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PRISONERS' RIGHTS AND HUMAN DIGNITY IN INDIA: A CRITICAL APPRAISAL OF THE MODEL PRISONS ACT, 2023

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ABSTRACT

Punishment in a civilized society should never strip a person of their human dignity—either physically or mentally. Time and again, the rule of law has emphasized that even poor undertrial prisoners must be treated with humanity and fairness, and not be subjected to degrading treatment. Respect for the inherent dignity and equal rights of every individual form the foundation of freedom, justice, and peace in any society. However, the role of prisons as spaces for rehabilitation and reintegration of offenders into normal life remains a topic of ongoing debate. While some view prisons as a means of correction, others question their effectiveness in truly reforming individuals. Dr. Paripurnanand Verma observed that “a prison symbolizes evil and therefore evil doers find themselves in perfect harmony inside the house of evils.”

The present research critically examines the evolving standards of prisoners' rights in India with a specific focus on the Model Prisons Act, 2023. It delves into the historical and legal foundations of prison reforms in India, analyzing the role of the Indian Constitution, judicial pronouncements, and international human rights standards. The study explores the evolving jurisprudence surrounding prisoners' rights, including the right to privacy, the right to health, the right to legal aid, and the right to be free from torture. It further explores the implications of the Model Prisons Act, 2023, for the rehabilitation of prisoners and the protection of their human rights. It examines the Act's provisions on education, vocational training, healthcare, and mental health care, and assesses their effectiveness in promoting the reintegration of prisoners into society.

INTRODUCTION

Every defendant currently awaiting trial is liable to face legal repercussions, which could potentially involve imprisonment in specific instances. Imprisoned individuals are held in correctional facilities, where they are separated from the general population and given restricted freedom based on the seriousness of their Offences. As society has progressed, the number and importance of prison and prison systems have increased. Following the appearance of primitive and uncivilized states, there has been a significant change in the civilization of states, where states exert control over a more advanced society. This can be explained by Salmond's theory, which suggests that “the advancement of society has made it necessary to have oversight and regulation of criminal activities”. Prisons, whether temporary or permanent, are managed by the government by specific or general instructions.¹

Item 4 of the Seventh Schedule of the Constitution designates the subject matter related to the administration and control of prisons in India to the respective states. This matter pertains to the administration of correctional institutions in India. The state government is responsible for managing these prisons, ensuring compliance with their designated prison manuals and the Prisons Act of 1894, the primary legislation in India governing prison regulations. Moreover, the Ministry of Home Affairs has the responsibility to regularly provide the union territories and states with specific instructions and guidance regarding prisoners and correctional facilities.²

As mandated by the Indian Constitution, the prison system is an essential component of the Criminal Justice Administration. According to the Indian Constitution, prisons are intended to restrict the freedom of individuals who have been found guilty of social or civil offenses that are punishable under Indian laws. Prisoners are individuals who have explored all possible legal options to establish their innocence in a court of law but have been convicted of committing a crime against another person or the government.

UNDERSTANDING OF THE INSTITUTION OF PRISON

According to the definition provided by the Encyclopedia Britannica, “a prison is a facility specifically designed for the confinement of individuals who have been detained by a judicial

¹ Tanvi Goswami, ‘Is Privatization Of Prisons A Solution To Rotting Prisons Of India?’ (Legal Services India E – Journal, 27 May 2021) (last visited Jan 25, 2025).

² Ibid.

authority or who have had their freedom restricted due to a criminal conviction. A person who has been found guilty of a felony or misdemeanour may be subject to imprisonment”.³

A jail and a prison are not interchangeable terms. A prison specifically refers to a facility that is purposefully built to accommodate individuals who have been found guilty of committing crimes. Essentially, a jail serves as a facility for holding individuals before their trial, keeping them until they go before a judge. On the other hand, the recent development has caused confusion between the mentioned establishments. The correctional facilities are experiencing a growing influx of incarcerated men who have been convicted and are awaiting their sentences or appeals, defendants who are being transferred between institutions, and individuals who are being detained as material witnesses for an upcoming trial. Due to the frequent use of the term’s “jail” and “prison” interchangeably, correctional facilities are experiencing an identity crisis.⁴

Montesquieu and Beccaria played crucial roles in shaping the idea of prison as a comprehensive method for reforming incarcerated individuals in Europe and the United States. The inquiry about how correctional facilities can be designed to reduce the chances of repeat offenses influenced the approach to punishment implemented in the United States after the Revolutionary War. This specific approach expressed a clear position regarding human beings, affirming that they are adaptable and can be improved under the right conditions. The inception of the incarceration system took place in the early 1800s, a period closely associated with the establishment of prisons.

