



PRISON REFORMS AND HUMAN RIGHTS OF UNDERTRIAL PRISONERS IN INDIA

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ABSTRACT

Undertrial prisoners comprise a substantial proportion of India's prison population, revealing persistent structural weaknesses in the criminal justice system. Although the Constitution of India guarantees equality before the law and the right to life and personal liberty under Articles 14 and 21, thousands of individuals remain incarcerated for extended periods without conviction. The Supreme Court in Hussainara Khatoon v Home Secretary, State of Bihar, recognised the right to a speedy trial as an essential component of Article 21, yet delays in investigation, adjudication, and bail procedures continue to undermine this safeguard. Overcrowding, limited access to effective legal aid, socio-economic marginalisation, inadequate healthcare, and custodial violence further intensify the human rights concerns of undertrial detainees. This research paper critically examines the constitutional and statutory framework governing the treatment of undertrial prisoners and evaluates recent reform initiatives, including the Model Prison Manual, 2016, and the strengthening of legal aid mechanisms. It analyses the gap between judicial pronouncements and practical implementation, arguing that systemic inefficiencies and policy shortcomings perpetuate pre-trial detention as a form of indirect punishment. The study concludes by recommending reforms in bail jurisprudence, periodic detention review, judicial capacity enhancement, and prison administration modernisation to uphold dignity, fairness, and constitutional morality.

Keywords: Undertrial Prisoners, Pre-trial Detention, Prison Reforms, Human Rights of Prisoners.

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INTRODUCTION

Pre-trial detention remains one of the most critical challenges confronting India's criminal justice system. A significant proportion of the prison population consists of undertrial prisoners. The rationale for this study lies in examining the tension between constitutional promises and the lived realities of undertrial prisoners.

The central problem addressed in this paper is the persistent gap between judicial pronouncements and practical enforcement. Although courts have articulated various principles, structural inefficiencies, restrictive bail practices, and inadequate review mechanisms contribute to extended incarceration without adjudication of guilt. This study, therefore, seeks to critically analyse the constitutional and statutory framework governing undertrial prisoners, assess the effectiveness of recent reform measures, and explore whether existing mechanisms sufficiently safeguard the dignity and liberty of individuals awaiting trial.

STATEMENT OF THE PROBLEM

Undertrial prisoners in India constitute a very high percentage of the population in prison, thereby posing serious challenges to the application of constitutional rights, which are guaranteed under Articles 14, 21 and 22. Although a right to a speedy trial and fair treatment is acknowledged by the judicial system, numerous undertrial prisoners are kept in custody because of the systemic delays and overcrowding of prisons and the lack of access to legal services. The issue is that there is a stigma between the existing legal protection and its functioning in practice. This paper delves into this disconnection by critically analysing constitutional and statutory provisions of undertrial detention. It dwells on finding structural inefficiencies and procedural obstacles that lead to prolonged pre-trial incarceration and examines recent reform efforts to overcome these issues.

OBJECTIVES OF THE STUDY

The study aims to:

- The constitutional and statutory provisions of undertrial prisoners in India.
- Examine major judicial decisions that have influenced the rights of undertrial and bail jurisprudence.

- Determine the key obstacles of undertrial prisoners, such as socio-economic and institutional factors.
- Consider the success of innovations like the Model Prison Manual, 2016 and BNSS, 2023.
- Recommend legal and policy changes to enhance the rights of the undertrial prisoners.

RESEARCH METHODOLOGY

The research instrument used is a doctrinal (qualitative) method of research. The analysis is based on:

- Articles 14, 20, 21 and 22 of the Constitution.
- BNSS, 2023; BNS, 2023; and Legal Services Authorities Act, 1987.
- Some of the groundbreaking court cases, such as Hussainara Khatoon, Moti Ram and Satender Kumar Antil.
- Prison manuals, government reports and policy documents.
- Academic articles, journals and legal commentaries.

The study will entail a critical review and reading of legal texts to assess the disjuncture between law and practice.

