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RIGHTS BEHIND THE BARS: A COMPARATIVE ANALYSIS OF PRISONERS' RIGHTS LEGISLATION IN BANGLADESH AND INDIA

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Abstract

Human rights are the universal, inalienable, and inherent entitlements that belong to every individual, irrespective of their background, identity, or status. They are the cornerstone of a just and equitable society, serving as a shield against discrimination, oppression, and abuse. Prisoners are not exempt from the fundamental principles that underpin the rights of all individuals. They are entitled to fair and reasonable legal procedures, to be free from inhumane, harsh, or humiliating treatment, and to live in environments that uphold their humanity. In the complex structure of human rights, prisoners' rights constitute a distinct and much controversial element. Within the confines of prisons, where liberty is restrained, society's commitment to justice and human dignity is put to the test. By recognizing the human rights of prisoners, we not only uphold the principles of fairness and humanity but also invest in the potential for redemption and positive contributions to the community, ultimately making our society more just, secure, and equitable. While the concept of prisoners' rights has gained considerable international attention and recognition, the extent to which these rights are protected and upheld varies from one country to another. In this context, it is important to conduct a comparative analysis of prisoners' rights legislation in different countries to understand the diversity of approaches, identify gaps, and recommend areas for improvement. This chapter conducts a comparative analysis of prisoners' rights legislation in two South Asian countries, Bangladesh, and India. It examines the historical, cultural, and legal contexts that shape prisoners' rights in both countries. The objective is to evaluate the legal frameworks and practical implementations of rights afforded to prisoners in these nations and assess the extent to which international human rights standards are upheld.

Through an examination of the complexities surrounding prisoners' rights in both nations, this chapter provides valuable perspectives on the obstacles and opportunities associated with upholding human rights in the prisons of these nations.

Keywords - Prisoners, Conjugal Rights, Homosexuality, Conjugal Visitations, Artificial Insemination, Judicial involvement, Human Rights, Right to life, Imprisonment and *etc.*

Introduction

The concept of human rights for prisoners has evolved significantly over the years, reflecting the increasing understanding of each person's intrinsic value and dignity, regardless of their difficult circumstances. In earlier times, prisoners frequently endured cruel and humiliating treatment with little consideration for their fundamental rights. The notion of human rights for prisoners, however, represents a fundamental change in cultural perceptions and legal systems¹. It acts as a vital shield against mistreatment and brutality, guaranteeing that those who are deprived of their freedom be treated fairly and with dignity. Prisoners have the right to decent circumstances in detention, defense against torture and other cruel treatment, access to medical care, counsel, and chances for rehabilitation, among other human rights. These rights support the general objective of a just and equitable society in addition to being necessary for maintaining human dignity².

Achieving a successful reintegration into society and lowering recidivism depends on acknowledging the human rights of prisoners. We recognize that even those who have committed crimes have a right to the opportunity to turn their life around and become valuable members of society after completing their sentences by upholding the rights of prisoners. In this sense, the idea of prisoners' human rights benefits not just the people who are behind bars but also the community's general safety and well-being³. It is evidence of a community's dedication to equity, justice, and the persistent conviction that every person can change for the better, regardless of their prior behavior. The importance of this concept must be addressed, especially in the context of these two countries. In both Bangladesh and India, this evolution is rooted in the principles enshrined in their respective constitutions and international human rights treaties. Both countries face challenges related to overcrowded prisons, lengthy pre-trial detentions, and substandard

¹Sunjida Islam &Antora Goswami,' The prison system: An exploration for rights of the prisoners (Prison system in Bangladesh), International Journal of Social, Politics & Humanities,Zamrut, Volume 4, Issue 2, page 201 – 205.

²Introduction of the Human Rights, An overview including the issues of Gender Justice, Environmental and consumer Law, South Asian Human Rights Documentation Centre, Oxford University Press, 2010.

³ Surendra Kumar Pachauri, Prisoners and Human Rights, A.P.H Publishing Corporation, New Delhi, 1999.

living conditions for prisoners⁴.

Recognizing and protecting the human rights of prisoners is essential in addressing these issues, promoting rehabilitation and reintegration, and ensuring that justice is not only served but is also perceived to be served.

Historical perspective of Prisoners rights in Bangladesh and India

Prisoners' rights in Bangladesh and India have evolved significantly over the years, reflecting the country's changing socio-political landscape. Historically, the treatment of prisoners in Bangladesh and India, like in many other nations, was often characterized by harsh conditions and limited legal protections.

