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## **PRISONERS' RIGHTS IN THE STATE OF RAJASTHAN: A DILEMMA**

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### **ABSTRACT**

*Every citizen of India has fundamental rights guaranteed under the Indian Constitution and as a result, the government of India has a responsibility to ensure that its inhabitants live comfortably. Prisoners are also considered citizens, but unfortunately, this does not give them the human status that they deserve, and they are subject to cruel and inhumane treatment. It is tragic that both India and the state of Rajasthan lack effective mechanisms to protect prisoners' rights and treat them as human beings. Prisoners' rights, particularly the right to a fair trial, are the primary emphasis of this paper. The authors argue that the legislative and judicial branches have a duty to ensure that all people, not just some, have access to these basic rights, which are necessary for human survival.*

*The treatment of prisoners awaiting trial is a big issue because they constitute the bulk of the jail population. Due to inefficient court systems and a shortage of legal assistance, many people spend years behind bars without ever being found guilty. In addition, minorities, women, and Dalits are disproportionately subject to prejudice and neglect while in custody. There has been very little change, even though the human rights panel recommended it and the Supreme Court ordered it.*

*This paper takes a rights-based approach to critically assess the gap between ground reality and legal prescriptions. It stresses how critical it is to have better jail administration, judicial monitoring, and systemic changes immediately. The dilemma lies not in the absence of legal safeguards, but in the persistent failure to implement them effectively.*

**Keywords:** *Prisoners' Rights, Fundamental Rights, Indian Judiciary, Indian Prison System, Custodial Justice.*

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## Introduction:

*“In our world prisons are still laboratories of torture, warehouses in which human commodities are sadistically kept and where spectrums of inmates range from drift-wood juveniles to heroic dissenters”.*<sup>1</sup>

**- Justice V.R. Krishna Iyer**

India, sometimes called the Golden Bird, is a developing powerhouse with the fifth-largest economy in the world. Despite possessing the longest written constitution in history, which guarantees all citizens' rights, this nation continues to keep silent on the matter of the basic rights of its prisoners. While so-called lawmakers are constantly challenging the status quo and fighting for marginalized groups' rights (transgender people's rights being the most recent example), no politician has ever raised the issue of prisoners' rights in parliament.

The progenitor of contemporary Indian legal education, Prof. (Dr.) Madhava Menon, has said that, *“If police tends to become lawless, the very foundation of democracy will be in jeopardy, development will be subverted and countries integrity compromised”.*<sup>2</sup> It appears that this statement made by Prof. Madhav Menon is based on fact when it comes to jails. Prisoners are kept in such bad conditions and subjected to torture that it highlights the lawlessness and brutality of the police. Instilling prisoners with practical prisoner rights is the only way to resist such actions by authorities.

The fundamental rights that individuals who have been stripped of their liberty continue to possess while incarcerated are collectively referred to as prisoners' rights. They need these rights so they can be treated properly, maintain their dignity, recover, and reintegrate into society. Rehabilitation and change, rather than punishment, have recently taken centre stage in discussions about prisoner rights in Rajasthan. In the past, people believed that prisoners had given up their rights, therefore they treated them cruelly. Legislative and regulatory changes brought forth by human rights discourse, judicial activism, and constitutional principles have guaranteed humane surroundings, healthcare, legal support, and rehabilitation. Overcrowding, cruelty in prisons, and insufficient execution are still issues, despite progress. This report tracks the evolution of prisoners' rights, highlighting achievements, failures, and the need for further

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<sup>1</sup> Chapter-IV: Rights of the Prisoners and Duties of Prison Officials; *M.P. v S. Shyamsynder Trivedi* (1994) SCC 395.