Originally, they were used as holding facilities for individuals awaiting trial. Prisoners were allocated to cells based on their convictions for political offenses or war crimes, as well as those who had failed to pay their debts or fines. Their imprisonment was intended to determine whether they would seek reconciliation through obtaining confessions or if they would persist in making payments. Over time, as civilization and knowledge progressed, there were significant improvements in prison conditions. Prisons are no longer just places where people are held or confined; instead, their main goal is to rehabilitate and equip inmates for successful lives after their release. Contemporary punishment systems prioritize the reformation, correction, and rehabilitation of individuals who have committed crimes.

³ Available at: <http://www.britannica.com/topic/prison> (last visited Jan 25, 2025)

⁴ Joycelyn M Pollock, *Prisons, today and tomorrow*, Aspen Publishers 1997, pg. 414

PRISON REFORMS IN INDIA

A modern Indian prison system can be traced back to The Minute, a publication by T.B. Macaulay published in 1835. It wasn't until 1838 that the findings of the Prison Discipline Committee were handed down. They downplayed any attempts to address inmates' humanitarian needs or make reforms, even though the committee had recommended harsher treatment. It was in 1846 that the Central Prisons were founded, as advised by the Committee. In modern-day India, prison administration is heavily impacted by the legacy of British rule. This theory holds that if a community has a solid system in place for punishing offenders, then a comprehensive criminal code may not be necessary. Similar to the 1838 Committee, the 1864 Second Commission of Inquiry into Prison Administration and Discipline made recommendations. In addition to enhancing medical management, nutrition, apparel, and bedding, this Commission offered numerous particular suggestions regarding prisoner housing.

In the year 1888, the Fourth Jail Commission was established. A comprehensive prison bill was crafted using the submitted recommendations as its foundation. The provisions concerning inmate offenses and punishments were thoroughly reviewed by a committee of experts on jail management. The Viceroy's approval led to the final passage of the bill in 1894, and it became law. Modern prison management and administration in India are based on this Act. Throughout its duration, this Act has undergone very few changes. Nonetheless, research into the problems plaguing India's prisons persisted. The report of the Indian Jail Committee, which was prepared between 1919 and 1920, laid out the goals of incarceration as the "reformation and rehabilitation" of criminals, which was a ground-breaking move.

In 1935, the Government of India Act was passed, and the responsibility for managing prisons was transferred from the Central List to the Provincial Governments. This made the uniform implementation of a national prison policy less likely. Therefore, policymaking, inmate welfare, and day-to-day prison management all fall under the purview of state governments. The rules and laws that apply in any given state are unique.

Model Prisons Act, 2023

The Model Prisons Act, 2023 represents a significant shift in India's approach to prison management and prisoner rehabilitation. This comprehensive legislation aims to modernise the outdated Prisons Act of 1894, focusing on reformation and rehabilitation rather than mere custody and discipline.

Key features of the Act include:

- “1. Emphasis on security assessment and individualised sentence planning*
- 2. Provisions for separate accommodations for women, transgender individuals, and other vulnerable groups*
- 3. Integration of technology for improved transparency and efficiency*
- 4. Establishment of high-security jails and open prisons*
- 5. Stricter regulations on prohibited items*
- 6. Focus on rehabilitation through vocational training and skill development*
- 7. Provisions for legal aid, parole, furlough, and premature release”⁵*

While the Model Prisons Act is a positive and progressive move, it also comes with its own set of challenges. Since prisons fall under the State List in India, implementation may vary from state to state, leading to inconsistencies in how the Act is applied. Its success hinges on several key factors adequate funding, proper infrastructure, and well-trained prison staff. There's also concern that the emphasis on high-security measures for hardened criminals might overshadow the Act's core goal of rehabilitation.

