

A STUDY INTO THE CHALLENGES RELATED TO POLICING IN INDIA AND UNDER-TRIAL PRISONERS**Syed Shiraz Fazal**

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ABSTRACT

The ongoing police brutalities around the world is a growing concern for the society at large. In India as well it is becoming quite common that the police are using excessive force against the civilians. A recent example in the United States of America also shows the underlying bias which the police force has against persons of African-American origin. The purpose of this research is to address these challenges which are prevailing all across the world. It will endeavor to identify the reasons behind police brutality and engage with the theme of police bias against certain communities. This research shall also tend to suggest certain measures which may be adopted to address the global concern related to police brutalities.

The scope of the research would encompass the study of the criminal procedure and legislative measures which are existing in order to address police misdemeanor. This along with the scenario prevailing in different countries would help in understanding if the legislative measures are sufficient or not. Moreover, the research would also explore whether there is any bias which is embedded in the minds of the police personnel and the impact it has on the civilians.

The limitation of the research would be that it would not engage with the problems faced by the police machinery in its functioning. Moreover, it would not address the concerns of the police personnel, if any, with respect to inadequate remuneration and long hours of work. Further, this research would not address the question that whether there is any shortage in police force regarding manpower and technological devices. These issues along with their impact on the police force and its actions may have studied separately and independently.

INTRODUCTION

As a developing country, India has been challenged with the issue of police reforms for a long time. The police force, which is an essential component of the criminal justice system, has been criticized for decades for its inefficiency, lack of accountability, corruption, and brutalization of the public. In response to these challenges, India has witnessed several initiatives to reform the police system. This research paper examines the ongoing police reforms in India and presents an overview of their aims, outcomes, and limitations.¹

BACKGROUND

Modern policing in India was introduced during British colonial rule in 1861. The colonial police system was designed to protect the interests of the British rulers, maintain law and order, and suppress any opposition from the Indian public. After India's independence in 1947, the police system was restructured, but the colonial legacy of centralized policing and authoritarian command structure continued. The police system is divided into two categories: the state police, which operates at the state level and is headed by the Director-General of Police (DGP), and the Central Armed Police Forces (CAPFs), which are managed by the central government and are responsible for maintaining internal security and defending borders.²

¹ Negi Advocate C., *Human Rights Violations of Migrants Workers in India During COVID-19 Pandemic*, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3629773. (last visited on May 9, 2023).

² *The National Police Commission (NPC) Some Selected Recommendations of the National Police Commission*, available at https://www.humanrightsinitiative.org/publications/police/npc_recommendations.pdf (last visited May 5 2023).

Issues Plaguing in Indian Police System

The Indian police system has been criticized for several issues over the years, which has led to demands for reforms. Some of the significant challenges faced by the Indian police system are:

1. **Lack of Accountability:** The police force lacks accountability, and there is minimal public oversight or independent monitoring. The police often operate with impunity, and there are few mechanisms to hold them accountable for their actions.
2. **Corruption:** Corruption is widespread in the police force, and this has resulted in the erosion of public trust. From petty bribery to large-scale corruption, the police have been involved in several scandals.³
3. **Brutalization of the Public:** Police brutality is a regular occurrence in India, and many people have died in police custody due to torture or extra-judicial killings.⁴
4. **Poor Infrastructure and Resources:** The police force does not have adequate resources, infrastructure, or training to deal with the complex challenges of modern policing.⁵

Police Reforms in India

Several initiatives have been taken to reform the police system in India, both at the national and state levels. The following are some of the significant reforms in recent years:

1. **Supreme Court Directives:** The Supreme Court of India has given several directives to reform the police system. The court has emphasized the need to make the police force more accountable and suggested the creation of independent police commissions to oversee their functioning. It also directed states to conduct regular human rights training for police personnel.⁶
2. **Police Reforms Committee (PRC):** The central government set up a Police Reforms Committee (PRC) in 1996 to examine the challenges faced by the police force and suggest measures to improve its functioning. The PRC made several recommendations, including the establishment of state police complaints authorities, the creation of a separate investigation wing, and improving the training and welfare of police personnel.⁷
3. **National Police Commission (NPC):** The National Police Commission was set up in 1977 to evaluate the police system in India and suggest reforms. The NPC recommended the creation of a national police academy, police reforms commissions at the state level, and the separation of investigation and law and order functions.
4. **Model Police Act:** The central government drafted the Model Police Act in 2006 to guide the states on comprehensive police reforms. The Act emphasizes the need for a more accountable police force, suggests the establishment of state security commissions, and lays down guidelines on service conditions, training, and community policing.

³ Crime in India, “3rd Volume National Crime Record Bureau” 993 (Ministry of Home Affairs, 2018)

⁴ Office of the United Nations High Commissioner for Human Rights, “Human Rights standards and Practice for the Police”

⁵ National Police Commission, 2nd Report at 14.24 & 14.28

⁶ For exhaustive list of State Police Commissions see: “*Report of the Review Committee on the Recommendations of National Police Commission & Other Commissions/Committees on Police Reform*” (March 2005), p. 3, 4 (*last visited on May 9, 2023*).

⁷ Mohan, Garima and Navaz Kotwal, “State Security Commissions: Reforms Derailed,” 12 Commonwealth Human Rights Initiative (2011)

International Journal of Applied Engineering & Technology

In conclusion, India's police system has been undergoing reforms in recent years to make it more efficient, accountable, and responsive to the needs of society. However, despite these initiatives, the implementation of reforms has been slow and uneven. The police force continues to face several challenges, including corruption, lack of accountability, and poor infrastructure and resources. Therefore, there is a need for sustained efforts by the government, civil society, and police personnel themselves to ensure an efficient and accountable police system.⁸

Prison reforms are essential to ensure justice and human rights for prisoners. In India, the prison system has been plagued with several issues, including overcrowding, poor infrastructure, inadequate healthcare, and ill-treatment of prisoners. The need for prison reforms in India has been recognized by the government, activists, and academics alike.⁹

The modern prison system in India was introduced during British colonial rule in the 19th century. The prisons were designed to isolate and punish offenders and to serve as a deterrent against crime. After India gained independence in 1947, the prison system was restructured, but the challenges remained.¹⁰

Issues in Indian Prison System

The Indian prison system has been criticized for several issues over the years, which has led to demands for reforms. Some of the significant challenges faced by the Indian prison system are:

1. **Overcrowding:** Indian prisons are overcrowded, with a significant number of prisoners and limited resources. Overcrowding leads to health problems, violence, and degradation of living conditions.
2. **Poor Infrastructure:** Indian prisons lack basic infrastructure, like proper ventilation, lighting, sanitation, and hygiene, which leads to health problems and poor living conditions.
3. **Inadequate Healthcare:** Prisoners are often denied access to adequate healthcare facilities, which results in the spread of diseases and illnesses.
4. **Ill-treatment of Prisoners:** There are widespread reports of ill-treatment and violence against prisoners by prison staff. This includes torture, beatings, and sexual abuse.¹¹

Prison Reforms in India

Several initiatives have been taken to reform the prison system in India, both at the national and state levels. The following are some of the significant reforms in recent years:

1. **National Policy on Prison Reforms and Correctional Administration:** The central government adopted the National Policy on Prison Reforms and Correctional Administration in 2007. The policy aims to ensure that the prison system is more effective, humane, and accountable.
2. **Model Prison Manual:** The central government also drafted the Model Prison Manual in 2016 to guide the states on comprehensive prison reforms. The manual lays down guidelines on prison administration, healthcare, and welfare of prisoners.

⁸ Gopal K.N. Chowdhary (eds), *Myths and Realities of Police Reforms in India* 14 (IPJ, April-June 2013)

⁹ Sankar Sen, *Tryst with Law Enforcement and Human Right*, 294-296 [Aph Publishing Corporation (2002)]

¹⁰ *Handbook on Dynamic Security and Prison Intelligence*, UNODC, available at: <https://www.unodc.org> (visited on April 21, 2023).

