



“JUSTICE AND HUMAN DIGNITY: REFORMING INDIA’S CRIMINAL PROCESS”

**BY
SHAMBHAVI PANDEY¹**

ABSTRACT

The core argument of this paper is that protecting human rights within India’s criminal justice process is fundamental to democracy. While the stated aim is to balance law enforcement and individual rights, persistent structural weaknesses shift this balance unfavorably. These weaknesses raise serious questions about the country’s true commitment to justice, equality, and the rule of law.

Custodial violence and torture during police investigations and detention remain major challenges. These acts violate the Constitution and international norms that ban cruel treatment. Another issue is the high number of under-trial prisoners in Indian prisons. Many spend long periods in custody without conviction because of investigation and trial delays. This situation undermines personal liberty and shows the need for speedy trials, efficient investigations, and better safeguards.

Overcrowded prisons and poor correctional facilities make the problem worse. These conditions result in bad living environments and diminish prisoners’ dignity. Thus, broad prison reforms are needed to ensure humane conditions, proper healthcare, and rehabilitation opportunities. Stronger correctional administration can better protect prisoners’ rights.

Effective legal aid and judicial oversight are vital for defending human rights. Many marginalized people lack resources and awareness to protect them in court. Legal aid and active judicial intervention are key to ensuring fair access to justice.

This study contends that India’s criminal justice system often fails to fulfill constitutional and human rights guarantees due to implementation gaps and institutional inertia. By critically analyzing laws, court decisions, and policies, it demonstrates the urgent necessity for institutional reforms, stronger police accountability, and reinforced legal aid to make justice and human dignity a practical reality.

Keywords: Human Rights, Criminal Justice System, Custodial Violence, Undertrial Prisoners, Legal Aid.

¹ Assistant Professor, United University, Prayagraj



INTRODUCTION

India's criminal justice system is a strong expression of state power. It can deprive people of liberty, dignity, or life. In a democracy, this power must strictly follow the rule of law, constitutional guarantees, and human rights norms. The system should punish the guilty while respecting the dignity of every person, whether accused, convicted, or acquitted.

India's criminal justice framework is a result of constitutional rules, laws, court judgments, and administrative practices. The 1950 Constitution ensures many rights, such as the right to life (Article 21), protection from arbitrary arrest (Article 22), and equality before law (Articles 14 and 15). These rights are central to human rights protection in the system.

Despite the strength of this constitutional framework, challenges persist within India's criminal justice system that significantly impedes effective rights protection. Instances of custodial violence and police misconduct remain prevalent. Prisons experience severe overcrowding, exceeding their intended capacity. Undertrial prisoners continue to comprise the majority of the prison population, often detained for lengthy periods without trial. Additionally, access to competent legal representation remains limited for economically disadvantaged and marginalized groups.

This paper's central thesis is that the recurring challenges in India's criminal justice system—custodial violence, overcrowded prisons, inadequate legal representation—amount to violations of constitutional rights and human dignity. It will show that only comprehensive institutional reforms, rooted in genuine rights protection, can reconcile the gap between law and practice.

CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

2.1 Constitutional Guarantees

The Constitution strongly protects human rights in criminal justice. Article 21 covers the right to life and liberty, which the Supreme Court interprets broadly. In **Maneka Gandhi v. Union of India (1978)**², the Court ruled that laws must be fair, just, and reasonable.

Article 22 protects against arbitrary arrest by giving rights: to know reasons for arrest, consult a lawyer, and be brought before a magistrate in 24 hours. Article 20 defends against retroactive laws, double punishment, and forced confessions. Article 39A requires the State to provide free legal aid, ensuring justice regardless of income. Articles 14 and 15 ensure equality and prohibit discrimination, which is important in India's diverse society.

2.2 Key Legislative Provisions

India's criminal justice once relied on three central laws: the Indian Penal Code (1860), the Code of Criminal Procedure (1973), and the Indian Evidence Act (1872). These were replaced in 2023 by the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya

²AIR 1978 SC 597: The Court held that the procedure established by law under Article 21 must be fair, just, and reasonable. The decision expanded the scope of personal liberty and laid the foundation for substantive due process in India.



Sakshya Adhiniyam. These new laws aim for comprehensive reform. They add timelines, zero FIR registration, and technology use. Critics warn some parts might threaten civil liberties.