Moreover, deeper systemic issues like overcrowding, the large number of undertrial prisoners, and human rights concerns still need stronger and more focused solutions. Despite these challenges, supporters of the Act argue that its comprehensive approach 'balancing security with rehabilitation' marks a major improvement over outdated prison laws. In essence, the Act represents a more humane and reform-oriented vision for prison management. However, its real impact will depend on how well it is implemented on the ground, and whether it is regularly assessed and updated to truly achieve its goals of prisoner reform and reducing repeat offense.

Challenges in the Traditional Indian Prisons

- **Overcrowding**

The primary national issue in India is its enduring problem of overpopulation, which has significant implications for the country's correctional institutions. The issue of prison

⁵ Press Information Bureau (May 12, 2023) *“Under the visionary leadership of Prime Minister Shri Narendra Modi and decisive guidance of Union Home Minister Shri Amit Shah, a decision was taken to review and revise colonial-era outdated Prison Act in tune with contemporary modern day needs and correctional ideology”* [Press Release] available at: <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1923682> (last visited on Jan 25, 2025)

overcrowding in India is not a new phenomenon; in fact, it is identical to all other characteristics typically linked to imprisonment. It completely undermines any attempt to improve the living conditions of prisoners; the consequences of this are obvious and serious, deserving no consideration. Nevertheless, despite more than 150 years of investigation, a conclusive solution to the phenomenon has not been achieved. The volatile occupancy rate in almost every correctional facility is attributed to the admission or inclusion of new prisoners and pretrial detainees, the release of former prisoners and pretrial detainees, and the admission or inclusion of new prisoners and pretrial detainees. However, the duration of a prison sentence at the end of a specific year can be estimated reliably as a predictor of the size of the prison population. The occupant occupancy rate is determined by dividing the total number of inmates by the authorized capacity of jails and prisons. This rate functions as a measure of the degree to which the overcrowding situation exists. Correctional facilities are primarily overwhelmed due to the presence of inmates who are awaiting trial.

Overcrowding in prisons not only strains the infrastructure, hampers the provision of correctional services, and facilitates the spread of infectious diseases, but also poses various challenges for prison administration. The challenges mentioned above include an increase in violent incidents and disciplinary violations, as well as the diversion of prison staff from their usual duties, such as guarding, distributing food, and maintaining security.⁶ In certain states, the current occupancy rate of correctional facilities exceeds 400 percent of their original capacity at the time of construction. The NCRB, a department under the Ministry of Human Affairs, reported that the average prison occupancy rate in India was 125% during the fiscal year 2022-23.⁷ The report served as the primary source of this information. As per the report from NHRC, the prison population in Uttar Pradesh was nearly 62,000 inmates during the period of 2021-2023, while their maximum capacity was around thirty-three thousand.

- **Prison Violence**

Penalties often incarcerate individuals in dangerous environments. Furthermore, widespread acts of violence and riots carried out by groups are common. In March 2002, a three-day standoff and riot took place in the Chappra District prison in Bihar.⁸ During this incident, six inmates were killed in a shootout that occurred when Bihar Military Police commandos were

⁶ Sen Shankar, "Police in Democratic Societies," Gyan Publications, New Delhi, 2000, p.174.

⁷ Sudipto Roy, Jail Reforms In India: A Review, 11 Kriminologija I SocijalnaIntegracija, 34, 33-40 (2023).

⁸ Dr. J. N. Pandey, Constitutional Law of India, Central Law Agency, Allahabad, 47th Edn., 2010.

sent to suppress the unrest. Individuals who commit their first offense and those who lack knowledge are subjected to torment and coerced into performing tasks of low importance. If they refuse to comply, they will be obligated to spend the night sleeping in front of toilets that are overflowing and emitting a foul smell. In the *Khatri v. State of Bihar case*,⁹ the police used acid to blind eighty individuals suspected of committing crimes by puncturing their eyes with needles. This incident represented the most atrocious manifestation of prison violence ever recorded. Previously, the court had issued a writ in the case of *Sunil Batra v. Delhi Administration*.¹⁰ This writ instructed the authorities to prevent physical mistreatment of prisoners by jail officials and to ensure that prisoners have access to adequate medical and health facilities.

