when the ordeal will end is psychologically devastating. The entire justice system itself is bogged down by inefficiencies that lead to slow trials and long waits in custody. Overworked judges face thousands of pending cases. Agencies responsible for arrest, investigation, and oversight often do not coordinate well with each other, creating an endless cycle of delays. Without proper funding, prisons lack critical resources and struggle to hire or train enough staff to meet even basic standards of care and rehabilitation. Certain groups—like women, juveniles, the elderly, and people with disabilities—face extra hurdles. They need specialized support and consideration, but they rarely get it. Many detainees also suffer from mental health problems, and there simply aren't enough services to help them. For foreign nationals, language barriers and unfamiliar legal processes only add to their challenges. A major issue is that the rights guaranteed by law often don't get enforced on the ground. People in custody might not even know these rights exist. Prison staff are not always trained in human rights standards, and corruption or abuse can go unchecked. It's hard for prisoners to report mistreatment or seek help when the system for making complaints is weak or simply doesn't function.

Life outside prison is affected, too. Families of under-trial prisoners face emotional and financial stress, struggling to cope while their loved ones remain in limbo. Societies pay a price, as individuals who have spent time in prison often face stigma and barriers to re-entering the workforce or community. Limited support for rehabilitation can lead to repeated run-ins with the law. The lack of resources only makes matters worse. Many prisons operate on shoestring budgets, leaving them short-staffed and poorly maintained. In many places, technology is either outdated or absent, slowing down tasks like managing records or scheduling hearings. Undersupplied legal aid services mean that people can't effectively challenge their detention or fight for their rights. On the international stage, different countries vary widely in how well they comply with global human rights guidelines. Monitoring these practices can be difficult, and inadequate reporting or coordination across borders means that good ideas don't always

spread. Even when governments push for changes to fix these problems, progress is often stalled by a mix of political hesitancy, lack of money, and ingrained institutional habits.

Why does any of this matter? Because ensuring a fair, efficient criminal justice system helps everyone: courts move faster, human rights are respected, and communities become safer. By reducing unnecessary delays and paying proper attention to living conditions, the system can protect people's dignity and promote justice. Better infrastructure, thoughtful administrative reforms, and skilled prison staff lead to a more humane environment. And when those who are under trial eventually return to society, fair treatment and rehabilitation support can help them build better lives and avoid future conflict with the law. This research strives to shine a light on these interconnected issues—looking at the laws, the way prisons are run, and existing efforts at reform. Ultimately, it's about showing that we can and must do better for under-trial prisoners. By addressing their struggles, we can make our criminal justice systems more just, more efficient, and more humane for everyone involved.

### RESEARCH METHODOLOGY

The study employs a multi-dimensional research approach, including:

- **Doctrinal research** (analysis of legal texts, case law, and literature).
- Comparative analysis of different legal systems.
- Evaluation of judicial decisions and legislative provisions related to under-trial prisoners.

### RESEARCH HYPOTHESES

- 1. Socio-economically disadvantaged under-trial prisoners are more likely to face harsher conditions and weaker legal representation than affluent prisoners.
- 2. Excessive delays in judicial proceedings contribute significantly to the prolonged incarceration of under-trial prisoners, effectively punishing them before conviction.
- 3. Countries with strong legal aid systems have a significantly lower percentage of undertrial prisoners.

# **RESEARCH QUESTIONS**

- How does prolonged under-trial detention impact the presumption of innocence and fair trial rights?
- What role do socio-economic factors play in access to legal representation and bail?
- How does prison overcrowding affect the basic rights of under-trial prisoners?
- How can technology be used to improve access to justice and legal protections?
- How effective are international legal standards in protecting under-trial prisoners' rights across different jurisdictions?
- What challenges do vulnerable groups among under-trial prisoners face, and how can they be addressed?

### **OBJECTIVES OF THE RESEARCH**

- To analyze the legal and constitutional framework governing under-trial prisoners' rights.
- To assess the implementation challenges within the criminal justice and prison systems.
- To examine the **socio-economic impact** of prolonged pre-trial detention.
- To propose **reform measures** that improve the protection of under-trial prisoners' rights.
- To conduct a **comparative study** of best practices from different jurisdictions.

### LITERATURE REVIEW

1. The rights of under-trial prisoners are deeply rooted in constitutional and statutory provisions. **Granville Austin's** seminal work, *The Indian Constitution: Cornerstone of a Nation* (1966), provides a detailed analysis of the Indian Constitution, particularly Articles 14, 19, 21, and 22, which guarantee equality before the law, protection against arbitrary detention, and the right to life and personal liberty. Austin's exploration of how these provisions have been interpreted by the judiciary to protect under-trial

prisoners has been foundational to my understanding of the constitutional basis for their rights. For instance, he highlights how Article 21 has been expanded to include the right to a speedy trial and access to legal aid, as seen in cases like *Hussainara Khatoon v. State of Bihar* (1979).<sup>2</sup>

- 2. **H.M. Seervai's** *Constitutional Law of India: A Critical Commentary* (4th ed., 1996) offers a rigorous analysis of judicial interpretations of fundamental rights. Seervai's commentary on landmark cases such as *Maneka Gandhi v. Union of India* (1978) has been invaluable in understanding how the judiciary has used constitutional provisions to safeguard the rights of under-trial prisoners.<sup>3</sup>
- 3. Despite robust legal provisions, the enforcement of under-trial prisoners' rights remains fraught with challenges. Upendra Baxi's The Crisis of the Indian Legal System (1982) critically examines the systemic inefficiencies that plague the Indian criminal justice system. Baxi highlights issues such as prolonged detention, overcrowding, and lack of legal aid, which disproportionately affect under-trial prisoners. His work has been crucial in identifying the structural barriers that hinder the realization of these rights.<sup>4</sup>
- 4. In Prisoners' Rights: A Critical Analysis (2010), Rani Dhavan Shankardass provides an empirical analysis of the living conditions and treatment of prisoners in India. Shankardass's work sheds light on the socio-economic factors that contribute to the marginalization of under-trial prisoners, particularly women and minorities. Her findings have been instrumental in understanding the intersection of law and social inequality.<sup>5</sup>
- 5. The judiciary has played a pivotal role in safeguarding the rights of under-trial prisoners. V.R. Krishna Iyer's The Dialectics and Dynamics of Human Rights in India (1999) discusses the judiciary's proactive role in expanding the scope of Article 21 to include the right to speedy trial and access to legal aid. Iyer's insights into landmark

<sup>&</sup>lt;sup>2</sup> Granville Austin, The Indian Constitution: Cornerstone of a Nation 112 (Oxford University Press 1966).

<sup>&</sup>lt;sup>3</sup> H.M. Seervai, Constitutional Law of India: A Critical Commentary 345 (4th ed., Universal Law Publishing 1996

<sup>&</sup>lt;sup>4</sup> Upendra Baxi, The Crisis of the Indian Legal System 78 (Indian Law Institute 1982).

<sup>&</sup>lt;sup>5</sup> Rani Dhavan Shankardass, Prisoners' Rights: A Critical Analysis 45 (Sage Publications 2010).

- judgments, such as Sunil Batra v. Delhi Administration (1980), have been invaluable in analyzing the judiciary's contribution to protecting under-trial prisoners' rights.<sup>6</sup>
- 6. In Public Interest Litigation: A Renaissance of Human Rights (2006), S.P. Sathe examines the role of PILs in addressing systemic issues in the criminal justice system. Sathe's analysis of cases such as Hussainara Khatoon and Sunil Batra has helped me understand how judicial activism has been used to improve prison conditions and protect under-trial prisoners' rights.<sup>6</sup>
- 7. Comparative studies provide valuable insights into global best practices and their applicability to the Indian context. David Garland's The Culture of Control: Crime and Social Order in Contemporary Society (2001) offers a comparative analysis of criminal justice systems in the United States and the United Kingdom. Garland's work highlights the importance of balancing punitive measures with rehabilitation, which has informed my understanding of potential reforms for under-trial prisoners in India.<sup>7</sup>
- 8. In Human Rights and Prisons (2004), Andrew Coyle examines international standards for the treatment of prisoners, including under-trial detainees. Coyle's analysis of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) has been particularly useful in framing recommendations for improving the conditions of under-trial prisoners in India.<sup>8</sup>
- 9. Several articles have provided contemporary perspectives on the rights of under-trial prisoners. Vijay Raghavan and Shruti Vidyasagar's article, Overcrowding in Prisons: A Human Rights Perspective (Economic and Political Weekly, 2018), analyzes the causes and consequences of prison overcrowding in India. Their empirical research has been invaluable in understanding the practical challenges faced by under-trial prisoners.<sup>9</sup>
- 10. In Legal Aid and Access to Justice for Under-Trial Prisoners (Journal of Indian Law and Society, 2019), Aparna Chandra examines the effectiveness of legal aid programs

<sup>&</sup>lt;sup>6</sup> V.R. Krishna Iyer, The Dialectics and Dynamics of Human Rights in India 89 (Eastern Book Company 1999). 6 S.P. Sathe, Public Interest Litigation: A Renaissance of Human Rights 102 (Oxford University Press 2006).

<sup>&</sup>lt;sup>7</sup> Avid Garland, The Culture of Control: Crime and Social Order in Contemporary Society 67 (Oxford University Press 2001).

<sup>&</sup>lt;sup>8</sup> Andrew Coyle, Human Rights and Prisons 23 (International Centre for Prison Studies 2004).

<sup>&</sup>lt;sup>9</sup> Vijay Raghavan & Shruti Vidyasagar, Overcrowding in Prisons: A Human Rights Perspective, 53 Econ. & Pol. Wkly. 12, 15 (2018).

in India. Chandra's work highlights the gaps in the implementation of the Legal

Services Authorities Act, 1987, and provides recommendations for improving access

to justice for under-trial prisoners. 10

11. Prabha Kotiswaran's article, Gender and the Rights of Under-Trial Prisoners (Harvard

Human Rights Journal, 2020), explores the unique challenges faced by women

undertrial prisoners. Kotiswaran's intersectional approach has been crucial in

understanding the gendered dimensions of the issue.<sup>11</sup>

12. The India Justice Report (2020), published by the Tata Trusts, provides a

comprehensive analysis of the Indian criminal justice system, including the treatment

of under-trial prisoners. The report's data-driven approach has been instrumental in

identifying systemic issues and framing evidence-based recommendations.<sup>12</sup>

13. Finally, Arghya Sengupta's article, Judicial Delays and the Rights of Under-Trial

Prisoners (Indian Law Review, 2021), examines the causes of judicial delays and their

impact on under-trial prisoners. Sengupta's work has been particularly useful in

analyzing the role of the judiciary in addressing prolonged detention.<sup>12</sup>

### **CHAPTERISATION**

**Chapter 1: Introduction** 

Chapter 2: Legal Framework for the Rights of Under-Trial Prisoners

Chapter 3: Challenges in the Enforcement of Rights of Under-Trial Prisoners

**Chapter 4: Comparative Analysis** 

Chapter 5: Judicial Pronouncements and statistical analysis

**Chapter 6: Conclusion and Recommendations** 

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<sup>10</sup> Aparna Chandra, Legal Aid and Access to Justice for Under-Trial Prisoners, 10 J. Indian L. & Soc'y 45, 50

<sup>&</sup>lt;sup>11</sup> Prabha Kotiswaran, Gender and the Rights of Under-Trial Prisoners, 33 Harv. Hum. Rts. J. 123, 130 (2020).

<sup>&</sup>lt;sup>12</sup> Tata Trusts, India Justice Report 56 (2020).

<sup>&</sup>lt;sup>12</sup> Arghya Sengupta, Judicial Delays and the Rights of Under-Trial Prisoners, 5 Indian L. Rev. 78, 85 (2021).

# **CHAPTER-II**

### LEGAL FRAMEWORK FOR THE RIGHT OF UNDER TRIAL PRISONERS

The acknowledgment of human rights dates back to ancient times, but significant recognition became more pronounced following the Second World War. The widespread violence inflicted upon human beings during this conflict led to the establishment of specific norms aimed at safeguarding human dignity. Among these concerns, the treatment of prisoners gained substantial global attention. In response, the United Nations Organization (UNO) formally adopted a foundational framework for human rights, known as the Universal Declaration of Human Rights, in 1948. The atrocities committed during the Second World War prompted the international community to specifically emphasize the protection of prisoners' rights. Consequently, the Geneva Convention was established, addressing the humane treatment and rights protection of war prisoners and individuals affected by war conditions. Various international treaties, declarations, and resolutions were subsequently introduced to regulate and improve prisoner treatment globally. Furthermore, the United Nations crafted standardsetting guidelines and model documents to ensure minimum humane standards within prisons and to prohibit inhumane practices. Prisoners, often viewed as a particularly vulnerable and marginalized group, remain largely hidden from public view due to their confinement behind prison walls. This hidden nature makes them susceptible to frequent human rights abuses. Evidence from numerous countries indicates that prisoners continue to experience severe violations of their fundamental rights. Efforts have thus been continuously undertaken to mitigate such abuses through international conventions, treaties, and legal frameworks explicitly intended to protect prisoners' rights. Some of these international instruments specifically target prisoners' rights, others are exclusively applicable to incarcerated persons, and certain documents address general prison conditions and treatments. Prominent among these conventions and treaties include:

# **Universal Declaration of Human Rights 1948(UDHR)**

The Universal Declaration of Human Rights, created by the United Nations, serves as a foundational document outlining essential standards for recognizing and protecting human rights globally. Among its key provisions are the following important articles: Article 1 of Universal Declaration of Human Rights states that "All human being are said to be born free & equal in dignity and Rights." All human beings are free and equal there should not be discrimination on any of the grounds such as sex, age, place of birth, caste, creed, religion, nationality, social/political origin etc.

