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PROTECTION OF HUMAN RIGHTS OF ARRESTED AND CONVICTED PERSONS IN INDIA: LAW, JUDICIAL RESPONSES AND CONTEMPORARY CHALLENGES.

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ABSTRACT

The protection of human rights of arrested and convicted persons is a fundamental requirement of a fair and humane criminal justice system. In India, Articles 14, 20, 21 and 22 of the Constitution, along with statutory safeguards, protect persons in custody against arbitrary arrest, unlawful detention, custodial violence and inhuman treatment. The Supreme Court has significantly strengthened these protections through landmark decisions such as *Hussainara Khatoon v. State of Bihar*, *D.K. Basu v. State of West Bengal*, *Joginder Kumar v. State of Uttar Pradesh* and *Sunil Batra v. Delhi Administration*, recognising rights to speedy trial, legal aid, dignity and humane treatment. However, custodial violence, unnecessary arrests, prolonged under trial detention, prison overcrowding, inadequate healthcare and weak institutional accountability remain serious challenges. This paper examines the legal framework, judicial response and contemporary challenges relating to the protection of human rights of arrested and convicted persons in India and highlights the need for effective implementation, accountability and reformatory prison administration.

Key words: Human Rights; Arrested Persons; Convicted Persons; Prisoners' Rights; Custodial Violence; Under trial Detention; Prison Reform.

INTRODUCTION

The protection of human rights within the criminal justice system is an important requirement of the rule of law and constitutional governance. The power of the State to arrest, detain and imprison individuals is necessary for the prevention and investigation of crime, maintenance of public order and administration of justice. However, such powers are not unlimited. When a person is arrested or imprisoned, the State assumes a heightened responsibility to protect that person's life, dignity, bodily integrity and other rights guaranteed by law. The deprivation of

liberty through lawful procedure cannot be treated as a justification for torture, arbitrary detention, degrading treatment or denial of basic human dignity.

The Indian Constitution provides the fundamental foundation for protecting persons in custody. Article 14 guarantees equality before the law, while Article 20 provides important protections in criminal proceedings. Article 21 declares that no person shall be deprived of life or personal liberty except according to procedure established by law, and Article 22 specifically provides safeguards relating to arrest and detention. These provisions are particularly significant because arrested and imprisoned persons are placed in a position of dependence upon State authorities. The constitutional protection of life and personal liberty therefore extends beyond mere physical existence and includes the right to live with human dignity.¹

The Supreme Court of India has played a central role in expanding these constitutional protections. Through a broad interpretation of Article 21, the Court has recognised several rights of persons accused, detained and convicted of offences. In *Hussainara Khatoon v. State of Bihar*, the Court recognised speedy trial as an essential component of personal liberty.² In *Joginder Kumar v. State of Uttar Pradesh*, the Court emphasised that the existence of a legal power to arrest does not mean that arrest should be made in every case.³ The Court subsequently established detailed safeguards concerning arrest and custodial treatment in *D.K. Basu v. State of West Bengal*.⁴ These decisions demonstrate the judiciary's attempt to balance the legitimate interests of criminal investigation with the constitutional protection of individual liberty.

The protection of human rights continues even after conviction. Although imprisonment lawfully restricts liberty, a prisoner does not lose the fundamental right to human dignity. In *Sunil Batra v. Delhi Administration* and *Charles Sobhraj v. Superintendent, Central Jail*, the Supreme Court affirmed that imprisonment does not permit cruel, arbitrary, or degrading treatment.⁵ The *Bharatiya Nagarik Suraksha Sanhita, 2023* ("BNSS"), which replaced the Code of Criminal Procedure, 1973, further provides safeguards concerning arrest, communication of grounds of arrest, access to legal assistance, medical examination, and production before a Magistrate.⁶ Despite these protections, custodial violence, unnecessary arrests, prolonged under trial detention, prison overcrowding, inadequate healthcare, and limited access to legal

¹ INDIA CONST. arts. 14, 20–22.