The Protection of Human Rights Act, 1993 created the National Human Rights Commission (NHRC) to investigate human rights violations like custodial deaths. The Legal Services Authorities Act, 1987 established the National Legal Services Authority (NALSA) and its state and district arms to give free legal help to those in custody, women, children, Dalits, Adivasis, and disaster victims.

2.3 International Human Rights Standards

India is part of key international agreements on criminal justice, like the ICCPR and Nelson Mandela Rules. India signed the Convention against Torture in 1997 but has not ratified it. This limits international accountability. Still, the Supreme Court has used Article 21 to ban torture and inhumane treatment, making these norms part of Indian law.

CUSTODIAL VIOLENCE AND TORTURE

3.1 Dimensions of the Problem

Custodial violence includes physical torture, psychological abuse, sexual assault, and deaths in custody. It happens mostly between arrest and appearance before a magistrate, when detainees are vulnerable and oversight is weak. Police hold more power than detainees, and impunity fosters abuse.

According to National Crime Records Bureau (NCRB) data, custodial deaths are in both police and judicial custody number in the hundreds annually. The NHRC has consistently highlighted that the actual incidence is far higher than reported, as victims and their families are often reluctant to complain against the very authorities responsible for their detention. Third-degree interrogation methods, though illegal, continue to be routinely employed, driven by the misguided belief that coerced confessions are the most efficient route to conviction.

3.2 Judicial Response

The Supreme Court has been at the forefront of efforts to curb custodial violence. In the landmark case of **D.K. Basu v. State of West Bengal (1997)**³, the Court laid down comprehensive guidelines for arrest and detention mandating arrest memos, informing relatives, recording all arrest details, and informing detainees of their rights. The Court held that custodial violence constitutes a violation of Article 21 warranting constitutional compensation under Article 32.

In **Nilabati Behera v. State of Orissa (1993)**⁴, the Court recognized the State's strict liability for custodial deaths, holding that sovereign immunity cannot be claimed when a person dies

³AIR 1997 SC 610: Landmark judgment laying down eleven binding guidelines for arrest and detention. The Court declared custodial violence a violation of Article 21 and mandated compensation for victims under Article 32.

⁴AIR 1993 SC 1960: The Supreme Court recognized State's strict liability for custodial deaths and awarded compensation, rejecting the defence of sovereign immunity for human rights violations occurring in custody.



in State custody. In **Prakash Singh v. Union of India (2006)**⁵, the Court issued far-reaching directions for police reforms including the establishment of Police Complaints Authorities at state and district levels to independently investigate complaints of serious police misconduct.

3.3 Structural Causes and Reform Imperatives

Despite judicial condemnation and legislative prohibition, custodial violence persists due to deep structural causes:

- Absence of effective oversight during arrest and pre-magistrate detention
- Performance measurement systems that reward confessions over rights compliance
- Inadequate training in scientific investigation and human rights standards
- Low prosecution and conviction rates for police accused of custodial abuse
- Social marginalization of typical victims — the poor, caste-based and minority groups

Reform requires mandatory audio-video recording of all custodial interrogations, genuinely independent Police Complaints Authorities, fast-track prosecution of errant officers, and comprehensive human rights sensitization training for all law enforcement personnel.

UNDERTRIAL PRISONERS AND THE RIGHT TO SPEEDY TRIAL

4.1 The Undertrial Crisis

The massive under-trial population in India's jails constitutes one of the most chronic failures of the criminal justice system. According to NCRB data, under-trials consistently constitute over 75% of the total prison population. As of 2022, out of approximately 5.54 lakh prisoners in Indian jails, about 4.34 lakh were Undertrial individuals charged but not yet convicted. India's under-trial ratio is among the highest in the world.

The human consequences are devastating. Undertrials lose employment, are separated from families, and suffer the social stigma of imprisonment — often for offences of which they are ultimately acquitted. Many spend more time in custody awaiting trial than the punishment they would have served upon conviction. This crisis disproportionately affects the poorest and most marginalized daily wage workers, Dalits, Adivasis, and religious minorities who cannot afford bail or competent legal representation.

