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# **RIGHTS OF PRISONERS IN INDIA COMPARATIVE ANALYSES WITH RESPECT TO AMERICAN AND EUROPEAN LAWS**

AUTHORED BY - ANSHU

## **ABSTRACT**

Over the last few years, bars have become a bigger worry for many people. In the 1980s, when a lot of cases looked into problems with how schools were run, the courts paid a lot of attention to this issue. The problem has also been talked about by lawyers, with a focus on human rights. Because of these talks and events, people around the world are more aware of and concerned about human rights. For this reason, running jails and the conditions of prisoners have become big problems that people think about and talk about. People have talked and fought about the idea of prisoners' rights for a long time. Recently, people have been worrying more and more about how to keep their rights safe while they are in jail. This paper's main goal is to compare and contrast the rights of prisoners in India, the UK, and Europe. The study's goal is to look at the rules, laws, and customs in these countries that protect inmates' rights. The laws in India, the UK, and Europe are all different, and they all handle prisoners' rights in different ways. The common law system is what India's laws are based on. On the other hand, the UK and Europe have a mix of different types of laws. The study's goal is to find ways that the laws, rules, and habits of these two countries are alike and different when it comes to inmates' rights.

## **INTRODUCTION**

The Indian Constitution, Indian rules, and international human rights standards mostly protect the rights of prisoners. But these rules aren't always followed the same way they are in the US and Europe. India's prisoners have rights that come from the law of their country. Article 21 of the Constitution, for example, says that inmates have the right to life and personal freedom [Morris, Norval. *The Oxford History of the Prison: The Practice of Punishment in Western Society*. (Oxford University Press, 1995)]. The right to a fair trial, the right not to be tortured, and the right to good living conditions in jail are some of the basic rights that this article defends. There are rules like the Prisons Act of 1894 that protect the rights of Indian prisoners.<sup>1</sup>

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<sup>1</sup> Morris, Norval. *The Oxford History of the Prison: The Practice of Punishment in Western Society*. (Oxford

They deserve simple things like food, a place to live, and medical care. Recently, the Supreme Court's "judicial activism" has given prisoners more rights, like being able to get a lawyer, get paid for being jailed without a warrant, and not always being put in solitary confinement. But across the country, these rights are not always protected the same way because of a lack of money and overcrowded jails. People in jail in the US have rights that come from both federal and state laws. It's very important that the Eighth Amendment of the U.S. Constitution keeps people safe from "cruel and unusual punishment." People in U.S. jails have the right to a lawyer, the right not to be mistreated, and the right to talk to people outside of jail. Concerns about human rights have been raised many times about the conditions of confinement, especially in high-security prisons and solitary detention. There are a lot of people in jail in the U.S., and their rights are being violated by things like racial bias, running prisons for profit, and too many people in each cell. It has a big effect on the rights of European inmates because of the European Convention on Human Rights (ECHR), especially Article 3, which says that torture and other cruel, unfair, or degrading treatment is illegal. [In the past] The European Court of Human Rights (ECtHR) has made a big difference in how prisons are run. For instance, it has helped make sure that inmates have the right to be treated humanely, to get medical care, and to be able to start over after they finish their sentence. Most European countries, especially those in Northern and Western Europe, have more alternatives to jails that are meant to help people get back into society and break the law less often. In most cases, prison conditions are better than in India and the U.S., and more attention is paid to prisoners' well-being, schooling, and job training. Criminals have certain rights in all three places, but those rights are different in each one. India and the US have always put more weight on punishments, while Europe has always put more weight on healing and human rights. People in India and the US often say that bars have too many people and not enough good places to live. People in Europe, especially those in Scandinavia, think that jails are more humane and focus on rehabilitation. India and the US both have a lot of bars that are too full, which makes it hard for people to use their basic rights. Overcrowding does happen in European countries too, but they tend to take more steps to reduce the number of people in jail and stop the human rights violations that come with it.<sup>i2</sup>

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University Press, 1995).

<sup>2</sup> Ibid

## HISTORICAL BACKGROUND OF RIGHTS OF PRISONER

Before the 1960s, people who were in jail were called "slaves of the state." They weren't protected by the law, and the people who worked in the jail decided what rights they did have. The "Hands-Off Doctrine" thought said that the federal government shouldn't be involved in prisons. Instead, it said that the prisons should decide how to house, care for, and punish prisoners. Things did get better after the Prisoners' Rights Movement, though. The Supreme Court said in *Jones v. Cunningham*[371 U.S. 236 (1963)] that people who are in jail can still ask to be free. Unless there is a good reason to keep them in jail, the Fourteenth Amendment lets you ask the court to free them. In *Cope v. Pate*[378 U.S. 546 (1964)], the US Supreme Court said that criminals still have some legal rights. It was very important. People have the right under the First Amendment to follow their faith and keep religious items. The case of *Furman v. Georgia* (408 U.S. 238) in 1972 was also a big one that fought for prisoners' rights. Because of this, the Supreme Court said that prisoners have the right not to be rude or treated in an odd way. That's why criminals could go to court and show that their basic civil and human rights were being violated by the way they were living. In the 1990s, though, new rules came out that took away some of these rights. People have already said that inmates' rights change over time. The courts in the US case *Platek v. Aderhold* said they couldn't change the laws and rules about jails or how they worked. The *Johnson v. Avery* case showed that people in jail in the UK did have some rights. Things have changed since this picture was taken. The Fundamental Rights of the Constitution has been used by Indian judges many times to get prisoners free. For those who think this, rights come from old events and customs that have been passed down from one family to the next. People should value their rights because they are part of a long chain that hasn't been broken and has been the standard for a long time.