¹¹ *Conventions against torture and other Cruel, Inhumane or Degrading treatment or Punishment*, available at: <https://www.unodc.org> (visited on April 22, 2023).

International Journal of Applied Engineering & Technology

3. Legal Aid and Support for Prisoners: The government has set up legal aid clinics in several prisons to provide legal support to prisoners. This initiative helps prisoners in accessing justice and exercising their rights.

4. Vocational Training and Education: Several prisons in India have introduced vocational training and education programs for prisoners. These programs help prisoners to acquire skills and knowledge that can help them in their rehabilitation and reintegration into society.¹²

5. Alternatives to Imprisonment: The government is also exploring alternatives to imprisonment, such as community service and restorative justice, for minor offenses.¹³

In conclusion, the prison system in India has been undergoing reforms in recent years to make it more effective, humane, and accountable. However, despite these initiatives, the implementation of reforms has been slow and uneven. The prison system continues to face several challenges, including overcrowding, poor infrastructure, and ill-treatment of prisoners. Therefore, there is a need for sustained efforts by the government, civil society, and prison authorities themselves to ensure an efficient and humane prison system. The focus should be on the rehabilitation and reintegration of prisoners into society, rather than merely punishing them.

Human rights are fundamental to the functioning of any democratic society. However, in recent years, there have been several reports of police brutality, abuse of power, and violations of human rights.

However, the police force has been criticized for several issues, including corruption, excessive use of force, arbitrary detention, and extrajudicial killings. These issues hinder the effective functioning of the police force and contribute to the erosion of human rights in India.¹⁴

1. Use of Excessive Force: In many instances, the police have used excessive force to disperse crowds, even if they are peaceful. This has resulted in injuries and deaths, violating the right to life and personal liberty.

2. Arrests and Detentions: The police often carry out arbitrary arrests and detentions, violating the rights of individuals, including the right to due process and fair trial.

3. Corruption: Corruption is prevalent in the police force, leading to impunity for police officers who violate human rights.

4. Torture and Ill-treatment: There have been several reports of torture and ill-treatment of persons in police custody. This violates the right to be free from torture, cruel, inhuman, and degrading treatment.

5. Discrimination: Persons from marginalized communities, including Dalits, tribals, and minorities, have often been subjected to discrimination by the police, violating their right to equality before the law.¹⁵

Steps Taken to Address Human Rights Violations by Police in India

1. Legal Reform: India has taken steps to reform its legal framework to ensure the protection of human rights. The 2019 amendments to the Unlawful Activities (Prevention) Act aim to address issues of arbitrary arrests and detentions.

¹² PRS, “The Prevention of Torture Bill, 2010” 1 (19th April, 2010) available at: [https://www.prsindia.org/uploads/media/Torture/Corrected%20Brief%20%20Prevention%20of%20Torture%20Bill%202010_ab_3\[1\].9.10.pdf](https://www.prsindia.org/uploads/media/Torture/Corrected%20Brief%20%20Prevention%20of%20Torture%20Bill%202010_ab_3[1].9.10.pdf)

¹³ Namarata Kandankovi, “Custodial Death of Jayaraj and Fenix and the Exposure of Police Brutality in India”, (International Journal of Law Management and Humanities), Vol. 3 Iss. 4; 760, (2020).

¹⁴ *Ashray Adhikar Abhiyan v. Union of India & ors.* (2002).