During the pre-independence period, prisoners often endured overcrowded and unsanitary facilities, with inadequate access to healthcare and legal representation. Bangladesh improved the rights of prisoners and reformed its criminal justice system after gaining independence in 1971. Several fundamental rights for prisoners were established by the Constitution in 1972, which forbade the use of torture and other cruel treatment⁵. During British colonial rule, prisoners in India were often subjected to inhumane treatment, including overcrowding, lack of basic amenities, and harsh punishments. The post-independence era saw significant efforts to improve prisoners' rights. The Constitution of India, adopted in 1950, enshrined fundamental rights, including those relevant to prisoners, such as the right to equality, protection from torture, and the right to life and personal liberty⁶.

Subsequent legal reforms and international commitments have further strengthened prisoners' rights. As a signatory to various international treaties and agreements, both Bangladesh and India have undertaken significant steps to ensure that individuals deprived of their liberty are treated with dignity, respect, and in accordance with established norms, which reflects the nation's dedication to not only protecting the rights and welfare of its own incarcerated population but also

⁴Resolution: Rights of the incarcerated in South Asia , South Asia Action Network , 29 August,2021, available at <<https://southasiapeace.com/2021/09/06/resolution-rights-of-the-incarcerated-in-south-asia/>>, accessed on 27 October,2023 .

⁵Development of prison administration in Bangladesh, The lawyers and jurists, available at <https://www.lawyersjurists.com/article/development-of-prison-administration-in-bangladesh/> , accessed on 30 October,2023.

⁶Dinesh Singh Chauhan, Rights Of Prisoners Under Indian Laws, Legal Service India, E-Journal, available at <https://www.legalserviceindia.com/legal/article-6228-rights-of-prisoners-under-indian-laws.html> ,accessed on 30 october,2023.

contributing to the broader global effort to promote and safeguard the fundamental human rights of all prisoners. Efforts have also been made to address issues of overcrowding and prolonged pre-trial detention. However, challenges remain, including issues of prison conditions and access to justice⁷.

The historical perspective of prisoners' rights in Bangladesh and India demonstrates a gradual but essential shift towards a more humane and rights-based approach to incarceration and criminal justice.

Legal Frameworks for prisoners right in Bangladesh and India

Bangladesh and India have almost similar legal frameworks pertaining to the rights of prisoners, because of their shared commitment to preserving fundamental human rights and historical, cultural, and international influences. One significant factor contributing to the commonality in prisoners' rights is the historical connection between the two nations. Prior to their independence from British colonial rule in 1947, both regions were part of British India. As a result, their legal systems were influenced by common law principles and inherited similar legal traditions. These foundational legal concepts, such as the presumption of innocence until proven guilty, have continued to shape the legal landscape of both countries, ensuring that prisoners are afforded essential rights. These rights include the right to life, the right to be free from torture or, cruel, inhuman, or degrading treatment, and the right to a fair trial. However, following laws provides for the rights and obligations of the prisoners.

Rights under the Constitution of Bangladesh⁸ - The specified Articles in Part III of the Constitution are the fundamental rights of a human being. Article 27 ensures that all citizens are equal before the law and are entitled to equal protection of the law. Article 35(2) states, no person shall be punished twice for any offense for which he has already been convicted and be punished. The accused is also not to be subjected to a penalty greater than or different form, except mentioned in the law in force at the time of the Commission of the offense. Article 31 guarantees the right to life and personal liberty to all citizens. It states that no person shall be deprived of life or personal liberty except in accordance with the law. Article 31 of the Constitution guarantees the right to life and personal liberty to every person, which includes prisoners. This means that

⁷Siddhant Mishra and Snehil Raj, 'Historical Evolution of the Prison System in India', Indian Journal of Integrated Research in Law, Volume 2, Issue II.

⁸The Constitution of the People's Republic of Bangladesh, Act No. 76 of 1972, <http://bdlaws.minlaw.gov.bd/act-367.html>

prisoners have the right to be treated with dignity and respect. Article 35(2) protects against double jeopardy, which means that a person cannot be tried or punished twice for the same offense. This right is also applicable to prisoners. Article 35(3) states that persons accused of any criminal offense shall have the right to get a speedy and fair trial by a legally authorized body, a court. The court must be independent and will act impartially as well as without any interference from any sources. The court must also be established by statute or by any law. The court will be open to all subject to the jurisdiction of a court. Article 35(5) states, "No person shall be subjected to torture or cruel, inhuman or degrading punishment or treatment." Moreover, Prisoners have the right to appeal their convictions, as provided under the Constitution of Bangladesh.