Burke, a historian, says that the American Revolution was based on the rights of all people, while the English Revolution was based on the rights of the people in that country. Burke mostly gets it right when he says that the French Revolution was caused by the way things were in France at the time. The revolution was about "freedom, equality, and brotherhood." Everywhere, these three rules have been used. Remember that many of our rights come from the way people used to live. But this doesn't mean that all rights come from customs and habits. As society changes, rights can also change. If rights are only based on customs, we don't take that into account. Where and when something happens changes your rights. [Ibid.]<sup>3</sup>

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<sup>3</sup> 371 U.S. 236 (1963)

## KEY DIFFERENCE AND SIMILARITIES BETWEEN INDIAN US AND EUROPEANS LAWS

There are laws in India, the US, and Europe that protect the rights of prisoners. These laws help prisoners get better and make sure they can usually get justice. The three systems all agree that inmates have certain rights. But they all do very different things to get those rights and goals. The Indian law system is based on the Constitution, which says that everyone has the right to life and is not to be tortured. Still, there are big issues, like too many prisoners and not enough programmes to assist them in their recovery. A lot of people don't like how harshly people are treated in the U.S., like being locked up alone in jail. The 8th Amendment also says that people can't be mean or strange. You have the right to be treated with respect while you are in jail and to get justice. The European Convention on Human Rights and these rights are important parts of European law. When it comes to rebuilding, things are better in Europe than in the US and India. Still, some countries have problems, like having too many people live in one place. It is the same in all three ways: be kind to other people. The U.S. model, on the other hand, is harsher, while the European model is more adult and focuses on rehabilitation. India's plan doesn't work either because they don't have enough time or money. Article 21 of the Indian Constitution and the Prisons Act of 1894 are the main rules that protect prisoners' rights. The Constitution says that everyone has the right to live and be free. People are stuck in jail because there aren't enough resources, the courts take too long, and there aren't any good programmes to help people get better. In other words, these rights aren't very useful most of the time.

In the US, the Eighth Amendment of the Constitution says that prisoners can't be mistreated or treated in a strange way. Laws give people in U.S. jails rights, such as the Sixth Amendment right to a lawyer and the right to ask for habeas corpus. People often say that the system is unfair to black people and too strict, putting too many people in jail by themselves. There aren't many good ways to get people back into society after they get out of jail, which is one reason why so many people go back. Some European rules, like those based on the ECHR, say it's very important to be nice to prisoners and help them get back on their feet. In Europe, getting people back into society is hard. In Norway and Sweden, jails get harder over time. Schools, job training, and mental health care get a lot of attention in these organisations.

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<sup>3</sup> 378 U.S. 546 (1964)

<sup>3</sup> 408 U.S. 238 (1972)

[] It is the job of the European Court of Human Rights (ECHR) to protect prisoners' rights. It often punishes member states for things like overcrowding, long times of solitary confinement, or bad medical care. In some European countries, there are still too many prisoners and not enough resources, even after all of these attempts. It's safe to say that all three systems respect basic human rights and follow some international rules, such as the UN's Nelson Mandela Rules for the Treatment of Prisoners. They also agree on how important it is to be able to get medical care, legal help, and safety from being tortured. But what they focus on and how they are used are the major things that make them different. India is facing issues in the real world Even though the U.S. has strong constitutional protections, penalties and security come before rehabilitation. Europe, on the other hand, is more focused on rehabilitation, reintegration, and treating people with compassion. People in each legal system have different ideas about what is fair, what is wrong, and human rights in general.<sup>4</sup>

### **KINDS OF PRISONS IN INDIA**

China has many types of jails, and each one is used for a different crime. These are some of the most common types of jails in India:

You can find central jails in all of the big cities. They are the largest jails in the country. People who have been given life sentences or long prison terms are kept in central jails. *Sunshine Batra v. Delhi Administration* (1980 AIR 1579) was the name of the case. This case was about how bad things were at Tihar Jail. The Supreme Court has made rules to protect prisoners' rights.

2. District jails: These are smaller jails that are found in the middle of each Indian state's districts. At these places, people are kept while they are being tried, while they wait to be moved to central prisons, or while they wait to get lighter sentences. It is against the law to hold people who are not yet on trial for longer than the law allows, the Bombay High Court said in *Sheela Barse v. State of Maharashtra*[1983 AIR 378]<sup>5</sup>.

In open cells, people who are locked up in low-security rooms can move around during the day. Most of the time, these jails hold people who broke the law but aren't a major safety risk.

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<sup>4</sup> Ibid

<sup>5</sup> Travis, J. *But they all come back: Facing the challenges of prisoner reentry*. (New York, NY: The Urban Institute 2005)

The Supreme Court said in *Charles Sobhraj v. Superintendent*[1978 AIR 1514] that prisoners have the right to medical care and the government must provide it.

4. bars for women: These bars were made just for women. There are some unique parts of these jails, like creches for prisoners' young children, but only women can work there. Law of the Indian Constitution by M.P. Jain (2019, LexisNexis)

5. There are places where teens and young adults can be locked up. Teenagers who have been charged with a crime are held here until they are found guilty or punished.

Some 16–21-year-olds who have broken the law are kept in Borstal Schools, which are a type of youth jail. These schools try to teach ex-offenders new skills and give them an education so that they can become useful members of society.

