

Time To End Caste Based Discrimination In Prisons In India: A Significant Law Reform In Response To The Directions Of The Supreme Court

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ABSTRACT

In the wake of recent order of the Supreme Court on the issue of caste-based discrimination of prisoners, 'Model Prison Manual, 2016' and the 'Model Prisons and Correctional Services Act, 2023' have been amended. As per the new addition in the manual, the prison authorities will have to strictly ensure that there is no discrimination, classification, segregation of prisoners on the basis of their caste. It shall be strictly ensured that there is no discrimination of prisoners in allotment of any duty or work in prisons on the basis of their caste. Changes have also been made in the 'Miscellaneous' of the Model Prisons and Correctional Services Act, 2023 with a new heading 'Prohibition of caste-based discrimination in Prisons and Correctional Institutions' as Section 55(A).

This paper attempts to give an overview on the issue of caste based discrimination of prisoners in India and make a thorough analysis how various State prison manuals sanction blatantly unconstitutional practices, which are violative of Articles 14, 15, 17, 21, and 23 of the Constitution of India. The study also touches upon the provisions of 'The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013' which shall have a binding effect even in prisons and correctional institutions. The paper talks about the significant changes made in Indian legislation following the directions of the apex court in the case *Sukanya Santha v. Union of India* 2024.

Keywords: caste-based discrimination, unconstitutional practices, articles 14,15,17,21 and 23, Supreme Court directions, prison manual amendment.

1. INTRODUCTION

Issues like untouchability and casteism are still common in the prisons of India. The reason for this is the deep rooted traditions of casteism. Not just adults, even children are subjected to this form of discrimination. Be it in the community, schools, prisons or even the playground, many people face humiliation because of caste discrimination. There have been instances where during the mid-day Meals served in schools, children of schedule castes have been asked to sit separately and eat; scheduled caste girls have been asked to clean the school toilets; and teachers have asked children belonging to the minority community to sit right at the back in class.

Here we focus on caste-based discrimination in the prisons various states in India. There are numerous provisions in the State prison manuals/rules that give rise to various forms of discrimination in the prisons. Caste-based discrimination continues to persist in the prisons in the country with respect to: 1.The division of manual labour; 2. Segregation of barracks; and 3. Provisions that discriminate against prisoners belonging to Denotified tribes and "habitual offenders". The Model Prison Manual, 2016 does not address the impugned provisions related to caste discrimination inside prisons other than the discrimination in kitchens, and that it is not 'model' when it comes to addressing caste discrimination.

Existing Laws Regarding Caste Based Discrimination

According to article 14 of the Indian constitution, the state shall not deny equality to any person before the law or the equal protection of the laws within the territory of India. Article 15 prohibits the state from discriminating any citizen on ground of any religion, race, caste, sex, and place of birth or any of them. Article 17 states that untouchability is abolished and its practice in any form is forbidden. The ‘Protection of Civil Rights Act, 1955’ was the first Indian law that came into force to provide punishment for the preaching and practice of ‘Untouchability’ and for any matter connected with it. In 1989, the Government of India enacted ‘the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act’, which recognised various kinds of acts of violence and discrimination inflicted upon the Scheduled Castes and the Scheduled Tribes by non-scheduled castes and non-scheduled tribes as punishable offences. It also provides for provision of special courts at the district level to try the offences under this Act.

The Complaints

A petition was filed in the supreme court of India complaining about certain States to clarify the definition of “Habitual Offenders” in their respective prison manuals so as to prevent its misuse against the denotified tribes in prisons. It is pertinent to mention the fact that despite the Ministry of Home Affairs prepared the Model Prison Manual for the Superintendence and Management of Prisons in India, 2003 and The Model Prison Manual, 2016, and circulated it to all States and Union Territories (UTs) in May 2016 explicitly prohibiting caste and religion based discrimination practices. There was an Advisory dated 26 February 2024 issued by the Ministry of Home Affairs, through the Deputy Secretary (PR & ATC) to the Principal Secretary (Home/Jails) of all states and UTs and the DG/IG Prisons of all States and UTs to ensure that the State Prison Manual/Prison Act should not contain any discriminatory provisions. Of course one may argue that “prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein” as a subject fall under the domain of the States under Entry 4, List II of the Seventh Schedule of the Constitution.