Rights under the Constitution of India⁹ - In India, prisoners, like all individuals, have certain fundamental rights protected by the Indian Constitution. Some of the key prisoners' rights under the Indian Constitution are as follows-

Article 14 guarantees equality before the law and equal protection of the law to all individuals, including prisoners. It means that prisoners cannot be discriminated against based on factors such as religion, race, caste, sex, or place of birth. Article 20 of the Constitution provides for the protection in respect of conviction for offences. No one can be convicted for an act that was not an offence at the time of its commission, and no one can be given punishment greater than what was provided in the law prevalent at the time of its commission. Article 21 of the Indian Constitution guarantees the right to life and personal liberty to all individuals, including prisoners. This means that prisoners must be treated with humanity and their right to life and personal liberty must be respected. Article 21 states that "No person shall be deprived of his life or personal liberty except according to a procedure established by law." Thus, article 21 secures two rights (1) Right to life, and (2) Right to personal liberty. Article 22(1) state that, any person who is in custody must be informed as to why he has been arrested. Further, he cannot be denied the right to consult an advocate.

Rights Of Prisoners Under Code of Criminal Procedure¹⁰ - In both Bangladesh and India, prisoners have certain rights protected under the *Criminal Procedure Code (CrPC)* to ensure their fair treatment and humane conditions while in custody. These rights include the right to be informed of the grounds for their arrest under section 50, Right to access medical care under

⁹The constitution of India, <https://legislative.gov.in/constitution-of-india/>

¹⁰ The Code of Criminal Procedure, 1898, <http://www.bareactslive.com/ACA/ACT2062.HTM>

section 54, Right to be taken to magistrate without delay under section 56, the right to legal representation under section 410, the right to a fair, speedy trial and free legal aid under section 304.

Rights under Prisons Act, 1894¹¹ - Under the Prisons Act of 1894, all prisoners need to be examined by the medical officer, and the Medical Officer will give effect the class of labor he is fit for if sentenced to rigorous imprisonment. Again, a person punished in solitary confinement will be caused to be visited by a medical officer every 24 hours. To tell about the employment of the prisoners, the prisoners need to be kept in work for more than 9 hours except in an emergency. This punishment is no doubt scrupulous and inhumane. The Superintendent can punish the prisoners with rigorous imprisonment. If a prisoner desires to see or consult a Medical Officer after notifying, the jailor shall immediately inform the Superintendent, and the Superintendent shall immediately treat any such prisoner. The hospital facilities are also provided in the law. The Prisons Act 1894 also bears the provisions for visiting any individual prisoner and the right to meet with any legal counsel without the presence of any other person.

The Bengal Jail Code 1864¹² - The most prominent law which bears many provisions related to prisoners' rights is the Bengal Jail Code. The Bengal Jail Code bears 1388 paragraphs containing different rules regarding the prison and prisoners. The subsidiary Jail Code refers to subsidiary jails, which also contains 260 paragraphs. The Bengal Jail Code contains rules for the superintendence and management of jails and subsidiary jails in Bengal. In the Jail Code, there are provisions for prisoners' food, shelter, medical administration, religious holidays, etc.

Rights under the Prison Act 1900¹³ - This Act mainly focuses on the rights of lunatic prisoners. Suppose the Government has reasonable grounds to believe that any person detained or imprisoned under any order or sentence of any court is of unsound mind or lunatic. In that case, the Government shall order his removal to a lunatic asylum or other place of safe custody within Bangladesh, to be kept according to the Government's direction.

The Transfer of Prisoners Act, 1950¹⁴ - This act was passed to avoid over-population in prisons, prisoners are transferred from one state to another for vocational training and to get rid of

¹¹ Prisoners Act, 1894, <http://www.bareactslive.com/ACA/ACT163.HTM>

¹²The Bengal Jail code ,1864 ,<<http://wbcorrectionalservices.gov.in/pdf/jcr.pdf>>

¹³Prison Act 1900, <<https://jail.cg.gov.in/Prisoners%20Act%201900.pdf>>

¹⁴The Transfer of Prisoners Act ,1950,<<https://jail.cg.gov.in/Transfer%20of%20Prisoners%20Act%201950.pdf>>

overcrowding. The legal framework in both countries strives to ensure the basic dignity and rights of individuals within the penal system, though specific regulations may vary at the state level and may be subject to changes in legislation or court interpretations.