A special jail can house people who have special needs, like being mentally sick or addicted to drugs. For people who are locked up or in jail, getting help and care from professionals is possible. Some groups that work to protect human rights have said that Indian bars are not very nice places to be. This needs to be emphasised.

### **KINDS OF PRISONS IN USA**

In the US, each jail is put into a group based on how safe it is, what kinds of inmates it holds, and how it is run. Maximum- or high-security jails are where the most dangerous thieves are put up. One such jail is ADX Florence in Colorado. This is where dangerous criminals and people who have been sentenced to death are kept. No matter what, prisoners are not allowed to leave the jail grounds. People in medium-security jails can still be moved and watched, but there are not as many rules. In some cases, jails with poor or no security are known as "federal prison camps." This kind of jail is for people who broke the law without violence, like white-collar thieves. They let these people go, and they might have even found work for them. These jails also hold prisoners who are kept away from other prisoners because they are risky. In the US, there are also state and government camps. Federal jails are places where people who have been found guilty of federal crimes are kept. They are run by the FBI (BOP). People who have been found guilty of state crimes are kept in state jails. There are places for teens who have broken the law to stay and get help to learn and change. Most clubs in the U.S. are private, which means that the government hires businesses that make money to run them. A lot of people

in this country are known to be in jail. But more and more is being done to help them get better and change the way the law works.

1. Prisons where the guards are the safest
2. Jails that are mostly risk-free
3. Prisons at Supermax
4. The federal prison camps with the laziest rules The five federal jails No. 6: prisons in the states
5. One-person jails
6. Places where kids are locked up
7. Mental health care in prisons<sup>6</sup>

## KINDS OF PRISONS IN EUROPEAN

In the UK, there are different types of jails. These are some of the main groups:

Category A jails are the best places to stay in jail, and they hold the most dangerous and well-known criminals. They are very safe and secure, and you can't get out of them or talk to people outside. It was the case of Regina v. Governor of Whitemoor Prison, ex parte Greenfield that changed how Category A cells are run. The Court of Appeal said that the fact that Whitemoor Prison inmates had to be checked while they were naked did not go against their human rights.

Two types of prisons are called Category A and Category B. Category B prisons hold prisoners who aren't as dangerous as Category A criminals. Even though they have more chances for learning and getting better, they are still very safe. People know the Court of Appeal case R v Governor of Brockhill Prison, ex parte Evans (1999), which is about Category B jails. The Secretary of State broke the law by not giving prisoners at Brockhill Prison enough places to clean up and use the bathroom.

The third type of jail is a Category C prison, which houses prisoners who are thought to be less of a threat to society. People in these jails still find it hard to get around and talk to people outside of prison, even though they're not as safe as Category A and B cells. When it comes to security and goals, European jails are very different. There are high-security prisons and open

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<sup>6</sup> 1980 AIR 1579

<sup>6</sup> 1983 AIR 378

<sup>6</sup> 1978 AIR 1514

<sup>6</sup> Jain, M.P. *Indian Constitutional Law*. (LexisNexis, 2019)

prisons that focus on rehabilitation. Jails with the highest security, like Belmarsh Prison in the UK, lock up and keep a close eye on risky criminals like terrorists and violent offenders. Most of the rules are less strict in medium-security prisons, which hold people who have been accused of serious crimes.

If a jail is open or has low security, like Österåker jail in Sweden, it gives prisoners more freedom and job opportunities to help them get back into society. Detention centres for people who are waiting to be tried are called pre-trial detention centres. Detention centres for young offenders, on the other hand, offer education and rehabilitation courses. There are often places for children to stay in women's jails, but only women are locked up there. Psychiatric hospitals are places where mentally ill people who need medical care and safety measures are kept. Some European countries also have high-tech jails called "supermax" for the most dangerous criminals. A lot of places, especially in Scandinavia, focus more on rehabilitation than on penalties. To keep people from performing crimes again, this means that prisoners are treated with respect in jails.

### **PRISONER RESTORATION IN USA**

Crime wasn't seen as a problem by most colonists in America; they just thought it was something bad that people did. Thieves were seen as bad, not as people who had been fooled by social issues. Prison terms were pretty much the same in the colonies as they were in England. English law was used by the colonists in America, and people were often put to death or hurt physically. By openly flaunting, hanging, cutting up, or putting someone on the stocks, people were often shown what would happen if they broke the law. The punishments were harsh and embarrassing because everyone could see when they were broken. What kind of term someone got often depended on whether or not they lived in town. It wasn't important to the colonists that people got better; they only wanted to scare thieves into following the law. Not many people were put up at this time. There were jails in the United States, but most of the people who were locked up were either awaiting their trial or punishment or couldn't pay their bills [Dr. S.K. Kapoor, Human Rights under International Law and Indian Law, (Central Law Agency, 3rd Edition)]. The Pennsylvania government used a part of the Walnut Street Jail as a jail for people who were accused of crimes from 1790 to 1791. The Walnut Street Jail in Philadelphia was the first jail in the United States. This is where the word "penitentiary" came from. Back then, penitentiaries were places where people were given a lot of time to change their ways. Simsbury, Connecticut, was not able to build a jail in 1773 because it was too hard

to keep order and keep prisoners from rising up. A lot of people liked the Walnut Street Jail because the staff was nice and helpful.