- **Neglect of Health Problems and Hygiene**

Many correctional facilities suffer from the simultaneous problems of overcrowding and insufficient housing capacity, which undermine the safety and welfare of the inmates. The majority of inmates in correctional facilities come from socioeconomically disadvantaged segments of society, which are marked by high rates of disease, malnutrition, and limited access to medical services. The spread of infectious and communicable diseases is greatly aided by the proximity of individuals in unhygienic settings. According to a sample study conducted by the National Human Rights Commission of India in early 2019, tuberculosis was identified as the cause of 76% of deaths in Indian prisons.¹¹

- **Lack of Legal Aid**

Universal access to justice is impossible to imagine in a society where disadvantaged individuals are denied the chance to receive free legal assistance. Article 39-A, which is widely recognized as the fundamental provision that introduced the concept of legal assistance, was successfully included in the Constitution through the 42nd Amendment. According to the article, the state must provide free legal assistance and promote fairness in the legal system, ensuring that no citizen is denied access to justice due to financial or other disadvantages. According to the judgment of the Supreme Court of India in the case of *Hussainara Khatoon v. State of Bihar*,¹² Article 21 of the Constitution implicitly ensures the entitlement to legal

⁹ *Khatri v. State of Bihar*, AIR 1981 SC 928

¹⁰ *Sunil Batra v. Delhi Administration*, 1979 SCR (1) 392.

¹¹ Maj.Gen.Nilendra Kumar, *Law, Poverty & Development* (1st edn., 2020)

¹² *Hussainara Khatoon v. State of Bihar*, 1 (1980) 1 SCC 81.

assistance. “A speedy trial, which refers to a reasonably prompt trial, is a crucial and necessary part of the fundamental right to life and liberty protected by Article 21,” the Court stated, expressing its surprise that individuals awaiting trial had been held in Bihar prisons for years without legal representation. The court concluded that Article 39-A emphasized the absolute protection of free legal services as an essential component of a “reasonable, equitable, and impartial” legal procedure. As a result, the court issued a verdict declaring that the guarantee mentioned in Article 21 inherently included the entitlement to receive legal assistance without charge. The document defines legal aid as how social justice is administered. Moreover, it expressed the requirement that every state government should provide legal assistance to prevent any deviation from the intended objective of Article 21.

According to the Constitution, individuals who are awaiting trial and in need are legally entitled to their rightful legal rights. In the case of *D.K. Basu v. State of West Bengal*,¹³ the Supreme Court has established that every person who is arrested is entitled to receive legal representation at no cost. In contrast, legal representation is typically provided solely during the trial proceedings, and even then, it is primarily for symbolic purposes. In addition, the Legal Aid Boards have been established at both the state and federal levels by the Legal Aid Services Authorities Act of 1987 to offer free legal assistance to individuals in need. There is a significant difference between the legal obligations placed on the accused and the final verdict they receive. This gap is caused by a lack of awareness on the part of the accused or victim, as well as a deficiency in initiative and coordination between the authorities responsible for legal aid and the police.

RIGHTS OF PRISONERS & ITS COMPONENTS - AN OVERVIEW

“Prisoners retain all rights enjoyed by free citizens except those lost necessarily as an incident of confinement. Moreover, the rights enjoyed by prisoners under Articles 14, 19 and 21, though limited, are not static and will rise to human heights when challenging situations arise.” On the other hand, human rights of a prison is wide concept and includes various rights guaranteed under law. It includes the following rights: -

- Right to life, which is a very wider term thus encompassing under its ambit all such rights that are essential to lead a meaningful and dignified life.
- Right to liberty which is legally considered as a facet of right to life

¹³ *D.K. Basu v. State of West Bengal*, (SC, 1996)

- Right to health which further includes right to food, right to sleep, right to medical aid - Right to privacy which is also legally interpreted as a part of right to life. This further includes right to be left alone and right to be forgotten, in the context of a crime - accused. - Right to fundamental freedoms including freedom of speech and expression, freedom - of movement, freedom of association, etc.
- Right to equality and equal treatment before law, Etc.