² *Hussainara Khatoon v. State of Bihar*, (1980) 1 S.C.C. 81, 81–82 (India).

³ *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 S.C.C. 260, 267 (India).

⁴ *D.K. Basu v. State of West Bengal*, (1997) 1 S.C.C. 416, 424–25 (India).

⁵ *Sunil Batra v. Delhi Admin.*, (1978) 4 S.C.C. 494, 518–19 (India); *Charles Sobhraj v. Superintendent, Central Jail*, (1978) 2 S.C.C. 411, 421–22 (India).

⁶ *Bharatiya Nagarik Suraksha Sanhita*, No. 46 of 2023, §§ 35–38, 46–48, 56–58 (India).

aid remain significant concerns. The continuing gap between legal safeguards and their implementation demonstrates the need for effective institutional accountability and humane prison administration. The protection of arrested and convicted persons is therefore essential to maintaining a balance between crime control, public security, and human dignity.

CONSTITUTIONAL AND LEGAL FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS.

The Constitution of India provides the primary foundation for protecting the rights of persons subjected to arrest, detention and imprisonment. Article 14 guarantees equality before law, while Article 20 provides safeguards against ex post facto criminal laws, double jeopardy and compelled self-incrimination.⁷ The most significant protection is contained in Article 21, which guarantees life and personal liberty and requires any deprivation of liberty to follow a legally established procedure. The Supreme Court has interpreted Article 21 broadly to include dignity, fair procedure, speedy trial, legal aid and protection against custodial abuse.⁸

Article 22 specifically protects arrested persons by requiring that they be informed of the grounds of arrest, permitted to consult and be defended by a legal practitioner, and produced before the nearest Magistrate within twenty-four hours of arrest, subject to the constitutional exceptions relating to preventive detention.⁹ These safeguards are intended to prevent arbitrary exercise of police power and ensure judicial supervision of detention.

The Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”) supplements these constitutional guarantees by prescribing procedural safeguards governing arrest and detention. It regulates the circumstances in which arrest may be made, requires communication of arrest-related information to relatives or nominated persons, provides for medical examination and requires the health and safety of arrested persons to be protected while in custody.¹⁰ The law therefore recognises that procedural protection is essential whenever the State interferes with personal liberty.

Legal representation is another important safeguard. Article 39A directs the State to ensure equal justice and provide free legal aid to persons who cannot afford legal services.¹¹ The Supreme Court has treated legal aid as an essential element of a fair procedure under Article

⁷ INDIA CONST. arts. 14, 20.

⁸ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248, 280 (India); *Francis Coralie Mullin v. Adm'r, Union Territory of Delhi*, (1981) 1 S.C.C. 608, 618 (India).

⁹ INDIA CONST. art. 22(1)–(2).

¹⁰ *Bharatiya Nagarik Suraksha Sanhita*, No. 46 of 2023, §§ 35–38, 46–48, 56–58 (India).

¹¹ INDIA CONST. art. 39A.

21, particularly where an accused faces deprivation of liberty.¹² Similarly, the right to speedy trial has been recognised as part of the guarantee of personal liberty, protecting under trial prisoners from prolonged and unjustified detention.¹³

For convicted persons, imprisonment restricts liberty pursuant to a lawful sentence but does not eliminate constitutional protection. Article 21 continues to protect prisoners against torture, cruel treatment and conditions inconsistent with human dignity.¹⁴ Thus, the constitutional and statutory framework seeks to balance the legitimate requirements of criminal justice with the continuing obligation of the State to respect the dignity and basic rights of persons in custody. Article 22 of the Constitution provides specific safeguards to persons who are arrested. It guarantees the right to be informed of the grounds of arrest, the right to consult and be defended by a legal practitioner of choice, and the right to be produced before the nearest Magistrate within twenty-four hours of arrest.¹⁵ These safeguards are intended to prevent arbitrary detention and ensure prompt judicial oversight over the exercise of police power. The Supreme Court has emphasised that arrest should not be made merely because the law permits it; there must be a reasonable justification for depriving a person of liberty.¹⁶

