

The State of Prisoner's Rights in India: A Call for Reform

No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens but its lowest ones.

-Nelson Mandela

Introduction:

The notion of prisoner's rights stands as a cornerstone of a just and humane society, reflecting a nation's commitment to uphold the dignity and well-being of every individual, regardless of their transgressions. In India, the treatment of prisoners and the safeguarding of their fundamental rights have been subjects of profound concern, evoking both introspection and calls for reform. The state of prisoner's rights in India presents a complex tapestry of challenges, progress, and areas warranting urgent attention.

The Indian penal system traces its roots back to colonial times when the infamous Cellular Jail on the remote Andaman and Nicobar Islands came to symbolise the grim reality of British-era prisons. While India achieved independence in 1947, the legacy of the colonial prison system remained embedded in the country's fabric. Over the years, there have been significant efforts to reform the system, striving to align it with constitutional values and international human rights standards. However, numerous persistent issues continue to cast a shadow on the well-being and dignity of prisoners.

The Indian Constitution, in its essence, upholds the rights and dignity of every individual, including those deprived of their liberty. Fundamental rights enshrined in the Constitution, such as the right to life and personal liberty (Article 21), prohibit inhuman treatment and underscore the state's responsibility to ensure the protection of prisoners' rights. Moreover, several landmark judgments by the Supreme Court of India have reiterated the significance of preserving human rights behind bars.

Yet, despite constitutional safeguards and judicial pronouncements, the reality within India's prison walls paints a different picture altogether. Overcrowding remains one of the most pressing concerns plaguing the Indian prison system. With prisons operating at alarmingly high occupancy rates, detainees often find themselves confined to squalid and degrading living conditions. Overcrowding amplifies various other issues, including compromised health and sanitation standards, restricted access to basic necessities, and an increased likelihood of violence and abuse.

The prevalence of torture and abuse within prisons constitutes another dark facet of the Indian penal landscape. Reports of custodial violence, including physical and psychological torture, raise serious questions about the effective implementation of legal safeguards and mechanisms to ensure accountability. In many cases, prisoners endure ill-treatment without adequate avenues to seek justice or redressal.

Moreover, the process of rehabilitation and reintegration for released prisoners remains far from ideal. The lack of comprehensive and effective rehabilitation programs often hinders their successful reintegration into society, perpetuating cycles of recidivism.

In the subsequent sections of this article, we delve deeper into the legal framework governing prisoner's rights in India, shed light on the grim conditions prevailing within prisons, and explore the challenges faced by different groups of prisoners, including juveniles and women. Additionally, we draw comparisons with prisoner's rights in other nations, seeking valuable insights for the betterment of the Indian prison system.

With this comprehensive analysis, we aim to underscore the urgency of reforming India's prison system, reinvigorating efforts to protect the rights and dignity of prisoners, and charting a path towards a more just and compassionate society. It is time for collective introspection and action, as we strive to forge a future where the state of prisoner's rights in India stands as a testament to our commitment to human rights and the values we hold dear.

Historical Perspective:

The historical perspective of prisoner's rights in India encompasses a transformative journey marked by significant shifts in approach and ideology. During the British colonial rule, the prison system was designed to serve the interests of the colonial administration, often characterised by oppressive and punitive measures. Infamous prisons like the Cellular Jail in the Andaman and Nicobar Islands represented the harsh and dehumanising conditions faced by political prisoners, revealing a dark chapter in India's prison history.

However, with India's independence in 1947, the nation embarked on a path of prison reforms, recognising the need for a more rehabilitative and humane approach. The emphasis shifted towards acknowledging the inherent dignity and rights of prisoners, even amidst their loss of liberty. Efforts were made to improve prison conditions, provide better facilities, and enhance the reformation and rehabilitation of inmates.

A significant turning point came with the Supreme Court's judgments that reaffirmed the fundamental rights of prisoners. In 1983, the case of *Rudal Shah vs. State of Bihar*¹ established a landmark precedent by affirming that prisoners retain their fundamental rights even during incarceration. The court emphasised the need to treat prisoners with dignity and respect, and any infringement on their rights was deemed unconstitutional. This judgment marked a significant step towards recognising the human rights and inherent worth of prisoners within the justice system.

Post-independence, India also endeavoured to establish model prison manuals that served as comprehensive guidelines for prison administration. The Model Prison Manual, developed in 1988², focused on prisoner welfare, access to healthcare, education, vocational training, and legal aid. These guidelines aimed to promote a just and rehabilitative prison system, ensuring that prisoners are treated with dignity and offered opportunities for personal growth and reintegration into society.