REVIEW OF LITERATURE

The current literature emphasises the systemic issues of undertrial prisoners and the insufficiency of the reforms:

- Legal experts point out that congestion and slowness are caused by structural inefficiencies in the legal system.
- Prison administration research indicates that one of the greatest limitations is the Prisons Act, 1894, which is outdated.
- Bodies like NALSA and the Law Commission of India have reported that legal aid and bail reforms should be improved.
- Socio-economic disparities are also a topic of academic discussions, which report that communities of colour are overrepresented in the group of undertrials.

Altogether, the literature provides a consensus that the main issue is implementation failure, instead of the absence of legal provisions.

CONSTITUTIONAL AND STATUTORY FRAMEWORK GOVERNING UNDERTRIAL PRISONERS

The constitutionally based protection granted to the undertrial prisoners in India is based on the Constitution and has been upheld by statutory provisions, principally in the Code of Criminal Procedure. Combined with each other, these frameworks aim at the reconciliation of the interests of the State to law and order with the basic rights of people who may be innocent until the case is decided.

CONSTITUTIONAL SAFEGUARDS

Article 14: Guarantees equality before the law, and this denies the right of undertrials to be discriminated against under the pretext of economic or social status. Bail determinations and custody policy should hence adhere to the principles of fairness, reasonability and non-arbitrariness.

Article 20: Protection Against Conviction Without Due Process: Article 20 protects the subjects against arbitrary conviction and against double jeopardy. It supports the general idea that no individual should be subjected to the penal consequences, but rather to due process laid out by the law, which in turn indirectly safeguards the accused at trial.

Article 21: This has on numerous occasions been determined by the Supreme Court to entail entitlement to dignified living, entitlement to speedy trial, and entitlement to human treatment in custody.¹

Article 22: Grants protection against arbitrary arrests and detentions whereby the suspects are aware of the charges, have access to legal assistance and appear in the presence of a magistrate within 24 hours.²

¹ Mrs Sampadika Mohanty, 'Rights of Undertrial Prisoners in The Present Scenario' (2025) 7(6) Indian Journal of Law and Legal Research <https://www.ijllr.com/post/rights-of-undertrial-prisoners-in-the-present-scenario> accessed 14 May 2026.

² Aashifa Aidalkhan Pathan, 'Undertrial Prisoners: Issues, Challenges and Legal Reforms' (2025) 12(2) International Journal of Research and Analytical Reviews <http://www.ijrar.org/papers> accessed 15 May 2026.

Statutory Laws in India that govern prisoners in India: There are a few statutory legislations concerning the management of prisons and protecting the rights of prisoners in India.

Prison Act and Prison Rules: Each state in India has its Prison Act and Prison Rules that are used to govern the administration and running of prisons. Such laws define the rights, obligations and privileges of the prisoners, their medical, housing, food, punishment and their general wellbeing.³

Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS): The Bharatiya Nagarik Suraksha Sanhita, 2023, lays down the procedures for criminal investigation, arrest, detention, bail, and trial in India, replacing the earlier Code of Criminal Procedure, 1973. It contains the terms of arrest, detention, remand, bail, investigation, and trial procedures, which are applied to the accused persons and undertrial prisoners.

In section 187 of BNSS, there is the detention of an accused person in the investigation period and the time within which a person can be retained in custody is speculated to be the maximum time within which the charge sheet is not to be filed.

BNSS 478 and 479 cover the provisions dealing with bail, such as the grant of bail in personal bond and release of undertrial prisoners who have served half of the maximum sentence given to the offence to which they are charged.

Bharatiya Nyaya Sanhita, 2023 (BNS): The Bharatiya Nyaya Sanhita, 2023 contains the legal code that regulates criminal behaviour and punishment in India, and it offers some new features, such as community service in minor offences, as a method of punishment, and it also defines and classifies crimes.

Transfer of Prisoners Act, 1950: This Act governs the movement of prisoners in one state to another or between two or more prisons in a single state. It defines policies and procedures of such transfer, considering security needs and the well-being of the prisoner.