¹⁵ United Nations General Assembly Resolution 3452 (XXX)

International Journal of Applied Engineering & Technology

2. Police Reforms: The police force itself has undergone significant reform in recent years. The Supreme Court issued directives in 2006 to ensure police reforms, such as setting up independent oversight authorities, introducing a transparent transfer policy, and ensuring professional development of police officers.¹⁶

3. Training and Sensitization: The police force has introduced training and sensitization programs to raise awareness about human rights and to encourage compliance with human rights norms. These initiatives aim to ensure that police officers are sensitive to the needs and rights of the communities they serve. The police force can play a crucial role in upholding human rights, and it is essential to invest in building a professional and accountable police force that respects human rights.¹⁷

Riots have been a significant issue in India, with many instances of communal violence and unrest occurring throughout the country's history. During such events, police forces are deployed to maintain law and order, protect citizens, and prevent violence. However, the actions of the police during these riots have often come under scrutiny and criticism, with allegations of excessive use of force, human rights violations, and inefficiency. This research paper will explore the police action during riots in India, including their role, challenges, and impact on society.¹⁸

Police Role in Riots

The role of the police during riots is to maintain law and order, protect citizens, and prevent violence. They are responsible for controlling the situation and restoring peace. However, this requires a delicate balance between the use of force and respect for human rights and due process.

One of the biggest challenges faced by the police during riots is identifying and arresting perpetrators while protecting innocent civilians. In many cases, this requires the use of force to disperse crowds, detain suspects, and maintain order. However, the use of force must be proportionate and carefully planned to avoid the risk of harm to bystanders or the escalation of violence.

Another critical role of the police during riots is to provide assistance and support to citizens. This includes ensuring the safety of vulnerable groups such as women and children, as well as facilitating the evacuation of those in danger.

Police Challenges during Riots

The police face several challenges during riots that can impact their ability to maintain law and order, protect citizens, and prevent violence. One of the significant challenges is inadequate training and equipment. Many police officers are not adequately trained on how to handle riot situations, leading to ineffectiveness and sometimes excessive use of force. Additionally, some police departments lack the necessary equipment such as riot gear, which hinders their ability to control the situation safely.¹⁹

Another challenge is the political interference that can undermine the impartiality and effectiveness of the police during riots. In some cases, political leaders use their influence to pressure police officers to act in a particular way or take sides. This can lead to police officers losing their independence and objectivity.

Impact of Police Action on Society

¹⁶ Harsh Mander, "Framed as a terrorist: Mohammed Aamir khan's 14 years behind the bars." Hindustan Times, Jan. 26, 2016.

¹⁷ Law Commission of India, "273rd Report of the Law Commission of India" available at: <file:///C:/Users/mrb/Downloads/Report273.pdf>

¹⁸ National Crime Records Bureau, Prison Statistics India, Ministry of Home Affairs (2021).

¹⁹ *Rasikbhai Ramsingh Rana & Anr. v. State of Gujarat & Ors.* 1999 CriLJ 1975.

International Journal of Applied Engineering & Technology

The police action during riots has a significant impact on society, which can be both positive and negative. The positive impact is that their presence and actions can deter violence and maintain law and order, which prevents harm to citizens and damage to public property. In situations where the police act impartially and with respect for human rights, they can help to build trust and confidence in the government and law enforcement.²⁰

However, the negative impact of police action during riots can be significant. Excessive use of force, human rights violations, and inefficiency can lead to distrust and feelings of anger and resentment among citizens. This can undermine the relationship between the police and the community and lead to a breakdown in social order.

In conclusion, the police play a critical role in maintaining law and order during riots in India. However, their actions are not always effective and can sometimes lead to negative consequences. The challenges faced by the police during riots, including inadequate training and equipment, political interference, and a delicate balance between the use of force and respect for human rights, need to be addressed to ensure that their actions are effective and impartial. This will help to build trust and confidence in the police and government and promote social order and stability.²¹

Police modernization is vital to ensure that police forces in India are equipped with the necessary resources and technology to effectively prevent crime, maintain law and order, and protect citizens. The Indian police force has undergone significant changes and modernization efforts in recent years to address the increasing crime rate and security challenges. This research paper will explore the police modernization efforts in India, including the challenges faced, the impact on society, and the way forward.²²

Background

The Indian police force has been primarily influenced by the British colonial police system, which was established in India during the British Raj in the early 19th century. The police forces operated in a centralized and hierarchical manner, with little emphasis on community policing and decentralized decision-making. Over time, the police's role has evolved to include maintaining law and order, crime prevention, and counter-terrorism activities.