4.2 Constitutional and Judicial Framework

The right to a speedy trial, though not explicitly enumerated in the Constitution, has been read into Article 21 by the Supreme Court. In the seminal case of **Hussainara Khatoon v. State of Bihar (1979)**⁶, the Court directed the release of thousands of undertrials imprisoned beyond the maximum sentence for their alleged offences, holding that speedy trial is a fundamental right and its denial entitles the accused to bail or release.

⁵ AIR 2006 SC 3427: The Court issued seven binding directions for police reforms including establishment of Police Complaints Authorities, separation of investigative and law-and-order functions, State Security Commissions, and fixed tenures for senior police officers.

⁶ AIR 1979 SC 1360: The Court established the right to speedy trial as a fundamental right under Article 21 and directed release of under-trial prisoners detained beyond the maximum sentence for their alleged offences.



In **Abdul Rehman Antulay v. R.S. Nayak (1992)**⁷, the Court identified the factors for determining violation of this right: length of delay, reasons for delay, the accused's assertion of the right, and resulting prejudice. Section 479 of the Bharatiya Nagarik Suraksha Sanhita (formerly Section 436A CrPC) provides for bail to undertrials who have served half the maximum sentence for the charged offence, though this provision is not uniformly implemented across the country.

4.3 Causes of Delay and Reforms

Case delays in India stem from multiple systemic causes that are as follows:

- Acute shortage of judicial manpower relative to caseload volume
- Inadequate court infrastructure and poor case management systems
- Frequent frivolous adjournments and delays in summons and warrant service
- Non-appearance of witnesses, including police witnesses
- Incomplete or delayed charge-sheet filings
- Insufficient use of technology in court proceedings

The Law Commission of India has, across its 77th, 120th, and 245th Reports, recommended appointment of additional judges, fast-track courts, active promotion of plea bargaining, rationalization of adjournments, and greater use of alternative dispute resolution. The **Salem Advocate Bar Association case (2003)**⁸ saw the Supreme Court issue guidelines for effective case management and delay reduction.

PRISON CONDITIONS AND CORRECTIONAL ADMINISTRATION

5.1 Conditions in Indian Prisons

India's prisons present a grim picture of systemic neglect. According to NCRB data, prisons operate on average at over increase of 18% of official capacity, with many individual facilities running at increase of 20–30% capacity. Overcrowding creates cascading problems: insufficient sleeping space, inadequate food and water, poor ventilation, rapid spread of communicable diseases, and heightened inter-inmate violence.

Physical infrastructure in most Indian prisons is severely inadequate visualizing many buildings are colonial-era structures, decades or centuries old, with deficient sanitation, minimal medical units, and no space for rehabilitation activities. Female prisoners face compounded challenges including lack of privacy, vulnerability to sexual abuse, inadequate child-care facilities, and insufficient female staff. Prison violence by both inmates and officials remains a persistent concern, enabled by the opacity of prison administration and limited access by human rights monitors.

⁷ AIR 1992 SC 1701: The Court enumerated the factors to assess violation of the right to speedy trial: length of delay, reason for delay, assertion of the right by the accused, and prejudice caused.

⁸ AIR 2003 SC 189: The Court issued guidelines for effective case management and reduction of delays in civil proceedings, principles of which have been extended to criminal courts to address the under-trial backlog.



5.2 Legal Framework and Judicial Oversight

The primary legislative framework governing prisons like the Prisoners Act and Prisons Act (both 1894) was drafted in the colonial era to maintain discipline rather than to promote inmates' rights. These laws are widely regarded as outdated and wholly inadequate for contemporary human rights standards. The Model Prison Manual issued by the Ministry of Home Affairs provides modern guidelines but lacks statutory force.

*(Model Prison Manual: It is a comprehensive guideline issued by the Ministry of Home Affairs (MHA) to standardize prison management, administration, and inmate rehabilitation across all states. It was introduced primarily in 2016 to replace outdated rules, to focus on human rights, legal aid, vocational training and to procure modern prison facilities.)*⁹

In **Sunil Batra v. Delhi Administration (1978)**¹⁰, the Supreme Court affirmed that prisoners do not forfeit their fundamental rights by reason of imprisonment, and that the right to human dignity under Article 21 extends within prison walls. In **Ramamurthy v. State of Karnataka (1996)**¹¹, the Court addressed overcrowding and directed comprehensive prison reforms including proper prisoner classification, adequate food and medical facilities, and modernization of prison administration.