Juvenile Justice (Care and Protection of Children) Act, 2015: This Act involves taking care of, protecting and rehabilitating children who conflict with the law. It makes sure that the

³ Shivina Rathore, 'Prison Reforms in India: Evaluating Undertrial Detention and Access to Justice' (2026) 17(1) Journal of Advances in Developmental Research <https://www.ijaidr.com/research-paper> accessed 14 May 2026.

juveniles are isolated in special institutions and they are given education, counselling services, as well as rehabilitation services to enable them to integrate back into society.

Legal Services Authorities Act, 1987: The Legal Services Authorities Act provides a means by which the economically disadvantaged in society, such as inmates who are unable to hire the services of an attorney, are accorded free legal services. It has created the National Legal Services Authority (NALSA) and State Legal Services Authorities (SLSAs) in order to provide legal aid and representation.

Probation of Offenders Act, 1958: By this Act, some offenders can serve their time on probation rather than spending their time in prison. The key aim of it is to promote the rehabilitation and reintegration of criminals into society.⁴

JUDICIAL INTERPRETATION AND EXPANSION OF UNDERTRIAL RIGHTS

In India, judicial activism has played an important role in safeguarding the rights of undertrial prisoners and formulating bail jurisprudence. Several historic rulings have reinforced the idea of individual freedom and a fair criminal trial.

Hussainara Khatoon v State of Bihar:⁵ The Supreme Court held the right to a speedy trial to be one of the fundamental rights granted by Article 21 of the Constitution of India. The situation in the case brought to light the reality of thousands of untried captives rotting in the prisons of Bihar due to a lack of proper trial.

Supreme Court Legal Aid Committee v Union of India:⁶ The Court directed the release of all undertrial prisoners who had been accused under the Narcotic Drugs and Psychotropic Substances Act, 1985 and had suffered more than five years of pre-trial imprisonment, highlighting the necessity to avoid prolonged pre-trial incarceration.

Moti Ram v State of Madhya Pradesh:⁷ The Court recommended a liberal view on the granting of bail and held that one should not be denied bail on the ground that one was financially incapable.

⁴ Adv Sanjay Sarraf, 'Exploring Prisoners in India - Rights, Conditions, and the Quest for Justice' (2023) 11(5) International Journal of Creative Research Thoughts <http://www.ijcrt.org/viewfull.php> accessed 15 May 2026.

⁵ AIR 1979 SC 1360.

⁶ (1994) 6 SCC 731.

⁷ AIR 1978 SC 1594.

Arnesh Kumar v State of Bihar:⁸ This ruling limited arbitrary arrests where the crime carries a sentence of up to seven years in prison, and the idea was that the granting of bail should be the rule.

Satender Kumar Antil v CBI (2022): The Supreme Court has provided detailed instructions according to which bail should be given where there is a possibility under the law and to prevent unwarranted arrests.⁹

In Re: Inhuman Conditions in 1382 Prisons:¹⁰ The Court pointed out the severe issue of prison overcrowding and ordered state governments to make efforts that would help to improve the state of prisons. With such judicial actions, the Supreme Court has reiterated the principle of a rule of bail and an exception to jail.¹¹

The Gap Between Law and Practice: The Disjuncture between Law and Practice. Although constitutional rights and laws have been established, undertrial inmates in India still face many challenges in the criminal justice system.¹²

MAJOR CHALLENGES FACED BY UNDERTRIAL PRISONERS

Prison Overcrowding: The majority of prisoners in India are undertrial inmates, and this has led to high congestion. Most prisons operate way beyond the expected capacity, thus resulting in poor living conditions, inappropriate health care facilities, and regular exploitation of human rights.¹³

Delay in Judicial Proceedings: The huge pending cases in the Indian judicial system are a factor that leads to the long stay of undertrial prisoners. A lot of people who are charged with relatively minor crimes languish in custody awaiting the end of their trials.¹⁴

⁸ AIR 2014 SC 2756.

⁹ (2022) 10 SCC 51.

¹⁰ (2016) 3 SCC 700.