<sup>2</sup> N.R. Madhava Menon, *A Training Manual for Police on Human Rights*, NLSIU Publication Centre, Bangalore 1997, at P .172.

reforms to put the system in line with constitutional and international standards.<sup>3</sup>

Many other types of human rights violations, such as basic health problems, sanitation difficulties, food, custodial torture, unexplained deaths, and so on, are stemming from India's core problem with jail administration. The current situation calls for immediate action to change the Indian criminal justice delivery system in response to these threats. As a result, the regulations concerning the arrest, bail, and adjournment of proceedings should be reviewed from the prisoners' human rights vantage point.

Recently, the Indian judiciary and the Rajasthan judiciary have been acting as a safety net to handle the crisis. The judiciary has developed and acknowledged some fundamental rights and duties towards prisoners on multiple occasions through different rulings and directives. However, it should be mentioned that the relevant authorities do not compile many of these directions due to the lack of relevant laws. In this post, we will look at the fundamental problems with prisoners' rights in Rajasthan. In terms of prisoners' rights, it further highlights the State Legislative Framework's glaring deficiencies. It contains a plethora of High Court rulings that have an impact on prisoners' rights. Finally, it discusses the growth of fundamental prisoner rights and how they are relevant today.

### **Historical Development of Prisoners' Rights:**

It is long past due to pass legislation that allows prisoners to also live with dignity, since a person's human dignity is not diminished by a criminal conviction. Prison administrators have the power to grant or deny basic rights based on their own whims and fancy.

Even before India's independence, lawmakers there were worried about the fundamental rights of prisoners. In 1894, the first law was passed to govern the circumstances of prisoners while they were incarcerated. One of the earliest attempts to establish rules for India's penal system was the Prisons Act of 1894.

According to the Rajasthan Prisoners Act, 1960<sup>4</sup>, define, "(1) *In this Act, unless the subject or context otherwise requires,- (a) Court includes any officer or person lawfully exercising civil, criminal, revenue or other jurisdiction, and (b) Prison includes any place which has been declared by the State Government, by general or special order, to be a subsidiary jail.*

(2) *In this Act, all references to prisons and to imprisonment or confinement therein shall be*

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<sup>3</sup> Kumar, Aryan, "Prisoners' Rights and Conditions in Indian Jails", Universal Human Rights, 1 (NA): November 11, 2024, Available at: <https://www.researchgate.net/publication/385704100>

<sup>4</sup> Noti. No. F. 4(52)LJ/A/58, dated 5.11.1960 (Pub. In Rajasthan Gaz. Ex-ord., Part-IV-A, dated 7.11.1963 page 175.

*construed as referring also to reformatory schools, if any, and to detention therein.”*

According to Rajasthan Prisons Rules, 2022 state *“Prison Industries and Work Programmes. Rule (22) Prisoners who have shown, or are likely to have, a strong inclination to escape or are members of a wandering or criminal tribe, even though eligible, shall not be employed on extramural work.”*<sup>5</sup>

Some changes have been made to jail policies by the Ministry of Home Affairs. In 2016, it published the Model Prison Manual, which serves as a guide for prison administration. The Manual has been adopted by 18 states and territories as of March 2023.

### **Human Rights of Prisoners:**

Many state constitutions and international declarations have recognised prisoners’ rights as an element of human rights. The premise that those incarcerated or detained retain their humanity regardless of the gravity of the crime they were convicted of is articulated in Article 10 of the International Covenant on Civil and Political Rights, *“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”*<sup>6</sup> The foundational premise here is that excessively stringent conditions should not be added to the operative penalty, which is the denial of liberty, in this case, jail. Human rights are an inherent part of every human being and are thus adequately safeguarded by national and international law, regardless of how dire the situation. The Indian government has pledged its support to a number of human rights treaties and agreements, including the Universal Declaration of Human Rights, which declares that, *“No one shall be subject to torture or cruel, inhuman or degrading treatment of punishment”*.<sup>7</sup>

A fair trial must be conducted as quickly as possible.<sup>8</sup> It protects people’s freedom and the right to live a dignified life.<sup>9</sup> There is a well-known saying *“Justice delayed is justice denied”*.<sup>10</sup> On the other hand, prompt justice is extremely unusual because litigation has grown in worrisome proportions due to factors such as the exponential growth of the population, the expansion of commercial activities, the decline of moral standards, the culture of demanding rights alone,

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<sup>5</sup> Rule 22 of the Rajasthan Prisons Rules, 2022.