Rights of Prisoners and Case Laws

As mentioned before, Prisoners do not lose their constitutional rights. They are also entitled to every human right to some extent as normal human beings when they are behind in prison, but these rights are subjected to the conditions prescribed by law. Prisoners' rights are limited¹⁵. For the most part, prisoners may demand only a "minimal civilized measure of shelter," where three fundamental principles¹⁶ are followed by courts when determining whether to recognize a certain right as in -

- i. A prisoner does not automatically give up all their constitutional rights upon entering prison.
- ii. many rights and privileges enjoyed by the public are not automatically forfeited; and
- iii. the prisoner's remaining constitutional rights must be weighed against the facility's security needs.

By the late 1960s, when prison conditions in many states were clearly intolerable, courts began to review the claims of prisoners and to intervene regularly on their behalf. Finding that even prisoners are entitled to minimum rights, courts exhibited renewed interest in the right of access to the courts, freedom of expression and religion, the constitutional prohibition against cruel and unusual punishment, and the right to due process of law which includes the following rights¹⁷-

Right to Humane Treatment¹⁸ - The right to humane treatment is the most fundamental right of all prisoners. People who are imprisoned must be treated with respect and dignity, without maltreatment or unusually harsh punishment. This right is protected by many international human rights treaties. It includes protection from discrimination and violence as well as access to enough food, clean water, and health care.

¹⁵"Prisoners' Rights." West's Encyclopedia of American Law, Retrieved November 24, 2021, from Encyclopedia.com

¹⁶ Ibid

¹⁷ Ibid

¹⁸Prisoners' rights, Citizens Information , available at <<https://www.citizensinformation.ie/en/justice/prison-system/prisoners-rights/>> ,accessed on 1 November,2023

Right to Legal Representation¹⁹ - Prisoners have the right to legal representation both during their criminal trials and, in some cases, for post-conviction appeals. Access to legal counsel ensures that their legal rights are protected and that they can challenge their convictions or sentences if they believe there are grounds for doing so. This right is crucial in maintaining the fairness of the criminal justice system.

Right to Education²⁰ - Prisoners have the right to an education while imprisoned. This is an essential part of recovery and social reintegration. Giving inmates the chance to learn will help them expand their knowledge and abilities, which will make it easier for them to obtain jobs after release and prevent reoffending, as many convicts have low educational backgrounds.

Right to Religious Freedom²¹ - Prisoners are allowed to follow their religious beliefs while they are behind bars. These covers having access to religious materials, taking part in rituals, and having access to religious services or counseling. In addition to upholding the person's right to freedom of conscience, defending this right may improve their emotional and mental well-being while they are imprisoned.

Right to Family Visitation²² - Maintaining family connections is crucial for the rehabilitation and reintegration of prisoners into society. Many countries recognize the importance of family visits and allow prisoners to receive visits from their loved ones, although these visits may be subject to security and scheduling restrictions. The right to family visitation helps prisoners maintain bonds with their families and provides an incentive for good behavior while incarcerated.

Right to Medical Care²³ - While imprisoned, prisoners are entitled to the appropriate medical care. This covers treatment for both mental and physical health. In addition to upholding the fundamental human right to health, guaranteeing access to medical care promotes the security and well-being of each prisoner as well as society at large.

Right to Communication²⁴ - Prisoners have the right to maintain contact with the outside world through written correspondence and, in many cases, supervised phone calls or visits. This right is

¹⁹Ibid

²⁰Ibid

²¹Ibid

²²Ibid

²³Ibid

²⁴Ibid

essential for keeping prisoners connected with their families, seeking legal counsel, and participating in rehabilitation programs. However, communication privileges may be subject to security restrictions.

These rights help to strike a balance between punishment and rehabilitation, promoting the reintegration of prisoners into society as law-abiding citizens. It is crucial for society to uphold these rights to ensure a fair and just criminal justice system that respects the inherent dignity of all individuals, regardless of their past actions.

Prisoners' rights as interpreted in case Laws

The fundamental rights of convicted persons have been upheld consistently by many countries' judiciary. It has been able to establish precedents and principles defending the different rights of prisoners in the lack of comprehensive legislation, which not only serves as guidelines but also legally binds all courts worldwide.