The Bharatiya Nagarik Suraksha Sanhita, 2023 (“BNSS”) provides the principal statutory framework governing arrest and criminal procedure. It regulates the circumstances in which a person may be arrested without a warrant and requires the police to follow prescribed safeguards during arrest.¹⁷ The BNSS also requires information regarding the arrest to be communicated to a relative, friend or other person nominated by the arrested individual and provides for access to an advocate during interrogation, subject to the statutory limitations.¹⁸ Further, provisions concerning medical examination and the health and safety of persons in custody strengthen protection against physical abuse and custodial mistreatment.¹⁹ These constitutional and statutory safeguards demonstrate that arrest is not intended to be a punitive measure at the investigative stage. An arrested person remains entitled to humane treatment and procedural fairness until guilt is established through a lawful trial. The effectiveness of these safeguards, however, depends upon their strict implementation by police authorities and meaningful judicial supervision.

¹² M.H. Hoskot v. State of Maharashtra, (1978) 3 S.C.C. 544, 552–53 (India); Khatri (II) v. State of Bihar, (1981) 1 S.C.C. 627, 632–33 (India).

¹³ Hussainara Khatoon v. State of Bihar, (1980) 1 S.C.C. 81, 81–82 (India).

¹⁴ Sunil Batra v. Delhi Admin., (1978) 4 S.C.C. 494, 518–19 (India).

¹⁵ INDIA CONST. art. 22(1)–(2).

¹⁶ Joginder Kumar v. State of Uttar Pradesh, (1994) 4 S.C.C. 260, 267 (India).

¹⁷ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, §§ 35–38 (India).

¹⁸ Id. §§ 47–48.

¹⁹ Id. §§ 53, 56.

JUDICIAL PROTECTION OF ARRESTED PERSONS

The Indian judiciary has played a significant role in protecting the rights of arrested persons by interpreting constitutional guarantees in a manner that places limits on the exercise of police power. The Supreme Court has repeatedly emphasised that arrest affects the most basic aspect of liberty and must therefore be exercised only when legally justified and procedurally necessary. In *Joginder Kumar v. State of Uttar Pradesh*, the Court held that the existence of the power to arrest is distinct from the justification for exercising that power.²⁰ The decision recognised that unnecessary arrest can seriously affect an individual's reputation, dignity and personal liberty.

In *D.K. Basu v. State of West Bengal*, the Supreme Court laid down detailed safeguards to prevent custodial torture and abuse. These included preparation of an arrest memorandum, identification of police officers involved in the arrest, informing a relative or friend about the arrest, maintaining appropriate custody records, and conducting medical examinations at prescribed intervals.²¹ The Court treated custodial violence as a serious violation of Article 21 and emphasised that persons in custody remain entitled to protection of their basic human dignity.

The Court further strengthened safeguards against unnecessary arrest in *Arnesh Kumar v. State of Bihar*. It directed police officers to avoid automatic arrest where arrest is not necessary and required Magistrates to exercise careful scrutiny before authorising detention.²² The judgment is particularly significant because unnecessary arrest can lead to avoidable incarceration and place substantial burdens on the accused and their families.

The right against compelled self-incrimination also provides an important protection during investigation. In *Nandini Satpathy v. P.L. Dani*, the Supreme Court recognised the importance of the right to silence under Article 20(3), holding that an accused person cannot be compelled to provide answers that may expose them to criminal liability.²³ Similarly, in *Selvi v. State of Karnataka*, the Court protected individuals against the involuntary use of techniques such as narco-analysis, polygraph examinations and brain-mapping, emphasising personal liberty, mental privacy and the protection against self-incrimination.²⁴

These decisions demonstrate that judicial protection of arrested persons extends beyond formal

²⁰ *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 S.C.C. 260, 267 (India).

²¹ *D.K. Basu v. State of West Bengal*, (1997) 1 S.C.C. 416, 424–25 (India).

²² *Arnesh Kumar v. State of Bihar*, (2014) 8 S.C.C. 273, 281–82 (India).