The Interpretation of the Constitution

The Constitution of India reflects the vision of its founders to give India a collective future based on the values of liberty, equality, and fraternity. The Constitution mandates a more just and inclusive society, where every citizen has the opportunity to thrive. It envisages that the values embedded in its provisions are not just aspirations but lived realities. Any interpretation of the Constitution must be reflective of the blueprint laid down by its founders. The Constitution is – as Granville Austin put it— a “social document” and a “modernizing force”, with its provisions embodying “humanitarian sentiments”. The interpretation of the Constitution is not static. It has evolved with time to give recognition to a broader spectrum of rights to the citizens, as well as to impose additional safeguards against excesses of the State or even private entities, as the case may be. Over the last seventy-five years, the Supreme Court has recognized new rights such as the right to education, the right to privacy, and the right against the adverse impact of climate change, among others. It was explicitly mentioned in the original text, have been interpreted as inherent to the broader principle of the right to life which the Constitution enshrines. The Constitution must serve as a robust framework for safeguarding the rights of citizens and maintaining the delicate balance between authority and individual freedom.

The Supreme Court of India observed that the Constitution recognizes the dignity and individual autonomy inherent in all citizens and their right to life and personal liberty. Liberty and autonomy advance the cause of human dignity. Individual autonomy is the ability to make decisions on matters that impact one’s life. When individuals are granted the freedom to make choices about their own lives, they are empowered to take control of their destinies, and express their identities, in the “pursuit of happiness” without undue interference. This freedom fosters a sense of self-worth and respect, thereby recognizing individual dignity. By safeguarding these principles, we ensure that the intrinsic worth of every human being is recognized and upheld. The right to life cannot be restricted except through a law which is “substantively and procedurally fair, just and reasonable”.

While discussing the case *Sukanya Santha v. Union of India*, the Supreme Court reiterated, “Our interpretation of the Constitution must fill the silences in its text. The framers of the Constitution could not have anticipated every situation that might arise in the future. They also intentionally left certain decisions to the discretion of future generations. However, the choices we make today must align with the broader constitutional framework and values. In filling the gaps, whenever they arise, our interpretation must enhance the foundational values of the Constitution such as equality, dignity, liberty, federalism and institutional accountability. Our interpretation must adhere to the postulate that “civil and political rights and socio-economic rights.”¹Our analysis must be based on a holistic reading of the provisions of the Constitution.²The Constitution envisages that courts act as institutions which discharge the responsibility of protecting constitutionally entrenched rights. Courts are neutral institutions, whose primary function is to apply the law fairly and consistently. Transparency in processes also enhances public confidence in the system.³ In their role as neutral institutions, courts also act as a check on the other

¹ [Common Cause v. Union of India](#), (2018), Justice (Retd.) [K S Puttaswamy v. Union of India](#) (2017); [Common Cause v. Union of India](#) (2018). American Declaration of Independence, original transcript available at <https://www.archives.gov/founding-docs/declaration-transcript>, *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368

² *Maneka Gandhi v. Union of India*, 1978

³ *CPIO, Supreme Court of India v. Subhash Chandra Agarwal*, 2019 (16) SCALE 40

branches of government, ensuring that their actions conform to constitutional and legal standards. The Constitution mandates that laws enacted in the colonial era should align with its provisions.

The Constitution mandates the replacement of fundamental wrongs with fundamental rights. Through its provisions, it displaced a centuries-old caste-based hierarchical social order “that did not recognize the principle of individual equality”.⁴ It negated the ideals of social hierarchy. The Constitution is the embodiment of the aspirations of the millions of caste-oppressed communities, which hoped for a better future in independent India. To summarize, the “Constitution, by its very existence, was a social revolutionary statement.”⁵

The vision laid down by Dr. Ambedkar, Jaipal Singh Munda, H.J. Khandekar, and Dakshayani Velayudhan, among others, emphasizes that there shall be no discrimination in the country. The Constitution envisions a society where there is no room for anyone to feel superior to another citizen.

This underlying philosophy of the Constitution has been highlighted by this Court in several judgments. Chief Justice S.M. Sikri, in his opinion in **Kesavananda Bharati v. State of Kerala**,⁶ held that the objective of various provisions of the Constitution is to build “a welfare State and an egalitarian social order in our country”, and “to bring about a socio-economic transformation based on principles of social justice”. Referring to Part III of the Constitution, the judgment stated that the founders were “anxious that it should be a society where the citizen will enjoy the various freedoms and such rights a Justice Krishna Iyer in his concurring opinion in **State of Kerala v. N.M. Thomas**⁷ called the Constitution “a great social document, almost revolutionary in its aim of transforming a medieval, hierarchical society into a modern, egalitarian democracy”. In **Indian Medical Association v. Union of India**,⁸ the Court held that “various aspects of social justice, and an egalitarian social order, were also inscribed, not as exceptions to the formal content of equality but as intrinsic, vital and necessary components of the basic equality code itself.