- Article 5 states that "No one shall be subject to torture, cruel, inhuman or degrading treatment of punishment." The provision provides for treatment of prisoners. It provides that no one can be subjected to torture either physical or mental or cruel or degrading treatment or punishment.
  - Article 8 of declaration states about right to effective remedy before national tribunal.
  - Article 9 provides for freedom from arbitrary arrest, detention or excite.
- Article 10 provides for right to fair trial and public hearing by independent & impartial tribunal.
- Article 11 provides for doctrine of presumption of innocence until guilt proved in public trial with all guarantees necessary for defence in criminal cases, as well as principle of freedom from ex-post fact laws etc. Although the provisions outlined in the Universal Declaration of Human Rights (UDHR) are not legally binding upon member states, they carry significant legal influence internationally. The UDHR provides foundational principles that assist in interpreting various other international and national legal documents. It is widely regarded as an essential

framework for recognizing fundamental human rights, particularly in the context of safeguarding the rights and dignity of prisoners.

# International Covenant on Civil & Political Rights 1966. –

The International Covenant on Civil and Political Rights (ICCPR) is a prominent international agreement committed to the protection of human rights, notably emphasizing prisoners' rights. It was adopted by the United Nations General Assembly in 1966, aiming to expand upon and strengthen the principles outlined in the Universal Declaration of Human Rights (UDHR). The ICCPR details several responsibilities for its signatory countries, compelling them to guarantee and uphold essential human freedoms. Among its key articles, Article 7 guarantees freedom from torture or cruel and degrading treatment; Article 10 stresses the humane treatment of detainees; Article 14 upholds the right to a fair trial; and Article 15 forbids the retroactive application of criminal law. Specifically, Article 10 directs that anyone deprived of liberty must be treated with dignity, and that accused individuals—especially juveniles—must be kept separate from convicts, reflecting their unconfirmed legal status. The ICCPR also highlights the importance of prioritizing reformation and social rehabilitation in prison systems, ensuring that juvenile offenders are housed apart from adults and brought to trial as quickly as possible. Although certain rights in the ICCPR may be suspended during states of emergency, core protections for prisoners—such as freedom from arbitrary arrest, freedom from torture, and protection against retroactive criminal laws—cannot be set aside, even during wartime or other crises. Member states are therefore obliged to incorporate these principles into their domestic legislation and administrative frameworks, taking all necessary measures to respect and preserve these rights.

# Convention against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment 1995.

This convention, adopted by the United Nations General Assembly in 1975, aims to protect individuals by prohibiting all forms of torture and any cruel or degrading treatment or punishment. It obliges member states to implement effective legislative, judicial, administrative, and other necessary measures to actively prevent acts of torture<sup>13</sup>. Torture is absolutely prohibited, and no situation—whether a state of emergency, political instability, or a direct order from a public official—can ever serve as a valid justification. The Convention establishes strict enforcement measures, including the Committee. Against Torture, which investigates allegations of torture. In addition, the Commission on Human Rights passed a 1985 resolution creating Special Rapporteurs on torture, and the Convention's Optional Protocol set up a Subcommittee on the Prevention of Torture. Both the Special Rapporteurs and the Subcommittee have the authority to inspect any location where torture may be taking place, and participating countries must cooperate fully with them in their investigations. Beyond these conventions, the United Nations has also developed several standards to guide the treatment of prisoners worldwide. These guidelines outline minimum requirements in prison environments that preserve human dignity and foster the rehabilitation and positive development of inmates.

# UN Standard Minimum Rules for The Treatment Of Prisoners (OHCHR, 1955)

The Standard Minimum Rules for the Treatment of Prisoners (SMRs) were first established in 1955 by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders and later received formal approval from the United Nations Economic and Social Council in 1957. While these rules do not constitute a legally binding treaty, they serve as an internationally accepted guideline for shaping prison policies and management systems worldwide. A fundamental principle of the SMRs is the commitment to non-discrimination, ensuring that no individual is treated unfairly based on race, color, gender, language, religion, political affiliation, or any other distinguishing factor. Structurally, the SMRs are presented in

<sup>&</sup>lt;sup>13</sup> Article 2 of Convention against torture & other cruel, inhuman or degrading treatment or punishment 1995

three parts. The first part lays out broad, foundational rules on how to manage penal institutions, addressing matters such as personal hygiene, clothing and bedding, food, exercise, medical services, disciplinary measures, the use of restraints, grievance procedures, contact with the outside world, religious practice, and staff training. The second part covers the classification of prisoners, highlighting how to tailor treatment and rehabilitation programs according to individual needs, along with guidelines on privileges, work, education, recreation, and postrelease reintegration. The third part focuses on individuals awaiting trial, as well as those held for civil offenses or without formal charges. On December 17, 2015, the United Nations General Assembly approved revisions to the SMRs to reflect new developments and best practices in correctional science. In honour of the late President of South Africa, these revised guidelines are now referred to as the "Nelson Mandela Rules."

United Nations Standard Minimum Rules for The Administration Of Juvenile Justice (The Beijing Rules 1985)

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, frequently referred to as the "Beijing Rules," are aimed at juvenile justice systems rather than educational programs. These Rules emphasize:

- Prioritizing the welfare of young individuals and ensuring that any measures taken are proportionate to both the nature of the offense and the offender's circumstances;
- Promoting diversion programs that steer juveniles away from formal criminal proceedings and toward supportive or community-based alternatives;
- Protecting fundamental rights to privacy and due process, including the presumption of innocence;
- Ensuring that legal proceedings serve the best interests of the child and provide opportunities for meaningful participation and self-expression;
- Employing inquiry reports—covering aspects like social, family, and educational backgrounds—to determine appropriate social services;

- Minimizing the use of institutional confinement by favouring approaches such as counselling, probation, or community service;
- Resorting to institutionalization only when no other option is suitable; and
- Concentrating institutional measures on guiding juveniles toward becoming constructive, selfsufficient members of society.<sup>14</sup>

# **UN Standard Minimum Rules for Noncustodial Measures (the Tokyo Rules** 1990)

The United Nations Standard Minimum Rules for Non-Custodial Measures, commonly referred to as the **Tokyo Rules**, emerged from a global discourse on alternatives to incarceration. Unlike imprisonment, non-custodial measures impose fewer restrictions on an offender's liberty. They allow individuals to remain with their families and communities, continue fulfilling their responsibilities, and retain their employment. However, offenders subject to non-custodial measures may still face specific conditions, restrictions, and obligations. Failure to comply with these conditions can lead to severe consequences, including the possibility of imprisonment. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power ("UNVCAP 1985") was adopted by the United Nations General Assembly in November 1985. It is organized in two parts: the first addresses the needs of crime victims, including guidelines on access to justice, fair treatment, restitution, compensation, and assistance, while the second concerns provisions relating to victims of abuse of power. Additionally, the United Nations Human Rights Committee has emphasized that states bear a positive obligation toward individuals classified as vulnerable due to their being deprived of liberty. Specifically, such individuals must not be subjected to torture or to cruel, inhuman, or degrading treatment—nor

<sup>&</sup>lt;sup>14</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), G.A. Res. 40/33, annex, U.N. Doc. A/RES/40/33 (Nov. 29, 1985),

Available: http://euromed-justice.eu/document/un-1985-united-nations-standard-minimum-rules-administrationjuvenile-justice-beijing-rules

<sup>&</sup>lt;sup>15</sup> United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules), G.A. Res. 45/110, U.N. Doc. A/RES/45/110 (Dec. 14, 1990).

<sup>&</sup>lt;sup>16</sup> Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34, U.N. GAOR, 96th plen. mtg., U.N. Doc. A/RES/40/34 (Nov. 29, 1985), available at http://legal.un.org/avl/ha/dbpjvcap/dbpjvcap.html

may they endure hardships beyond what is inherently entailed in deprivation of liberty. They are entitled to the same respect for human dignity as anyone else, and they continue to enjoy all the rights enshrined in the International Covenant on Civil and Political Rights (ICCPR), subject only to those limitations intrinsic to a closed setting.<sup>18</sup>

Within the Indian context, the administration of prisons is a State subject under List II of Schedule VII in the Constitution of India. Statistics from the National Crime Records Bureau indicate the presence of multiple categories of correctional facilities across the country, such as central jails, district jails, and sub-jails. Certain states and Union Territories also maintain specialized institutions, including women's jails, borstal schools, open jails, and special jails.

### Position of Jails and Jail Inmates in India

Type of Jail	No. of Jails	Type of Jail	No. of Jail
Central jails	134	Open jails	63
District jails	379	Borstal schools	20
Sub jails	741	Special jails	43
Women jails	18	Other jails	3

TABLE: A

Table A shows the number jails in India<sup>17</sup>. Out of 1401 jails total 134 central jails out of these jails Delhi has 8 Central Jails, Kolkata (West Bengal) has 3 Central Jails and Bhagalpur (Bihar) has 2 Jails i.e.1 Special Central Jail and 1 Central Jail, 379 district Jails, 741 sub jails, 18 women jails, 63 open jails, 20 Borstal Schools, 43 Special jails and 3 other jails are established.

Rights of Prisoner under Indian Constitution –

The Indian Constitution extends several fundamental rights to all individuals, including those who are incarcerated. Notably:

• Article 14 (Equality Before the Law): The State must guarantee equal protection under the law for every person, ensuring no discrimination.

<sup>&</sup>lt;sup>17</sup> Prison Statistics India-2015, National Crime Records Bureau

- Article 19 (Freedoms of Speech, Assembly, etc.): Citizens hold the right to freedom of speech and expression, peaceful assembly, association, movement throughout India, residence in any part of the country, and the choice to pursue any occupation or trade. However, each of these freedoms can be limited by "reasonable restrictions" in the interests of sovereignty, security, public order, or general morality.
- Article 20 (Protection Against Certain Convictions): Individuals cannot be convicted for acts that were not offenses at the time they occurred, nor can they face penalties that exceed those prescribed when the offense took place. This article also bars prosecuting or punishing someone twice for the same offense and prevents compulsion of self-incrimination.
- Article 21 (Protection of Life and Personal Liberty): No one may be deprived of life or personal freedom except through established legal processes.
- Article 22 (Safeguards Against Arbitrary Arrest and Detention): Anyone arrested must be informed promptly of the grounds for arrest and has the right to consult a lawyer of their choice. Detainees must appear before a magistrate within 24 hours of their arrest, and further detention requires judicial approval. This article also contains provisions for preventive detention laws, specifying conditions and maximum periods of such detention.

Finally, List II, Entry 4 in the Seventh Schedule (Article 240) of the Constitution places prisons, reformatories, borstal institutions, and similar facilities under the jurisdiction of individual states, including any arrangements that might be made with other states for using those facilities.

# Rights of Prisoners under Criminal Laws in India (Focusing on Undertrial Prisoners)

India's criminal justice system is designed to protect individual rights by preventing wrongful detention and ensuring that no person is punished without a fair trial. Three foundational principles guide this system:

- 1. Presumption of innocence unless guilt is established;
- 2. Burden of proof on the prosecution to demonstrate guilt beyond a reasonable doubt; and
- 3. Benefit of the doubt always given to the accused.

The Supreme Court has repeatedly emphasized the need for fair trials. In Kishor Singh Ravinder Dev v. State of Rajasthan, the Court noted that constitutional, evidentiary, and procedural safeguards aim to preserve an accused's dignity and ensure a just, impartial process. Likewise, in Menaka Gandhi v. Union of India, the Court held that the right to a fair trial is integral to the right to life, requiring procedures that are fair, just, and reasonable.

Below are key rights that protect the accused before, during, and even after trial.

### 1. Presumption of Innocence

India follows an adversarial model (also referred to as an accusatorial system) in criminal proceedings, where the presumption of innocence stands until proven guilty. This principle prevents arbitrary arrests or detentions by placing the onus on the State (prosecution) to establish guilt beyond a reasonable doubt. If any reasonable doubt remains, the accused is entitled to the benefit of that doubt.

### 2. Rights of Arrested Persons

Both Article 22 of the Indian Constitution and various provisions of the Criminal Procedure Code (CrPC) protect individuals during arrest and detention:

# 1. Section 41 (Arrest Without Warrant)

- A police officer may arrest a person without a warrant under specific conditions, such as credible suspicion of involvement in a cognizable offense or obstructing law enforcement duties.
- Officers in charge of a police station may similarly arrest or cause the arrest of individuals fitting the criteria in Sections 109 or 110 of the CrPC.

### 2. Section 56 (Prompt Presentation to a Magistrate)

 A person arrested without a warrant must be brought before a Magistrate or the officer in charge of a police station without unnecessary delay, subject to bail provisions.