5.3 Rehabilitation and Reintegration

The correctional and rehabilitative dimension of imprisonment is woefully underdeveloped in India. Vocational training, educational programs, and mental health support are available in only a small fraction of prisons, and even where present, they are inadequate in scope and quality. Given that the vast majority of prisoners will eventually return to society, this gap in rehabilitation infrastructure is both a human rights failure and a public safety concern.

A comprehensive correctional approach must include education, skill development, mental health support, substance abuse treatment, and post-release reintegration services including housing assistance, employment placement, and family counseling to prevent recidivism and enable meaningful social reintegration.

ACCESS TO JUSTICE AND LEGAL AID

6.1 The Justice Gap

Access to justice is a fundamental prerequisite for the effective protection of human rights within the criminal justice system. The right to a fair trial encompassing the right to be informed of charges, adequate time to prepare a defense, legal assistance, and the right to examine witnesses cannot be meaningfully exercised without competent legal representation. Yet for the vast

⁹Ministry of Home Affairs, Govt. of India

¹⁰ AIR 1978 SC 1675: The Court affirmed that prisoners retain their fundamental rights including the right to human dignity under Article 21, and that courts may intervene through habeas corpus to remedy violations of prisoners' rights.

¹¹ AIR 1997 SC 1739: The Supreme Court directed comprehensive prison reforms addressing overcrowding, proper prisoner classification, adequate food, clothing, and medical facilities, and modernization of prison administration.



majority of accused persons in India, particularly those from lower socio-economic strata, this right remains an unattained aspiration.

The justice gap between the legal needs of the population and the legal assistance actually available is enormous. Millions of accused persons, particularly in rural and semi-urban areas, are tried without adequate legal representation. Even in urban areas, legal aid lawyers are typically overburdened, handling hundreds of cases simultaneously for compensation that does not incentivize quality work.

6.2 Legal Aid Framework

The Legal Services Authorities Act, 1987¹², established NALSA and State and District Legal Services Authorities to provide free legal services to eligible persons including those in custody, Dalits, Adivasis, women, children, persons with disabilities, and victims of trafficking and disasters. The Supreme Court's ruling in **Suk Das v. Union Territory of Arunachal Pradesh (1986)**¹³ that failure to provide free legal aid to an accused person who cannot afford a lawyer is a violation of Article 21 strongly reinforced the constitutional foundation of legal aid.

NALSA has undertaken important initiatives including legal services clinics in jails, paralegal volunteer programs, Lok Adalats for case settlement, and legal rights awareness campaigns. However, the implementation of legal aid remains deeply inadequate. India's per capita expenditure on legal aid is among the lowest globally; remuneration for panel lawyers is insufficient to attract competent professionals; and many under-trials are unaware of their legal aid entitlements.

6.3 Judicial Activism and Human Rights

India's higher judiciary has played a remarkable role in expanding protections for accused persons and prisoners through public interest litigation and expansive interpretation of fundamental rights. The Supreme Court's development of 'epistolary jurisdiction' whereby letters from prisoners or activists can be treated as petitions has ensured that the rights of those without access to formal legal processes are not forgotten. Through decisions like **Bandhua Mukti Morcha v. Union of India (1984)**¹⁴, the Court affirmed its role as guardian of the constitutional rights of society's most vulnerable members.

¹² A law that ensures free and competent legal aid to weaker sections of society that promotes justice through mechanisms like Lok Adalats.

¹³ AIR 1986 SC 991: The Court held that failure to provide free legal aid to an accused person who cannot afford a lawyer constitutes a violation of Article 21, thereby constitutionalizing the right to legal aid in criminal proceedings.

¹⁴ AIR 1984 SC 802: A landmark PIL judgment affirming the Supreme Court's role as guardian of constitutional rights of the most vulnerable. The Court recognized epistolary jurisdiction allowing letters from prisoners or activists to be treated as writ petitions.