It made a big difference that Dr. Benjamin Rush pushed for a single roof and for prisoners to be hired to make things to save money. In Rush's mind, jail could do more than just keep bad people from doing bad things. He also thought it could help control crime, keep people safe, and change the people who were put up. In the 1820s, several US jail systems got a lot of attention. The Pennsylvania and Auburn systems stood out. 166 The Auburn system, which was also known as the "congregate system," had strict rules that said criminals had to share a room during the day but were locked up alone at night. During the whole process, the prisoners were told to be very quiet. It was run in New York State's Auburn and Ossining jails. Captain Elam Lynds, who was in charge of fines on the Auburn, came up with the Auburn method. He made a strict schedule of jobs for the prisoners, like marching in lockstep, because he thought all prisoners should be treated the same. He also made very strict rules for the prison. Prisoners worked and prayed during the day. They shared clothes with black and white bands, didn't have visitors, couldn't send or receive mail, and could only read the Bible if they knew how to read. People who liked the Auburn system thought that the strict schedule would help prisoners become good citizens who follow the rules. Crimes would change after being punished with hard work, being alone, religious instruction, remorse, and jail time. They would then become useful members of society. Because the prisoners did the work, this method became very popular, saved a lot of money, and worked very well to keep things under control in jail. In their cell, they could use the fenced-in exercise yard twice a day. The way Pennsylvania did things was based on the idea that having criminals talk to each other would make them less likely to change. The best ways to get better were to be alone, think, be quiet, and pray. A lot of prisoners in the Pittsburgh and Philadelphia prisons lost their minds because they had nothing to do and no one to talk to. Because of these problems and the fact that it cost a lot, people quit liking the Pennsylvania process. Because it worked well and didn't cost too much, the Auburn method was used in most state courts. The book *Human Rights and Prison Administration* by S.V. Rao came out in 2005 from Regency Publications.<sup>7</sup>

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<sup>7</sup> Dr. S.K. Kapoor, *Human Rights under International Law and Indian Law*, (Central Law Agency, 3rd Edition)

## INTERNATIONAL LEGAL FRAMEWORK ON PRISON

These days, almost every state has a jail system that works, follows the law, and is run by the state. Everyone in jail has to follow some basic rules<sup>106</sup>, whether they are on parole or not. Laws about jails are being made all over the world, even though many of them don't really have anything to do with jails. Instead, they should work on getting people who did crimes in jail justice. This means that inmates should be treated like people and not be abused or ruled over. Look at these forms from other countries for a moment:

The 1948 Universal Declaration of Human Rights is here for you to read.

In 1948, the Universal Declaration of Human Rights was passed by the General Assembly of the United Nations. It's a piece of history. There are some easy rules in it that tell you what to do. People often call this writing the "modern bible" of human rights. The first part of Article 1(a) says that no one can be abused, treated badly, or punished in a way that is against the law.<sup>107</sup> In Article 3, the main idea behind human rights was laid out. It said that everyone born into the world has the right to live, be free, and feel safe in society. Article 9 of the pact says that no one can be kept without a good reason. Part 11 of the statement says that everyone has the same chance to say they are not guilty until proven so. This makes sure that everyone gets a fair trial and justice.

### b) The International Covenant on Civil and Political Rights of 1966

A lot of people thought this agreement was the most important UN rule to protect the rights of prisoners. This treaty has different parts that deal with inmates and making sure that no one is mistreated or cruelly treated and that no one is punished in an unfair way. The pact also gives everyone's right to be free and safe a lot of weight, no matter what. It also stops people from being arrested for no reason. People in jail are also given the basic rights that are agreed upon and spelt out in this treaty. Respecting others is an important part of being human, and this treaty makes that clear. The kinds of acts that can get you jail time are cut down.

### c) The EU's Human Rights Convention (1953–1968)

A lot has changed about the idea of human rights from one ocean to the next. Each of the 59 pieces in this paper tells a different story about this. The following things about these pages have changed over time:

In Article 2, everyone agreed on one basic point: the law protects their right to life, and that right can't be taken away without following the basic steps of due process of law.

Art. 3 made it very clear that all kinds of abuse were wrong, even harsh jail terms.

Article 4 says that anyone who is detained or arrested can go to court to protect themselves. It also asks the courts to move quickly with the case [Liebling, A. Prisons and Their Moral Performance: A Study of Values, Quality, and Prison Life. Oxford University Press, 2004].

Article 5 says that if someone is jailed or arrested and later finds out they were wrong, they can file a claim against their arrest and ask for money to make things right. For this reason, it hurts the victim's honour, which is guaranteed by the Human Rights. The Human Rights protect a person's worth, so this is a good example.<sup>8</sup>

## CONSTITUTION OF INDIA

Really not likely. If you are found guilty of a crime, your basic rights might be taken away. It is against the law to rape, abuse, or treat someone in a barbaric, cruel, or humiliating way, whether they are Indian or from another country. This is stated in Article 21 of the Indian Constitution. This only partially protects the rights to life and freedom of people who are in jail. People who are in jail can post bail and have the right to privacy, according to Article 21 of the Indian Constitution. It also says that no one can be locked up for no reason. This means that someone who is not in jail can better prepare their case than someone who is. The court said these rights are key to people's freedom. They are also in Part-IV of the Indian Constitution. They are in charge of the jailer, so it is their job to keep him safe. Part 14 says that everyone has the right to the same level of safety. In this way, inmates also have rights. The government and courts need to know right away if the cops do anything that breaks a prisoner's rights. There are two parts of the Indian Constitution that say people can always talk to their lawyers, friends, and family. Lalli, U. said on March 1, 2021, that we need to focus on holistic learning for prisoners. You didn't pick these rights by chance; they are real. Prison rules protect the right to a good lawyer. Art. 14 and 21 of the Indian Constitution say that everyone has the right to a free lawyer. Part 19 of the Indian Constitution says that every Indian person has a lot of rights. In India, people who are in jail can't leave the country, get married, or start a business. While they are in jail, people can buy, own, and sell things. I agree with these rights. They also have the rights to "freedom of speech and expression" and "freedom to join an association."