Challenges in Police Modernization

The modernization efforts of the Indian police force have faced several challenges that have impacted their effectiveness. The most significant challenge is lack of funding, which limits the ability of police forces to acquire modern technology and equipment necessary to fight crime. Corruption is another significant challenge that affects the police forces' ability to maintain public trust and effectively combat crime.

Additionally, police modernization efforts are impacted by bureaucratic decision-making, limited public-private partnerships, and inadequate training. Training of police personnel is vital for effective modernization, but officers are often inadequately trained because of outdated or limited training curriculums.

Impact on Society

Police modernization in India has had a significant impact on society. The development of modern forensic science and technology has improved criminal investigations, enabling the police to investigate, solve, and prosecute crimes effectively. Improved communication technology enables better coordination and information

²⁰ Seymour M. Hersh, "Torture at Abu Ghraib: American Soldiers Brutalized Iraqis. How far up does the Responsibility go?," *The New Yorker*, Apr. 30, 2004.

²¹ Sharma P.D. : Police and Criminal Justice Administration in India (1985)

²² Carol Rosenberg, "What the C.I.A.'s Torture Program Looked Like to the Tortured", *The New York Times*, Dec. 4, 2019.

International Journal of Applied Engineering & Technology

sharing with other agencies, leading to a higher level of security and improved response time. Technology such as drones and CCTV cameras has also been introduced, which improves the police force's surveillance capabilities.²³

However, Police modernization in India has also had some negative effects on society. The use of technology such as CCTV cameras and facial recognition systems has resulted in privacy concerns, leading to fears of a surveillance state. The disparities between rural and urban development in modernization have also resulted in uneven policing standards across the country.

The Way Forward

To ensure that police modernization efforts are effective and sustainable, adequate funding, modern technology, and equipment should be provided to police forces across the country. Training curriculums should be updated to reflect the latest advancements in technology, and recruitment processes should be streamlined to attract the best and brightest.

The Indian government should also promote public-private partnerships to reduce the financial burden on the government and allow the private sector to support the modernization of the police force. Addressing the issue of corruption is vital to building public trust in law enforcement officers, which is substantial in ensuring the success of modernization efforts.

In conclusion, police modernization in India is an essential aspect of ensuring that the police forces can prevent and combat crimes effectively. Despite the challenges faced, police modernization efforts have resulted in significant improvements, including improved forensic science, advanced communication technology, and surveillance capabilities. However, these efforts must be sustained and continually updated to stay ahead of evolving security threats. It is integral for policymakers and law enforcement leaders to work together and address the challenges in police modernization to create a sustainable and effective police force.

Police infrastructure is vital in ensuring that police forces in India can effectively prevent and combat crimes, maintain law and order, and protect citizens. The police force's infrastructure encompasses various components, including equipment, technology, training, and recruitment processes. This research paper will explore the police infrastructure in India, including the challenges faced, the impact on society, and the way forward.

The Indian police force has historically been underfunded, resulting in inadequate infrastructure and equipment. The infrastructure gap is due to various factors, including corruption, budgetary constraints, and bureaucratic decision-making. The lack of adequate infrastructure and equipment has affected the police force's ability to effectively prevent and combat crimes, resulting in increased crime rates and reduced public trust.

Challenges in Police Infrastructure

The primary challenge in police infrastructure is inadequate funding, which affects the acquisition of modern technology and equipment that is crucial in fighting crime. The budgetary constraints have resulted in significant infrastructure gaps across the country, with some regions lacking basic infrastructure such as police stations and vehicles. The lack of proper infrastructure has resulted in limited mobility, ineffective investigations, and poor communication.