MARGINALIZED COMMUNITIES AND THE CRIMINAL JUSTICE SYSTEM

7.1 Caste, Religion, and Criminal Justice

India, as a secular republic founded on the ideals of equality and justice embodied in the Preamble of the Constitution of India and Article 14 of the Constitution of India, mandates that its criminal justice system function free from social and religious bias. However, the system does not operate in a social vacuum and often reflects prevailing inequalities. Dalits and Adivasis remain disproportionately represented in prison populations and are more vulnerable to custodial violence, while being underrepresented in the police, judiciary, and legal profession. Although the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides a framework to address caste-based violence, its implementation remains inadequate. Similarly, concerns have been raised regarding the disproportionate presence of minorities in prisons and instances of discriminatory practices such as biased bail decisions and prejudiced investigations. In a truly secular state, the principle of equality before law requires that the criminal justice system actively eliminate such disparities and uphold justice without discrimination on grounds of caste, religion, or social status.

7.2 Gender and Criminal Justice

Women in the criminal justice system face unique and intersecting forms of vulnerability. Female victims of crime particularly sexual and domestic violence often find the system re-victimizes rather than protects them. Female accused persons face challenges including inadequate female police officers for arrest and investigation, separation from children, poor facilities in women's prisons, and heightened vulnerability to custodial sexual abuse.

The Criminal Law (Amendment) Act, 2013 enacted in the wake of the **Nirbhaya case**¹⁵ introduced important reforms including expanded definitions of rape, criminalization of voyeurism and stalking, and stricter penalties for sexual offences. The Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace Act, 2013, further strengthened legal protections. However, implementation remains inconsistent and conviction rates for sexual offences remain dismally low.

POLICE REFORMS AND ACCOUNTABILITY

8.1 The Need for Police Reforms

The police are the primary interface between citizens and the criminal justice system. The manner in which police powers are exercised in investigation, arrest, detention, and public order profoundly impacts human rights. A professional, accountable, and rights-respecting police service is essential to a just criminal justice system.

¹⁵Mukesh & Anr. v. State (NCT of Delhi) & Ors., (2017) 6 SCC 1



India's police forces, however, are widely perceived as suffering from structural deficiencies including political interference in the exercise of powers, insufficient training in modern investigative techniques, inadequate resources, poor service conditions, low representation of women and marginalized communities, and an organizational culture that prioritizes results over rights compliance a legacy of colonial policing that conceived of the police as instruments of state control rather than public servants.

8.2 Judicial Directions and Legislative Initiatives

The Supreme Court's judgment in **Prakash Singh v. Union of India (2006)**¹⁶ remains the most comprehensive judicial intervention for police reform. The Court issued seven binding directions including establishment of Police Complaints Authorities, separation of investigative from law-and-order functions, constitution of State Security Commissions, and fixed tenures for senior officers. Compliance has been partial and inconsistent across states. Several states enacted new Police Acts in response, but most have been criticized for failing to genuinely insulate the police from political interference.

8.3 Scientific Investigation and Technology

The Supreme Court's ruling in **Selvi v. State of Karnataka (2010)**¹⁷ holding that narco-analysis, brain mapping, and polygraph tests cannot be administered without consent as they violate Articles 20(3) and 21 reinforced the principle that the pursuit of truth cannot justify violation of human dignity. Investment in forensic science infrastructure, digital investigation capabilities, and DNA analysis is essential to reduce the investigative pressure that drives reliance on coercive methods. The establishment of the National Forensic Science University is a positive step, but India's forensic infrastructure requires sustained investment to reach international standards.

THE GAP BETWEEN LAW AND IMPLEMENTATION

9.1 Structural Barriers to Implementation

India has by and large, a comprehensive legal framework for human rights protection within the criminal justice system. The Constitution provides strong guarantees, the courts have interpreted them expansively, and there is a growing body of legislation and policy frameworks addressing specific concerns. The fundamental problem is not the absence of law it is the persistent, systemic gap between law on paper and law in action.

This implementation gap has structural, institutional, and cultural dimensions. Structurally, the criminal justice system suffers acute resource constraints insufficient judges, prosecutors, public defenders, forensic scientists, and prison staff relative to the volume of work. Institutionally,

¹⁶AIR 2006 SC 3427: The Court issued seven binding directions for police reforms including establishment of Police Complaints Authorities, separation of investigative and law-and-order functions, State Security Commissions, and fixed tenures for senior police officers.