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<sup>8</sup> Rao, S.V. *Human Rights and Prison Administration*. (Regency Publications, 2005)

a) The Criminal Justice Code of 1973

In 1973, the Criminal Procedure Code was made to protect many rights. Parts 50, 55, and 73, for instance, say that people have the right to know when they are being jailed. People can be freed on bail according to Sections 50(2), 167, 436, 437, and 438. In Section 49, it says that no one can be held down without a good reason. Also, Sections 53, 56, 57, and 76 say that people can go to court right away to escape being jailed for no reason.<sup>9</sup>

b) The Indian Marriage Act of 1872

The Indian Evidence Act of 1872 says that until proven guilty, a person who is suspected of a crime is thought to be innocent. The person giving the facts has to show why the court should agree with their law claim or the facts. According to Singh Deipa and Singh K.P. (2013; The Bright Law House, New Delhi), it is against the law for police to abuse a suspect while asking them after they have shown proof of guilt.

c) The Indian Penal Code of 1860 says that you can't hurt someone to get them to admit. Section 348 says you can't hold someone by chance to get them to confess. When the police deal with people, they should follow Section 29 of the IPC. This is what the Indian Police Act and the Police Manuals try to do. To do this, they make it clear what the police can and can't do.

Anant Narayan Mishra vs. The Union of India and 4 Others is the name of the case that was heard on December 2, 2019 [WRIT – C No. – 13214 of 2019]. The guy who brought the case got an MSW in social work from Banaras Hindu University in 2017. After that, he signed up for the 2017–19 school year for the Post Graduate Degree Course in Integrated Rural Development and Management (IRDM). In December 2018, the person who sent the letter passed the National Eligibility Test. This person got into the Ph.D. programme because they were ranked second on the list of people who got into Banaras Hindu University, Varanasi's Department of Sociology. The order from March 30, 2019, had to be made before the person could start studying for their Ph.D. at BHU. The petitioner can't go to work until the court says he is not guilty of the crime, according to an order from March 30, 2019. There can't be a set end date for the crime process. To put it another way, the ban will never end. The person who made the plea is not allowed to enter or use any services on university property because they were suspended. During the ban, the person who sent the petition can't do any more tasks.

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<sup>9</sup> Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. (Pantheon Books, 1977).

Putting them on the ground was not fair.

There are other people involved with this case besides Krushna Prasad Sahoo and the State of Odisha. [W.P. (C) Nos. 6610 of 2006 and 3368 of 2014] The court will hear it on December 23, 2021.

They were added to the list every once in a while in the first two months of 2015. They weren't on the list again until March 9, 2021, which was more than six years later. The court then made a detailed order pointing out that the National Human Rights Commission (NHRC) had created a model that was used in the 2020 publication of the Odisha Model Jail Manual. Under Section 59 of the Prisons Act, 1894, these rules were made by the Home Department of the Government of Odisha on September 28, 2020. The Odisha Prison Rules 2020 (OPR, 2020) are for this. The case was *Re: Inhuman Conditions in 1382 Prisons* (2016) 3 SCC 700, and the court made its decision on March 19, 2021. The later decision was made on September 15, 2017, and was recorded in (2017) 10 SCC 658. It did this by following the orders of the Supreme Court of India. A lot of people talked about the "Nelson Mandela Rules," which are the Minimum Rules for Prisoners that were passed by the UN on December 17, 2015. Before the cells in Odisha were changed, the Supreme Court told them to do something else. Following those orders "in letter and spirit" was agreed upon by this Court. These judges made it clear that "this has to be done by a certain date." The Court asked the State Government to let them know when it would follow the Supreme Court's orders and tell jail staff not to handcuff prisoners while they were in jail or being taken to court from jail. The State Government was also asked to tell what it was doing to free people who were being held on more than one charge. The order said that "many of the reforms that have been proposed in the above judgement of the Supreme Court may not be able to be put into place." The Odisha State Legal Services Authority (OSLSA) and the Orissa High Court Legal Services Committee (OHCLSC) need to be a part of this.

The case was called *Sunil Batra et al. vs. Delhi Administration et al.* and it took place on August 30, 1978 [1978 AIR 1675]. The Prisons Act says that people on death row must be locked up in a cell away from other prisoners and must have a guard watch them 24 hours a day, seven days a week. When people on death row filed W.P. No. 2202 of 1977, they spoke out against being locked up by themselves. His defence lawyer said that s. 30(2) doesn't let a prisoner on death row be locked up alone, and the jail staff couldn't say they were following s. 30(2) to get

away with it. On the other hand, the State said that the part only allows statutory segregation to keep inmates safe, which is what the prisoners need. They said the Court shouldn't get rid of the part, but should read it over so that the mean or bad parts are taken out. The person who put in W.P. 565 of 1977 said that s. 56 of the Prisons Act, which lets the Superintendent put a prisoner in irons for no reason, goes against Arts. 14 and 21 of the Constitution [Ibid].<sup>10</sup>