Furthermore, India's commitment to prisoner's rights extends to its participation in international conventions and treaties. By ratifying conventions like the United Nations' Standard Minimum Rules for the Treatment of Prisoners (SMR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), India has pledged to uphold human rights standards within its prison system.

¹ AIR 1983 SC 1086

² Model Prison Manual India (1988) - Bureau of Police Research and Development, Ministry of Home Affairs, Government of India

Despite the progressive steps, challenges persist within the Indian prison system, including issues of overcrowding and prolonged detention of undertrial prisoners. Addressing these challenges demands continuous efforts, heightened awareness, and consistent implementation of laws and guidelines to safeguard prisoner's rights.

The Legal Framework Governing Prisoner's Rights in India:

The legal framework governing prisoner's rights in India is a complex system that seeks to ensure the protection, dignity, and welfare of individuals confined within the country's prison facilities. Rooted in the Constitution of India and fortified by specific laws, regulations, landmark court decisions, and international treaties, this framework represents India's commitment to upholding the rights and human dignity of prisoners, even amidst their loss of liberty.

- **Constitution of India:**

Article 14: Right to Equality - This fundamental right ensures that all prisoners are treated equally before the law, irrespective of their background or circumstances. It prohibits discrimination and ensures that prisoners receive equal protection under the legal system.

Article 19: Protection of Certain Rights Regarding Freedom of Speech, etc. - Even during imprisonment, prisoners retain certain fundamental rights, including the right to freedom of speech and expression, subject to reasonable restrictions imposed in the interest of prison discipline and security.

Article 20: Protection in respect of conviction for offences - This article protects prisoners from being tried or punished for the same offence more than once (double jeopardy), self-incrimination, and retrospective punishment, ensuring fairness and justice in criminal proceedings.

Article 21: Right to Life and Personal Liberty - Often considered the heart of prisoners' rights, Article 21 guarantees every individual, including prisoners, the right to life and personal liberty. This includes the right to live with dignity and protection from any form of inhuman treatment, ensuring that prisoners are not subjected to torture or degrading punishment.

- **The Prison Act, 1894:**

The Prison Act lays down provisions for the establishment, regulation, and management of prisons in India. It sets standards for prison infrastructure, living conditions, and healthcare facilities for prisoners. The Act provides for the classification of prisoners based on their age, gender, and the nature of the offence. It emphasizes the need to segregate different categories of prisoners to ensure safety and appropriate treatment. It contains provisions related to prison discipline, including the powers and responsibilities of prison staff, and outlines the procedures for punishment in cases of misconduct by prisoners.

- **The Model Prison Manual, 2016:**

The Model Prison Manual serves as a guiding document for state governments in formulating their prison rules and regulations. It recommends best practices for the administration and management of prisons. The manual outlines the rights of prisoners, including access to legal aid, healthcare, education, and vocational training. It emphasizes the importance of providing prisoners with opportunities for rehabilitation and social reintegration to reduce recidivism rates and promote a positive impact on society.

- **The Code of Criminal Procedure, 1973:**

The CrPC provides the legal framework for the arrest, detention, and release of accused persons, including bail procedures and detention during investigation or trial. It sets the guidelines for the rights of prisoners, including timely production before the magistrate, the right to a fair trial, and the right to legal representation. The CrPC ensures that prisoners are not detained beyond the permissible period without valid reasons and proper authorisation.

- The Indian Penal Code, 1860:

The IPC contains provisions related to crimes committed by prisoners within the prison premises. It outlines the punishment for such offences and ensures that prisoners are held accountable for any unlawful acts committed while in custody. It also includes provisions related to the use of force by prison officials and guards, ensuring that such actions are only taken within the bounds of the law and in exceptional circumstances.

- The Juvenile Justice (Care and Protection of Children) Act, 2015:

This Act specifically addresses the rights and special provisions for juvenile offenders. It recognises the unique needs and vulnerabilities of children in conflict with the law and aims at their rehabilitation and reintegration into society. The Act provides for the establishment of Juvenile Justice Boards and Child Welfare Committees to ensure the protection of children's rights during the legal process.

- The Legal Services Authorities Act, 1987:

The Legal Services Authorities Act ensures that prisoners, especially those who cannot afford legal representation, have access to free legal aid. It mandates the establishment of legal services authorities at the national, state, and district levels to provide legal assistance to prisoners in need.