¹⁷AIR 2010 SC 1974: The Court held that narco-analysis, brain mapping (BEAP), and polygraph tests cannot be administered without the free and informed consent of the subject, as they violate Article 20(3) (right against self-incrimination) and Article 21 (mental privacy).



the absence of effective accountability means that human rights violations frequently go unpunished, creating a culture of impunity. Culturally, the colonial legacy of policing which saw the police as instruments of State control continue to shape the ethos of law enforcement.

9.2 Accountability Deficits

Accountability the subjection of power to the rule of law with meaningful consequences for violations is the critical missing element in India's criminal justice system. Police personnel accused of custodial violence face negligible rates of departmental action and even lower rates of criminal prosecution. Prison officials who subject inmates to inhuman treatment enjoy similar impunity. This systematic absence of accountability creates perverse incentives for abuse and fundamentally undermines the rule of law.

Strengthening accountability demands independent oversight mechanisms with genuine investigative and prosecutorial power, mandatory transparency in recording custodial deaths, fast-track courts for trial of accused officials, mandatory video recording of interrogations, and stronger remedies for victims of rights violations.

RECOMMENDATIONS FOR REFORM

10.1 Police Reforms

- Full compliance with and strengthening of **Prakash Singh**¹⁸ directions, including genuinely independent Police Complaints Authorities
- Mandatory audio-video recording of all custodial interrogations
- Investment in modern forensic infrastructure to reduce dependence on confessions
- Human rights and sensitivity training as a core, ongoing component of police education
- Increased representation of women and marginalized communities in the police force
- Reform of departmental promotion and disciplinary systems to reward rights compliance

10.2 Prison Reforms

- Priority new prison construction with modern facilities designed for rehabilitation
- Replacement of the Prisons Act, 1894, with comprehensive legislation incorporating the **Nelson Mandela Rules**¹⁹
- Strengthened independent prison monitoring by judicial officers, human rights commissions, and civil society
- Universal availability of education, vocational training, mental health, and substance abuse programs

10.3 Judicial Reforms and Speedy Trials

- Activation of under-trial review committees in all districts to identify eligible detainees

¹⁸ *Prakash Singh v. Union of India*, (2006) 8 S.C.C. 1 (India).

¹⁹ A UN-adopted set of minimum standards ensuring humane, dignified, and rights-based treatment of prisoners in correctional institutions.



for bail under Section 479 BNSS²⁰

- Establishment of fast-track courts for high-backlog offence categories
- Active promotion of plea bargaining for suitable offences
- Massive scaling of judicial infrastructure through additional judges and court modernization

10.4 Legal Aid Reforms

- Substantial increase in panel lawyer remuneration to attract competent professionals
- Strict case-load limits per legal aid lawyer, with mandatory quality assurance
- Expansion of legal aid clinics in prisons, police stations, and magistrate courts
- Increased budgetary allocation for legal aid at both central and state levels

10.5 Legislative Reforms

- Ratification of the Convention Against Torture and enactment of a specific domestic anti-torture law
- Review of the three new criminal laws to ensure rights-consistent interpretation and application
- Enactment of comprehensive national witness protection legislation
- Strengthening of the NHRC with enhanced investigative powers and effective enforcement mechanisms

CONCLUSION

The quest for a criminal justice system that is both effective in combating crime and respectful of human dignity is at the heart of India's constitutional vision as a democratic republic committed to justice, liberty, equality, and fraternity. This research has demonstrated that while India possesses a robust constitutional and legislative framework for human rights protection within the criminal justice system, the gap between law and practice remains wide and deep. Custodial violence continues to claim lives and inflict suffering on the most vulnerable. Hundreds of thousands of under-trial prisoners languish in overcrowded, under-resourced jails their right to liberty surrendered to a dysfunctional justice system. Prison conditions that degrade human dignity persist for want of political will and adequate resources. Access to justice remains a privilege of the few rather than a right of all. These failures are not inevitable; they are the product of choices about resource allocation, institutional design, political priorities, and social values.