²³ *Nandini Satpathy v. P.L. Dani*, (1978) 2 S.C.C. 424, 438–40 (India).

²⁴ *Selvi v. State of Karnataka*, (2010) 7 S.C.C. 263, 302–03 (India).

procedural requirements. The Supreme Court has sought to ensure that arrest and investigation are conducted consistently with dignity, liberty, fairness and constitutional accountability.

HUMAN RIGHTS OF UNDERTRIAL PRISONERS

An undertrial prisoner occupies a distinct position in the criminal justice system because the person has not yet been convicted and is legally presumed innocent until proven guilty. Therefore, detention during the pendency of a criminal case should not become a substitute for punishment. The prolonged incarceration of undertrial prisoners raises serious concerns under Article 21, particularly where the delay is not attributable to the accused.

The Supreme Court recognised the importance of speedy trial in *Hussainara Khatoon v. State of Bihar*, holding that the right to a speedy trial is an essential part of the right to life and personal liberty under Article 21.²⁵ The Court drew attention to the large number of prisoners who remained in custody for periods longer than the possible sentence for the offences with which they were charged. Prolonged pre-trial detention, therefore, can itself become a violation of constitutional liberty.

The right to legal assistance is equally important. In *M.H. Hoskot v. State of Maharashtra*, the Supreme Court recognised legal assistance as an important component of fair procedure.²⁶ The Court subsequently reinforced this principle in *Khatri (II) v. State of Bihar*, emphasising the State's responsibility to provide legal aid to an accused who is unable to afford legal representation.²⁷ Article 39A of the Constitution also directs the State to ensure equal justice and provide free legal aid.

Bail is another important safeguard against unnecessary deprivation of liberty. The principle that “bail is the rule and jail is the exception” reflects the constitutional preference for liberty, although its application depends upon the facts and circumstances of each case. In *Satender Kumar Antil v. Central Bureau of Investigation*, the Supreme Court expressed concern over unnecessary arrests and prolonged incarceration and issued directions aimed at improving the bail process.²⁸

The continued detention of persons who have not been convicted, particularly where trials are substantially delayed, raises questions of fairness and proportionality. Effective implementation of bail provisions, speedy disposal of criminal cases and accessible legal aid

²⁵ *Hussainara Khatoon v. State of Bihar*, (1980) 1 S.C.C. 81, 81–82 (India).

²⁶ *M.H. Hoskot v. State of Maharashtra*, (1978) 3 S.C.C. 544, 552–53 (India).

²⁷ *Khatri (II) v. State of Bihar*, (1981) 1 S.C.C. 627, 632–33 (India).

²⁸ *Satender Kumar Antil v. Cent. Bureau of Investigation*, (2022) 10 S.C.C. 51, 67–73 (India).

are therefore essential to ensure that pre-trial detention remains an exception justified by legitimate criminal justice concerns rather than becoming a form of punishment before conviction.

HUMAN RIGHTS OF CONVICTED PERSONS AND PRISONERS

Conviction and imprisonment result in the lawful deprivation of personal liberty, but they do not place a prisoner outside the protection of the Constitution. A convicted person continues to possess fundamental rights except those necessarily restricted by the fact of imprisonment. Article 21 therefore remains an important source of protection against torture, cruel treatment and prison conditions that violate human dignity.²⁹

In *Sunil Batra v. Delhi Administration*, the Supreme Court rejected the notion that imprisonment gives prison authorities unrestricted power over prisoners. The Court recognised that prisoners retain constitutional rights and that prison discipline must operate within the limits of law.³⁰ The Court also examined the use of solitary confinement and other forms of harsh treatment, emphasising that punishment within prison cannot become arbitrary or inhuman.

The right to live with dignity also extends to basic conditions of imprisonment. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, the Supreme Court held that the right to life includes the right to live with human dignity and the basic necessities of life.³¹ This principle has significant implications for prison administration, including food, sanitation, medical care, communication with family and access to legal assistance.