- Judicial Pronouncements:

The Indian judiciary has played a vital role in interpreting and expanding prisoners' rights through landmark judgments. These judgments have established guidelines and standards to prevent custodial torture, protect the right to medical treatment, and address issues of overcrowding and prison reforms. Court decisions have emphasized the need for the state to uphold prisoners' rights and treat them with dignity and respect, ensuring that fundamental rights are not curtailed during incarceration. In *Francis Coralie Mullin vs. Administrator, Union Territory of Delhi*³, the judgment dealt with the issue of custodial violence and the need to protect prisoners from torture and abuse. The Supreme Court recognised that the right to life under Article 21 extends to protecting individuals from torture and cruel, inhuman, or degrading treatment. The judgment emphasised the state's obligation to ensure the safety and well-being of prisoners and to prevent any form of custodial violence.

In *Sunil Batra vs. Delhi Administration (II)*⁴ case, the Supreme Court addressed prisoners' access to legal aid and the right to communicate with lawyers. The court held that prisoners must have reasonable facilities to consult and communicate with their legal representatives. The judgment emphasised the importance of ensuring prisoners' access to justice and legal assistance to safeguard their rights during legal proceedings.

These and several other judgments have underscored the importance of protecting prisoner's rights, ensuring access to justice, and preventing custodial violence.

- International Treaties and Conventions:

³ AIR 1981 SC 746

⁴ AIR 1980 SC 1579

As a responsible member of the international community, India has ratified various treaties and conventions that uphold human rights, including prisoner's rights. Notably, India is a signatory to the United Nations' Standard Minimum Rules for the Treatment of Prisoners (SMR)⁵ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)⁶.

The SMR provides a comprehensive set of guidelines for the treatment of prisoners, covering aspects such as accommodation, food, clothing, medical care, and communication. The CAT aims to prevent torture and other forms of ill-treatment and obliges states to take measures to eradicate such practices and hold perpetrators accountable.

While these legal measures lay the foundation for safeguarding prisoner's rights, their effective implementation remains critical to ensuring a just and humane prison system that upholds the dignity and well-being of all individuals, even amidst the confines of incarceration. Addressing the challenges and advancing reforms within this framework will foster an environment where prisoner's rights are respected, and the path to rehabilitation and reintegration is paved with compassion and dignity.

Major Problems with Indian Prison statement

- Health and Hygiene:

The conditions of health and hygiene in many Indian prisons are deeply concerning. A lack of adequate medical facilities often leads to neglect, leaving a significant portion of prisoners undiagnosed and without proper medical care. It has been reported that attorneys representing inmates must apply for basic necessities, highlighting the inadequate provision of essential items in some prisons. Disturbingly, instances have emerged, such as in Delhi, where inmates were found to be inadequately clothed during harsh winter conditions.⁷

- Custodial Torture:

Custodial torture remains a distressing issue within the prison system. When individuals suspected of committing crimes are held in custody, they often endure physical and psychological torment. The Supreme Court has denounced custodial torture, recognising it as a flagrant violation of human dignity that significantly damages an individual's sense of self. Despite measures taken to curb third-degree police torture, brutality continues to persist in some jails, further exacerbating the already dire situation.⁸

- Overcrowding of Prisons:

Overcrowding has long plagued Indian prisons, with occupancy levels exceeding capacity in many facilities. The consequences of overcrowding are magnified during a pandemic, as it

⁵ United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR) - <https://www.unodc.org/unodc/en/justice-and-prison-reform/prison-reform-and-alternatives/standard-minimum-rules-for-the-treatment-of-prisoners.html>

⁶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) - <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

⁷ "Major Problems of Prison System in India" (Times of India Blog January 1, 2022) <https://timesofindia.indiatimes.com/readersblog/shubham-kashyap/major-problems-of-prison-system-in-india-40079/>

⁸ "Custodial Torture and Reforms in Police Administration" (Legal Service India - Law, Lawyers and Legal Resources) <https://www.legalserviceindia.com/legal/article-3120-custodial-torture-and-reforms-in-police-administration.html>

can lead to the rapid spread of communicable diseases and deteriorate living conditions. The Supreme Court has addressed this issue on several occasions, but finding sustainable solutions remains a pressing challenge. Overcrowding not only compromises prisoners' health and safety but also hampers their chances of successful rehabilitation and reintegration into society.

- **Poor Budget for Prisons:**

Indian prisons often operate on limited budgets, with insufficient funds allocated for various essential aspects. The average per-offender expenditure is relatively low, hindering efforts to improve facilities, medical care, vocational training, and welfare activities. Comparatively, other countries invest significantly more in their prison systems, ensuring better living conditions and prisoner rehabilitation. Inadequate funding compromises the overall functioning of prisons and impairs the potential for meaningful prisoner reform.