As mentioned earlier a prisoner only because is imprisoned does not lose his rights otherwise guaranteed by law. Rights declared as human rights are to be safeguarded so as to ensure that minimum entitlements of human beings are legally guaranteed and protected too. In addition to human rights, each fundamental right guaranteed by the Constitution [most of which are also regarded as human rights] are also guaranteed to a prisoner. However, to the extent it is necessary to administer prison system, implement punishment the inmate is undergoing and facilitate the legal process which an inmate is undergoing, certain restrictions on the rights of the prisoners can be imposed. However, such restrictions are required to be legally valid, reasonable and fair. They must not be unnecessary encroachment of the rights of prison inmates.

Apart from constitutionally guaranteed fundamental rights, there are certain rights that the constitution provides to every individual including a prison inmate which are on the other hand a correlative of duties of State imposed upon state by the Constitution under Chapter IV, that is, "Directive principles of State policy". Also, criminal laws including criminal procedure code, prison Act, prison rules and prison manuals also confer certain rights upon a prisoner. The human rights related laws to recognize certain rights of individuals which includes prison inmate's rights too.

Thus, rights of a prison inmates include internationally recognized human rights, constitutionally guaranteed fundamental rights, legally recognized statutory rights. Each of these are enforceable to the extent to which respective laws provide for.¹⁴

RIGHTS OF PRISONERS AND INDIAN CONSTITUTION

As mentioned earlier, Constitution under Chapter III confers various fundamental rights to its citizens. Most of these rights are also guaranteed to a foreigner present in India. Most of these rights are also extended to prison and hence must be conferred even to a prison inmate to the maximum extent possible. A prisoner doesn't cease to be a human being to be deprived of his

¹⁴ *Id.*

right to life guaranteed under Article 21 of the Constitution.¹⁵ A prisoner doesn't cease to be a human being to be deprived of his right to life guaranteed under Article 21 of the Constitution. A prisoner like anybody else is entitled to enjoy some of fundamental and human rights. These rights include the following:

- Right to life and personal liberty.
- Right to privacy and right to live with dignity;
- Right to health
- Right to humane facilities
- Right to live with dignity
- Right to equality
- Rights to freedom of speech and expression,
- Right to freedom of religion

Inmates in Indian prisons have their constitutional rights protected to the fullest degree feasible. Article 14 of Constitution guarantees everyone a fair trial and equal protection under the law. A prisoner has the same legal protections and guarantees as any other citizen. As a result, unjustifiable forms of discrimination violate the Constitution.

The criminal justice system benefits from the rights guaranteed by constitution since they increase an individual's ability to stand trial on fairgrounds. Article 20 ensures protections against self-incrimination and double jeopardy. A person facing criminal prosecution is likewise entitled to these protections. Article 20 further specifies that no criminal legislation may have retroactive effect. If an individual is arrested, they must be brought before a magistrate within 24 hours. This is required under Article 22.¹⁶

CONCLUSION

Prisons are no longer only dungeons where convicts are held in isolation for lengthy periods of time. Prisons' original aims of punishment and deterrence are no longer the main driving forces behind their development. Today's jails treat inmates as human beings who must interact with society in a new, more reformed way upon release. To put it simply, prisoners are not forgotten or abandoned members of society, but rather human beings who happen to be incarcerated. Prisons are meant to be places of rehabilitation rather than places where extra punishment is

¹⁵ Gupta, Yashaswi. "Rights of Prisoners." *Supremo Amicus* 14 (2019): 321.

¹⁶ *Id.*

delivered since the act of imprisonment itself represents a penalty for a prisoner. In the decision of *Manna v. People of Illinois*¹⁷, the Supreme Court of the United States declared that human beings are capable of more than just subsisting. You can't pretend that there aren't actual people behind those bars. It goes without saying that everyone is entitled to certain protections, and it is the job of the law to ensure that those who are jailed are afforded such protections. Recently, the government of Himachal Pradesh lifted a ban on convicts wearing Gandhi hats in the state's correctional facilities.