<sup>6</sup> See available at: <https://www.un.org/esa/socdev/enable/rights/ahcstata14refinthr.htm>

<sup>7</sup> Article 5 of Universal Declaration of Human Rights, 1948.

<sup>8</sup> Neha Gupta, “Role of Lawyers in Providing Speedy Justice”, 64, *All India Arbitration Law Reporter* and 13 (2006 (4)).

<sup>9</sup> K. Rama Chandra Reddy, *“Suggestions for Speedy Justice in Criminal Trials”*, 3 SCC 8 (1990).

<sup>10</sup> Devm, “Justice delayed is justice denied”, *Jus Corpus Law Journal* on May 2021, online available at: <https://www.juscorpus.com/justice-delayed-is-justice-denied/>

and the slow resolution of cases by the courts.<sup>11</sup> This right of expeditious or speedy trial is the essence of justice and delay in the trial causes denial of justice to the accused.

### **The Role of Rajasthan State Judiciary of Prisoners' Rights:**

The issue of prisoners' rights in Rajasthan is directly related to the repeated interpretation and protection of particular constitutional rights by the state's court system in response to different cases. Through its consideration of a number of cases, the Rajasthan High Courts have had the chance to affirm and safeguard a number of fundamental rights that are inherent to the state's criminal justice system. Some of the rights are:

In a case of **Nand Lal v. State & Ors.**<sup>12</sup>, concerns inmates' constitutional and human rights to procreation and family. Life sentence Nand Lai desired speedy release to remarry his childless wife Rekha. Procreation by inmates was questioned for theological, cultural, social, and humanitarian reasons. Nand Lai was paroled six years into his life sentence. His wife demanded a 15-day urgent release to conceive as a married lady. Nand Lai went to court since the authorities hadn't decided her application. The court stated Hinduism, Judaism, Christianity, and Islam promote procreation for divine and communal reasons. The Constitution's Article 21 safeguards convicts family life and procreation. The court said denying a prisoner this power violates his and his innocent spouse's emotional and reproductive rights. The court granted fifteen-day emergent parole for procreation despite parole restrictions for religious, cultural, and humanitarian considerations. Thus, the court stressed that exceptional cases should emphasize human dignity and fundamental rights. The court ordered Nand Lai 15 days to have children, confirming that the constitution should protect detainees' human dignity and family life rights.

In **Khayali Devi v. State & Ors.**<sup>13</sup>, emphasises that Rajasthan prisoners are entitled to fair treatment and due process. It emphasises the importance of carefully recording offences, witnesses, and penalty details when imposing serious punishments like forfeiture of remission. Arbitrary or unconstitutional punishments violate prisoners' Constitutional rights to life and liberty, the court decided. Prisoners' dignity is violated by brutal and barbaric treatment, and the judgement calls for state reform. It emphasises that prisoners have basic rights and that authorities must ensure that disciplinary measures are lawful, transparent, and constitutional.

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<sup>11</sup> J.C. Seth, "Justice In Time –Inventing Effective Measures", 55 *Arbitration Law Reporter*, and 29 (2004(2)).

<sup>12</sup> 2022 2 RLW (Raj) 1236.

<sup>13</sup> 2016 2 RLW (Raj) 1432.

In the case of **Vaman Narayan Ghiya v. State of Rajasthan & Anr.**<sup>14</sup>, the Hon'ble court ruled that the prisoners' basic rights, including the right to proper medical care under Article 21 of the Indian Constitution, were upheld in Rajasthan. According to the court, prisoners have a right to healthcare that is on par with that which is accessible outside of jail, and the state is obligated to provide this healthcare, which may include specialized treatment as required. Treatment decisions should not be influenced by the prisoner's subjective preferences but by the specifics of their illness and the accessibility of suitable medical facilities. It was also made clear in this case that prisoners' dignity must be protected and that cruel or barbaric treatment of prisoners is absolutely unacceptable. In sum, the decision stresses that prisoners can still exercise some fundamental rights, including as the right to health care, and that the government can't just ignore these rights; courts can step in when they're violated.