The reform of India's criminal justice system is not merely a legal or technical project it is a moral and political imperative. It demands a fundamental reorientation of the system's priorities: from a focus on control and punishment toward one that equally values dignity, fairness, and rehabilitation. It demands institutional reforms that create genuine accountability for rights

²⁰Deals with the maximum period for which an under-trial prisoner can be detained.



violations and meaningful access to justice for all citizens, regardless of their social position. The Supreme Court of India, in **Francis Coralie Mullin v. Union Territory of Delhi (1981)**²¹, observed that the right to live with human dignity is the most fundamental of all rights, and that it is the State's duty to ensure this right is upheld even within prison walls. This vision must guide India's reform agenda. Justice that is not tempered by humanity and respect for dignity is not justice at all it is merely the exercise of power. India's constitutional values demand a criminal justice system worthy of a civilization that has always understood that the truest measure of a society is how it treats the most vulnerable among its members.

²¹AIR 1981 SC 746; (1981) 1 SCC 608. The Court declared that the right to live with human dignity is the most important of all fundamental rights and that it is the State's duty to ensure this right is not violated within prison walls.



REFERENCES AND CITATIONS

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6. *Sunil Batra v. Delhi Administration*, AIR 1978 SC 1675
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12. *Suk Das v. Union Territory of Arunachal Pradesh*, AIR 1986 SC 991
13. *Salem Advocate Bar Association v. Union of India*, AIR 2003 SC 189
14. *State of Maharashtra v. Christian Community Welfare Council of India*, AIR 2004 Bom 37
15. *Re: Inhuman Conditions in 1382 Prisons*, Suo Motu Writ Petition (C) No. 406/2013 (Supreme Court).

CONSTITUTIONAL PROVISIONS:

1. **Article 14** — Right to Equality: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
2. **Article 15** — Prohibition of Discrimination: The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth.
3. **Article 20** — Protection in Respect of Conviction for Offences: Guarantees protection against ex post facto laws, double jeopardy, and compulsory self-incrimination.
4. **Article 21** — Protection of Life and Personal Liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law. Interpreted to include the right to speedy trial, legal aid, human dignity, and freedom from custodial torture.
5. **Article 22** — Protection Against Arbitrary Arrest and Detention: Guarantees the right to be informed of grounds of arrest, the right to consult a legal practitioner of one's choice, and production before a magistrate within 24 hours.
6. **Article 39A** — Equal Justice and Free Legal Aid (inserted by the Constitution (42nd Amendment) Act, 1976): The State shall secure that the operation of the legal system promotes justice, on the basis of equal opportunity, and shall provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.



STATUTES AND LEGISLATION:

1. ***Indian Penal Code, 1860 (Act No. 45 of 1860)*** — The primary substantive criminal law of India, now replaced by the Bharatiya Nyaya Sanhita, 2023.
2. ***Code of Criminal Procedure, 1973 (Act No. 2 of 1974)*** — The principal procedural law for criminal trials in India, including Section 436A on bail for undertrials; now replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023.
3. ***Indian Evidence Act, 1872 (Act No. 1 of 1872)*** — The law governing admissibility of evidence in Indian courts; now replaced by the Bharatiya Sakshya Adhiniyam, 2023.
4. ***Bharatiya Nyaya Sanhita, 2023 (Act No. 45 of 2023)*** — Replaces the Indian Penal Code, 1860. Came into force on 1 July 2024. Introduces new offences including terrorism and organised crime, and revises punishments.
5. ***Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023)*** — Replaces the Code of Criminal Procedure, 1973. Introduces zero FIR, audio-video recording of search and seizure, and timelines for investigation and trial. Section 479 replaces Section 436A on undertrial bail.
6. ***Bharatiya Sakshya Adhiniyam, 2023 (Act No. 47 of 2023)*** — Replaces the Indian Evidence Act, 1872. Recognises electronic and digital records as primary evidence.
7. ***Protection of Human Rights Act, 1993 (Act No. 10 of 1994)*** — Established the National Human Rights Commission (NHRC) and State Human Rights Commissions. Empowers the NHRC to inquire into complaints of human rights violations including custodial deaths.
8. ***Legal Services Authorities Act, 1987 (Act No. 39 of 1987)*** — Established the National Legal Services Authority (NALSA) and its State and District arms. Section 12 specifies categories of persons entitled to free legal services.
9. ***Prisoners Act, 1894 (Act No. 3 of 1894)*** — Governs the treatment and management of prisoners; widely regarded as outdated and inconsistent with contemporary human rights standards.
10. ***Prisons Act, 1894 (Act No. 9 of 1894)*** — Provides for the regulation and management of prisons in India; drafted in the colonial era primarily for disciplinary purposes.
11. ***Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No. 33 of 1989)*** — Provides for special courts and stringent punishments for offences against Dalits and Adivasis. Amended by the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.
12. ***Protection of Women from Domestic Violence Act, 2005 (Act No. 43 of 2005)*** — Provides for civil remedies for women facing domestic violence; creates the office of Protection Officer and permits residence orders and protection orders.
13. ***Criminal Law (Amendment) Act, 2013 (Act No. 13 of 2013)*** — Enacted following the