The administrators of the detention facility often provide a variety of seminars for the inmates to educate them on a variety of topics, including their legal rights, issues with health and sanitation, HIV/AIDS, and concerns about mental health. In recent years, an innovative and very successful alternative to the traditional method of confinement in closed prisons has emerged: the open prison system. These kinds of practises are assisting in the process of transforming the conventional and colonial mindset that pervades India's judicial system. They are also assisting inmates in maturing into more responsible, creative, and potentially contributing members of society. However, despite the fact that various initiatives have been made to improve the circumstances of jails, there is still a great deal more work that has to be done. The central government, working with non-governmental organisations and the administration of prisons, should take the appropriate measures for successful jail centralization.

Animals aren't all that life has to offer. One cannot deny the existence of spirits in those who are confined. According to Article 21 of the United States Constitution, everyone has it, and no one, not even the government, may take it away from them. A person's humanity does not end just because they have committed a crime or are jailed. Moreover, they have all the rights of a free man, but subject to some restrictions. Just because they are detained in a prison does not mean they lose their constitutional protections. Despite his current detention, he has all of his constitutional rights. Some constitutional rights apply to prisoners even after they have been found guilty of a crime and their freedom has been taken away in accordance with the procedure that has been set forth by the law. The struggle for their rights has progressed significantly thanks to the Supreme Court. But the truth remains that law enforcement and those in charge of prisons are the ones who need to be educated and retrained in order for them to respect inmates' constitutionally protected rights.

¹⁷ 94 U.S. 113 (1876)

As a result, we can see that there is no room for debate on the fact that democratic legitimacy is what defines our period. Liberty and freedom are essential components of the human right of prisoners as well as democratic governance. It is essential to note, insofar as emerging nations are concerned, that they must have a firm belief in democracy and the human rights of those who are incarcerated.

The Constitution created a democratic welfare state that provides equal opportunities to everybody and everyone, free from any kind of discrimination, with the purpose of fostering individual development and contributing to the progress of the country. The provision of immediate and efficient legal assistance to inmates, as well as education regarding their rights, including the essential right to life and liberty provided by Article 21 of the Constitution, as well as the assets that are accessible to them for safeguarding that right, is one of the primary goals of the Constitution, which can be found in this document. Another primary goal of the Constitution is the establishment of facilities in jails, which can be found in this document.

REFORMATIVE MEASURES

1. SPEEDY TRIAL

One measure of the efficiency of the judicial system is the speed with which cases are resolved. Such frauds and scams would be handled swiftly in other nations, but in India, that is not the reality. Unlike the Harshad Mehta scandal, which took almost six years to be publicized after Mehta had already passed away, the Singaporean incident involving Nick Leeson of the Baring Company was handled in less than two years. The judicial system gains from the delay in providing justice, as this shows.

2. PROPER COURT MANAGEMENT

The courts cannot function well unless they meet on a regular basis to discuss and analyze problems faced by lawyers, judges, and litigants. The judicial system should be run efficiently by allocating time in a way that allows for its management.

3. MALIMATH COMMITTEE RECOMMENDATION

The committee's principal objective is to recommend modifications to the criminal justice system aimed at expediting the court process and delivering justice to the average citizen more swiftly.

4. TRAINING IN A PROPER WAY

It is essential for every judge to have regular opportunities to refine their drafting, listening, and writing skills, along with their ability to make impartial and prompt decisions. One of these essential elements is the accountability and supervision of the judiciary.

5. APPOINTMENT OF JUDGES IN A PROPER WAY

Moreover, increasing the number of judges relative to the population would enhance the efficiency of case resolution. The qualifications of the judges should be taken into account when allocating cases to them. A random process of case assignment considered the delays associated with the necessity of specialization. Furthermore, it is advisable to create dedicated tribunals for specific areas, such as taxation and labor, where cases frequently emerge in substantial volumes.

6. ARBITRATION AND PANCHYAT SYSTEM SHOULD BE ENCOURAGED

Every disagreement, regardless of its magnitude, ought to be resolved through arbitration whenever possible. The court system will be able to conserve essential time as a consequence. It is essential that Nyaya Panchayats are empowered to address minor and petty issues. Nonetheless. The objective of instituting Lok Adalats was to accelerate the resolution of issues within the community.