The Supreme Court held in **Justice K.S. Puttaswamy v. Union of India**⁹ that the “vision of the founding fathers was enriched by the histories of suffering of those who suffered oppression and a violation of dignity both here and elsewhere”. Justice DY Chandrachud authored the plurality opinion, holding that the interpretation of the Constitution must keep evolving to facilitate justice for the citizens. In **Navtej Singh Johar v. Union of India**,¹⁰ the Court while dealing with the validity of a colonial provision (Section 377 of the Penal Code), held that the Constitution envisages that every person enjoys equal rights which enable him/her to grow and realize his/her potential as an individual. The Court also acknowledged that “throughout history, socio-cultural revolts, anti-discrimination assertions, movements, literature and leaders have worked at socializing people away from supremacist thought and towards an egalitarian existence.” In that backdrop, the Indian Constitution “was an attempt to reverse the socializing of prejudice, discrimination, and power hegemony in a disjointed society”.

The Court, in **Indian Young Lawyers Association v. State of Kerala**, described the anti-caste vision of the Constitution. Justice DY Chandrachud wrote a concurring opinion, noting that: “Besides the struggle for independence from the British rule, there was another struggle going on since centuries and which still continues. That struggle has been for social emancipation. It has been the struggle for the replacement of an unequal social order. It has been a fight for undoing historical injustices and for righting fundamental wrongs with fundamental rights. It is the foundational document, which in text and spirit, aims at social transformation, namely, the creation and preservation of an equal social order. The Constitution represents the aspirations of those, who were denied the basic ingredients of a dignified existence. It contains a vision of social justice and lays down a roadmap for successive governments to achieve that vision. The document sets out a moral trajectory, which citizens must pursue for the realisation of the values of liberty, equality, fraternity and justice. It is an assurance to the marginalised to be able to rise to the challenges of human existence...”

The Constitution thus stands as a testament to the fight against historical injustices and for the establishment of an egalitarian social order. It aims to prevent caste-based discrimination. This commitment is not limited to preventing discriminatory actions by the State alone. It extends to the actions of citizens and private entities as well. It empowers the State to enact appropriate legislation or take executive measures to tackle caste-based discrimination.

Article 14 guarantees that the “State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.” Equality is a crucial aspect of the constitutional vision. Immediately after the adoption of the Constitution, this Court laid down the standard to test the validity of laws against Article 14. In a Constitution Bench decision in **Chiranjit Lal Chowdhuri v. Union of India**¹¹ Justice B.K. Mukherjea articulated that a classification under Article 14 “should never be arbitrary”. It was held that such classification must always “rest upon some real and substantial distinction bearing a reasonable and just relation to the things in respect to which the classification is made”. If a classification is “made

⁴ Granville Austin, *Working A Democratic Constitution: The Indian Experience*, Oxford University Press (1999)

⁵ Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, Oxford University Press (1966),

⁶ (1973) 4 SCC 225

⁷ (1976) 2 SCC 310

⁸ (2011) 6 SCALE 86

⁹ 2017) 10 SCC 1

¹⁰ 2018 INSC 790

¹¹ 1950 SCR 869

without any substantial basis”, it should be “regarded as invalid”. The principle of classification was reiterated in a subsequent Constitution Bench decision in **State of Bombay v. F. N. Balsara**. Later, a seven-judge Bench decision in **State of West Bengal v. Anwar Ali Sarkar** solidified the requirement of the twin test under Article 14. Adding to the above principles, Justice S.R. Das, in **Ram Krishna Dalmia v. Justice S.R. Tendolkar**, held that the classification “may be founded on different bases, namely, geographical, or according to objects or occupations or the like”, but it needs to have a reasonable nexus with the object of the statute. It was held that “Article 14 condemns discrimination not only by a substantive law but also by a law of procedure”.

The jurisprudence evolved by this Court shows that discriminatory laws have no place in our democracy. Discriminatory laws based on stereotypes against a social group were struck down in judgments like **Anuj Garg, Navtej Johar, Joseph Shine**, and **Indian Young Lawyers Association**. Through judgments like **NALSA** and **Babita Puniya**, this Court recognized the dignity and aspirations of social groups which have traditionally faced exclusion from equal rights. This Court recognized indirect discrimination and systemic discrimination in **Lt. Col. Nitisha**, emphasized the responsibility of the State to curb discrimination in **Karma Dorjee**, and provided safeguards against discriminatory stereotypes in **Nipun Malhotra**.