The Indian judiciary has frequently resorted to the protection of the convicts by invoking the Fundamental Rights of the Constitution. In the famous case of *Charles Sobraj through Marie Andre's v. The Superintendent, Tihar Jail*²⁵, the *Supreme Court Judge Justice Krishna Aiyer* held that: "imprisonment does not spell farewell to fundamental rights although, by a realistic-appraisal, Courts will refuse to recognize the full panoply of Part III enjoyed by a free citizen". Supreme Court of India in its famous cases like *DBM Patnaik v. State of Andhra Pradesh*²⁶ and *Sunil Batra v. Delhi Administration*²⁷ has emphatically stated that it must be realized that a prisoner is a human being as well as a natural person or a legal person. If a person gets convicted for a crime, it does not reduce him to the status of a non-person whose rights could be snatched away at the whims of the prison administration. Therefore, imposing any major punishment within the system of prison is conditional upon the absence of procedural safeguards. The human rights of the prisoners are also well protected under our domestic law, as well as the constitution of Bangladesh. Fundamental rights, i.e., are the basic rights of a citizen guaranteed by the constitution cannot be taken away in any situation. In this context, the Indian Apex Court has a significant observation in the case of *State of Andhra Pradesh v Challa Ramkrishna Reddy and Others*²⁸,

²⁵Boucher Pierre Andre vs Superintendent, Central Jail, ... on 21 November 1974, AIR 1975 SC 164, 1975 CriLJ 182, (1975) 1 SCC 192, 1975 (7) UJ 50 SC.

²⁶DBM Patnaik vs State of Andhra Pradesh, AIR 1974 (SC 2092)

²⁷Sunil Batra vs Delhi Administration, AIR 1975(SC2202)

²⁸State Of Andhra Pradesh vs Challa Ramkrishna Reddy &Ors on 26 April, 2000,

where the court stated prisoner, be he a convict or under-trial or a decent, does not cease to be a human being. Even when lodged in jail, he continues to enjoy all his Fundamental Rights including the Right to Life guaranteed to him under the Constitution. On being convicted of a crime and deprived of their liberty in accordance with the procedure established by law, prisoners still retain the residue of constitutional rights". In different cases, the Supreme Court of Bangladesh reaffirms that our constitution guarantees fundamental rights also for prisoners. Not only that, in the case of *Bazlul Huda v The State*²⁹, the Appellate Division of Supreme Court of Bangladesh provides vital observation on the matter of a prisoner's human rights by stating that, "The question of basic human rights of a prisoner inside the jail ought not to be lost sight of as his conviction of a crime does not reduce him into a non-person".

Compliance with International Standards

To guarantee that people in prison are treated with respect and dignity, they place a strong emphasis on the necessity of humane treatment, just legal procedures, and the outlawing of torture and other cruel treatment. Various international legal frameworks have been established to safeguard the rights and well-being of individuals who are imprisoned, such as -

The Universal Declaration of Human Rights³⁰, adopted by the United Nations General Assembly in 1948, outlines the basic principles and rights that apply to all individuals, including prisoners. Article 5 of the Declaration explicitly states that "No one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment." Article 9 of the Declaration affirms the right to liberty and security of person, ensuring that no one shall be subjected to arbitrary arrest or detention. This provision highlights the necessity for due process, a fair and impartial legal system, and the protection of prisoners from arbitrary and unlawful detention.

The ICCPR³¹, adopted in 1966, sets the standards for how governments should treat detainees and prisoners. With respect to prisoners' rights, the ICCPR establishes a framework of fundamental principles aimed at ensuring the humane treatment and fair treatment of individuals deprived of their liberty. These principles encompass the prohibition of torture or cruel, inhuman, or degrading treatment, the right to be treated with dignity and respect, and the requirement for prisoners to be treated in a manner that upholds their inherent human worth. Moreover, the ICCPR guarantees the

²⁹Bazlul Huda v The State, 2000.

³⁰The Universal Declaration of Human Rights (UDHR), (General Assembly resolution 217 A), 10 December 1948.

³¹ International Covenant on Civil and Political Rights (ICCPR), General Assembly resolution 2200A (XXI), 16 December 1966.

right to a fair trial, which includes the right to legal representation and the right to challenge the lawfulness of one's detention.