The Supreme Court has also recognised that custodial violence constitutes a serious violation of fundamental rights. In *Nilabati Behera v. State of Orissa*, the Court awarded compensation for a custodial death and recognised public law compensation as an appropriate remedy for violations of fundamental rights.³² This principle is important because prisoners are particularly vulnerable to abuse due to their dependence upon State authorities for their safety and basic needs.

Prisoners also retain rights relating to communication and access to legal assistance. Restrictions may be imposed for legitimate security and disciplinary reasons, but such restrictions must have a lawful and reasonable basis. The constitutional approach therefore

²⁹ INDIA CONST. art. 21.

³⁰ *Sunil Batra v. Delhi Admin.*, (1978) 4 S.C.C. 494, 518–19 (India).

³¹ *Francis Coralie Mullin v. Adm'r, Union Territory of Delhi*, (1981) 1 S.C.C. 608, 618 (India).

³² *Nilabati Behera v. State of Orissa*, (1993) 2 S.C.C. 746, 758–60 (India).

requires prison administration to balance security with dignity and rehabilitation.

The protection of prisoners' rights reflects the reformatory objective of modern criminal justice. Imprisonment should not merely inflict punishment but should also facilitate rehabilitation and eventual reintegration into society. Humane treatment, education, vocational training, healthcare and reasonable contact with family can contribute to this objective. Thus, the treatment of prisoners provides an important measure of the State's commitment to constitutional values and human rights.

INTERNATIONAL HUMAN RIGHTS STANDARDS AND THE INDIAN FRAMEWORK

International human rights instruments provide important standards for the treatment of persons who are arrested, detained or imprisoned. Although these instruments operate within the international legal framework, they have influenced the development of human-rights jurisprudence in India and provide useful standards for evaluating domestic law and practice.

The Universal Declaration of Human Rights, 1948 recognises fundamental protections relevant to persons in custody. Article 3 protects the rights to life, liberty and security, while Article 5 prohibits torture and cruel, inhuman or degrading treatment or punishment. Article 9 further protects individuals against arbitrary arrest, detention or exile.³³ These principles correspond closely with the constitutional protection of life and personal liberty under Article 21 of the Indian Constitution.

The International Covenant on Civil and Political Rights, 1966 (ICCPR) provides more specific safeguards for persons deprived of liberty. Article 7 prohibits torture and cruel, inhuman or degrading treatment. Article 9 protects individuals against arbitrary arrest and detention and requires that persons deprived of liberty be brought promptly before a judicial authority. Article 10 specifically requires persons deprived of liberty to be treated with humanity and respect for their inherent dignity.³⁴ These provisions are particularly relevant to custodial violence, prolonged detention and prison conditions in India.

The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment establishes an international framework for preventing torture and ensuring accountability for acts of torture.³⁵ The prohibition of torture is particularly significant

³³ Universal Declaration of Human Rights arts. 3, 5, 9, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (1948).

³⁴ International Covenant on Civil and Political Rights arts. 7, 9–10, Dec. 16, 1966, 999 U.N.T.S. 171.

³⁵ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment arts. 1–2, Dec. 10, 1984, 1465 U.N.T.S. 85.

in the Indian context because custodial torture and deaths remain serious concerns. Although India has signed the Convention, it has not ratified it. Nevertheless, the Convention reflects important international standards concerning the prevention and investigation of torture.

The United Nations Standard Minimum Rules for the Treatment of Prisoners, commonly known as the Nelson Mandela Rules, provide detailed standards concerning the treatment of prisoners. They emphasise respect for prisoners' inherent dignity, adequate healthcare, sanitation, accommodation, discipline and protection from torture and other cruel treatment.³⁶ These standards complement the Indian constitutional principle that imprisonment does not extinguish a person's right to human dignity.

Indian courts have recognised the relevance of international human-rights principles while interpreting constitutional rights, particularly where domestic law is not inconsistent with such principles. In *Vishaka v. State of Rajasthan*, the Supreme Court held that international conventions may be relied upon to interpret fundamental rights in the absence of domestic law occupying the field.³⁷ Although *Vishaka* concerned gender-based sexual harassment, its interpretative principle demonstrates the broader relevance of international human-rights standards in Indian constitutional adjudication.