¹¹ Amit Kumar Singh, 'Locked justice: Evaluating judicial interventions on prison overcrowding, bail reforms, and the rights of undertrial prisoners under India's criminal justice framework post-BNS, 2023' (2025) 5(2) International Journal of Criminal, Common and Statutory Law 54 <https://www.criminaljournal.com> accessed 11 May 2026.

¹² D.K. Basu v. State of West Bengal, (1997) 1 SCC 416.

¹³ Nishi Karal, 'Access to justice for undertrial prisoners in India' (2025) 11(3) International Journal of Law 23 <https://www.lawjournals.org> accessed 14 May 2026.

¹⁴ Adv Sanjay Sarraf, 'Exploring Prisoners in India - Rights, Conditions, and the Quest for Justice' (2023) 11(5) International Journal of Creative Research Thoughts <http://www.ijcrt.org/viewfull.php> accessed 15 May 2026.

Economic Barriers to Bail: Many of the underprivileged prisoners are economically disadvantaged. When bail is legally authorised, they are frequently not able to provide bail bonds¹⁵ or come up with sureties that can be depended upon to allow release.

Poor Legal Advancement: Despite this provision, the right to free legal aid notwithstanding, most undertrial prisoners do not know of such a right or get inadequate assistance¹⁶ because of the constraints of the legal aid structure and the unavailability of legal aid lawyers.

Social Stigma and Marginalisation: Discrimination and social stigma are common among former undertrial prisoners even after their release. This social exclusion may inhibit their social reentry into society and influence their work and social interactions.¹⁷

Gender and Child-Related Issues: There are other problems, such as a lack of childcare facilities in the prisons, which women undertrial prisoners struggle to cope with.¹⁸ Furthermore, children who follow imprisoned mothers need to be well taken care of and safeguarded. Even though violators of law that are juveniles are supposed to be processed under the Juvenile Justice (Care and Protection of Children) Act, 2015, failure to execute them at times leads to their engagement with the mainstream criminal justice system.¹⁹

STRUCTURAL AND SYSTEMIC ISSUES

Ineffective Implementation of Legal Provisions: There are provisions like Section 479 BNSS that enable the release of undertrial prisoners who have served half of the maximum possible period of imprisonment in custody, which are usually poorly translated and thus lead to more unwarranted incarceration.

¹⁵ Law Commission of India, *Report No. 268: Amendments to Criminal Procedure Code, 1973 – Provisions Relating to Bail* (2017), <https://lawcommissionofindia.nic.in/reports/Report268.pdf>.

¹⁶ Anjani Ratnesh Upadhyay and Nimisha Waghmare, 'Prison Reforms in India – From Punishment to Rehabilitation' (2025) 5 *Indian Journal of Legal Review* <https://ijlr.iledu.in/prison-reforms-in-india-from-punishment-to-rehabilitation/> accessed 12 May 2026.

¹⁷ Dr Manju Kaur and Ashish Shukla, 'Undertrial Detention and Prison Overcrowding in India: An Analytical Study of Challenges and Reform Imperatives' (2025) 5(4) *Indian Journal of Integrated Research in Law* <https://ijirl.com> accessed 18 May 2026.

¹⁸ Commonwealth Human Rights Initiative (CHRI), *Looking into the Haze: A Study on Undertrial Prisoners in India* (2021).

¹⁹ Abhishek Gandhi, *Access to Justice for Undertrial Prisoners: Challenges, Legal Safeguards, and the Road Ahead*, September 5, 2025, <https://advocategandhi.com/access-to-justice-for-undertrial-prisoners-challenges-legal-safeguards-and-the-road-ahead/> accessed 18 May 2026.

Outdated Prison Infrastructure and Laws: The prison administration in India still depends more on the Prisons Act, 1894, which fails to uphold the current times of correctional needs as well as the current human rights practices.

Lack of Uniform Standards Across States: Differences in the way states carry out the provisions of bail, prison administration, and undertrial review create a lot of disparity in how prisons are treated, which causes inconsistency in the way prisoners are treated across states.