Based on the analysis of the judgments, certain anti-discrimination principles emerge under Article 15(1). First, discrimination can be either direct or indirect, or both. Second, facially neutral laws may have an adverse impact on certain social groups that are marginalized. Third, stereotypes can further discrimination against a marginalized social group. Fourth, the State is under a positive obligation to prevent discrimination against a marginalized social group. Fifth, discriminatory laws based on stereotypes and causing harm or disadvantage against a social group, directly or indirectly, are not permissible under the constitutional scheme. Sixth, courts are required to examine the claims of indirect discrimination and systemic discrimination; and seventh, the test to examine indirect discrimination and systemic discrimination has been laid down in judgments of the Court such as **Lt. Col. Nitisha**.

Article 17 of the Constitution provides that: “‘Untouchability’ is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of ‘Untouchability’ shall be an offence punishable in accordance with law.” This provision has a special place in the Constitution. It puts an end to the socially discriminatory practice of “untouchability”. Untouchability and caste discrimination led to “severe social and economic disabilities and cultural and educational backwardness” of the untouchables.¹² Throughout history, “the oppressive nature of the caste structure has denied to those disadvantaged castes the fundamentals of human dignity, human self-respect and even some of the attributes of the human personality.

Article 17 has several components. It abolishes the practice of “untouchability”. At the same time, it prohibits “its practice in any form”. Furthermore, “enforcement of any disability” arising out of “Untouchability” is a criminal offense as per the “law”. The meaning of “law” is any legislation enacted to tackle any practice or disability arising out of “untouchability”. It is a provision that can be implemented both against the State and non-state actors such as the citizens. Moreover, the framers of the Constitution did not refer to any religion or community in the text of the provision. “The injunction against untouchability under Article 17” is further “strengthened by taking away the subject-matter from State domain and placing it as an exclusive legislative head to Parliament.”

In his concurring opinion in **State of Karnataka v. Appa Balu Ingale**, Justice K. Ramaswamy discussed the basis of Article 17. “The thrust of Article 17”, it was held, “is to liberate the society from blind and ritualistic adherence and traditional beliefs which lost all legal or moral base”. Furthermore, Article 17 “seeks to establish a new ideal for society — equality to the Dalits, on a par with general public”, which would give them “a sense of being a participant in the mainstream of national life”. The constitutional vision behind Article 17 and its impact was extensively discussed in the concurring opinion authored by Justice DY Chandrachud in **Indian Young Lawyers Association v. State of Kerala**.⁷⁵ It was held that Article 17 was made a part of fundamental rights to fulfil the constitutional mandate of equality.

A Constitution bench of this Court in **Sunil Batra (I) v. Delhi Administration** took serious note of the treatment meted out to under trials, convicts, and those awaiting the death penalty. Justice Krishna Iyer, in his opinion, expounded: “The humane thread of jail jurisprudence that runs right through is that no prison authority enjoys amnesty for unconstitutionality, and forced farewell to fundamental rights is an institutional outrage in our system where stone walls and iron bars shall bow before the rule of law.” He emphasized the need to re-look at the prison conditions.

In **Charles Sobraj v. Supdt., Central Jail**, the Supreme Court upheld the constitutionally guaranteed fundamental rights of prisoners against the undue harshness of prison practices. Justice Krishna Iyer observed: “a prison system may make rational distinctions in making assignments to inmates of vocational, educational and work opportunities available, but is constitutionally impermissible to do so without a functional classification system. The mere fact that a prisoner is poor or rich, high-born or ill-bred, is certainly irrational as a differentia in a ‘secular, socialist republic’... The reason is, prisoners retain all rights enjoyed by free citizens except those lost necessarily as an incident of confinement. Moreover, the rights enjoyed by prisoners under Articles 14, 19 and 21, though limited, are not static and will rise to human heights when challenging situations arise.”

¹² Soosai v. Union of India, 1985 Supp SCC 590

The Court in **Kishore Singh Ravinder Dev v. State of Rajasthan**⁹⁶ reiterated that the infliction of physical torture on the under trial prisoner is a violation of Article 21. It was held that “the State must re-educate the constabulary out of their sadistic arts and inculcate a respect for the human person — a process which must begin more by example than by precept if the lower rungs are really to emulate”. The Court ruled that if any escort policemen are found guilty of misconduct, the authorities must not allow a sense of police solidarity or internal camaraderie to shield the wrongdoing. There is no greater harm to our constitutional values than a State official acting recklessly and violating fundamental rights. The Court expressed hope that the rootcauses enabling police brutality will be addressed by the government with the seriousness it deserves. The Court posed the question: “Who will police the police?”

In **Nilabati Behera v. State of Orissa**,¹³ this Court emphasized “great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life”. While confinement inherently restricts a person’s liberty, the limited freedom they retain becomes all the more valuable. The State has a strict duty of care in such situations, without exception. This Court declared that if a person in police custody is deprived of life, except according to the procedure established by law, the wrongdoer is held accountable, and the State is ultimately responsible.