The case **Narayan Ram v. State of Rajasthan & Ors.**<sup>15</sup>, highlights the need of protecting the rights of Rajasthani prisoners, particularly their right to parole. Even while incarcerated, prisoners maintain their basic rights, including the right to life and the right to personal liberty, as the court highlighted. It acknowledged the important social and rehabilitative functions of parole, including as fostering positive conduct and preserving family relationships. Parole terms, including bond amounts and surety requirements, should be fair and considerate of the prisoner's financial situation, the court emphasised. The court affirmed that qualified prisoners should not be prevented from exercising their right to release due to financial hardship, and it changed the parole requirements in this case to alleviate some of those costs. In sum, the case highlights the need of safeguarding prisoners' rights and implementing parole procedures that are flexible and sensitive to unique circumstances.

In the case of **Ishwar v. State of Rajasthan**<sup>16</sup>, the Hon'ble court held that prisoners have fundamental rights and that the State must provide humane care and rehabilitation. The court stresses that authorities must preserve prisoners' basic human rights while they are in prison. The lawsuit addresses convicts' rights to transfer to open-air camps under rules to aid social reintegration, minimise overcrowding, and promote rehabilitation. The court determines that the State has failed to apply the guidelines and offer suitable rehabilitation facilities, resulting in unjustified and protracted detention of qualified offenders. It emphasises the State's proactive role in building and maintaining open-air camps to reform convicts and protect society. The judgement also promotes restorative justice, emphasising jail reform and social

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<sup>14</sup> 2013 AIR (Raj) 35.

<sup>15</sup> 2012 120 AIC 606.

<sup>16</sup> 2008 1 WLC 270.

reintegration above punishment. It urges the state to undertake surveys, build new camps, and transfer qualified offenders quickly to protect prisoners' rights to humane treatment, social rehabilitation, and lawful reintegration. The case emphasises that prisoners have fundamental rights and that the state has a constitutional and moral obligation to treat them humanely and rehabilitate them.

In the case of **Mohan Lal v. State of Rajasthan & Ors.**<sup>17</sup>, In Mohan Lal v. State of Rajasthan & Ors., the Hon'ble court upheld Rajasthan prisoners' right to fair and individualised premature release. It emphasises that offenders serving life sentences or durations above 14 years can be considered for parole after 14 years depending on their character, conduct in prison, and likelihood of reoffending. The verdict states that prisoners can be considered under multiple release guidelines if eligible. It requires transparent, rational, and appropriate decision-making by the State Government, which must exercise its discretion fairly. The case also shows that prisoners have the right to periodic case reviews and that decisions should be impartial, protecting their constitutional rights.

In case of **Om Prakash v. State of Rajasthan**<sup>18</sup>, The Hon'ble court ruled that prisoners in Rajasthan's prisons had constitutionally guaranteed rights, including the rights to equality, decency, and humane treatment. In particular, it draws attention to the fact that Articles 14 and 21 of the Rajasthan Constitution make it clear that laws that exclude certain prisoners from parole consideration because they live outside of the state are discriminatory. Authorities must evaluate each prisoners' case impartially and without bias, the court stresses, and the right to release is based on humanitarian principles, which supersede basic human rights. In order to ensure that the petitioner's rights are respected and that no unfair geographical discrimination happens throughout the parole process, the court orders the authorities to re-examine their parole application and all others like it.

### **Prisoners' Rights To Have Speedy Trial And Free Legal-Aid As Fundamental Rights:**

The independence and focus on justice that characterise the judicial system are its most distinctive features. The justice delivery system is the most problematic aspect of the judicial system. Free legal representation is not a basic human right for those who are accused. Those accused who are facing bailable charges sometimes choose not to seek for bail due to financial

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<sup>17</sup> 2004 2 RLW (Raj) 1118.