### 3. Section 57 (24-Hour Detention Limit)

- No one arrested without a warrant can be detained beyond 24 hours (excluding travel time to the Magistrate) unless a special Magistrate order under Section 167 permits further custody.
- 4. Section 51 (Search of Arrested Person) Police may search an arrested individual and place items found in safe custody. Female suspects must be searched only by another female, with due respect to decency.
- 5. Section 50-A (Informing Arrestee of Grounds and Bail Rights)
  - Immediately communicate grounds for arrest and inform any person arrested for a non-bailable offense that they have a right to bail, allowing them to arrange sureties.
- 6. Section 59 (Discharge of Person Apprehended)
  - No person arrested by the police is to be released except on their own bond, on bail, or under a Magistrate's special order.
- 7. Section 54 (Medical Examination at the Arrestee's Request)
  - o If an arrestee claims a physical examination would disprove the alleged offense or reveal evidence of a crime against them, a Magistrate must direct such an examination unless the request is deemed vexatious or intended to delay justice.
- 8. Section 53 (Medical Examination at Police Request)
  - Where reasonable grounds suggest examining an accused person would yield evidence, a registered medical practitioner (or a female medical practitioner in case of a female accused) can conduct the necessary examination.
- 9. Section 164 (Recording of Confessions and Statements)
  - A Metropolitan or Judicial Magistrate may record confessions or statements made during investigation.

- Before recording a confession, the Magistrate must clarify that the individual is not obliged to confess and that any confession may be used against them as evidence. The Magistrate must also ascertain the confession is voluntary.
- o The confession must be documented following Section 281 of the CrPC, signed by the confessor, and accompanied by a memorandum stating it was given voluntarily and read back to the individual for verification.

These provisions collectively aim to prevent abuse of authority during arrest and detention. By enforcing prompt judicial oversight, ensuring the right to legal counsel, mandating medical examinations when necessary, and requiring informed consent for confessions, the law seeks to uphold a fair, transparent process for anyone accused of a crime.

# Safeguards during Arrest -

## Guidelines under D.K. Basu case<sup>18</sup>

Identification of Officers: Every police officer involved in making the arrest or carrying out an interrogation must display clear identification badges and name tags with their official designations. All participating officers must be recorded in a register. Memo of Arrest: At the time of arrest, the police must prepare an arrest memo, attested by at least one witness (a family member or local person). The memo, which must note the date and time of the arrest, should be signed by both the arrestee and the arresting officer. Informing Friends/Relatives: A person who is arrested or detained has the right to have a friend, relative, or other interested party informed of the arrest as soon as practicable, unless such a person is already acting as the arrest memo witness. Notification Requirements: If the friend or relative lives outside the district or town, the police must communicate the arrestee's time and place of custody via the Legal Aid Organization and the local police station, typically within 8–12 hours of the arrest.

Right to Know: The arrestee must be informed of their right to have someone notified of the arrest or detention at the earliest opportunity.

<sup>&</sup>lt;sup>18</sup> D.K. Basu v. State of W.B., (1997) 1 S.C.C. 416.

Diary Entry: An entry must be made in the official diary specifying the name of the person who was informed of the arrest and noting the identities of the officers responsible for the arrestee's custody.

Physical Examination: On request, the arrestee should be examined at the time of arrest, with any visible injuries recorded. Both the arrestee and the arresting officer should sign this "Inspection Memo," and a copy must be provided to the arrestee.

Medical Check-ups: The arrestee is to undergo a medical examination by a qualified doctor every 48 hours during custody. The doctor must be drawn from an approved panel designated by the Director of Health Services in that State or Union Territory.

Document Transmission: Copies of all relevant documents, including the arrest memo, should be sent promptly to the local Magistrate.

Access to Counsel While interrogation is ongoing, the arrestee must be allowed to confer with a lawyer if requested, though not necessarily throughout every moment of the interrogation.

Police Control Room: Each District and State Headquarters should have a police control room that receives information about arrests and places of detention. This information should be posted on a clearly visible notice board within 12 hours of the arrest. Furthermore, individuals in custody retain the right to be treated with dignity. Adequate food, water, clothing, and hygienic living conditions must be provided. Detainees should not face punitive treatment before conviction, and they retain the right to legal counsel, subject to reasonable security measures in detention facilities.

# Freedom form hand cuffing & fetters

### Handcuffing of Accused

In *Citizens for Democracy v. State of Assam*<sup>19</sup>, the Supreme Court laid down specific guidelines regarding the handcuffing of accused individuals, whether convicted or under-trial. The Court ruled that handcuffs or other restraints should not be used on prisoners while they are lodged in jail, transported between jails, or taken to and from court. Police and jail authorities do not have the unilateral authority to order handcuffing. However, if there is credible evidence that a

<sup>&</sup>lt;sup>19</sup> Citizens for Democracy v. State of Assam, (1995) 3 SCC 743

prisoner is likely to escape or poses a significant danger, the authorities must seek permission from a magistrate to use handcuffs. In cases where a person is arrested with or without a warrant, handcuffing is prohibited unless explicitly authorized by a magistrate. These restrictions, while aimed at protecting individual rights, have created practical challenges for law enforcement, especially in cases where accused individuals are prone to violence or escape.

# **Rights During Interrogation**

- 1. **Right to Remain Silent**: Under Article 20(3) of the Indian Constitution, an accused person cannot be compelled to be a witness against themselves.
- 2. **Judicial and Police Custody**: The law provides specific provisions for judicial and police custody to ensure that the rights of the accused are protected during detention.

# Right to Bail

- 1. **Bailable Offenses**: An accused person has an automatic right to bail in bailable offenses.
- 2. **Non-Bailable Offenses**: In non-bailable offenses, bail is granted at the discretion of the court, subject to certain conditions.

# **Safeguards During Confession**

In Rabindra Kumar Pal @ Dara Singh v. Republic of India<sup>20</sup>, the Supreme Court outlined principles for recording confessions to ensure their voluntariness and reliability. The Court emphasized that the provisions of Section 164 of the Criminal Procedure Code (CrPC) must be strictly followed. Before recording a confession, the magistrate must conduct a thorough inquiry to ensure that the accused has not been subjected to any coercion or undue influence. The accused must be given sufficient time for reflection and assured protection from police pressure. A confession obtained involuntarily is inadmissible, and a retracted confession cannot form the sole basis for conviction. The magistrate must ensure that the accused is free from police influence during the reflection period and that no police officials are present in the courtroom during the recording of the confession. Additionally, the confession of a co-accused is considered weak evidence and requires corroboration for conviction.

<sup>&</sup>lt;sup>20</sup> Rabindra Kumar Pal @ Dara Singh v. Republic of India, (2011) 2 SCC 490

# Prisons Act, 1894 – Colonial Law in Modern Times

The Prisons Act of 1894 is a British-era law that still underpins prison administration in India, primarily emphasizing custody, discipline, and day-to-day prison management.<sup>21</sup> It includes rules on segregating male, female, undertrial, civil, and convicted inmates, as well as appointing prison officers like superintendents and medical officers. While it was fairly comprehensive for its time, the Act has barely changed in more than a century, offering no clear focus on rehabilitation. Some punishments authorized by the Act (for instance, whipping) have since been declared unconstitutional by the courts, and outdated practices rooted in the Act (such as caste-based labor divisions) have gradually declined in official manuals.

# **Judicial Interpretations**

India's Supreme Court has frequently drawn attention to the Prisons Act's shortcomings. In Sunil Batra v. Delhi Administration, the Court famously stated that "a person in prison does not become a non-person," confirming that inmates keep their fundamental rights except those inevitably limited by imprisonment <sup>22</sup>. The Court interpreted the Act in a humane way, emphasizing that incarceration should not add unnecessary suffering to the sentence. In Ramamurthy v. State of Karnataka, the Court catalogued widespread issues such as overcrowding, inadequate food, and subpar healthcare, directing the central government to draft a Model Prison Manual to modernize prison standards nationally<sup>23</sup>. These rulings effectively import constitutional protections (Articles 14, 19, and 21) into the Act, establishing that detainees retain a right to dignity and fundamental freedoms.

### **Recommendations for Reform**

Successive committees have, since independence, consistently urged replacing or overhauling the 1894 law. Early on, the All-India Jail Committee (1919–20) advocated shifting the prison system away from mere punishment toward "reformation and rehabilitation."<sup>24</sup>. Subsequent reports, including the W.C. Reckless Report (1951) and All India Jail Manual Committee (1957–59), similarly pushed for modernizing prison legislation. The 1960 Model Prison Manual

<sup>&</sup>lt;sup>21</sup> Prisons Act, No. 9 of 1894

<sup>&</sup>lt;sup>22</sup> Sunil Batra v. Delhi Admin., (1978) 4 S.C.C. 494

<sup>&</sup>lt;sup>23</sup> Ramamurthy v. State of Karnataka, (1997) 2 S.C.C. 642

<sup>&</sup>lt;sup>24</sup> All-India Jail Committee 1919–20 (Gov't of India), on file with Bureau of Police Research & Dev. <sup>27</sup> Ministry of Home Affairs, Model Prisons Act, 2023

suggested revising the 1894 statute to incorporate an explicit legal basis for correctional programs. Although draft bills—such as the Prison Administration & Treatment of Prisoners Bill, 1998—proposed replacing the Act, progress remained sluggish. As recently as 2005, commentators lamented that attempts at "comprehensive revision of prison laws" had stalled. In May 2023, the Ministry of Home Affairs introduced a Model Prisons Act to repeal the 1894 law, emphasizing inmate reformation, vocational training, and parole, and setting higher standards for prisoner welfare and security.<sup>27</sup> Since prisons fall under state jurisdiction, state governments are now responsible for adopting and implementing these updated measures.

# The Prisoners Act, 1900

The Prisoners Act of 1900 (sometimes incorrectly cited as 1990) was intended to supplement the 1894 statute, consolidating rules regarding those in custody. Among other provisions, it permitted transferring inmates within a state and required that prisoners with mental illness be moved to suitable facilities. It also allowed conditional release in certain circumstances, such as when a High Court has recommended granting a pardon. These steps suggest an early (though limited) nod toward rehabilitation. However, because the 1900 law predates the Constitution and assumed a centralized approach to prison management, it fell behind after the Government of India Act of 1935 gave states authority over their prisons. Later Supreme Court directives and reform committees highlighted the law's outdated nature, culminating in recommendations to replace both colonial-era Acts with a unified, modern statute—ultimately addressed by the Model Prisons Act 2023. Acts with a unified, modern statute—ultimately addressed by the

# **Transfer of Prisoners Act, 1950**

Soon after independence, Parliament passed the Transfer of Prisoners Act, 1950 to facilitate transferring inmates between states, aiming to reduce overcrowding and support programs like vocational training. <sup>27</sup> Under this law, moves can only be authorized by the appropriate government—usually the state holding the prisoner or, in some cases, the central government. In State of M.P. v. Ratan Singh, the Supreme Court clarified that the state where the inmate was originally convicted still decides on matters like remission or pardon, preventing

<sup>&</sup>lt;sup>25</sup> Prisoners Act, No. 3 of 1900

<sup>&</sup>lt;sup>26</sup> Gov't of India Act, 1935, 25 Geo. 5, c. 2 (granting provinces authority over prisons).

<sup>&</sup>lt;sup>27</sup> Transfer of Prisoners Act, No. 29 of 1950

"forumshopping" for lenient regulations. <sup>28</sup> The Court also endorsed inter-state transfers when necessary for a fair trial or prison discipline, as in Kalyan Chandra Sarkar v. Pappu Yadav. While the Act remains a helpful tool to manage overcrowding, the Mulla Committee and subsequent policymakers have stressed the need for uniform prison conditions nationwide to ensure one state's inmates do not end up facing drastically different circumstances in another state. The Model Prisons Act 2023 incorporates the 1950 statute's provisions, adding modern safeguards such as specialized rehabilitation programs and anti-radicalization measures.

# Prisoners (Attendance in Courts) Act, 1955

The Prisoners (Attendance in Courts) Act of 1955 serves the narrow but important function of enabling courts to bring inmates from prison to appear as witnesses or defendants during trials and other proceedings.<sup>29</sup> Before this Act, procedures varied by state and could be unwieldy. The 1955 law established a standardized process of issuing production warrants, obligating prison officials to present the inmate at court on the scheduled day. This straightforward statute has not generated much litigation, as it simply ensures a person's incarceration does not block legal proceedings. Recent adjustments facilitate the use of videoconferencing to reduce frequent physical transfers. Since the Act fulfils a clear procedural need, committees and policymakers have not proposed major revisions.

