



PRISONERS' RIGHT TO CONJUGAL VISITS IN INDIA: A HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

Being imprisoned is, without doubt, a loss of the most basic rights and freedoms, however, it is also a failure of the most important human relations, those that define a person and give him/her hope. This article is dealing with the very core of a personal question of whether prisoners in India may be allowed conjugal visits or not. The authors, while not adopting the stance of an utterly impartial charger, reason this matter by placing human rights compassionately at the center of the debate. Within the Indian prison system, the mechanisms that regulate events and rights mostly sideline the way inmates, especially their spouses and families. The central idea of the article is that such denial amounts to a double "invisible sentence" not only for the imprisoned, but also for their innocent family members, especially children and spouses. We argue that the prisoners even after conviction should not be utterly stripped off the rights to dignity, family life, and marriage preservation. These human rights are the basis for rehabilitation as the sustaining of family ties is certified to lower the rate of re-offense and, at the same time, providing a very essential motivational factor for the positive social reintegration. Moreover, they support their claims by referring to the International human rights norms and presenting comparative examples from various other countries. The article benefits a great deal by their suggestion listing one of the arguments in favor of reform that in fact the acknowledging a controlled conjugal visit is not by any means a privilege or a luxury but the opposite - the necessary step towards a more humane, more effective, and rights-based penal system. On the whole, to recognize the prisoner's common humanity with the inclusion of their need for love and intimacy as one of the chief reasons for genuine rehabilitation becomes one of the great strides towards achieving social justice for all.

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INTRODUCTION

Prison limits freedom, but it does not rob the honour of humanity. Behind bars, inmates endure a deep deprivation of closeness and camaraderie and the opportunity to nourish their familial bonds. This deprivation raises a core question: Should prisoners get conjugal visits? And these visits aren't just horsing around with the girls; they save dignity and sanity and family bonds, too.¹ By acknowledging these fundamental human needs, prison systems can align punitive goals with rehabilitative ones, cultivating emotional well-being and easier social reentry.

Indian courts have held repeatedly that not even convicts are stripped of all fundamental rights. By identifying intimacy and procreation as a component of the right to life and dignity under Article 21, the judiciary demonstrates a commitment to protecting personal and familial stakes.² But India has no national standard. Punjab's radical experiment in 2022 with the launch of supervised conjugal visits provided encouraging results: stress relief for the inmates, reinforced familial bonds, and more even fervour for recidivism.³ But the program's sudden stop revealed how tenuous these reforms remain in the absence of stable political, administrative and social support.

As such, the dispute on conjugal visits goes beyond issues of ethics or prison reform. At bottom, it demands society to view prisoners as human, as having rights to their dignity, mental health and family life. In this essay, I explore the constitutional, judicial and human-rights landscape of conjugal visits in India — assessing state efforts, considering international experience and standards, and sketching out a pragmatic, rights-affirming path forward.⁴

¹ Jasvir Singh v State of Punjab (2014) CRM-M No 41802 of 2013 (Punjab & Haryana HC)

² Charan Singh v Union of India 2021 SCC OnLine Del 3523 (Delhi HC).

³ Ludhiana jail launches "conjugal visit" for prisoners with good conduct' Times of India (Ludhiana, 4 October 2022) <https://timesofindia.indiatimes.com/city/ludhiana/ludhiana-jail-launches-conjugal-visit-for-prisoners-with-good-conduct/articleshow/94642823.cms> accessed 27 September 2025.

⁴ 'Punjab suspends conjugal visit scheme for prisoners' Indian Express (Chandigarh, 3 December 2023) <https://indianexpress.com/article/cities/chandigarh/punjab-suspends-conjugal-visit-scheme-9045110/> accessed 27 September 2025.

CONSTITUTIONAL AND JUDICIAL PERSPECTIVE IN INDIA

Article 21 protects life and liberty, allowing them to be taken away only via due process. And the SC's hearty textualist interpretation of Article 21 has protected dignity, privacy and family life—which, where feasible, also encompasses conjugal life.⁵

Judicial interpretation pushed it along. In *Sunil Batra v Delhi Administration* (1978), the Court stressed that despite prison's potential to dehumanise and punishment's need to be directed towards reframing and not mere retribution. This case is still seminal because it set the baseline that prison bars don't erase constitutional rights.⁶ But the Court also emphasised that prison authorities may impose 'reasonable limitations' on it for the sake of order and security.