- **Lack of Communication:**

Prisoners often face severe restrictions on communication with the outside world, including limited access to family members. The lack of connection with loved ones can lead to feelings of isolation and abandonment, affecting mental well-being and hindering the potential for successful reintegration into society. Proper channels for communication and support systems are essential for prisoners' rehabilitation and reducing the likelihood of recidivism.

- **Abuse of Prisoners:**

Physical mistreatment and abuse of detainees by prison staff are distressing realities in some Indian prisons. Corporal punishment and unjustified beatings are not uncommon, leading to physical and psychological trauma for prisoners. Female inmates are particularly vulnerable to sexual assault and violence while incarcerated, indicating the urgent need for gender-sensitive policies and increased protection for women in the prison system.

- **Women and Children:**

The plight of women prisoners in India demands special attention. They often face unique challenges, including lack of proper sanitation facilities, prenatal care, and educational training. Female prisoners are at risk of sexual assault and violence, making the provision of safe and gender-sensitive facilities a crucial aspect of prison reform. Additionally, children held in correctional houses deserve a supportive environment for rehabilitation, free from abuse and psychological suffering.

Addressing these issues necessitates concerted efforts from policymakers, prison authorities, human rights advocates, and civil society organisations. The urgent need for comprehensive prison reforms in India is evident, with a focus on enhancing health and hygiene conditions, ensuring proper budget allocation, safeguarding prisoner's rights, and promoting rehabilitation for a more just and humane prison system.

International comparison

International comparisons of prisoner's rights can shed light on how different countries approach the treatment and rights of incarcerated individuals. It is essential to consider the practices and policies in various countries to identify potential areas for improvement in India's prison system. Here are some key aspects of international comparisons related to prisoner's rights:

1. **Healthcare and Medical Facilities:** Comparing healthcare provisions for prisoners in different countries can reveal variations in access to medical care, mental health support, and specialised treatment. For example, some European countries like Norway and Sweden are known for providing comprehensive healthcare services to prisoners, while other nations may struggle to meet basic medical needs.⁹

2. **Overcrowding and Living Conditions:** International comparisons can highlight disparities in prison overcrowding and living conditions. Countries like Germany and the Netherlands have lower incarceration rates and often emphasise individualised and rehabilitative approaches, resulting in less crowded prisons with better living conditions.¹⁰

3. **Prisoner Education and Skill Development:** Assessing educational and vocational programs for inmates in different countries can demonstrate varying levels of commitment to prisoner rehabilitation. Scandinavian countries, such as Denmark and Finland, are known for providing extensive educational and vocational opportunities to prisoners.¹¹

4. **Use of Solitary Confinement:** International comparisons can reveal differences in the use of solitary confinement and its impact on prisoners' mental health and well-being. Countries like the United States have faced scrutiny for the excessive use of solitary confinement, while some European nations have stricter regulations on its implementation.¹²

5. **Reintegration and Recidivism Rates:** Studying recidivism rates and reintegration programs in various countries can provide insights into the effectiveness of rehabilitation efforts. Nations like Norway and Sweden prioritize reintegration support, leading to lower recidivism rates compared to countries with less emphasis on rehabilitation.¹³

6. **Treatment of Vulnerable Groups:** International comparisons can highlight how different countries address the rights and specific needs of vulnerable prisoner populations, such as women, juveniles, LGBTQ+ individuals, and refugees. Countries with comprehensive gender-sensitive policies, like Canada and Sweden, may serve as positive examples in this regard.¹⁴

7. **Death Penalty and Capital Punishment:** Analyzing the use of the death penalty and its application in various countries can provide insights into the divergent approaches to criminal justice. Nations that have abolished the death penalty, such as Canada and most European countries, may demonstrate a commitment to more humane and progressive criminal justice systems.¹⁵

Comparing prisoner's rights across different countries allows policymakers and advocates to learn from successful practices and identify areas for improvement. These international

⁹ "Health in Prisons: A WHO Guide to the Essentials in Prison Health", World Health Organization (WHO), 2007.

¹⁰ "World Prison Brief" - Institute for Criminal Policy Research, Birkbeck, University of London.

¹¹ "Education in Prisons: Assessing the State of the Field", RAND Corporation, 2018.

¹² "A Sourcebook on Solitary Confinement", American Civil Liberties Union (ACLU), 2017.

¹³ "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010", Bureau of Justice Statistics, 2014.

¹⁴ "United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)", United Nations Office on Drugs and Crime (UNODC), 2010.