# The Mental Healthcare Act, 2017

People with mental illness, including those in jail or awaiting trial, have their rights recognized under the Mental Healthcare Act of 2017. Their safety from prejudice and abuse, as well as their access to mental healthcare, are primary goals. Key provisions of the Mental Healthcare Act include: • Recognition of the right to mental healthcare for all individuals, including prisoners and undertrials. • Establishment of mental health review boards to oversee the admission, treatment, and discharge of persons with mental illness, including those in prison settings. • Outlawing the use of solitary confinement and other forms of humiliating or harsh treatment on those who suffer from mental illness. • Promotion of mental health awareness and education among prison staff and inmates to reduce stigma and discrimination. The Mental

<sup>&</sup>lt;sup>28</sup> State of M.P. v. Ratan Singh, A.I.R. 1976 S.C. 1552

<sup>&</sup>lt;sup>29</sup> Prisoners (Attendance in Courts) Act, No. 32 of 1955

Healthcare Act emphasizes the rights and dignity of persons with mental illness, advocating for their humane treatment and access to appropriate mental healthcare services

# All-India Jail Reforms Committee (1980–83) – "Mulla Committee"

Facing growing evidence of serious flaws in India's prison system, the government in 1980 set up the All-India Committee on Jail Reforms, led by Justice A.N. Mulla.<sup>30</sup> After extensive study, the committee issued its two-volume report in 1983 with 658 recommendations, now commonly regarded as a landmark. Among its suggestions:

- 1. National Policy & Uniform Law: The committee called for a uniform national prison policy, including possibly moving "prisons" to the Concurrent List in the Constitution so that a central law could replace the 1894 statute.
- 2. Human Rights and Correctional Focus: It insisted that prisons be centers of "correction" rather than mere detention and punishment, advocating revision of outdated rules and integration of rehabilitation.
- 3. Infrastructure and Conditions: Noting widespread overcrowding, unhealthy conditions, and insufficient food or medical care, the committee urged strict minimum space requirements, better ventilation, and separate housing for undertrial inmates, women, and juveniles.
- 4. Prison Personnel: Stressing the need to professionalize the prison service, it proposed setting up an All-India Prison & Correctional Service with improved training and gender diversity among staff.
- 5. Justice and Oversight: The committee called for independent inspections, grievance mechanisms, and a quicker trial process to address the large undertrial population.

Although many of these proposals were not immediately adopted, the Supreme Court later referred to them while ruling on matters of prisoner welfare. Over time, certain ideas—like

<sup>&</sup>lt;sup>30</sup> All-India Committee on Jail Reforms 1980–83 (A.N. Mulla Comm.), available at Bureau of Police Research & Dev.

drafting a uniform Model Prison Manual and ultimately the Model Prisons Act 2023—would incorporate Mulla Committee recommendations, focusing on reformation and safeguarding inmates' rights.

# The Legal Services Authorities Act, 1987

The Legal Services Authorities Act, 1987, was enacted to provide free legal aid and assistance to underprivileged and marginalized individuals, including undertrial prisoners and convicts. This Act ensures that financial constraints do not deprive individuals of fair legal representation. It establishes legal aid institutions at the national, state, and district levels, ensuring an extensive network for providing legal assistance. The Act further defines the categories of people eligible for free legal representation, explicitly including prisoners and those awaiting trial. To operationalize its objectives, the legislation allows for the engagement of paralegals and legal aid attorneys to assist detainees and inmates in navigating the judicial system. Additionally, the Act promotes legal literacy and awareness programs to educate prisoners about their rights and available legal remedies, empowering them to seek justice effectively. By facilitating equitable access to legal assistance, this legislation upholds the constitutional principles of justice and fairness.

### **Important Provisions:**

- Section 12: Defines the categories of individuals eligible for free legal aid, including prisoners and undertrials.
- Section 13: Specifies the criteria for granting legal aid and the assessment process.
- Section 6 & 7: Establishes legal services authorities at the national and state levels.
- Section 9: Creates District Legal Services Authorities responsible for providing legal aid at the grassroots level.

### **Judicial Pronouncements:**

Hussainara Khatoon v. State of Bihar, (1979) AIR 1369 SC: The Supreme Court
emphasized that free legal aid is a fundamental right under Article 21 and ordered the
release of undertrials who had been detained for extended periods without trial.

• *M.H. Hoskot v. State of Maharashtra*, (1978) 3 SCC 544: The Court held that the right to legal representation is essential for a fair trial and directed that legal aid must be provided to indigent prisoners.

# **Justice Krishna Iyer Committee on Women Prisoners (1987)**

The mid-1980s brought awareness to the unique challenges of female incarceration, including inadequate healthcare and child care for pregnant inmates and young children. In 1987, the government formed the National Expert Committee on Women Prisoners, chaired by Justice V.R. Krishna Iyer<sup>31</sup>. After studying conditions across facilities, the committee proposed:

- Separate Accommodations and Female Staff: Urging the creation of standalone women's prisons or special wings with female wardens and medical staff;
- Health and Dignity: Recommending medical screenings, sanitary provisions, and child care facilities;
- Rehabilitation: Emphasizing employment training tailored to women (including nontraditional vocations), so inmates could earn a living and reintegrate smoothly;
- Non-Custodial Options: Suggesting probation, parole, or open prisons for women convicted of lesser offenses, to maintain community and family ties;
- Legal Aid and Counseling: Advocating NGO support and legal counsel for female inmates, many of whom were poor or abandoned by their families.

Several states acted on these recommendations, increasing female prison staff and establishing women-only institutions. Later, the Model Prison Manual 2016 reflected the Krishna Iyer Committee's proposals, and the Model Prisons Act 2023 includes separate provisions for women and transgender detainees. Nonetheless, challenges like limited female staff and insufficient skill programs persist, indicating ongoing work remains.

<sup>&</sup>lt;sup>31</sup> National Expert Comm. on Women Prisoners (V.R. Krishna Iyer Comm.) Report, 1987

# Judicial Perspectives on Prisoners' Rights and Reform

Indian courts—particularly the Supreme Court—have played a major role in bringing empathy and constitutional values into prison governance. Beginning in the 1970s, a sequence of public interest litigations (PILs) revealed serious shortcomings in correctional facilities, prompting the Court to build a strong jurisprudence affirming inmates' rights.

- Fundamental Rights Continue in Prison: From D.B.M. Patnaik v. State of Andhra Pradesh onward, culminating in Sunil Batra (I) and Sunil Batra (II), the Supreme Court rejected the idea that a person loses their basic rights upon conviction. The Court insisted prisoners retain all constitutional safeguards except for those strictly inconsistent with detention.
- Right to Legal Aid and Speedy Trial: Landmark PILs like the Hussainara Khatoon series showed that many undertrial inmates had served more time awaiting trial than the maximum legal sentence. This spurred the Court to declare speedy trial a core part of Article 21 and to enforce free legal aid for those unable to afford counsel.<sup>35</sup>
- Ending Torture and Inhuman Treatment: In Sunil Batra (II), the Court prohibited routine use of bar fetters and solitary confinement as disciplinary measures. <sup>32</sup> Later, in D.K. Basu v. State of West Bengal, the Court spelled out guidelines to prevent torture and custodial deaths. <sup>33</sup> Other rulings barred unnecessarily humiliating practices like handcuffing inmates without genuine security reasons.
- Improving Conditions and Rehabilitation: Through various PILs, the Court directed state governments to address issues such as overcrowding, unsanitary conditions, poor nutrition, and inadequate healthcare—often echoing the Mulla Committee's recommendations. It promoted "open prisons," where inmates could work and move more freely, fostering social reintegration.
- Monitoring and Oversight: Courts sometimes kept cases open to oversee ongoing reforms (known as "continuing mandamus"). For example, in Sheela Barse v. State of Maharashtra, the Court frequently reviewed steps taken for women prisoners, while in

<sup>&</sup>lt;sup>32</sup> Hussainara Khatoon v. State of Bihar, A.I.R. 1979 S.C. 1360

<sup>&</sup>lt;sup>33</sup> D.K. Basu v. State of W.B., (1997) 1 S.C.C. 416

the Re-Inhuman Conditions in 1382 Prisons case, it demanded compliance reports from prisons nationwide. These actions forced authorities to act more promptly, updating prison manuals and constituting undertrial review committees.

## **CHAPTER-III**

# CHALLENGES IN THE ENFORCEMENT OF RIGHTS OF UNDER-TRIAL PRISONERS

Under-trial prisoners, those awaiting trial and adjudication, face numerous challenges in terms of their rights and living conditions while in custody. These challenges stem from systemic inefficiencies, legal delays, custodial conditions, administrative apathy, stigmatization, and lack of awareness. These issues are critical as they highlight significant human rights violations and underscore the urgent need for reform in the criminal justice and prison systems.

# 1. Legal and Procedural Delays

Judicial Backlog: One of the primary challenges in the enforcement of rights for under-trial prisoners is the significant backlog in the judiciary. As of 2023, Indian courts are grappling with approximately 40 million pending cases. <sup>34</sup> This overwhelming caseload results in prolonged detention periods for individuals awaiting trial. For instance, it has been reported that under-trial prisoners in India spend, on average, about three years in detention before their cases are resolved. <sup>3536</sup> This delay not only violates their right to a speedy trial but also exacerbates the conditions of their confinement.

Inefficient Legal Aid: The provision of legal aid is another critical area of concern. Many under-trial prisoners lack the financial resources to hire competent legal representation. State-appointed lawyers, often overwhelmed with cases or lacking motivation, fail to provide adequate defense, further delaying justice.<sup>40</sup>

<sup>&</sup>lt;sup>34</sup> Press Information Bureau, Ministry of Law & Justice, Government of India, https://www.pib.gov.in/PressReleasePage.aspx?PRID=1776391 (last visited Mar. 1, 2025).

<sup>&</sup>lt;sup>35</sup> National Crime Records Bureau, Ministry of Home Affairs, Government of India, Prison Statistics India

<sup>&</sup>lt;sup>36</sup>, https://ncrb.gov.in/sites/default/files/PSI 2022.pdf (last visited Mar. 1, 2025) <sup>40</sup> Id.

## 2. Custodial Conditions

Overcrowding in Prisons: Prison overcrowding is a pervasive issue that significantly affects the conditions of under-trial prisoners. According to the National Crime Records Bureau (NCRB), Indian prisons are operating at 130% of their capacity as of 2022, with around 70% of the inmate population being under-trial prisoners. This overcrowding leads to inhumane living conditions, including inadequate access to basic necessities such as food, water, and sanitation.

Health Issues: Health problems are rampant among under-trial prisoners due to the poor conditions in which they are held. A 2023 review by the Ministry of Home Affairs highlighted that 35% of under-trial prisoners suffer from chronic health conditions, worsened by the lack of adequate medical facilities in prisons.<sup>42</sup>

# 3. Administrative Apathy

Bureaucratic Inefficiency: Administrative delays compound the difficulties faced by undertrial prisoners. Processes such as bail applications and parole documentation are often sluggish. Data from the District Judiciary of India indicates that over 50% of bail applications take more than 30 days to process, delaying the release of eligible prisoners. Furthermore, the lack of coordination between different arms of the criminal justice system—the police, judiciary, and prison authorities—leads to additional delays.

Corruption and Mismanagement: Instances of corruption within the prison system lead to discriminatory treatment. Under-trial prisoners might have to pay bribes for basic rights or better living conditions, compounded by mismanagement within the prison administration.<sup>44</sup>

# 4. Rights Violations

Abuse and Torture: Under-trial prisoners are vulnerable to abuse and torture by fellow inmates or prison staff. The lack of oversight and accountability within the prison system exacerbates these violations. Reports of custodial violence and deaths highlight severe human rights violations.<sup>45</sup>

### 5. Stigmatization and Social Isolation

Challenges in Reintegration: The social stigma attached to being an under-trial prisoner significantly hampers their reintegration into society upon release. A 2022 report by the

Ministry of Social Justice and Empowerment notes that 60% of released under-trial prisoners face substantial difficulties in securing employment due to societal stigma.<sup>37</sup> This discrimination underscores the need for social and economic support systems to assist in their reintegration.

# 6. Lack of Awareness and Advocacy

Limited Awareness of Rights: Many under-trial prisoners are unaware of their legal rights and the processes available to them, exacerbated by widespread illiteracy and lack of access to legal information. This ignorance leads to a lack of advocacy for their own rights.<sup>47</sup>

Inadequate Institutional Mechanisms: Institutional mechanisms such as prison oversight bodies and human rights commissions often lack the resources or mandate to effectively protect the rights of under-trial prisoners. Reforms are poorly implemented or lack followup and accountability.<sup>3839</sup>

<sup>&</sup>lt;sup>42</sup> Ministry of Home Affairs, Government of India, Annual Report

<sup>2023,</sup> https://www.mha.gov.in/sites/default/files/AR2023.pdf

<sup>&</sup>lt;sup>43</sup> District Judiciary of India, Annual Case Report

<sup>2023,</sup> https://www.districts.ecourts.gov.in/sites/default/files/AnnualCaseReport2023.pdf

<sup>&</sup>lt;sup>44</sup> National Human Rights Commission, Report on Prisons

<sup>2023,</sup> https://www.nhrc.nic.in/sites/default/files/PrisonReport2023.pdf

<sup>&</sup>lt;sup>45</sup> Amnesty International, Report on Custodial Violence in India

<sup>2023,</sup> https://www.amnesty.org.in/reports/CustodialViolence2023.pdf

<sup>&</sup>lt;sup>37</sup> Ministry of Social Justice and Empowerment, Government of India, Social Justice Report 2022, https://socialjustice.gov.in/uploads/report2022.pdf

<sup>&</sup>lt;sup>38</sup> National Legal Services Authority, Annual Report

<sup>&</sup>lt;sup>39</sup>, https://nalsa.gov.in/sites/default/files/AnnualReport2023.pdf <sup>49</sup> Barker v. Wingo, 407 U.S. 514 (1972).