Thus, international instruments provide an important normative framework for assessing India's treatment of arrested and convicted persons. They reinforce the principles of liberty, dignity, humane treatment and protection against torture that are already recognised under the Indian Constitution. The continuing challenge is to ensure that these standards are effectively reflected in domestic law and, more importantly, in their implementation by police, courts and prison authorities.

PROTECTION AGAINST CUSTODIAL VIOLENCE AND TORTURE

Custodial violence represents one of the most serious violations of the human rights of persons in State custody. Persons under arrest or imprisonment are particularly vulnerable because their physical safety and basic needs depend largely upon police and prison authorities. Torture, assault, humiliation and custodial deaths not only violate individual dignity but also undermine the rule of law and public confidence in the criminal justice system.

The Supreme Court has consistently recognised that custodial torture is incompatible with Article 21. In *D.K. Basu v. State of West Bengal*, the Court observed that custodial violence

³⁶ G.A. Res. 70/175, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), U.N. Doc. A/RES/70/175 (Dec. 17, 2015).

³⁷ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241, 249–50 (India).

strikes at the rule of law and human dignity and laid down detailed procedural safeguards to prevent abuse during arrest and detention.³⁸ These safeguards include identification of police officers, preparation of an arrest memorandum, notification to relatives or friends, medical examination and maintenance of custody records. Their purpose is to create institutional accountability and reduce the possibility of abuse in custody.

In *Nilabati Behera v. State of Orissa*, the Supreme Court recognised compensation as an appropriate public law remedy for violation of fundamental rights resulting from custodial death.³⁹ The decision established that the State may be held financially accountable where its authorities violate the right to life and personal liberty. Such compensation is distinct from ordinary civil remedies and serves as a constitutional response to serious violations.

The judiciary has also recognised that protection against custodial violence requires effective institutional mechanisms rather than merely judicial declarations. In *Paramvir Singh Saini v. Baljit Singh*, the Supreme Court directed the installation and functioning of CCTV cameras in police stations and offices of investigating agencies to strengthen transparency and accountability.⁴⁰ Technological monitoring can assist in preventing abuse, although it must be accompanied by proper preservation, access and oversight mechanisms.

Despite these safeguards, custodial violence and deaths remain significant challenges. Effective protection requires strict compliance with arrest procedures, prompt medical examination, independent investigation of custodial deaths, accountability of officials responsible for abuse and effective remedies for victims. Protection against torture must therefore be treated not merely as a procedural requirement but as a fundamental obligation arising from the constitutional guarantee of human dignity.

CONTEMPORARY CHALLENGES IN HUMAN RIGHTS

Despite constitutional safeguards and extensive judicial directions, significant gaps remain between the law and its implementation. One of the major challenges is custodial violence and deaths, which raise serious concerns regarding accountability of police and prison authorities. Judicial safeguards such as those laid down in *D.K. Basu* require effective institutional enforcement; otherwise, constitutional protection remains largely formal.⁴¹

Unnecessary arrest and prolonged detention are another concern. Arrest should be based on

³⁸ *D.K. Basu v. State of West Bengal*, (1997) 1 S.C.C. 416, 424–25 (India).

³⁹ *Nilabati Behera v. State of Orissa*, (1993) 2 S.C.C. 746, 758–60 (India).

⁴⁰ *Paramvir Singh Saini v. Baljit Singh*, (2021) 1 S.C.C. 184, 197–201 (India).

⁴¹ *D.K. Basu v. State of West Bengal*, (1997) 1 S.C.C. 416, 424–25 (India).

necessity and legitimate investigative requirements rather than being treated as a routine procedure. The Supreme Court's decisions in *Arnesh Kumar* and *Satender Kumar Antil* have emphasised restraint in arrest and the importance of bail, yet unnecessary incarceration continues to affect personal liberty.⁴² Prolonged detention is particularly problematic for undertrial prisoners who have not been convicted and are therefore entitled to the presumption of innocence.