¹⁵ "Global Overview of Execution and Death Penalty", Amnesty International, 2021.

comparisons can inform policy decisions and foster a more holistic and rights-based approach to incarceration and rehabilitation.

Reforms as a way forward

Prison reforms in India are crucial to address the systemic challenges and improve the living conditions, treatment, and rehabilitation of prisoners. Various measures can be undertaken to create a more just, humane, and effective prison system that upholds the rights and dignity of all individuals within its walls. Here are some key areas where reforms are needed:

1. **Improving Health and Hygiene:** Enhancing medical facilities within prisons is paramount to ensure that prisoners receive timely and adequate healthcare. Regular medical check-ups and access to essential medications should be provided to address health issues promptly. Moreover, ensuring proper sanitation and hygienic conditions in prisons can help prevent the spread of diseases and improve the overall well-being of inmates.

2. **Addressing Overcrowding:** Implementing strategies to reduce overcrowding is essential for creating a safer and more conducive prison environment. This can be achieved through measures such as expanding prison infrastructure, promoting alternatives to incarceration for non-violent offenders, and encouraging the use of bail and parole for eligible inmates.

3. **Investing in Rehabilitation:** Allocating resources for educational, vocational, and skill development programs is crucial for the rehabilitation of prisoners. Providing inmates with opportunities to learn and acquire new skills equips them for a smoother reintegration into society upon release, reducing the likelihood of recidivism.

4. **Protecting Prisoner's Rights:** Strengthening mechanisms for the protection of prisoner's rights is imperative. This includes implementing regular prison monitoring by independent bodies to ensure transparency and accountability. Ensuring access to legal aid for prisoners is also essential to uphold their rights and ensure fair treatment within the criminal justice system.

5. **Gender-Sensitive Policies:** Developing gender-sensitive policies and facilities that cater to the unique needs of female prisoners is vital. Addressing issues such as maternal health, prenatal care, and childcare within prisons is crucial to safeguard the rights and well-being of women inmates.

6. **Trauma-Informed Approach:** Adopting a trauma-informed approach to prison management can help create a supportive and empathetic environment for prisoners. Recognizing and addressing the traumas that many inmates have experienced can lead to better outcomes in terms of rehabilitation and reducing reoffending rates.

7. **Promoting Mental Health Support:** Prioritising mental health support for prisoners is essential to address the psychological impact of incarceration. Establishing mental health units within prisons, providing counselling services, and ensuring access to psychiatric care can contribute to better mental well-being and promote rehabilitation.

8. **Restorative Justice Programs:** Encouraging the implementation of restorative justice programs can help foster a sense of responsibility and accountability among offenders. These

programs focus on repairing the harm caused by the offence and promoting reconciliation between the offender, victim, and the community.

9. Reintegration Support: Creating comprehensive reintegration support programs to assist prisoners upon release is crucial. These programs can include job placement assistance, housing support, and access to social services to facilitate a successful transition back into society.

10. Training and Sensitisation of Prison Staff: Providing training to prison staff on human rights, gender sensitivity, and dealing with inmates in a dignified manner can lead to more compassionate and effective prison management.

By implementing these reforms, India can work towards creating a prison system that prioritises the well-being, rights, and rehabilitation of prisoners. A reformed and humane prison system contributes not only to the rehabilitation of offenders but also to the overall safety and well-being of society as a whole.

Conclusion:

While there have been positive developments, such as the recognition of the importance of rehabilitation and the intervention of the judiciary to address issues like overcrowding and custodial torture, challenges persist. Overcrowding remains a significant concern in many Indian prisons, leading to subpar living conditions and limited access to essential services. Access to proper healthcare and mental health support can also be inconsistent across different facilities. Furthermore, ensuring equitable treatment and protection of the rights of vulnerable prisoner populations remain ongoing challenges. Addressing these challenges requires a comprehensive and coordinated approach from policymakers, prison authorities, civil society, and human rights advocates. Strengthening the implementation and enforcement of existing legal provisions, along with the effective monitoring of prison conditions, is imperative. Initiatives to reduce overcrowding, enhance access to education and vocational training, and prioritise rehabilitation are essential to promote successful reintegration into society. As the nation progresses, it is essential to recognise that upholding the rights of prisoners is not only a matter of constitutional duty but also an indicator of a just and compassionate society. A rights-based approach to incarceration ensures that prisoners are treated with dignity, compassion, and respect, allowing for the transformation of individuals and, ultimately, the betterment of society. By addressing the challenges and embracing progressive reforms, India can move closer to realising a prison system that embodies the principles of justice, compassion, and social reintegration for all its citizens, including those who have been incarcerated.

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