Punjab and Haryana High Court, in *State of Punjab v. Jasvir Singh* (2015), went a step further, expressly acknowledging the 'right to procreation' under Article 21 and allowing scientifically assisted procreation in the case of a life convict.⁷ The judgment was nevertheless mindful of balancing the prisoner's rights with administrative concerns, requiring rigorous safeguards against abuse. Because while courts also recognise procreation and family life as a bona fide right, it's not unlimited, they must defer to institutional authority.

The Madras High Court, in *Meharaj v. State* (2018), specifically described conjugal visits as being in keeping with reformatory justice. And even when acknowledging their rehabilitative function, the court ruled that such access must remain subject to oversight and policies.⁸ To forestall abuse. This decision matters for demonstrating Indian courts' treatment of marital rights as an essential of life, a reform.

Other constitutional touchstones, *Shah Bano* (1985) and *Navtej Singh Johar* (2018), while not about prisons per se, buttress intimacy, privacy and dignity as non-derogable Article 21 values. And both decisions together illustrate how the courts wrestle to calibrate dignity and redemption with convenient administrative concerns. But without that unified, legislature-led initiative, marriage rights recognition is piecemeal and dependent on patchwork state laws or ad hoc court rulings, leading to uneven protections between states and corroding the equality guaranteed by Article 14.

⁵ *Maneka Gandhi v Union of India* (1978) 1 SCC 248 (SC) (expanding Art 21 to include dignity and privacy).

⁶ *Sunil Batra v Delhi Administration* (1978) 4 SCC 494 (SC).

⁷ *State of Punjab v Jasvir Singh* 2015 SCC OnLine P&H 11479.

⁸ *Meharaj v State* 2018 SCC OnLine Mad 27103

POLICY DEVELOPMENTS AND INDIAN PRISON EXPERIENCE

Prison administration in India, being a state subject, states had thus discretion in framing prison rules. Most states have been mum on conjugal visits, with Punjab the most high-profile experimenter in 2022. The scheme, which permitted supervised private visits for eligible inmates and their spouses in specific jails, garnered massive interest—over a thousand applications were filed within weeks. Prison officials had drops in inmate agitation and upticks in behaviour and discipline. But the program was abruptly put on hold security concerns, administrative burden and political anxieties. Its demise revealed the perils of piecemeal reform without national standards.

A few other states have weighed in as well. Delhi proposed conjugal visits in Tihar Jail but cited overcrowding and poor infrastructure as obstacles. Kerala's Prison Rules 2014 allow long family visits in certain circumstances, but not any serious conjugal programming. Maharashtra, as well, had discussions particularly around reformative advantages, but momentum stalled. This broader yet patchy state-level dialogue shows Punjab was not an anomaly, but the lack of national collaboration has brought the impetus to a halt.

Any national discourse must reckon with India's jails as they are right now. Overcrowding is endemic: in 2022, prisons operated at around 130–131% capacity. On top of that, an overwhelming majority of the jail population are undertrials.⁹ Close to three-fourths in some years, which raises ethical issues about excluding them from reforms when they are legally innocent. Importantly, most policy debates have ignored vulnerable groups, women prisoners, who may live with their children; LGBTQ+ detainees, whose spouses aren't recognised; and undertrials, whose full constitutional rights remain intact. Any reform that forgets about these groups risks making inequality worse, not better.

PSYCHOLOGICAL AND REHABILITATIVE IMPORTANCE

Prison life, in its tedium, social barrenness and psychological pressure, all of which breed depression, nervousness, aggression, and other issues. The isolation, the personal and communal isolation, amplifies these wounds. Furthermore, studies from other jurisdictions but similar carceral populations discover that strong family bonds, including conjugal visitation

⁹ 'Ludhiana jail launches "conjugal visit" for prisoners with good conduct' Times of India (Ludhiana, 4 October 2022) <https://timesofindia.indiatimes.com/city/ludhiana/ludhiana-jail-launches-conjugal-visit-for-prisoners-with-good-conduct/articleshow/94642823.cms> accessed 27 September 2025.

where feasible, preserve mental stability, diminish institutional infraction, and increase engagement in rehabilitative programming.