Standard Minimum Rules for the Treatment of Prisoners (SMR)³² also known as the Nelson Mandela Rules, these guidelines were adopted by the United Nations in 1955 and revised in 2015. This a set of internationally recognized guidelines that outline the fundamental rights and principles governing the treatment of individuals who are incarcerated. These rules are designed to ensure the humane and dignified treatment of prisoners while in detention. One of the critical aspects of SMR is the protection of prisoners' rights. These rules emphasize the principle that all prisoners, regardless of their legal status or the nature of their offenses, should be treated with respect and humanity. This includes safeguarding their physical and mental well-being, preventing torture and cruel, inhuman, or degrading treatment, and providing access to medical care and adequate nutrition.

The United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)³³ stands as a vital international instrument for upholding prisoners' rights. Enacted in 1984, this treaty reflects the global community's commitment to preventing and eradicating torture in all its forms. CAT sets forth unequivocal standards regarding the treatment of prisoners, emphasizing the absolute prohibition of torture and other cruel, inhuman, or degrading treatment.

The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders³⁴, commonly known as the Bangkok Rules, are a set of international guidelines aimed at promoting and safeguarding the rights of women in the criminal justice system. These rules emphasize gender-specific considerations, focusing on the unique needs and vulnerabilities of women involved in the justice system.

The Convention on the Rights of the Child (CRC)³⁵ is a vital international treaty that underscores the fundamental rights and protections owed to all children. Within this framework, specific

³²Standard Minimum Rules for the Treatment of Prisoners, Economic and Social Council resolutions 663 C (XXIV), 31 July 1957 and 2076 (LXII) of 13 May 1977.

³³The United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), General Assembly resolution 39/46, 10 December 1984.

³⁴The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, United Nations General Assembly resolution 65/229, 21 December 2010.

³⁵The Convention on the Rights of the Child (CRC), General Assembly resolution 44/25, 20 November 1989.

provisions address the rights of children who are prisoners or in conflict with the law. Article 37 of the CRC establishes safeguards to ensure that children deprived of their liberty are treated with dignity and respect. It emphasizes that the arrest, detention, or imprisonment of a child should be a last resort and for the shortest appropriate period.

Bangladesh and India share a substantial common ground in their legal frameworks for prisoners' rights, rooted in their international human rights commitments and a shared commitment to upholding fundamental human rights yet exhibit notable challenges in implementation. These commitments serve as a foundation for their domestic legal systems. As discussed earlier the Constitution of both Bangladesh and India contains several provisions that protect the fundamental rights of individuals, including prisoners. Both countries have specific legislation such as the Prisons Act, 1894, Prison Act 1900, which govern prison management and administration for prohibiting torture, ensuring the right to a fair trial, and protecting the dignity and life of prisoners, as influenced by international legal instruments³⁶. However, in practice, there are concerns related to overcrowded prisons, delays in trials, and instances of arbitrary detention. Access to healthcare and living conditions in prisons often fall short of international standards, raising questions about the well-being of prisoners. Additionally, communication with the outside world and the treatment of vulnerable prisoners, such as women and juveniles, sometimes face limitations. The continued retention of the death penalty remains a subject of debate in both countries, reflecting ongoing tensions between international human rights norms and domestic legal systems. Overall, while there is a legal foundation for prisoners' rights in Bangladesh and India, addressing the challenges of implementation and ensuring alignment with international standards remains an ongoing concern.

Conclusion

The above discussion underscores the complex and evolving landscape of rights in incarceration within these two South Asian nations. While both countries have made significant strides in recognizing and safeguarding the fundamental rights of prisoners, there remain notable differences in the extent to which these rights are protected and upheld. Both Bangladesh and India have made considerable progress in recent years by enacting comprehensive legislation that addresses the rights and welfare of prisoners. However, the practical implementation and enforcement of these laws still pose significant challenges. Indian judiciary has played a pivotal role in ensuring their protection. The comparative analysis presented here highlights the need for ongoing reform and

vigilance in both countries to bridge the gap between legislation and its effective implementation. Both Bangladesh and India must work toward improving prison conditions, addressing issues of overcrowding, and ensuring that prisoners are treated with dignity and respect. As human rights continue to be a global concern, the commitment to enhancing prisoners' rights is essential to fostering a more just and humane society in both nations. By recognizing the significance of this issue and striving for continuous improvement, Bangladesh and India can uphold their international obligations and demonstrate their commitment to the principles of justice and human rights in the realm of incarceration.