## **CHAPTER-IV**

#### **COMPARATIVE ANALYSIS**

# **Rights of Under-Trial Prisoners in Developed Countries**

## **United States**

In the United States, under-trial prisoners, also known as pre-trial detainees, are afforded constitutional protections primarily through the Fourth, Fifth, Sixth, and Fourteenth Amendments.

#### Legal Protections and Practices:

 Right to a Speedy Trial: Guaranteed under the Sixth Amendment, the right to a speedy trial aims to prevent prolonged detention. However, systemic issues result in significant delays, with many detainees waiting months or even years for trial<sup>49</sup>.

Bail System: The U.S. bail system allows detainees to secure release pre-trial by posting bail. Critics argue that the cash bail system disproportionately affects the poor, who cannot afford bail, leading to unnecessary prolonged detention<sup>40</sup>.

- Legal Representation: The Sixth Amendment ensures the right to legal counsel. Public defender programs provide lawyers to those who cannot afford them, though these programs are often overburdened<sup>41</sup>.
- Conditions of Confinement: Under the Fourteenth Amendment, pre-trial detainees are
  protected from punishment without due process. However, lawsuits frequently challenge
  conditions such as overcrowding and inadequate healthcare<sup>42</sup>.

<sup>&</sup>lt;sup>40</sup> United States v. Salerno, 481 U.S. 739 (1987).

<sup>&</sup>lt;sup>41</sup> Estelle v. Gamble, 429 U.S. 97 (1976).

<sup>&</sup>lt;sup>42</sup> Bell v. Wolfish, 441 U.S. 520 (1979)

Case Example: In *Bell v. Wolfish*, the Supreme Court ruled that while pre-trial detainees are subject to restrictions, these must not amount to punishment and should serve regulatory rather than punitive purposes<sup>43</sup>.

The **Prison Litigation Reform Act (PLRA)**, 1996, was enacted to reduce frivolous prisoner lawsuits but has been criticized for restricting access to justice for inmates. Other important laws include:

- The Civil Rights of Institutionalized Persons Act (CRIPA), 1980, which allows the federal government to intervene in cases of systemic rights violations.
- The Americans with Disabilities Act (ADA), 1990es that prisoners with disabilities receive necessary accommodations.

# **United Kingdom**

In the UK, under-trial prisoners are protected under national laws and the European Convention on Human Rights (ECHR).

Legal Protections and Practices:

Right to a Fair Trial: Article 6 of the ECHR ensures the right to a fair trial, including the right to be tried within a reasonable time<sup>44</sup>. The UK's Criminal Procedure Rules further aim to facilitate a fair and efficient justice process<sup>45</sup>.

Legal Aid: Legal Aid, Sentencing and Punishment of Offenders Act 2012 provides legal
assistance to those unable to afford it, ensuring representation in court and preventing
prolonged detention<sup>56</sup>.

<sup>&</sup>lt;sup>43</sup> European Convention on Human Rights art. 6, Nov. 4, 1950, 213 U.N.T.S. 221.

<sup>&</sup>lt;sup>44</sup> Ministry of Justice, Criminal Procedure Rules 2020.

<sup>&</sup>lt;sup>45</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012, c. 10 (UK). <sup>56</sup> Prison Rules 1999, S.I. 1999/728 (UK).

Remand Conditions: The Prison Rules 1999 outline conditions for under-trial prisoners,
 emphasizing humane treatment and access to healthcare and legal resources<sup>46</sup>.

Case Example: The European Court of Human Rights has adjudicated several cases involving the UK, such as in *Hirst v. United Kingdom (No. 2)*, which addressed prison conditions and the rights of detainees<sup>47</sup>

Key legal instruments governing prisoner rights in the UK include:

- The Prison Act, 1952, which outlines the responsibilities of prison authorities in maintaining order and discipline.
- The Criminal Justice Act, 2003, which emphasizes rehabilitation and alternative sentencing measures.

#### Canada

Canada's Charter of Rights and Freedoms provides robust protections for under-trial prisoners.

Legal Protections and Practices:

Right to Be Informed Promptly of Charges: Section 11 of the Charter ensures that
accused individuals are promptly informed of the charges and have the right to a fair
and public hearing<sup>48</sup>.

Bail Provisions: The Canadian bail system often emphasizes non-monetary conditions to avoid undue detention of those unable to afford bail<sup>49</sup>.

 Detention Conditions: The Corrections and Conditional Release Act mandates that detention conditions respect individual dignity, with regular oversight by the Office of the Correctional Investigator<sup>50</sup>.

<sup>&</sup>lt;sup>46</sup> Hirst v. United Kingdom (No. 2), App. No. 74025/01, Eur. Ct. H.R. (2005).

<sup>&</sup>lt;sup>47</sup> Canadian Charter of Rights and Freedoms, s. 11, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982, c. 11 (UK).

<sup>&</sup>lt;sup>48</sup> Criminal Code, R.S.C. 1985, c. C-46 (Can.).

<sup>&</sup>lt;sup>49</sup> Corrections and Conditional Release Act, S.C. 1992, c. 20 (Can.).

<sup>&</sup>lt;sup>50</sup> R. v. Jordan, [2016] 1 S.C.R. 631 (Can.).

Case Example: *R. v. Jordan* set guidelines for reasonable time periods from charge to trial, aiming to reduce excessive pre-trial detention<sup>51</sup>

#### **Lessons from International Models**

International practices provide valuable lessons for improving the treatment of under-trial prisoners through legal frameworks, bail systems, and oversight mechanisms.

## Comprehensive Legal Safeguards

Effective Legal Frameworks: Effective legal frameworks, such as the ECHR, offer robust protections that ensure timely trials and humane detention conditions. Countries adhering to these frameworks often demonstrate higher compliance with international human rights standards<sup>52</sup>.

## **Bail System Reforms**

Reforming Cash Bail: Reform or abolition of the cash bail system, as seen in Canada, highlights the balance between public safety and the presumption of innocence. Non-monetary bail options help prevent the economically disadvantaged from languishing in pre-trial detention<sup>53</sup>.

# Oversight and Accountability

Regular Evaluations and Audits: Countries with rigorous oversight bodies, such as the UK's Prison Inspectorate and Canada's Office of the Correctional Investigator, ensure regular assessments of detention conditions, identifying and addressing systemic issues promptly<sup>54</sup>.

## **Comparative Study with Developing Countries**

Developing countries face distinct challenges in ensuring the rights of under-trial prisoners, often exacerbated by resource constraints and systemic inefficiencies. This section compares the treatment of under-trial prisoners in developed and developing countries, focusing on judicial delays, custodial conditions, administrative challenges, and rights violations.

<sup>&</sup>lt;sup>51</sup> Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., 67th plen. mtg., U.N. Doc. A/810 (Dec. 10, 1948).

<sup>&</sup>lt;sup>52</sup> Criminal Code, R.S.C. 1985, c. C-46 (Can.).

 $<sup>^{53}\</sup> Office\ of\ the\ Correctional\ Investigator, Annual\ Report\ 2023-24,\ https://www.oci-bec.gc.ca/cnt/rpt/indexeng.aspx$ 

<sup>&</sup>lt;sup>54</sup> European Convention on Human Rights art. 6, Nov. 4, 1950, 213 U.N.T.S. 221.

## **Legal and Procedural Delays**

## **Developed Countries:**

• Courts in developed countries have structured processes aimed at expediting trials, though challenges like case backlog persist<sup>55</sup>.

## **Developing Countries:**

- Judicial systems in developing nations, such as India, grapple with severe delays. With an estimated 40 million pending cases in Indian courts as of 2023, under-trials often face lengthy detentions<sup>5657</sup>.
- Notably, 70% of inmates in Indian prisons are under-trials, reflecting significant procedural delays<sup>58</sup>.

#### **Custodial Conditions**

Developed Countries: While developed nations face issues like prison overcrowding, they generally maintain higher standards for detention conditions, emphasizing humane treatment and access to essential services<sup>59</sup>.

## **Developing Countries:**

Overcrowding is rampant in developing country prisons. The NCRB reports that Indian
prisons operate at 130% capacity, leading to severe consequences for inmates' health
and safety<sup>70</sup>.

<sup>&</sup>lt;sup>55</sup> Sentencing Reform Act, Pub. L. No. 98-473, 98 Stat. 1987 (1984).

<sup>&</sup>lt;sup>56</sup> National Crime Records Bureau, Ministry of Home Affairs, Government of India, Prison Statistics India

<sup>&</sup>lt;sup>57</sup>, https://ncrb.gov.in/sites/default/files/PSI 2022.pdf

<sup>&</sup>lt;sup>58</sup> European Court of Human Rights, Annual Report 2022.

<sup>&</sup>lt;sup>59</sup> The Sentencing Project, Report on U.S. Prison System 2023, https://www.sentencingproject.org/publications/. <sup>70</sup> National Crime Records Bureau, Ministry of Home Affairs, Government of India, Prison Statistics India 2022, https://ncrb.gov.in/sites/default/files/PSI\_2022.pdf

 Health services in these prisons are typically inadequate, with a large portion of the under-trial population suffering from chronic health conditions due to poor living conditions<sup>6061</sup>.

# **Administrative Apathy and Corruption**

**Developed Countries:** 

• Developed countries have more efficient administrative systems with built-in checks to curb corruption and mismanagement, though delays and inefficiencies still occur<sup>72</sup>.

**Developing Countries:** 

- Administrative inefficiencies and corruption are pervasive in the prison systems of developing countries, delaying bail applications and parole documentation<sup>73</sup>.
- Corrupt practices often require prisoners to pay bribes to access basic amenities, exacerbating their plight<sup>62</sup>.

Rights Violations

**Developed Countries:** 

 Developed countries provide strong legal and institutional frameworks to protect detainees' rights, although violations still occur and are subject to judicial scrutiny<sup>6364</sup>.

**Developing Countries:** 

<sup>&</sup>lt;sup>60</sup> National Legal Services Authority, Annual Report

<sup>&</sup>lt;sup>61</sup>, https://nalsa.gov.in/sites/default/files/AnnualReport2023.pdf <sup>72</sup> Transparency International, Global Corruption Report 2023

<sup>&</sup>lt;sup>62</sup> Ayn Rand, The Fountainhead (Penguin Random House 1943).

<sup>&</sup>lt;sup>63</sup> National Human Rights Commission, Report on Human Rights Violations in Prisons

<sup>&</sup>lt;sup>64</sup>, https://www.nhrc.nic.in/sites/default/files/PrisonReport2023.pdf <sup>76</sup> Press Information Bureau, Ministry of Law & Justice, Government of India, https://www.pib.gov.in/PressReleasePage.aspx?PRID=1776391

 Rights violations are more frequent in developing nations, with under-trial prisoners suffering from abuse and inadequate living conditions due to the lack of oversight and accountability<sup>76</sup>.

## **Challenges Faced by Developing Countries in Ensuring Rights**

1. Judicial Backlogs and Delays:

The high number of pending cases and slow judicial processes impede timely trials and justice delivery<sup>65</sup>.

#### 2. Overcrowded Prisons:

- Overcrowding leads to inhumane conditions, with insufficient infrastructure and resources to meet the needs of the inmate population<sup>66</sup>.
- 3. Corruption and Administrative Inefficiency:
  - Systemic corruption and inefficiencies within the prison system further diminish the quality of life and treatment of under-trial prisoners<sup>67</sup>.
- 4. Lack of Legal Awareness and Aid:
  - Many under-trial prisoners are unaware of their rights and lack sufficient legal representation, prolonging their detention and exacerbating their condition<sup>68</sup>.

## **Relevance to the Indian Context**

India, as a developing country, faces many of the challenges discussed above. However, studying international models provides actionable insights that can inform potential reforms.

# Adaptability of Global Best Practices to India

1. Judicial and Legal Reforms:

<sup>&</sup>lt;sup>65</sup> Transparency International, Global Corruption Report 2023.

<sup>&</sup>lt;sup>66</sup> R. v. Jordan, [2016] 1 S.C.R. 631 (Can.).

<sup>&</sup>lt;sup>67</sup> Criminal Code, R.S.C. 1985, c. C-46 (Can.).

<sup>&</sup>lt;sup>68</sup> Prison Rules 1999, S.I. 1999/728 (UK).

 Speedy Trial Mechanisms: Implementing statutory deadlines for trials, similar to Canada's R. v. Jordan, could significantly reduce pre-trial detention periods in India<sup>69</sup>.

 Bail System Reforms: Reforming the cash bail system to emphasize nonmonetary options could help prevent the undue detention of economically disadvantaged individuals, drawing on Canadian practices<sup>70</sup>.

#### 2. Prison Reforms:

Enhancing Prison Conditions: Adopting standards similar to the UK's Prison Rules 1999 would help ensure humane treatment and better living conditions for under-trial prisoners<sup>71</sup>.

3. Health and Social Services: Strengthening medical and psychological services within prisons, modeled after European practices, would better address inmates' health needs<sup>72</sup>.

4. Administrative and Oversight Mechanisms:

Establishing Strong Oversight Bodies: Creating oversight bodies like Canada's
Office of the Correctional Investigator would improve accountability and ensure
regular audits of prison conditions<sup>73</sup>.

Combatting Corruption and Improving Efficiency: Implementing anticorruption
measures and training programs for prison staff, drawing from international best
practices, would help mitigate corruption and enhance administrative
efficiency<sup>74</sup>.