## PRISON REFORMATION IN EUROPE

Italy's Le Stinche was the first public jail in Europe. It was built in 1297 and later copied in a number of other places [Tonry, Michael. *Thinking About Crime: Sense and Sensibility in American Penal Culture*. Oxford University Press, 2004]. It was used for something else in the Rasphuis, a Dutch jail workhouse that was built in 1600. The "father" and "mother," who were married, generally ran the house. There was also a master of work and a master of discipline. The people who were locked up were called "journeymen," and they often made clothes by spinning, weaving, and sewing. Their work was kept track of, and those who made more than the minimum amount got extra money from the father inside to buy things. However, there were some people who did not have to work. These were people whose families could not take care of them and paid for them to live in a workhouse. In the late 1700s, private institutions for the crazy called *beterhuis* sprung up to meet this need. In 1669, the *spinhuis* caused a lot of different events in Hamburg. Only well-known thieves were allowed in. This was paid for by the government, and other nations did the same in the 18th century. Ireland had the most galley slaves until 1748, when they were banned. France had the most of them. They were sent to work in military arsenals and had to do hard work after being found guilty. People were locked up in *hospitaux généraux* before the revolution. These were mostly asylums, but in Paris, they also held a lot of prisoners. Up until the change, this was how things were done. In the 18th century, the death sentence and torturing people in court were used less and less. People were mostly locked up instead, but reform groups started almost right away. In many places, the goal was to create an organisation that could run itself. Often, entrepreneurs were given control of the organisation, which led to problems and abuse. Several countries began to test the idea of letting inmates choose what they would learn as apprentices around the middle of the 1800s. More and more people were going back to jail as the 1800s went on. Criminologists said that this meant that prison "did not and could not fulfil its original ideal of

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<sup>10</sup> Liebling, A. *Prisons and Their Moral Performance: A Study of Values, Quality, and Prison Life*. (Oxford University Press, 2004).

treatment aimed at reintegrating the offender into the community."

But between the two world wars, a lot more people went to prison in France and Italy, which was not part of this trend. It was an important way for Germany's National Socialist government to get rid of its enemies at a time when new types of crime were making crime rates go through the roof.

In 1860, Russia started to change its court and jail system by ending physical punishment. However, prisoners were still made to work hard as punishment, and Joseph Stalin made things even worse, even though the Bolsheviks had begun to make changes in the early 1900s. The state had to make sure that every criminal got the right term after the war. This was made clear by reforms. When Sweden's new criminal code came out in 1965, it put more emphasis on options to jail and prison, like fines, conditional sentences, and probation for first-time offenders. When probation was used, the number of women receiving long-term sentences dropped by a lot. In France, it went from 5,231 in 1946 to 1,121 in 1980. You can now be on probation in most of Europe, though the amount of supervision changes. In the Netherlands, a lot of short-term care is run by religious and charitable groups. It costs a lot of money for the Dutch government to staff jails. In 1959, there were 3,100 staff members for every 4,500 prisoners. However, after the 1960s, the number of people in prison began to rise again, even in places that said they would not jail people.<sup>11</sup>

## LITERATURE REVIEW

It's silly to finish your research without keeping an eye on the issues that are being discussed. This is because looking at the past is important for understanding the present and predicting the future, as it gives us insight and opens up new ways of thinking. The authorities have looked at any open creations that were there, and the same is important to note here so that the evaluation doesn't go beyond the realm of creative thinking. Open in the different books, magazines, and studies are the following:<sup>12</sup>

There are books and study guides

This is the name of the book that H.S. Sandhu wrote in 1968. Neier, Aryeh. International Human

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<sup>11</sup> Lalli, U. *Need to Focus on Holistic Learning for Prisoners'* on( March, 01, 2021)

<sup>12</sup> Singh Deipa, Singh K.P. *Criminology, Penology and Victimology*. (The Bright Law House, New Delhi 2013)

Rights. New York: Princeton University Press, 2012. In it, he looked at how having short masks on affected people in Faridkot Zone Jail. Those who don't get help while they're in jail are more likely to be rude to the cops, the court, their boss, and the people who were watching them. He discovered that the effect score for bad lead, truth of properties, and truly planned vibe is a measure that really counts on the inside and out. People who are on trial for this review are keeping an eye on things while they wait in four different places in Punjab for their turn to be limited or given time to work.

S.P. Srivastava wrote in great detail about the problems inmates face when they try to move around in his 1977 book called *The Indian Prison Community*. It was more important to him to hear what the prisoners had to say than the work of the jail officer or other things that got in the way of prison work. He also thought about how well the staff and prisoners were getting better and making progress. Lastly, he gave some simple tips on how to keep the drama in jail under control. As a whole, this review only talked about how Punjab's workplaces are too busy and rude. It didn't talk about bars, the people who work there, or how they do their jobs.

Near the end of his 1981 book *Cops Internment*, S.K. Ghosh says that the cops who keep things in order are great. A lot of people are screaming for help, support, or an investigation into problems and violations of basic social rights, but the police can't hear them because the people who work for them are too focused on politics. "The crazy political obstacles in the way the police work and the politicisation of the normal lead to different explanations are really holding back the progress of the force terribly." It wasn't thought about how the evaluation has slowed down crime cases because cops have to look at them more, go to court more often, follow up on cases, file charge sheets, and other things to make the reason structure look good.