Conjugal visits meet a great number of psychological and social needs all at the same time. They offer emotional sustenance, keep up social obligations to wives and children and maintain the prisoner's social identity as a family member. Psychologists note that prisoners with tight families have more at stake in vocational and academic courses, and are less likely to re-offend after release. For kids and wives, these visits prevent the family from dissolving, providing a steady stream of love and accountability. From a public policy perspective, conjugal visits aren't perks; they're investments in rehabilitation and community safety down the line.

INTERNATIONAL PERSPECTIVE ON CONJUGAL RIGHTS

International experience teaches us that conjugal visits can be handled with prison security intact. Several US states, including California and New York, operate extended family visits in safe prison units. Evaluations show these programs reduce violence and aid entry.¹⁰ Canada isn't just allowing spouses to come visit; they're also welcoming common-law partners and close relatives,¹¹ which is very inclusive. South Africa's Constitutional Court has made conjugal rights not only part of dignity, but enforceable in law.¹² Brazil and Mexico see conjugal visits as essential to family unity in Latin America.¹³ Norway, known for its rehabilitative prison model, offers family rooms and even apartment-style units in some prisons for overnight stays. These hubs personalise family interaction, preserve respect, and still keep them closely monitored through alarms and caregivers.

International human-rights systems also emphasise this obligation. Contact with the outside world, as outlined in the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).¹⁴ The ICCPR, of which India is a signatory, enshrines the rights to family life and dignity. As a signatory, India was under both an ethical and legal obligation to

¹⁰ Rebecca J Shlafer and others, 'Why and How Families Matter for Incarcerated Men's Reentry: A Review of the Literature' (2012) 40 Family Relations 9 <https://pubmed.ncbi.nlm.nih.gov/26330175/> accessed 27 September 2025.

¹¹ Correctional Service Canada, Family Visits Program (Government of Canada, 2023) <https://www.csc-scc.gc.ca/family/003004-0008-en.shtml> accessed 27 September 2025.

¹² WP v Minister of Justice and Correctional Services [2021] ZAGPPHC 77 (South Africa High Court) <https://www.saflii.org/za/cases/ZAGPPHC/2021/77.html> accessed 27 September 2025.

¹³ João Pedroso and others, 'Conjugal and Family Visits in Brazilian Prisons: Between Rights and Risks' (2019) 61 Revista Brasileira de Ciências Criminas 127; See also International Centre for Prison Studies, Conjugal and Family Visiting in Mexico (ICPS Briefing Paper, 2018).

¹⁴ United Nations General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), GA Res 70/175 (17 December 2015) Rule 58.

align its prison practices with these standards.¹⁵ So global lessons are both best practices and imperatives guiding India's internal reforms.

CHALLENGES IN THE INDIAN CONTEXT

Sure, some serious conjugal visit hurdles in India. Security concerns persist, however, as confidential gatherings can be misused for trafficking, machinations or breakout strategising.¹⁶ Infrastructure deficiencies are dire—the majority of prisons don't even have basic living quarters separate from family units,¹⁷ and conjugal visits are luxuries, which mute political will. Inclusivity gaps continue, leaving out women, undertrials and LGBTQ+ prisoners.¹⁸ Finally, governance fragmentation relegates piecemeal state practices to the absence of any big-picture guidance.

PRACTICAL SOLUTIONS AND RECOMMENDATIONS

If we are to map out a viable structure for conjugal visits in India, here's what needs to be done. It has to begin with controlled pilots in a limited number of low-population prisons, in which effects on inmate mental health, institutional discipline and family health can all be monitored.¹⁹ A data-driven mentality will support your courage and stare down doubt.

Preferences and safeguards, nice guys behind bars with no assault charges or breakout tickets on whom genuine spouses might be attached, could jump ahead in line. As for undertrials—legally innocent until proven guilty—judicial supervision should decide suitability on an individual basis. Hard and fast rules diminish whimsy and turn conjugal visits more into supervised therapeutic benefits and less into open-ended allowances.

¹⁵ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, arts 17 and 23.

¹⁶ Charan Singh v Union of India 2021 SCC OnLine Del 3523 (Delhi HC) (discussing security concerns in prison management).

¹⁷ National Crime Records Bureau, Prison Statistics India 2022 (Ministry of Home Affairs 2023) 3–5 (prisons operating at 130–131% capacity, inadequate facilities).