Nirbhaya gang rape case (2012). Expanded the definition of rape, criminalized voyeurism, stalking, and acid attacks, and introduced stricter punishments for sexual offences.

- 14. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act No. 14 of 2013)** — Provides for the prevention and redressal of sexual harassment of women at the workplace, superseding the Vishaka Guidelines.

INTERNATIONAL INSTRUMENTS AND STANDARDS

Treaties and Conventions

1. **International Covenant on Civil and Political Rights (ICCPR)**, 999 UNTS 171, opened for signature 16 December 1966, entered into force 23 March 1976. India ratified on 10 April 1979. Articles 9 (liberty and security), 10 (humane treatment of detainees), and 14 (fair trial) are directly relevant.
2. **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**, 1465 UNTS 85, adopted 10 December 1984, entered into force 26 June 1987. India signed on 14 October 1997 but has not ratified as of the date of this paper, limiting the applicability of the Committee Against Torture's oversight mechanisms.
3. **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, 993 UNTS 3, opened for signature 16 December 1966. India ratified on 10 April 1979. Article 13 (right to education) is relevant to prison rehabilitation programs.

UN Rules, Guidelines, and Principles

1. **United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)**, UN Doc A/RES/70/175 (2015). Updated version of the 1955 Standard Minimum Rules. Establishes minimum standards for the treatment of prisoners including rules on accommodation, hygiene, medical care, discipline, contact with the outside world, and complaint procedures.
2. **United Nations Basic Principles on the Role of Lawyers**, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August – 7 September 1990. Principle 1 affirms the right of all persons to call upon the assistance of a lawyer.
3. **United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**, UN Doc A/RES/43/173 (1988). Principles 15–19 govern communication and visits; Principle 33 mandates effective complaint mechanisms for detainees.
4. **United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems**, UN Doc A/RES/67/187 (2012). Provides comprehensive guidance on establishing and strengthening national legal aid systems, particularly for indigent accused persons.



BOOKS, ARTICLES AND REPORTS

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4. V.N. Shukla, *Constitution of India*, 13th edn, ed M.P. Singh (Eastern Book Company, 2017). Standard constitutional law reference text widely cited in Indian courts.
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9. Ujjwal Kumar Singh, 'Human Rights and Criminal Justice in India: Structural Contradictions' (2007) 49(1) *Journal of the Indian Law Institute* 1. Examines the structural contradictions between India's constitutional commitments and the operational reality of the criminal justice system.
10. Mrinal Satish, 'Bad Character and the Indian Evidence Act: Colonial Policies, Patriarchal Practices and the Law' (2011) *National Law School of India Review* 1. Examines discriminatory evidentiary practices affecting marginalised communities in the criminal justice system.
11. Commonwealth Human Rights Initiative (CHRI), *Assessing Police Accountability in India* (CHRI, 2021). Evaluates compliance with the Prakash Singh directions and the functioning of Police Complaints Authorities across states.
12. Human Rights Watch, *Bound by Brotherhood: India's Failure to End Killings in Police*



Custody (HRW, 2016). Documents patterns of custodial killings and the culture of impunity that enables them, with case studies from multiple states.

13. Amnesty International India, *Prejudice and Pride: Discrimination in the Indian Legal System* (Amnesty International, 2018). Documents discriminatory practices affecting Dalits, Muslims, and women within the criminal justice system.
14. Project 39A, National Law University Delhi, *Annual Statistics on Death Penalty in India 2022* (NLU Delhi, 2023). Provides data and analysis on the application of capital punishment in India, including demographic patterns and due process concerns.