The 1982 book *Adapting to Imprisonment* by Nicolette Parsi is about criminals and the problems they face while they are locked up [Sen, R. *Incarceration in India: The Prison System and Penal Policy*. (Sage Publications, 2021)]. It shows the horrible conditions of inmates who are still being tried who are working in patching environments and getting closer to being locked up without making any deals. This book gives the bare minimum of knowledge about the problems of prisoners and people who are on trial, while also being bound in useful workplaces without being ordered to teach. The report talked a lot about how there aren't enough current structures and methods, as well as ways to think about the future that would help make foundation plans for undertrial prisoners, which would help lower the number of

people who are still being tried, and how they have problems getting basic things while they are in Punjab detention facilities.<sup>13</sup>

It was written by Ahmed Siddique in 1983 and is called *Criminology: Problems and Perspective*. People who study crime will be interested in the third edition of the book because it has sections on police, torture, and prisoners' rights. The things you talked about in this release were really good. Talk theories and control theories were used together in some parts to show how and why terrible crimes happen. This paper is about criminology and penology work that isn't really about Indian culture and society. The main thing being talked about here is this.

*Women Criminals in India*, written by Shubra Ghosh in 1986, looked at what people do to keep people who are in danger safe. In addition, she said she would look into what the current rules are for women who are locked up alone in a female jail. In an Indian setting, she talked about why it was so important to use a shocking way to treat and change the minds of female lowlifes. This piece was mostly about people who were having hard times. There were men, women, and children there.

In his 1987 book *Prison Administration in India*, B.V. Trivedi said that prison union is an important part of every country's criminal justice system. He thought that there should be changes to how Indian prisoners were sent to jail. Every so often, he said, jail membership should be looked at and refocused in order to keep up with changing social trends and the needs of the group. Something was looked into about how badly the jail system was working and how that was stopping better working conditions [Ibid].

"*Law and Order in India (1987)* by N.S. Saxena carefully looked at every part of the criminal justice system, including the police, the courts, and the bar. These are huge and important parts of the structure." He also looked at a lot of things that are sure to be in line with the maintenance of harmony. He has also spoken out about a dozen degrees of keeping up perception in India, as well as everywhere else on the world. This study looked at the proportional link of criminal worth structure, at least when it came to undertrials and moving quickly for them.<sup>14</sup>

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<sup>13</sup> WRIT - C No. - 13214 of 2019

<sup>14</sup> W.P.(C) Nos. 6610 of 2006 and 3368 of 2014

"An Analysis of Malkiat Singh Rahi's "How Punjab Prisons Work in the Context of Correctional Goals" From the point of view of Lego sociology, a study conducted in 1987 looked at the results of what individuals believed to be therapeutic events taking place in Punjab jails. This is about what can be done and is being done to help people in Punjabi healing workplaces. People who are being held without a hearing are not the only ones who can do these things. All of the tests show that it can be used in healing places in Punjab.

In 1989, Jay Tilak Guha Roy and Justice D.A. Desai wrote *Jail and Society: A Study of the Indian Jail System*. In it, they gave the Indian jail system a quick look. They talked about every part of it and the people who run it. Also, watch how people act around bars and prisoners, as well as how they act when they leave rehab. A big part of my review is about what Indian healing workplaces do and how they deal with people who are being held without charges.

In his book *Judiciary on Trial* (1989), B.R. Sharma argued that they should be able to make them competent, honest, and reasonable experts who can uphold the standards of the law and push for open judgement. It's only possible if we can connect the seat to the country's most important legal brain. He also spoke about the plans for courts and how to keep appointed professionals from being judged unfairly. He also stressed the need for real leadership and an ombudsman-type system [H.S., Bhatia, *The Hindu Family in its Urban Setting* 34 (Oxford University Press, London, 1961)]. He also looked at other important problems, such as real policies, moves, levels of progress, pay and retirements, and so on. This review isn't just about legal authority; it's about the whole structure of criminal worth.<sup>15</sup>

An Analysis of Malkiat Singh Rahi's "How Punjab Prisons Work in the Context of Correctional Goals" From the point of view of Lego sociology, a study conducted in 1987 looked at the results of what individuals believed to be therapeutic events taking place in Punjab jails. This is about what can be done and is being done to help people in Punjabi healing workplaces. People who are being held without a hearing are not the only ones who can do these things. All of the tests show that it can be used in healing places in Punjab.

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<sup>15</sup> Neier, Aryeh. *International Human Rights*. (Princeton University Press, 2012)

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The link between police officers at different levels, from the chief of police to the constable and from the state police base camp to the police headquarters, was broken up by Begum S. Mehtaz in *District Police Administration* (1995). And they all come back: *Dealing with the Problems of Former Prisoners Going Back to Society* (New York, NY: The Urban Institute, 2005). Similarly, he looked into the police connection at a basic level and the police staff the board in terms of enrolment, training, progress, and assurance. He also suggested the best way to keep the police relationships going. This evaluation is always about the work of real authorities, police, and prisons with prisoners and people on trial, not just police association.<sup>16</sup>

### SCOPE OF STUDY

In India, this study goes into great depth about the rights of prisoners. It focuses on constitutional protections, laws, how the courts understand them, and policy frameworks. To show what's the same and what's different about the legal systems of the US and Europe, as well as the best ways to do things, these rights are also looked at. The study goes into great depth about important issues like the right to life and respect, the right to health care, the right to take part in rehabilitation programmes, and the right to vote. We will look at important court decisions and international human rights standards as part of this study to see how well India's prison system respects the rights of its prisoners. More than that, it talks about problems like too many people in jail, violence, and old rules. It then suggests ways to fix these problems by looking at what works best in other places. The study is mostly about faith. Comparative legal analysis, human rights reports, and legal rules are used to find out how well prisoners' rights are protected in India now and how they stack up against requirements around the world.<sup>17</sup>

### RESEARCH OBJECTIVES

How does the Indian legal system protect the rights of prisoners? Read the constitution, specific laws, and court rulings.