All in all, these issues indicate that despite the existence of legal protection, the rights and well-being of the undertrial prisoners in India are still impacted by the lack of implementation, infrastructure, and access to justice.

LEGAL REFORMS AND RECOMMENDATIONS

To bridge the persistent gap between judicial pronouncements and ground-level reality, the following specific reforms are proposed:

Strengthening Bail Jurisprudence and Accountability: Mandatory “Bail Calendars”: Trial courts should maintain a digital “Bail Calendar” that flags cases where an undertrial has completed one-third or one-half of the maximum sentence (per Section 479 BNSS). Failure to take *suo motu* notice should reflect in the judicial officer's annual performance appraisal.

De-risking Personal Bonds: To address economic barriers, the “solvency certificate” requirement should be replaced with a “Social Credibility Index” for petty offences, allowing reputable community members (teachers, village elders, or registered NGOs) to act as non-monetary sureties.

Strategic Expansion of Legal Aid (The “Clinical” Model): Law School-Prison Partnerships: Formalise a “Legal Aid Residency” program where final-year law students and LLM candidates are embedded in Prison Legal Aid Cells for credit. They can handle the administrative “heavy lifting”, drafting bail applications and tracking remand dates under the supervision of a NALSA-empanelled lawyer.

Performance-Linked Incentives: Transition legal aid from a “flat fee” model to a “milestone-based” honorarium to ensure lawyers actively pursue the case rather than providing mere formal representation.

Specialised Oversight and Auditing: Independent Prison Ombudsman: Establish an independent oversight body in each state, headed by a retired High Court judge, to conduct surprise inspections and hold “Prison Adalats” specifically for grievance redressal regarding custodial violence and healthcare neglect.

Annual “State of Incarceration” Reports: Mandate the publication of granular data at the district level regarding the duration of pre-trial detention, providing a metric for "Judicial Efficiency" that can be scrutinised by civil society.

Technological Innovations in the Justice System: The use of modern technology can significantly improve efficiency in handling cases involving undertrial prisoners. Digital tools can reduce procedural delays, improve record management, and facilitate better coordination between courts, prisons, and legal aid authorities.

Virtual Remand as a Rule: Expand the use of high-quality video conferencing for all remand extensions to prevent “forgotten prisoners” who are often not produced in court due to a lack of police escorts.

Rehabilitation and Social Reintegration: Rehabilitation of undertrial prisoners is vital for protecting human rights and preventing future criminal behaviour. Many individuals remain in custody for extended periods due to delayed trials, lack of legal assistance, or inability to obtain bail.

Rehabilitation initiatives should focus on education, skill development, vocational training, counselling, and mental health support. Providing employment opportunities and community-based reintegration programs can help former prisoners rebuild their lives after release.²⁰

FINDINGS

The study identifies the following key findings:

- Undertrial prisoners form a disproportionately large segment of India’s prison population.
- Delays in investigation and trial are the primary causes of prolonged detention.
- Access to bail is seriously influenced by economic and social disparities.

²⁰ Aashifa Aidalkhan Pathan, ‘Undertrial Prisoners: Issues, Challenges and Legal Reforms’ (2025) 12(2) International Journal of Research and Analytical Reviews <http://www.ijrar.org/papers> accessed 15 May 2026.

- Access to legal assistance is not properly exploited and utilised.
- Judicial guidelines on bail and detention are not consistently followed.
- Reforms that have been implemented do not have equal application in all states.
- The punitive effects of pre-trial detention are usually severe, even though the person is presumed innocent.

CONCLUSION

The situation of undertrial prisoners in India highlights a clear gap between constitutional guarantees and their actual implementation. Despite legal safeguards and judicial recognition of rights such as speedy trial and personal liberty, systemic issues like delays, overcrowding, and limited access to legal aid continue to result in prolonged pre-trial detention.

The reform of undertrial detention is not merely a legal necessity but a test of India's **constitutional morality**. By shifting from a system of "procedural defaults" to one of "proactive liberty," the state can ensure that Articles 14 and 21 are lived realities for every citizen, regardless of their socio-economic standing.