Potential Reforms Inspired by International Standards

<sup>&</sup>lt;sup>69</sup> NHS England, Health and Justice (2023).

<sup>&</sup>lt;sup>70</sup> Correctional Service Canada, Integrated Correctional Program Model.

<sup>&</sup>lt;sup>71</sup> Transparency International, Global Corruption Report 2023.

<sup>&</sup>lt;sup>72</sup> Legal Aid, Sentencing and Punishment of Offenders Act 2012, c. 10 (UK).

<sup>&</sup>lt;sup>73</sup> European Convention on Human Rights art. 6, Nov. 4, 1950, 213 U.N.T.S. 221.

<sup>&</sup>lt;sup>74</sup> Office of the Correctional Investigator, Annual Report 2023-24, https://www.oci-bec.gc.ca/cnt/rpt/indexeng.aspx

#### 1. Legal Aid and Awareness:

 Expanding access to legal aid and increasing awareness of legal rights among under-trial prisoners would ensure more timely and fair trials, inspired by the UK's Legal Aid, Sentencing and Punishment of Offenders Act 2012.

#### 2. Human Rights Compliance:

 Aligning India's prison policies with international human rights standards, as monitored by bodies like the ECHR, would promote better treatment and protection of under-trial prisoners' rights.

### 3. Data and Transparency:

Implementing transparent record-keeping and data management systems will facilitate better monitoring and accountability within India's prison system, as practiced in developed countries.

## **CHAPTER - V**

#### JUDICIAL AND LEGISLATIVE REFORMS

The Supreme Court of India has played a pivotal role in implementing jail reforms and safeguarding the rights of prisoners. Through numerous landmark judgments, the Court has expanded the scope of constitutional rights, reinforcing the principle that incarceration does not strip a person of their fundamental rights. The Court has extended the interpretation of constitutional provisions to ensure the protection of prisoners' human rights, aligning domestic laws with international covenants.

## **Fundamental Assumptions Underpinning Prisoners' Rights**

- 1. Retention of Fundamental Rights: A conviction does not automatically strip an individual of all fundamental rights. Prisoners continue to possess certain inalienable rights, except those curtailed by due legal process.
- 2. Human Dignity of Prisoners: Like all citizens, prisoners remain human beings entitled to fundamental rights that safeguard their dignity and well-being.

- 3. Prison as a Means of Reform, Not Punishment: Incarceration serves as a punishment but must not be used for inflicting additional, unauthorized suffering upon prisoners.
- 4. State's Accountability: Since prisoners depend on the state for their daily necessities, prison authorities must be held accountable for their treatment and care, ensuring no abuse of discretionary powers.
- 5. Judicial Activism and Prison Reforms: Concerns regarding custodial deaths, police brutality, inhumane treatment, and prison overcrowding have necessitated judicial intervention.

## **Supreme Court Decisions on Prisoners' Rights**

## Right to Life and Personal Liberty

The Supreme Court has reaffirmed that Article 21 of the Constitution, which ensures the right to life and personal liberty, applies equally to prisoners. In the landmark case of Maneka Gandhi v. Union of India, the Court ruled that any procedure limiting an individual's liberty must be just, fair, and reasonable. Likewise, in Francis Coralie Mullin v. The Administrator, Union Territory of Delhi, the Court emphasized that imprisonment should not compromise human dignity, reinforcing the principle that prisoners retain their fundamental rights even while serving their sentences concerning human dignity.<sup>75</sup>

## **Right to Speedy Trial**

Delays in the judicial process have a particularly severe impact on undertrial prisoners, frequently resulting in prolonged detention without a conviction. In A.R. Antulay v. R.S. Nayak, the Supreme Court affirmed that the right to a speedy trial is an essential component of Article 21 of the Constitution. Similarly, in Hussainara Khatoon v. State of Bihar, the Court took a significant step by ordering the release of thousands of undertrial prisoners who had been detained for periods exceeding the maximum sentence prescribed for their alleged alleged offenses.<sup>76</sup>

<sup>&</sup>lt;sup>75</sup> Francis Coralie Mullin v. The Administrator, Union Territory of Delhi, AIR 1981 SC 746.

<sup>&</sup>lt;sup>76</sup> Hussainara Khatoon v. State of Bihar, (1980) 1 SCC 91.

## **Right to Protection from Inhumane Treatment**

In *Sunil Batra v. Delhi Administration*, the Supreme Court held that the use of solitary confinement and bar fetters violated Articles 21 and 19 of the Constitution.<sup>77</sup> Additionally, in *Charles Sobhraj v. The State*, the Court reaffirmed that prolonged solitary confinement is cruel, inhumane, and unconstitutional.<sup>78</sup>

## **Rights of Arrested Persons**

Article 22 of the Constitution and multiple judicial pronouncements have strengthened the rights of arrested individuals. In *D.K. Basu v. State of West Bengal*, the Supreme Court issued guidelines requiring police officers to maintain transparency in the arrest process, including notifying family members and maintaining arrest records.<sup>79</sup>

## **Right Against Handcuffing and Fetters**

The Supreme Court has restricted the indiscriminate use of handcuffs and shackles, ruling in *Prem Shankar Shukla v. Delhi Administration* that handcuffing must be a last resort, used only when necessary to prevent escape. <sup>80</sup> In *Citizens for Democracy v. State of Assam*, the Court reinforced these restrictions, emphasizing that the use of handcuffs without judicial sanction constitutes an abuse of power. <sup>81</sup>

# Right to Legal Aid

In *M.H. Hoskot v. State of Maharashtra*, the Supreme Court held that the right to free legal aid is implicit in Article 21.[10] Further, in *Hussainara Khatoon v. State of Bihar*, the Court ruled that providing legal aid to indigent accused persons is a constitutional obligation.<sup>82</sup>

# Right to Reasonable Wages for Prison Labor

The Supreme Court has held that prisoners engaged in labor must be compensated fairly. In *People's Union for Democratic Rights v. Union of India*, the Court ruled that unpaid or

<sup>&</sup>lt;sup>77</sup> Sunil Batra v. Delhi Administration, 1980 AIR 1579.

<sup>&</sup>lt;sup>78</sup> Charles Sobhraj v. State, 1996 Cri.L.J 3354

<sup>&</sup>lt;sup>79</sup> D.K. Basu v. State of West Bengal, AIR 1997 SC 610.

<sup>&</sup>lt;sup>80</sup> Prem Shankar Shukla v. Delhi Administration, AIR 1980 SC 1535.

<sup>81</sup> Citizens for Democracy v. State of Assam, 1995 (3) SCR 943.

<sup>82</sup> M.H. Hoskot v. State of Maharashtra, (1978) 3 SCC 544.

inadequately compensated prison labor constitutes forced labor under Article 23.<sup>83</sup> Similarly, in *Mohammad Giasuddin v. State of A.P.*, the Court directed the state to ensure that prison wages meet minimum wage standards.<sup>84</sup>

## **Right to Compensation for Wrongful Detention**

In *Rudal Shah v. State of Bihar*, the Supreme Court ordered compensation for a prisoner illegally detained for 14 years after acquittal, establishing a precedent for awarding monetary relief in cases of wrongful imprisonment.<sup>97</sup>

## State's Responsibility and Judicial Guidelines

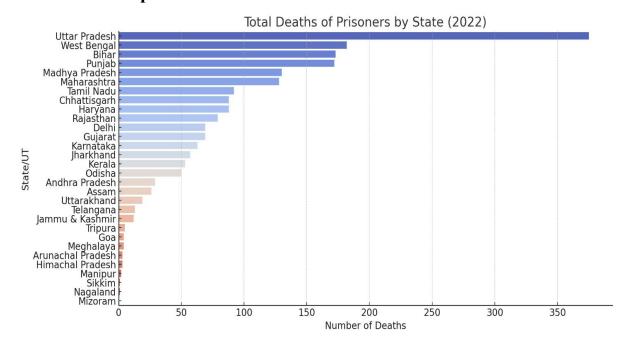
To further prison reforms, the Supreme Court has issued comprehensive guidelines:

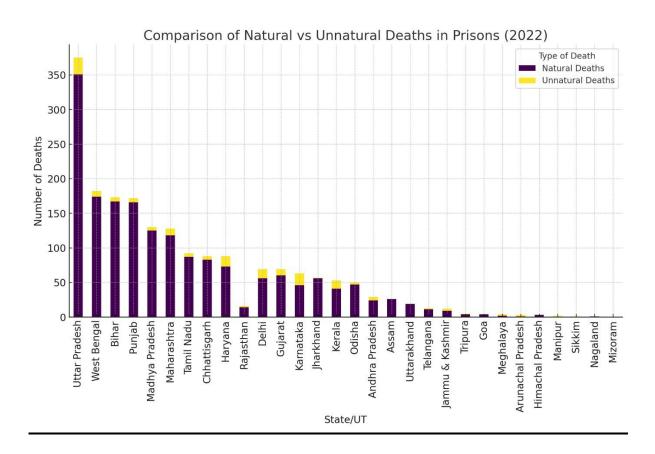
- Publishing a Prisoner's Handbook in regional languages to inform inmates of their rights.
- Aligning prison policies with United Nations Standard Minimum Rules for the Treatment of Prisoners.
- Implementing rehabilitative programs focused on education, vocational training, and reintegration.
- Strengthening legal aid initiatives and establishing prisoner grievance mechanisms.
- Ensuring separation of undertrial prisoners from convicts.

<sup>83</sup> Hussainara Khatoon v. State of Bihar, AIR 1976 SC 1360.

<sup>&</sup>lt;sup>84</sup> Mohammad Giasuddin v. State of A.P., (1977) 3 SCC 287. <sup>97</sup> Rudal Shah v. State of Bihar, AIR 1983 SC 1086.

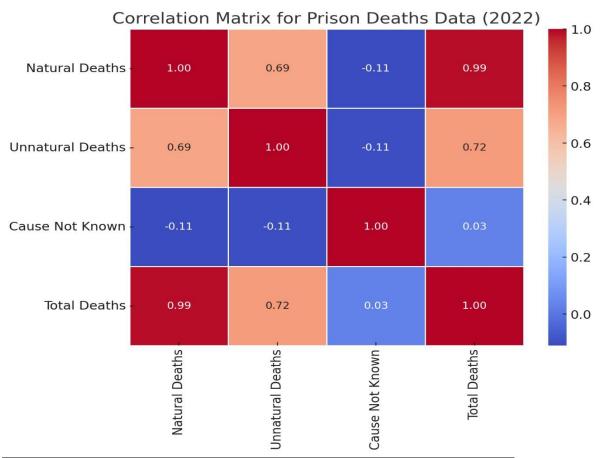
# Conditioners of prisons in India85





<sup>&</sup>lt;sup>85</sup> National Crime Records Bureau, Prison Statistics India 2022, at page [229-243], 2023

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State/UT	Natural	Unnatural	Cause Not	Total
	Deaths	Deaths	Known	Deaths
Andhra Pradesh	24	5	0	29
Arunachal				
Pradesh	1	2	0	3
Assam	26	0	0	26
Bihar	167	6	0	173
Chhattisgarh	83	5	0	88

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Goa	4	0	0	4
Gujarat	60	9	0	69
Haryana	73	15	0	88
Himachal				
Pradesh	3	0	0	3
Jharkhand	56	1	0	57
Karnataka	46	17	0	63
Kerala	41	12	0	53
Madhya Pradesh	125	5	0	130
Maharashtra	118	10	0	128
Manipur	0	2	0	2
Meghalaya	2	2	0	4
Mizoram	0	0	0	0
Nagaland	1	0	0	1

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Odisha	47	3	0	50
Punjab	166	6	0	172
Rajasthan	14	2	63	79
Sikkim	0	1	0	1
Tamil Nadu	87	5	0	92
Telangana	11	2	0	13
Tripura	4	1	0	5
Uttar Pradesh	351	24	0	375
Uttarakhand	19	0	0	19
West Bengal	174	8	0	182
Delhi	56	13	0	69
Jammu &				
Kashmir	9	3	0	12

# Detailed Analysis of Prison Deaths Data (2022)86

## 1. Highest Prison Deaths by State:

Uttar Pradesh (375 deaths) recorded the highest total deaths among prison inmates. • Other high-ranking states include Bihar (173), Punjab (172), and West Bengal (182). • The states with the lowest reported deaths include Arunachal Pradesh (3), Manipur (2), and Sikkim (1).

#### 2. Comparison of Natural vs. Unnatural Deaths:

- Natural deaths (caused by illness, aging, etc.) dominate in all states. 
  Unnatural deaths (suicides, accidents, assaults) are significantly lower, with the highest reported in Uttar Pradesh (24), Karnataka (17), and Haryana (15).
- A notable 63 deaths in Rajasthan are classified under "Cause Not Known,"
   indicating potential underreporting or lack of proper investigation.

## 3. Trend Analysis from the Correlation Matrix:

There is a strong positive correlation between total deaths and natural deaths (0.99 correlation), suggesting that natural causes are the primary driver of overall prison mortality. • The correlation between unnatural deaths and total deaths is relatively weaker, showing that unnatural deaths occur at lower frequencies.