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<sup>16</sup> 1978 AIR 1675

<sup>17</sup> Tonry, Michael. *Thinking About Crime: Sense and Sensibility in American Penal Culture*. (Oxford University Press, 2004).

To look at the jail laws and rules in India, the US, and Europe and think about what is most alike and most different about them.

For example, check to see how well the changes made to Indian jails protect the right not to be tortured and the right to get medical care.

Many Indian bars are too crowded, there is violence, and many people don't know the law. This makes it hard to protect the rights of convicts.

To make study and international human rights standards-based changes to laws and policies in order to protect people's rights and make prisons better places to live.<sup>18</sup>

## RESEARCH METHODOLOGY

Doctrinal research was the main type of research used for this project. The rights of prisoners in India, the US, and Europe were carefully looked at by looking at their laws, court rulings, constitutions, and human rights frameworks. studies from the UN, the NHRC, and the European Court of Human Rights (ECtHR), as well as government studies and agreements from other countries, fall into this category. They show how prisoners' rights have changed over time and how those rights are actually used. You can compare and contrast Indian, American, and European jail rules to show how they are the same and how they are different. Case law shows how judges have interpreted the law. This is very important to know when making changes to jails. It is also looked at how clean and dangerous jails are and how they help people get better in order to get a more accurate picture. What kind of study is this that checks how well laws and rules work?

It makes suggestions for changes that will better protect the rights of Indian prisoners based on what it finds.<sup>19</sup>

## RECOMMENDATIONS AND REFORMS

All three countries could do a lot to improve the rights of prisoners. These rules are meant to help people get better, protect prisoners, and give everyone an equal chance to appear in court. People who have made small crimes should not have to go to jail in India. Instead, they should

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<sup>18</sup> Sen, R. *Incarceration in India: The Prison System and Penal Policy*. (Sage Publications, 2021)

<sup>19</sup> H.S., Bhatia, *The Hindu Family in its Urban Setting* 34 (Oxford University Press, London, 1961)

be given options like community service, parole, or probation. Citizens' rights can be kept safe in many ways. We should buy better rooms, make it easier for people to get legal help, and regularly check on the conditions of the jail. You can help these people get back into society by giving them chances to learn, job training, and mental health care. This will make them less likely to break the law again. People should have better times, not worse ones. We need to change our courts in the US in this way. For less people to be locked up alone, rules about minimum terms might need to be changed. Also, prisons could be made more equal between black and white inmates so that it is easier for them to get mental health care, schooling, and programmes for drug abuse.

Even though most of Europe's jails are more modern now, some things could be changed to make sure that all member states provide the same level of care and to lower the number of overcrowded cells in those that still happen. Getting people housing and jobs after they get out of jail will make them less likely to go back. The European Court of Human Rights could also do more to make sure that member states follow through on decisions they make about the rights of prisoners. Another good idea from another country, the Nelson Mandela Rules, could help protect everyone's rights. The way jails are run should also be made more open and accountable. People from different countries should talk to each other and share their best ideas for getting better. This would help everyone and the jail systems all over the world.

## CONCLUSION

In the end, the study shows that India's law and past court decisions protect the rights of prisoners. This is better than before, but it's still hard to use because there are too many prisoners, violence in prison, bad health care, and old jail rules. This isn't true in the US; they have strict laws that keep people safe, but they also jail too many people and treat people of colour unfairly. In Europe, on the other hand, jail rules are built on human rights and rehabilitation. The study says that India needs to fix its bars right away. The Prison Act of 1894 needs to be changed because cells are already too full. Better places to live and health care should be available, and people should be punished in more ways than just jail time. The best parts of American and European legal systems can be used to make India's jail system fair, protect people's rights, and help them get better. All over the world, we can do this by following strict court rules and human rights laws.

## REFERENCE

1. Basu, D.D., A Commentary on the Indian Constitution. LexisNexis, 2020.
2. The Indian Constitutional Law by Jain, M.P. (2019 LexisNexis).
3. Aryeh Neier. Human rights around the world. (2012) Princeton University Press.
4. Norval Morris. A look at the history of prisons and how they were used to punish people in the West. (University of Oxford Press, 1995)
5. Human Rights and Prison Administration by S.V. Rao. 2005 by Regency Publications
6. Ahmed, Faizan Mustafa. Indian prison reforms need to be based on people's rights. (2018, Eastern Book Company)
7. Sen, R. Prisons and Penal Policy in India: A Study of Incarceration. It was published by Sage in 2021.
8. Foucault, Michel. Discipline and Punish: How Prisons Came to Be. The Pantheon Books, 1977
9. Michael Tony. Thinking About Crime: Common Sense and the American Prison System. (4 2004 Oxford University Press)
10. A.E. Bottoms and R. Sparks wrote Legitimacy and Compliance in Prisons, which was published by Oxford University Press in 2006.
11. Liebling, A. Prisons and Their Moral Performance: A Study of Quality, Values, and Life in Prison. (4 2004 Oxford University Press)