¹⁸ Gurpreet Singh, 'Punjab Becomes First State to Allow Conjugal Visits in Jail' Indian Express (22 February 2022) <https://indianexpress.com/article/cities/chandigarh/punjab-conjugal-visits-jail-7786617/> accessed 27 September 2025; 'Punjab suspends conjugal visit scheme for prisoners' Indian Express (3 December 2023) <https://indianexpress.com/article/cities/chandigarh/punjab-suspends-conjugal-visit-scheme-9045110/> accessed 27 September 2025.

¹⁹ Rebecca J Shlafer and others, 'Why and How Families Matter for Incarcerated Men's Reentry: A Review of the Literature' (2012) 40 Family Relations 9 <https://pubmed.ncbi.nlm.nih.gov/26330175/> accessed 27 September 2025.

Infrastructure needs to be modest yet useful. And in established areas, private, sterile rooms for supervised family visits. You could also pilot very low-cost modular cabins with security screening, monitored entry/exit and emergency protocols. Costs can be phased rollouts, with additional assistance from central government grants or NGO and CSR collaborations.

Staff training is essential. Correctional officers must be sensitised to privacy and gender issues, but they must also remain on top of contraband. A humane yet safe facility can only be the case when personnel grasp the rehabilitative intent of these programs.²⁰

Inclusivity must be integral. For women prisoners, conjugal visits have to provide childcare assistance in situations where children live with incarcerated mothers. LGBTQ+ prisoners ought to have visits from same sex partners, and these liberties are reflective of changing laws. Other alternatives like video calls, extended family counselling and in extreme cases, medically assisted reproduction (Jasvir Singh cited)²¹ can be exploited by those beyond the physical visitation short-reach.

At the policy level, the MoHA should draft model national guidelines on eligibility, security, and inclusivity mandates, with scope for states to adapt. A provisional expert board of jurists, psychiatrists, penitentiary officials, and civil society could outline execution roadmaps and evaluation criteria. It is up to the courts to police the exception and make sure it doesn't become a free pass for arbitrary exceptions.

Public awareness work has to focus on the international research documenting how conjugal visits reduce recidivism and support family and social reintegration. University research partnerships can measure costs and benefits in, transparent and accountable manner. While the front-end investment is steep, the long-term savings in terms of lower recidivism and healthier families more than justify it.²²

Combined, these actions compose a practical plan of action. Pilot, evaluate, refine, and expand. India may have been taking steps toward welcoming conjugal visits into its correctional philosophy, where respect intersects with rigour, and reformation runs parallel to protection.

²⁰ Correctional Service Canada, Family Visits Program (Government of Canada 2023) <https://www.csc-scc.gc.ca/family/003004-0008-en.shtml> accessed 27 September 2025.

²¹ Jasvir Singh v State of Punjab CRM-M No 41802 of 2013 (Punjab & Haryana HC) (permitting assisted reproduction and noting inclusivity considerations)

²² United Nations General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), GA Res 70/175 (17 December 2015) Rule 58.

CONCLUSION

Conjugal visits, after all, are not luxuries, but rather rights-based corrections of a kind that preserve dignity, reinforce family ties, and support rehabilitation.²³ India's constitutional ethos and its burgeoning jurisprudence under Article 21 offer rich soil for reform. Punjab's pilot demonstrated that pilots are possible, and the discussions in Delhi, Kerala and Maharashtra indicate increasing acceptance of their applicability.²⁴ International experience from Norway's family rooms to prescriptive 3-blocker programs in the US, Canada and Latin America shows these practices can exist alongside safeties.

The hurdle is India's overcrowded prisons, inconsistent state policies and social doubts. But these are not insurmountable challenges. With phased pilots, transparent evaluation, inclusivity and national guidelines, conjugal visits can become part of India's correctional framework. This reform, instead of mollifying punishment, reveals an adult justice system — one that punishes without dehumanising, and rehabilitates without losing dignity.

²³ United Nations General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), GA Res 70/175 (17 December 2015) Rule 58.

²⁴ Gurpreet Singh, 'Punjab Becomes First State to Allow Conjugal Visits in Jail' Indian Express (22 February 2022) <https://indianexpress.com/article/cities/chandigarh/punjab-conjugal-visits-jail-7786617/> accessed 27 September 2025.