<sup>18</sup> 2003 1 RLW (Raj) 246.

hardships and poverty. Additionally, they have no idea that they have the legal right to be released on bail. Article 39-A of the Constitution requires the state to ensure that low-income accused individuals or those awaiting trial have access to legal representation in order to safeguard their rights guaranteed by law and prevent injustice. The right to life and personal liberty guaranteed by Article 21 of the Constitution is enshrined in the notion of "reasonable, fair and just" procedure; denying impoverished accused persons or undertrial prisoners access to free legal assistance would undermine this principle. As an example of the effects of Article 39-A, the Supreme Court stated: *“This Article also emphasises that free legal service is an unalienable element of ‘reasonable, fair and just’ procedure for without it a person suffering from economic or other disabilities would be deprived of opportunity for securing justice. The right to free legal services is therefore, clearly an essential ingress of reasonable, fair and just procedure for a person accused of an offence and it must be held implicit in the guarantee of Article 21”*.<sup>19</sup>

In the case of **Ramu v. State of Uttar Pradesh**<sup>20</sup>, the Hon’ble court ruled that prisoners’ rights to a prompt trial and free legal aid are constitutional rights. Article 21 emphasises that delays undermine the primary guarantee of liberty and the right to a fair trial, making a swift trial crucial to personal liberty. The courts have ruled that lengthy incarceration without timely proceedings breaches constitutional rights and that justice must be administered quickly. Free legal aid is part of fair procedure under Article 39A, which mandates the state to provide justice for all, including marginalised and impoverished inmates. Delaying or refusing legal aid contradicts equity and fair trial, and inmates must be informed of their rights and afforded legal support throughout criminal proceedings, including bail and trial. Legal Services Authorities Act and legal help guidelines support these constitutional guarantees. Delays and denial of legal help violate prisoners' rights to liberty, equality, and justice, requiring proactive steps to promote a fair and fast judicial procedure. The accused are not guaranteed free legal aid. Bankrupt defendants rarely request bail for bailable charges. Lack of funds for court fees. Court fees, advocate fees, and documentation. The federal and state governments must provide free legal aid to the underprivileged, indigent, under-trial, and accused under Art. 39-A to protect them from injustice and constitutional and legislative laws.

The hon’ble court in the case **Suhas Chakma v. Union of India & Ors.**, the Constitution ensures prisoners’ rights to a timely trial and free legal help, especially Article 21, which

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<sup>19</sup> *Hussainara Khatoon (II) v. Home Secy. State of Bihar*, AIR 1979 SC 1369 at 1370.

<sup>20</sup> 2024 12 ADJ 578

guarantees liberty and a fair trial. Legal aid must be effective and proactive, especially for the poor, to provide justice and prevent unnecessary detention, courts have said. Judges must advise prisoners of their rights to free legal services and establish Under Trial Review Committees to expedite release and legal aid. These guidelines protect prisoners' dignity, expedite justice, and respect the constitutional right to a fair trial.

### **Conclusion:**

Therefore, it is hereby concluded that Prisoners' rights in Rajasthan illustrate the conflict between constitutional protections and their implementation. Although Indian and international law recognises inmates' basic human rights, Rajasthan's prisons are overcrowded, cruel, understaffed, and abuse trial-awaiting prisoners. Recently, the Rajasthan courts has preserved parole, healthcare, family relationships, and freedom from arbitrary punishment. Without comprehensive legislation and strict enforcement, fundamental rights often remain unrealised. Female, Dalit, and low-income convicts are especially isolated in prisons. Judicial oversight, humane prison administration, and legislative commitment to prisoner rights laws are needed to close this disparity. Prison conditions show how seriously society regards fairness, decency, and human rights. Rajasthan and India must move beyond hollow promises and make actual changes for all prison inmates.

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