Additionally, corruption affects the police force's infrastructure, with officers misusing or embezzling funds meant to improve infrastructure and equipment. The lack of accountability and transparency in infrastructure management has also contributed to the inefficiency of the police force.²⁴

Impact on Society

²³ Georgia, "Investigate Sexual Abuse in Prison", Human Rights, Sept. 19, 2012.

²⁴ Sunil Sethi, "Tihar Jail: A dangerous underworld of lethal weapons, violence, homosexual assault, drug addiction", India Today, Nov. 26, 2014.

International Journal of Applied Engineering & Technology

The inadequate police infrastructure in India has had a significant impact on society. The lack of proper infrastructure and equipment has affected crime prevention, resulting in a higher crime rate and reduced public trust in law enforcement. The limited mobility has also contributed to delayed response times, further hampering law enforcement operations.

Furthermore, the lack of proper infrastructure and equipment affects investigations, leading to poor outcomes and wrongful convictions. This has resulted in loss of livelihoods and dignity, further undermining public trust in the police force.

The Way Forward

To address the challenges in police infrastructure, the Indian government should prioritize increasing funding and budgetary allocations to the police force. Adequate funding will enable the acquisition of modern technology, equipment, and infrastructure, ensuring that law enforcement officers effectively prevent and combat crime.²⁵

The government should also prioritize accountability and transparency in infrastructure management, ensuring that funds meant for police infrastructure are not misused or embezzled. Technology such as real-time tracking systems should be implemented to improve the management of equipment and infrastructure.²⁶

Additionally, training and recruitment processes should be updated to reflect current infrastructure requirements. Recruitment processes should prioritize merit, ensuring that the best and brightest join the police force. Training curriculums should also be updated to integrate modern technology and equipment use.

In conclusion, police infrastructure in India is critical in ensuring that law enforcement officers can effectively prevent and combat crimes, maintain law and order, and protect citizens. Adequate funding, accountability, and transparency in infrastructure management, and modernized training and recruitment processes are vital in ensuring sustainable and effective police infrastructure. Policymakers and law enforcement leaders must prioritize police infrastructure to build a police force that can meet the evolving security threats in the country.

The prevention of crime is a critical aspect of law enforcement that ensures public safety and security. The role of the police in crime prevention is vital, as they are often the first line of defense against criminal activities in a community. This paper will explore the police's role in preventing crime, including the strategies used, the challenges faced, and the impact on society.

The police prevent crime by utilizing various strategies, including community policing, intelligence gathering, and surveillance. The strategies employed are often influenced by the nature and location of criminal activities in a community.²⁷

THE ROLE OF POLICE IN PREVENTION OF CRIME

Community Policing

This approach recognizes that the community must be involved in preventing crime, and the police work collaboratively with community members to identify potential criminal activities and take preventive measures before they occur. Community policing strategies include regular community meetings, outreach programs, and visible police presence in high-risk areas.

Intelligence Gathering and Analysis

²⁵ “*Report of the Review Committee on the Recommendations of National Police Commission & Other Commissions/Committees on Police Reform*” (March 2005), p. 5

²⁶ *Basic Principles for the Treatment of Prisoners*, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-treatment-prisoners> (last visited on May 22, 2023).

²⁷ Universal Declaration of Human Rights, Art. 3-11

International Journal of Applied Engineering & Technology

The police use intelligence gathering and analysis to identify potential criminal activities and prevent them from occurring. This approach involves collecting and analyzing data on criminal activities, including patterns, perpetrators, and demographics. Police can use this intelligence to create predictive policing models, identify high-risk areas, and develop targeted interventions to prevent criminal activities.²⁸

Surveillance

Surveillance involves the use of technology to monitor and track criminal activities in a community. Police use various surveillance technologies, such as CCTV, drones, and license plate readers, to gather information about criminal activities. Surveillance technologies also provide evidence for criminal investigations and prosecutions.²⁹

Challenges Faced by Police in Crime Prevention

One of the challenges faced by the police in crime prevention is resource constraints. The police require various resources, including personnel, equipment, and funding, to effectively prevent crime. Budgetary constraints and inadequate funding can undermine the police's ability to prevent crime effectively.³⁰

Another challenge is coordination and collaboration with other agencies and stakeholders. Effective crime prevention requires collaboration with various agencies, including social services, health care, and other law enforcement agencies. Limited coordination and collaboration can compromise crime prevention strategies.