Prison overcrowding also adversely affects prisoners' dignity and basic living conditions. Overcrowding can result in inadequate accommodation, sanitation, healthcare and security. In *In Re: Inhuman Conditions in 1382 Prisons*, the Supreme Court recognised overcrowding as a serious human-rights concern and issued directions for improving prison conditions.⁴³

Another challenge is access to effective legal aid. Although Article 39A and judicial decisions recognise free legal assistance as an important component of access to justice, merely providing a lawyer does not always ensure meaningful representation. Lack of awareness, inadequate resources and delays in obtaining legal assistance can weaken the practical protection available to economically vulnerable accused persons.⁴⁴

Healthcare and mental well-being in prisons also require greater attention. Persons deprived of liberty remain entitled to necessary medical treatment and humane living conditions. Poor healthcare, inadequate mental-health services and insufficient attention to vulnerable prisoners can undermine the constitutional guarantee of dignity under Article 21.

These challenges demonstrate that India's principal difficulty is not the absence of constitutional principles but the implementation gap between established legal safeguards and actual conditions. Effective protection requires stronger monitoring, institutional accountability, judicial supervision, adequate prison infrastructure and greater awareness among police, prison officials and prisoners regarding their legal rights

CRITICAL ANALYSIS

The Indian framework for protecting arrested and convicted persons is legally extensive, but its real effectiveness remains questionable. The central contradiction is that the Constitution treats liberty and dignity as fundamental values, while the criminal justice system necessarily gives the State extensive powers to arrest, detain, interrogate and imprison. The problem arises

⁴² *Arnesh Kumar v. State of Bihar*, (2014) 8 S.C.C. 273, 281–82 (India); *Satender Kumar Antil v. Cent. Bureau of Investigation*, (2022) 10 S.C.C. 51, 67–73 (India).

⁴³ *In Re: Inhuman Conditions in 1382 Prisons*, (2017) 10 S.C.C. 658, 664–70 (India).

⁴⁴ INDIA CONST. art. 39A; *Khatry (II) v. State of Bihar*, (1981) 1 S.C.C. 627, 632–33 (India).

when these coercive powers are exercised without effective institutional restraints. Thus, the protection of human rights cannot be assessed merely by examining the existence of constitutional provisions or judicial safeguards; it must be assessed by examining whether those safeguards actually constrain the exercise of State power.

A major structural weakness is the imbalance of power between the State and the person in custody. An arrested or imprisoned individual has limited control over evidence, legal assistance, communication and physical security, while police and prison authorities exercise substantial control over the person's liberty and living conditions. In such circumstances, placing excessive reliance on the individual's ability to enforce his or her rights is unrealistic. Human-rights protection must therefore be institutionally built into arrest, detention and prison administration rather than depending primarily upon subsequent judicial intervention.

The distinction between lawful deprivation of liberty and unlawful deprivation of dignity also requires greater attention. Conviction may justify imprisonment, but it cannot justify degrading treatment. Similarly, arrest may be legally authorised, but it cannot automatically justify prolonged detention. The State must continually demonstrate that restrictions on liberty are necessary, proportionate and legally justified. Where detention becomes excessive in relation to the legitimate purpose for which it was imposed, the distinction between lawful custody and arbitrary punishment becomes increasingly blurred.

The continuing problem of undertrial detention exposes this contradiction particularly clearly. A person who has not been convicted is presumed innocent, yet lengthy detention can produce consequences similar to punishment: loss of employment, family disruption, financial hardship and social stigma. This raises a fundamental question of proportionality—whether the State's interest in investigation and prosecution can justify such extensive interference with liberty when the individual's guilt has not yet been established.

There is also an important accountability deficit within the system. The State has a dual role: it exercises coercive power over individuals and is also responsible for protecting them from abuse while they remain in its custody. This creates a structural risk of inadequate accountability when allegations of custodial violence, torture or neglect arise. Judicial remedies, including compensation, are important, but remedies after a violation cannot fully substitute for mechanisms capable of preventing the violation in the first place. Effective independent investigation, transparent custody records, monitoring mechanisms and personal accountability are therefore essential.