## **Insights and Recommendations**

#### 1. Addressing High Mortality Rates

 Uttar Pradesh, Bihar, and Punjab need urgent intervention as they account for a significant share of prison deaths.

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<sup>&</sup>lt;sup>86</sup> Supra 100

 More robust healthcare facilities should be deployed inside prisons to handle illnesses leading to natural deaths.

### 2. Unnatural Deaths Require Deeper Investigation

- Suicides (119 cases) dominate unnatural deaths, suggesting poor mental health care and stressful prison environments.
- Accidental deaths (10 cases) and murders by inmates (4 cases) raise concerns about security lapses and internal violence.
- Preventive measures, including mental health assessments, suicide watch programs, and better surveillance, are crucial.

### 3. Transparency and Improved Documentation

- The 63 deaths in Rajasthan under "Cause Not Known" need detailed investigation and documentation.
- There should be a mandatory independent inquiry into every unexplained prison death.

## 4. Policy Recommendations

- Increase legal and medical aid for inmates, especially those serving long undertrial periods.
- Special focus on mental health: Prison systems should introduce counseling and suicide prevention programs.
- Strengthening the Undertrial Review Mechanism: Undertrial prisoners should not be held indefinitely, reducing stress and potential unnatural deaths.

## **Prison Staff-Strength and Training Data**

Analysis of Prison Overcrowding, Understaffing, and Rights Violations in India (2022 NCRB Report)<sup>87</sup>

<sup>&</sup>lt;sup>87</sup> Prison statistics india 2022. Available at:

## Overcrowding and Inmate-to-Staff Ratio

The prison system in India faces severe overcrowding, with a total of 573,220 prisoners lodged across jails nationwide. This results in an average inmate-to-staff ratio of 9 prisoners per staff member, which exceeds the global recommended standard of 5:1. The worst-affected states include Jharkhand, Assam, and Bihar, where the ratios are 19:1, 16:1, and 14:1, respectively. These figures indicate extreme workloads for prison staff and a lack of adequate supervision, which leads to compromised security, ineffective management, and increased human rights violations.

## **Shortage of Jail Staff**

The sanctioned strength of jail staff across the country is 91,181, yet only 63,578 staff members are currently employed, leaving 27,603 positions vacant, equating to a 30% shortage. Some of the worst-affected states include Bihar, which has a 50.7% vacancy rate, followed by Jharkhand (37.4%), Sikkim (43.7%), Tripura (45.7%), and Ladakh, where only 16.9% of sanctioned positions are filled. These staffing deficits severely impact prison administration, inmate security, and access to basic services such as food, hygiene, and medical care.

## **Lack of Correctional Staff**

Correctional staff play a critical role in rehabilitation and reintegration programs for inmates. However, out of the 1,468 correctional staff positions sanctioned, only 820 are filled, leaving 648 vacancies, which accounts for a 44% shortage. Bihar is the worst affected, with 256 vacant positions, followed by Maharashtra (87) and Odisha (72). Furthermore, several states, including Andhra Pradesh, Haryana, Uttar Pradesh, Punjab, Goa, Tripura, and Uttarakhand, have zero correctional staff, highlighting a complete lack of focus on prisoner rehabilitation.

# **Critical Shortage of Medical Staff**

Medical care in Indian prisons is alarmingly inadequate. Of the 3,570 sanctioned medical positions, only 2,125 are filled, leaving a 40.4% vacancy rate. The states facing the highest shortages include Uttar Pradesh, which has 232 vacancies, Bihar (213), and West Bengal (136). Inmate-to-medical staff ratios further highlight this crisis—Uttar Pradesh has one medical

https://www.ncrb.gov.in/uploads/national crimerecords bureau/custom/psiyearwise 2022/1701613297PSI2022 as on 01122023.pdf

professional for every 620 inmates, Maharashtra for every 586, Karnataka for every 558, Haryana for every 519, and Uttarakhand for every 457. This extreme shortage means that prisoners are often left untreated for serious illnesses, contributing to high mortality rates inside jails. Additionally, Dadra & Nagar Haveli and Lakshadweep do not have any medical staff, and states such as Rajasthan, Telangana, Nagaland, and Andaman & Nicobar Islands have only one correctional staff member for thousands of prisoners.

## **Violation of the Right to Humane Treatment**

The United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) establish that prisons must maintain adequate staffing and supervision to prevent abuse, ensure security, and uphold the dignity of inmates. However, India's 30% shortage of prison staff has led to poor monitoring, increased violence among inmates, and significant human rights violations. Overburdened staff are unable to prevent conflicts, mistreatment, or the exploitation of vulnerable prisoners.

## Violation of the Right to Health

The Right to Life and Personal Liberty, guaranteed under Article 21 of the Indian Constitution, includes access to proper healthcare, which is fundamental for prisoners. However, the severe shortage of medical professionals within prisons leads to preventable deaths, disease outbreaks, and poor mental health treatment. With one doctor serving over 600 inmates in some states, conditions are substandard, and inmates suffer from treatable conditions due to lack of timely medical intervention. Tuberculosis, malnutrition, and untreated mental health disorders are rampant, yet psychiatric support remains nearly nonexistent.

## Violation of the Right to Rehabilitation

The shortage of correctional staff (44% vacancy rate) undermines the principles of reformative justice, which aim to rehabilitate prisoners and reintegrate them into society. Many inmates never receive vocational training, psychological counseling, or rehabilitation programs, increasing their likelihood of reoffending upon release. The Supreme Court of India has emphasized the need for reformative justice, yet without adequate correctional officers, most prisons function as punitive facilities rather than centers for rehabilitation.

## Violation of the Right to Legal Aid and Justice

Understaffing in prisons directly affects access to legal aid for undertrial prisoners, who make up 75.8% of the total prison population. Many inmates, particularly those from marginalized backgrounds, lack awareness of their legal rights and remain detained far longer than necessary due to slow judicial processes. With zero correctional staff in several states, legal aid services within prisons are practically non-existent, leading to excessive detention periods for minor offenses and systemic delays in justice.

### **Recommendations for Reform**

To address these pressing issues, immediate interventions are required in the areas of staffing, infrastructure, healthcare, and legal aid.

## **Urgent Increase in Prison Staff**

The government must immediately fill the 27,603 vacant positions, prioritizing:

- Medical staff recruitment in states with high inmate densities (Uttar Pradesh, Bihar, West Bengal).
- Correctional staff hiring in states that lack rehabilitation officers (Haryana, Uttar Pradesh, Punjab, Goa, Tripura, Uttarakhand).
- Recruitment drives and incentives for prison staff to encourage faster hiring and reduce turnover.

# **Decentralization and Prison Expansion**

To combat overcrowding, new prison facilities must be constructed in states where inmate-tostaff ratios are critically high (Jharkhand, Bihar, Assam). This would reduce congestion and improve prisoner living conditions. Additionally, technology such as CCTV surveillance, biometric tracking, and AI-driven monitoring tools should be used to supplement staffing shortages, ensuring greater security and accountability within prisons.

#### **Prison Healthcare Reforms**

Addressing medical care shortages is crucial. The government should:

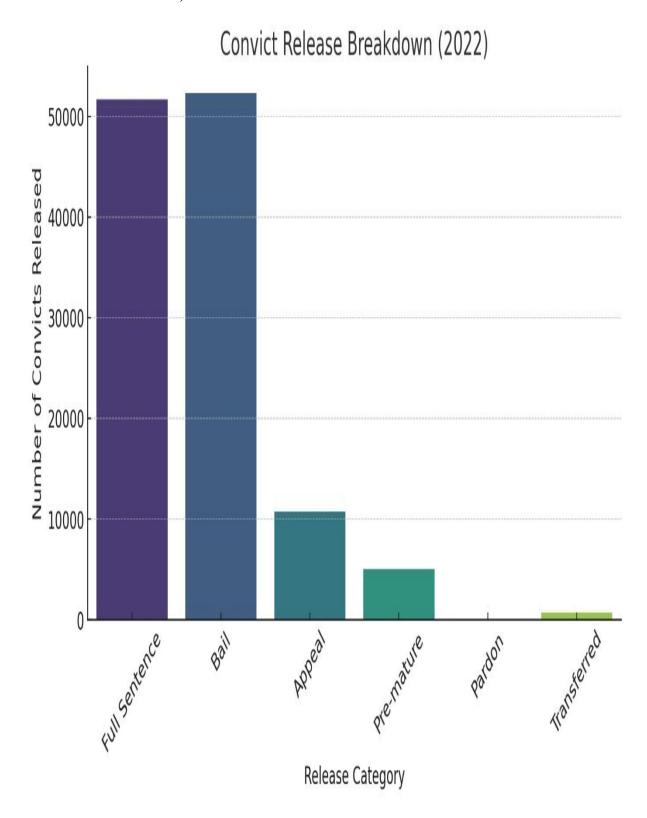
- Recruit and deploy additional medical professionals to ensure WHO-recommended inmate-to-doctor ratios.
- Introduce telemedicine programs to allow prisoners access to medical consultations remotely, especially in prisons that lack on-site medical staff.
- Implement mental health support programs, including psychiatric evaluations and suicide prevention strategies, to tackle the growing crisis of inmate mental health deterioration.

## **Strengthening Correctional and Legal Support**

To ensure prisoners receive adequate legal aid and rehabilitative services, the following steps must be taken:

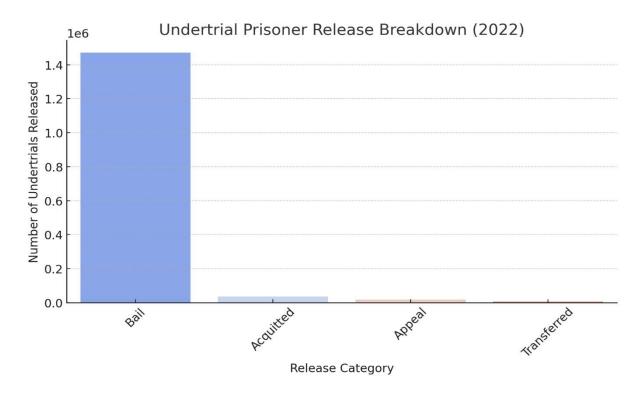
- Mandate legal aid camps inside prisons every three months to provide inmates with access to legal representation.
- Increase the number of correctional officers, particularly in states with zero rehabilitation staff, ensuring that inmates receive vocational training, psychological counseling, and reintegration support.
- Establish de-addiction and psychological counseling centers in prisons to address issues such as substance abuse and mental distress, which contribute to high recidivism rates.

# Prisoners - Releases, Transfers and Movements<sup>88</sup>



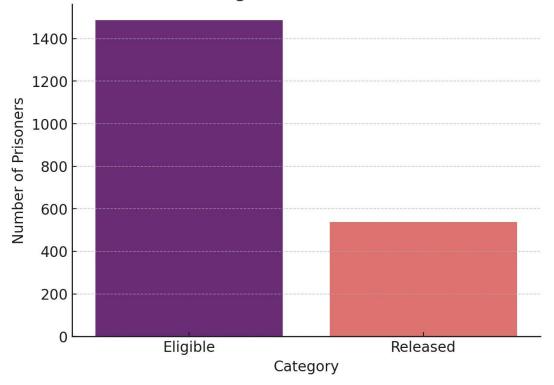
<sup>&</sup>lt;sup>88</sup> Prison statistics india 2022. Available at: https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/psiyearwise2022/1701613297PSI 2022ason01122023.pdf (Accessed: 01 March 2025).





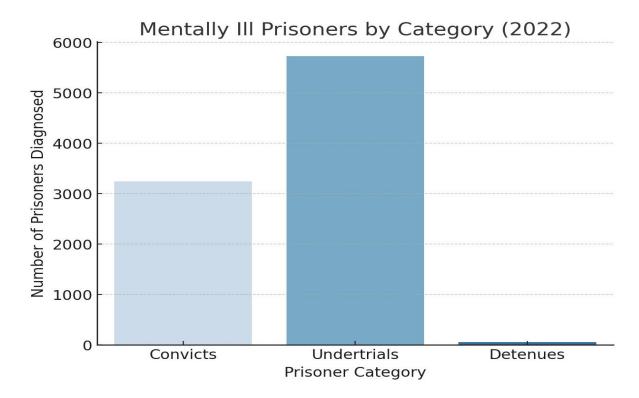
(Figure-2)

# Undertrial Prisoners Eligible vs Released under Section 436A



(Figure-3)

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## (Figure-4)

## 1. Key Findings from the NCRB 2022 Data

## A. Prisoner Releases and Systemic Delays

Prisoner release patterns reveal widespread inefficiencies in the legal system, with thousands languishing in jails longer than necessary due to bureaucratic, judicial, and financial hurdles.

#### 1. Convict Releases in 2022

• Total Convicts Released: 1,25,533  $\circ$  Released after full sentence: 51,680 (41.2%)  $\circ$  Released on bail: 52,320 (41.7%)  $\circ$  Released on appeal: 10,760 (8.6%)  $\circ$  Premature releases: 5,035 (4%)  $\circ$  Released by pardon: 110  $\circ$  Transferred to other states: 711

#### 2. Undertrial Prisoners Released in 2022

Total Undertrial Prisoners Released: 15,48,143 o Released on bail: 14,70,848 (95%)

Acquitted: 35,119 (2.3%) o Released on appeal: 17,484 (1.1%) o Transferred

to other states: 5,024

Concerns & Violations

95% of undertrial prisoners were released on bail, meaning that their detention was

unnecessary and avoidable.