Impact of Police in Crime Prevention

Effective crime prevention strategies have a significant impact on society. They reduce crime rates, increase public safety, and enhance public trust in law enforcement. Communities with effective crime prevention strategies experience increased economic growth, social cohesion, and civic participation.

In conclusion, the police play a vital role in preventing crime in a community. The strategies used include community policing, intelligence gathering and analysis, and surveillance. However, the police face challenges in resource constraints and coordination and collaboration with other agencies and stakeholders. Effective crime prevention strategies have a significant impact on society, including reduced crime rates, increased public safety, and enhanced public trust in law enforcement. Policymakers and law enforcement leaders must prioritize crime prevention to ensure a safe and secure community.

The state of prisons in India is a critical issue that raises concerns about the violation of human rights and the lack of the rule of law. Overcrowding, poor sanitation, inadequate health facilities, and lack of legal representation are some of the challenges faced by prisoners in Indian prisons. In this paper, we will explore the dire situation of prisons in India, including their current state, causes, and consequences.³¹

The Current State of Prisons in India

²⁸ Suresh Bada Math, “*Supreme Court judgment on polygraph, narco-analysis & brain-mapping: A boon or a bane*” available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3171915/> (last checked on May 18, 2023).

²⁹ Amnesty International “*Amnesty International India: Report of the Malimath Committee on Reforms of the Criminal Justice System: Some observations*” (September 19, 2003) (electronic version) retrieved August 22, 2006 from and International Commission of Jurists “*Criminal Justice Reform in India: ICJ position paper Review of the Recommendations made by the Justice Malimath Committee from an international human rights perspective*”

³⁰ *The Burgeoning Share of Undertrial Prisoners in India's Jails* available at <https://thewire.in/rights/indian-jails-undertrial-prisoners> (last visited on May 15, 2023).

³¹ Rohini Roy, “*Undertrial Prisoners in India: Why Are 66% From Marginalised Castes?*” available at <https://www.thequint.com/news/law/indias-undertrial-prisoners-why-are-66-percent-from-marginalised-castes> (last visited on June 20, 2023)

International Journal of Applied Engineering & Technology

India has over 1,400 prisons across the country, with a total capacity of 4,03,739 inmates (National Crime Records Bureau, 2019). However, these facilities are overcrowded, with a population of over 4,78,000 prisoners, leading to a staggering occupancy rate of 118% (National Crime Records Bureau, 2019). The overcrowding of prisons leads to a host of other problems, such as lack of hygiene and sanitation, inadequate food, and insufficient medical care.

Moreover, the living conditions in Indian prisons are deplorable, with overcrowded cells, inadequate ventilation, and lack of access to basic facilities such as sanitation and clean water. In many cases, prisoners are forced to share beds, and in extreme cases, they sleep on the floor. Additionally, many prisoners experience physical and emotional abuse at the hands of prison officials, leading to distrust and hopelessness among inmates.

Causes of the Dire Situation of Prisons in India

The dire situation of prisons in India can be attributed to several factors, including:

1. **Inadequate Funding:** One of the primary reasons for the poor state of prisons in India is inadequate funding. The government allocates limited resources to prisons, leading to a lack of infrastructure, underpaid and demotivated staff, and inadequate facilities for inmates.
2. **Backlog in Judicial System:** A significant contributor to the overcrowding of prisons is the slow-paced judicial system, with cases taking years to be resolved. This backlog in the legal system causes many prisoners to be held in pretrial detention for an extended period, leading to overcrowding of prisons.³²
3. **Poor Rehabilitation Programs:** Rehabilitation programs such as education and job training are critical to preparing prisoners for reintegration into society. However, due to inadequate funding and dismissive attitudes, such programs are poorly implemented in Indian prisons.