The treatment of convicted prisoners reveals another weakness. Indian prison administration often remains predominantly custodial and security-oriented, whereas constitutional values

require a stronger reformative and rehabilitative approach. Security is undoubtedly necessary, but excessive emphasis on confinement can undermine healthcare, education, vocational development, mental well-being and reintegration. If imprisonment merely produces further marginalisation rather than rehabilitation, it may ultimately weaken rather than strengthen public safety.

The availability of legal rights also does not necessarily mean accessibility of justice. Legal aid, bail and constitutional remedies may formally exist, but economically and socially vulnerable prisoners may lack the knowledge, resources or effective representation necessary to use them. Consequently, equality before law may exist formally while inequality in access to justice persists in practice.

International human-rights standards strengthen the normative position by requiring humane treatment of persons deprived of liberty. However, their value ultimately depends upon domestic implementation. India's challenge is therefore not principally one of adopting more rights but of making existing rights operational, accessible and enforceable.

The critical issue can thus be expressed as a question of constitutional accountability: how much State power can be exercised over a person before the legitimate purposes of criminal justice become inconsistent with human dignity? The answer must be determined through legality, necessity, proportionality and accountability. A genuinely rights-based criminal justice system must ensure that loss of liberty never becomes a licence for loss of dignity. The ultimate measure of India's commitment to human rights is therefore not how the State treats individuals when they possess power and freedom, but how it treats them when they are completely dependent upon the State.

CONCLUSION

The protection of human rights of arrested and convicted persons is not a concession granted by the State but a constitutional obligation arising from the inherent dignity of every human being. Arrest and imprisonment may lawfully restrict personal liberty, but they cannot extinguish the individual's fundamental humanity. The Indian constitutional framework, particularly Articles 14, 20, 21 and 22, together with statutory safeguards and judicial interpretation, establishes a substantial foundation for protecting persons subjected to State custody. International human-rights standards further strengthen this framework by emphasising liberty, humane treatment and protection against torture.

The judicial response has been particularly significant in transforming constitutional guarantees into enforceable rights. The Supreme Court has expanded the meaning of personal liberty and dignity and imposed important limitations upon arbitrary arrest, prolonged

detention, custodial violence and inhuman prison conditions. Yet the continued existence of custodial abuse, unnecessary arrests, prolonged undertrial detention, overcrowded prisons, inadequate healthcare and ineffective access to legal assistance demonstrates that progress in law has not always resulted in corresponding progress in practice.

The central finding of this study is therefore that India's principal challenge is not a lack of legal standards but an implementation and accountability deficit. Rights become meaningful only when they can be effectively exercised by the most vulnerable persons, particularly those who are economically disadvantaged, legally uninformed or entirely dependent upon State authorities. Judicial pronouncements, however progressive, cannot by themselves transform institutional practices. Effective police accountability, independent investigation of custodial violations, meaningful judicial scrutiny, accessible legal aid, improved prison infrastructure, regular monitoring and genuine rehabilitation are essential.

The criminal justice system must also recognise that security and human rights are not mutually exclusive objectives. Protection of society from crime cannot be achieved by permitting arbitrary State power. In fact, respect for dignity, due process and accountability strengthens public confidence in criminal justice and reinforces the legitimacy of State authority.

Ultimately, the true test of constitutional democracy lies in the protection it affords to those who possess the least power. A person may lose liberty through lawful arrest or conviction, but must never lose dignity, humanity or the protection of law. India's commitment to human rights will therefore be measured not merely by the rights declared in the Constitution or the safeguards articulated by courts, but by whether those rights remain real, effective and enforceable behind the walls of police stations, detention centres and prisons. The transformation of these principles into everyday practice is essential for building a criminal justice system that is not only effective in controlling crime but also faithful to the constitutional promise of justice, liberty, equality and human dignity.