35,119 prisoners were acquitted after prolonged imprisonment, proving that thousands

were wrongfully detained and lost years of their lives.

Undertrials outnumber convicts in most prisons, violating Article 21 (Right to Life &

Liberty), which guarantees freedom from arbitrary detention.

B. Failures in Implementing Section 436A

Under Section 436A of the Criminal Procedure Code (CrPC), undertrials who have served half

of the maximum sentence for their alleged offense are eligible for release. However, the

enforcement of this law remains weak.

Total Undertrial Prisoners Eligible for Release: 1,487

Actual Number Released: 537 (36%)

States with the Highest Releases:

Uttar Pradesh: 317 o

Rajasthan: 69 o

Bihar: 48 o

Madhya Pradesh: 32

Concerns & Violations

Only 36% of eligible undertrials were released, meaning thousands remained in prison

illegally despite being entitled to release.

• Many prisoners were not informed of their legal rights, violating Article 22(1) of the

Constitution, which ensures that every accused person must be informed of their rights

upon arrest.

• Failure to implement Section 436A contradicts India's obligations under the

International Covenant on Civil and Political Rights (ICCPR), which mandates speedy

trials.

C. Prisoner Transfers and Court Appearances

• Convicts transferred to other states: 711

• Undertrials transferred to other states: 5,024

• Frequent Prisoner Movements for Court Appearances:

o Bihar: 8,51,977 o

West Bengal:

4,51,356 ∘ Delhi:

3,29,962 o Uttar Pradesh:

2,89,459

Concerns & Violations

• Frequent transfers disrupt prisoners' access to family, legal counsel, and rehabilitation

programs, violating the right to access legal aid (Article 39A).

Many prisoners are moved without consent, leading to psychological distress and

violating the UN Mandela Rules, which mandate prisoner dignity and family access.

D. Prison Healthcare Crisis

Total inmates diagnosed with mental illness: 9,084 (1.6% of all prisoners)

Convicts: 3,246 (35.7%) o Undertrials: 5,729 (63.1%) o Detenues: 54 (0.6%)

#### Concerns & Violations

- Over 63% of mentally ill prisoners are undertrials, proving that the psychological impact of prolonged detention is severe.
- Many jails lack psychiatric support, violating the Right to Health (Article 21) and UN
   Standard Minimum Rules for the Treatment of Prisoners.

## 2. How These Issues Violate Fundamental Rights

#### A. Violation of the Right to a Speedy Trial

- Article 21 (Right to Life and Personal Liberty) guarantees freedom from prolonged detention without trial.
- 75.8% of India's prison population are undertrials, meaning the majority of prisoners are held without conviction.
- Failure to implement Section 436A shows judicial inefficiency and lack of access to legal representation.

## B. Violation of the Right to Legal Aid

- Article 39A guarantees free legal aid, but many undertrials remain unaware of their right to bail.
- Many convicts are released only after serving their full sentences, showing a lack of legal support for early releases.

## C. Violation of the Right to Healthcare

- Over 9,000 mentally ill prisoners lack proper psychiatric care, violating Article 21 and international human rights standards.
- Failure to provide timely medical intervention has led to high mortality rates in prisons.

## D. Violation of the Right to Rehabilitation

- Prisoner transfers disrupt family connections, violating the UN Standard Minimum Rules (Mandela Rules).
- Lack of vocational training and rehabilitation programs results in higher recidivism rates.

#### 3. Recommendations for Reform

## A. Ensure Speedy Trials and Bail Reform

- Mandatory enforcement of Section 436A to release all eligible prisoners immediately.
- Fast-track courts for undertrials held for more than one year.

## B. Strengthen Legal Aid and Representation

- Increase the number of legal aid lawyers inside prisons.
- Educate prisoners about their legal rights upon arrest.

## C. Improve Prison Healthcare and Mental Health Services

- Deploy mental health professionals in every prison.
- Introduce telemedicine programs for remote medical consultations.

#### D. Reform Transfer and Movement Policies

- Reduce unnecessary prisoner transfers to allow better access to legal representation.
- Digitize court hearings for minor cases.

## **CHAPTER-VI**

## CONCLUSION AND RECOMMENDATIONS

The current state of under-trial prisoners in India reflects deep-rooted systemic inefficiencies, resulting in prolonged detention, inadequate legal aid, overcrowded prisons, and a lack of

proper healthcare. The presumption of innocence, a fundamental principle of justice, is routinely violated as under-trial prisoners, who have not been convicted of any crime, often endure worse conditions than convicted criminals. Judicial delays, socio-economic disadvantages, and institutional inefficiencies exacerbate their suffering. The failure to ensure speedy trials, access to legal representation, and humane treatment raises serious concerns about the constitutionality and ethical validity of the criminal justice system. One of the most concerning aspects is the violation of the right to a speedy trial, as guaranteed under Article 21 of the Indian Constitution. Judicial delays have resulted in long periods of pre-trial detention, effectively punishing individuals before they are convicted. The failure to properly implement Section 436A of the Criminal Procedure Code (CrPC) further extends the incarceration of under-trial prisoners who are legally eligible for release. The excessive backlog of cases in courts, combined with insufficient legal representation for economically weaker sections, contributes significantly to these unjustified detentions. These violations contradict India's obligations under the International Covenant on Civil and Political Rights (ICCPR), which emphasizes the right to a fair and expeditious trial. Furthermore, the right to legal representation under Article 39A is also frequently violated. Many under-trial prisoners belong to marginalized socio-economic backgrounds, making it difficult for them to afford legal services. Despite the Legal Services Authorities Act, 1987, which aims to provide free legal aid to those in need, its implementation remains ineffective, especially in overpopulated prisons. As a result, a large number of prisoners remain incarcerated simply because they lack the means to secure legal representation or process their bail applications. In contrast, countries with well-established legal aid systems, such as the United Kingdom and Canada, have significantly lower percentages of under-trial prisoners, indicating that a strong legal aid framework is essential for protecting prisoners' rights. Another major rights violation concerns the inhumane conditions inside prisons. Overcrowding has led to severe physical and psychological stress, depriving prisoners of basic sanitation, nutrition, and healthcare facilities. The United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) establish that all prisoners, including under-trials, must be provided with humane treatment, adequate living conditions, and healthcare services. However, the situation in India falls far below these international standards. Many prisons have severe shortages of medical professionals, and the inmatetodoctor ratio is alarmingly high in some states, leading to delayed or denied medical attention. The prevalence of mental illness among under-trial prisoners is also high, yet psychiatric care and psychological counselling are either insufficient or completely absent in most prisons. The

lack of access to mental health support and medical treatment violates Article 21's guarantee of the right to life and personal dignity. Moreover, prison overcrowding is a direct consequence of judicial inefficiency and weak prison management policies. There is a 44% shortage in correctional staff, meaning that rehabilitation programs for under-trials are almost non-existent. Without vocational training, counselling, and reintegration programs, many prisoners face higher risks of recidivism, making the criminal justice system punitive rather than reformative. Vulnerable groups, such as women, juveniles, disabled prisoners, and foreign nationals, face even greater hardships, as they often receive insufficient legal assistance, healthcare, or rehabilitation opportunities. This treatment contradicts international human rights laws and violates the fundamental principle of equal protection under Article 14 of the Indian Constitution. To address these pressing issues, several immediate legal and institutional reforms must be implemented. First, the legal aid system must be strengthened by increasing funding for public defenders, recruiting more legal aid lawyers, and conducting regular legal aid camps in prisons. Prisoners must be fully informed of their right to bail and legal representation upon arrest, as required under Article 22(1) of the Constitution. Additionally, the digitization of court and prison records should be implemented to track case statuses and ensure transparency in judicial proceedings. Furthermore, fast-tracking judicial processes for under-trial prisoners is essential to reducing prolonged detention. The mandatory enforcement of Section 436A of the CrPC should be prioritized to release all eligible under-trial prisoners immediately. Fast-track courts, dedicated to handling under-trial cases, should be established to ensure that prisoners are not held in pre-trial detention beyond reasonable periods. Additionally, alternative dispute resolution mechanisms, such as mediation and plea bargaining, should be promoted for minor offenses to reduce the backlog of cases. Addressing prison overcrowding and improving prison infrastructure should also be a priority. New prison facilities should be constructed in states with high inmate densities, while non-custodial sentences, such as probation and community service, should be encouraged for non-violent offenders. Moreover, expanding open prisons and rehabilitation centres would provide humane alternatives to traditional incarceration while reducing overcrowding. Another critical area for reform is prison healthcare and mental health services. More medical professionals should be recruited, and regular health check-ups should be conducted to ensure that prisoners receive adequate healthcare. Telemedicine facilities should be introduced to enable virtual consultations with medical specialists, particularly for prisoners in remote or overcrowded prisons. Additionally, each prison should have at least one psychiatric counsellor to address the high prevalence of mental health issues among prisoners.

Suicide prevention strategies, including peer counselling and psychological support programs, should be implemented to reduce the rising rates of mental distress among under-trial prisoners. Special protections must also be implemented for vulnerable groups. Women under-trial prisoners must be housed in separate facilities with access to medical and childcare support. Juveniles should be placed in rehabilitative centers with access to education and vocational training, rather than being confined in adult prisons. Foreign nationals should have access to interpreters and consular assistance, and steps should be taken to fast-track their repatriation processes for minor offenses. To ensure oversight and transparency, independent monitoring bodies should conduct surprise inspections of prisons to assess compliance with human rights standards. A prison ombudsman system should be established, allowing prisoners to report grievances regarding abuse, torture, and legal violations without fear of retaliation. Additionally, India must align its prison policies with international human rights frameworks, such as the Nelson Mandela Rules, to ensure that prisoners' dignity is respected and upheld. The current state of under-trial prisoners in India is a pressing human rights issue. The excessive delays in judicial proceedings, inadequate legal aid, overcrowding, and substandard healthcare violate multiple constitutional rights and international legal norms. A multi-pronged approach focusing on legal reform, improved prison conditions, enhanced medical care, and access to legal representation is necessary to bring the Indian criminal justice system in line with human rights standards. Justice delayed is justice denied. It is imperative that immediate reforms be undertaken to uphold the dignity, fairness, and legal protections that every under-trial prisoner is entitled to under the law. Historically, the perception of incarceration has shifted from a punitive model to a reformative approach, particularly with the emergence of new theories of crime causation in the late 19th and early 20th centuries. The earlier philosophy of deterrence through harsh punishment has gradually evolved into a system where prisoners are seen as human beings with fundamental rights, deserving of humane treatment and opportunities for rehabilitation. Despite this evolution, the prison system in many countries, including India, the UK, and the US, continues to struggle with human rights concerns such as overcrowding, poor healthcare, and violence within prisons. A significant factor that shaped modern prison systems, particularly in India, was colonial rule. The British established prisons to instil fear among offenders rather than to rehabilitate them, a legacy that continues to influence the administrative structure of prisons today. Although modern penal policies emphasize reformative justice, socio-economic inequalities, weak prison infrastructure, and systemic abuse prevent effective implementation. A prisoner's background, financial stability, and access to legal aid often

determine the conditions they endure behind bars, highlighting the disparities in treatment between affluent and marginalized inmates. Courts in common law countries initially adopted a "hands-off" approach, refraining from interfering in prison management. Over time, however, judicial interventions in the UK, US, and India have led to the recognition of certain rights for prisoners, including access to legal representation, humane living conditions, protection from violence, and fair trials. Despite these rulings, practical implementation remains a challenge, as many prison systems remain underfunded and mismanaged, leaving prisoners vulnerable to abuse, neglect, and unjust incarceration. Additionally, prison overcrowding continues to be a global issue, leading to inhumane conditions, inadequate medical care, and increased psychological distress among inmates. The demand for additional prison facilities remains high, particularly in developing countries, where prison populations often exceed the capacity of available infrastructure. In the wake of the COVID-19 pandemic, several nations, including India and the US, released non-violent offenders to mitigate the risks associated with overcrowded prisons and limited healthcare resources. However, long-term reforms are still needed to ensure that imprisonment does not equate to a violation of fundamental rights. Beyond physical conditions, rehabilitation remains a critical concern. Many legal scholars and policymakers advocate for alternatives to incarceration, particularly for non-violent offenders, who could benefit more from community service, probation, or rehabilitation programs rather than prolonged imprisonment. The impact of incarceration on families, particularly in financially struggling communities, further exacerbates poverty and social exclusion, reinforcing the cycle of crime. Ensuring that prisoners' families have access to legal aid and financial support is crucial in reducing recidivism and facilitating successful reintegration into society. Despite progress in judicial oversight, legislative changes, and policy reforms, major barriers remain in the global prison system. In nations such as India, the US, and the UK, ongoing concerns such as racial inequalities, mental health services, and access to rehabilitation require continued attention and reform. Effective criminal justice policies must incorporate both national and international legal norms to ensure that prisoners' rights are upheld while maintaining social security and justice. Ultimately, prison systems must transition from punishment-focused models to holistic rehabilitative frameworks, ensuring that every inmate is treated with dignity and provided opportunities for reintegration into society.

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