Consequences of the Dire Situation of Prisons in India

The dire situation of prisons in India has many consequences, including:

1. **Spread of Diseases:** Overcrowding and lack of basic hygiene facilities lead to the proliferation of diseases, including tuberculosis, hepatitis, and HIV/AIDS, which can spread beyond prisons and into society.
2. **Increased Recidivism:** Lack of rehabilitation programs and a focus on retributive justice lead to prisoners reoffending once released from prison. This cycle of perpetual imprisonment is detrimental to both the inmate and society.
3. **Violation of Human Rights:** The poor state of prisons in India amounts to a violation of prisoners' human rights, a fact that's in direct contrast to India's democratic principles and commitments to the rule of law.

CONCLUSION

To conclude, the dire situation of prisons in India is a significant challenge and needs urgent attention from policymakers, the judiciary, civil society, and human rights watchdogs. Improving prison conditions, increasing funding for prisons, and prioritizing rehabilitation programs will lead to more effective prison systems, better outcomes for prisoners, and a healthier society. Additionally, greater transparency and accountability in prison management will ultimately create a more just and equitable system for everyone.³³

³² Rina Chandran, "Police in India are expanding their surveillance reach by tapping into private security systems", available at <https://scroll.in/article/1041633/police-in-india-are-expanding-their-surveillance-reach-by-tapping-into-private-security-systems-police> (last visited on May 20, 2022).

³³ *ibid*

International Journal of Applied Engineering & Technology

This means that police must obtain a warrant before conducting a search, except in certain circumstances where a warrantless search may be legal, such as when there is probable cause to believe that evidence of a crime is being actively concealed.³⁴

Protection of These Rights

The United States Constitution guarantees these rights to accused individuals, but how are they protected? The courts play a vital role in ensuring that these rights are upheld, and accused individuals can seek legal recourse if they believe their rights have been violated.

1. **The Exclusionary Rule:** The exclusionary rule is a legal principle that prohibits the use of evidence obtained illegally. If police violate an accused person's Fourth or Fifth Amendment rights, any evidence they obtain may be excluded from trial.

2. **Civil Rights Cases:** If an accused person's constitutional rights have been violated, they may file a civil rights lawsuit against the police officer or agency responsible. These suits can lead to compensation for damages, as well as changes in police practices to prevent future violations.

Consequences of Violating These Rights

When the constitutional rights of accused individuals are violated, the consequences can be severe. Accused individuals can experience physical harm, emotional distress, and be wrongfully convicted of a crime. Additionally, law enforcement agencies that engage in unconstitutional behavior can lose the trust of the communities they serve, leading to strained relationships and a breakdown in law enforcement effectiveness.³⁵

In conclusion, the constitutional rights of accused individuals must be protected against police brutalities. Upholding these rights is crucial to ensuring that the criminal justice system operates fairly and justly. When these rights are violated, the consequences can be severe for both the accused and the community, highlighting the importance of taking action to prevent and remedy police brutality. By holding police accountable and protecting the constitutional rights of accused persons, we can create a more just and equitable society for all.³⁶

³⁴ *Under suspicion: Concerns about racial profiling by police* available at <https://www.ohrc.on.ca/en/under-suspicion-concerns-about-racial-profiling-police> (last visited on May 20, 2023).

³⁵ *FALSE CASES UNDER SC/ST? WHAT IS THE EVIDENCE?*, available at https://nja.gov.in/Concluded_Programmes/2017-18/P-1096_PPTs/2.False%20Cases%20under%20SC-ST.pdf (last visited on May 20, 2023)

³⁶ David H. Bayley, *Police and Political Development in India*, Princeton University Press April 19, 2016, ISBN: 9780691648606.