Thus, the jurisprudence which emerges on the rights of prisoners under Article 21 is that even the incarcerated have inherent dignity. They are to be treated in a humanely and without cruelty. Police officers and prison officials cannot take any disproportionate measures against prisoners. The prison system must be considerate of the physical and mental health of prisoners. For instance, if a prisoner suffers from a disability, adequate steps have to be taken to ensure their dignity and to offer support.

Conclusion and Directions

In light of the above discussion, the Supreme Court issued the following directions:

- 1) The impugned provisions are declared unconstitutional for being violative of Articles 14, 15, 17, 21, and 23 of the Constitution. All States and Union Territories are directed to revise their Prison Manuals/Rules in accordance with this judgment within a period of three months;
- 2) The Union government is directed to make necessary changes, as highlighted in this judgment, to address caste-based discrimination in the Model Prison Manual 2016 and the Model Prisons and Correctional Services Act 2023 within a period of three months.
- 3) References to “habitual offenders” in the prison manuals/Model Prison Manual shall be in accordance with the definition provided in the habitual offender legislation enacted by the respective State legislatures, subject to any constitutional challenge against such legislation in the future. All other references or definitions of “habitual offenders” in the impugned prison manuals/rules are declared unconstitutional. In case, there is no habitual offender legislation in the State, the Union and the State governments are directed to make necessary changes in the manuals/rules in line with this judgment, within a period of three months.
- 4) The “caste” column and any references to caste in under trial and/or convicts’ prisoners’ registers inside the prisons shall be deleted.
- 5) The Police is directed to follow the guidelines issued in **Arnesh Kumar v. State of Bihar** (2014) and **Amanatullah Khan v. The Commissioner of Police, Delhi** (2024) to ensure that members of Denotified Tribes are not subjected to arbitrary arrest.
- 6) This Court takes *suo motu* cognizance of the discrimination inside prisons on any ground such as caste, gender, disability, and shall list the case from now onwards as **In Re: Discrimination inside Prisons in India**. The Registry is directed to list the case after a period of three months before an appropriate Bench.
- 7) On the first date of hearing of the above *suo motu* petition, all States and the Union government shall file a compliance report on this judgment.
- 8) The DLSAs and the Board of Visitors formed under the Model Prison Manual 2016 shall jointly conduct regular inspections to identify whether caste-based discrimination or similar discriminatory practices, as highlighted in this judgment, are still taking place inside prisons. The DLSAs and the Board of Visitors shall submit a joint report of their inspection to the SLSAs, which shall compile a common report and forward it to NALSA, which shall in turn file a joint status report before this Court in the above-mentioned *suo motu* writ petition.
- 9) The Union government is directed to circulate a copy of this judgment to the Chief Secretaries of all States and Union territories within a period of three weeks from the date of delivery of this judgment.

Conclusion

Caste-based discrimination in Indian prisons is a grim reflection of the deep-seated social inequalities that persist in the country. Despite constitutional guarantees of equality, incarcerated individuals from marginalized communities continue to face systemic bias in access to food, healthcare, work assignments, and even basic human dignity. The recent Supreme Court

¹³ (1993) 2 SCC 746

order addressing caste-based discrimination in prisons is a landmark step toward rectifying these injustices and ensuring that correctional facilities uphold the fundamental rights enshrined in the Indian Constitution. The Supreme Court's directive reinforces the principles of equality (Article 14), protection against discrimination (Article 15), and dignity (Article 21), thereby holding prison authorities accountable for ensuring fair treatment of all inmates, irrespective of caste. This judgment is not just a legal ruling; it is a moral imperative that calls for structural reforms within the prison system. The ruling mandates strict enforcement of anti-discriminatory policies, institutional mechanisms for grievance redressal, and the sensitization of prison staff to eradicate caste-based prejudices.

However, judicial orders alone are insufficient to dismantle entrenched caste hierarchies. Meaningful change requires a multi-stakeholder approach involving civil society organizations, human rights commissions, legal activists, and prison reform advocates. These groups must actively monitor prison conditions, ensure compliance with the Supreme Court's order, and hold authorities accountable for lapses. Independent monitoring bodies should conduct regular inspections, publish reports on caste-based discrimination, and recommend corrective measures to promote transparency and accountability. Additionally, legislative amendments may be necessary to strengthen protections against caste discrimination in prisons. The introduction of specific legal provisions criminalizing caste-based abuse and imposing strict penalties on offenders can serve as an effective deterrent. Implementing affirmative action policies—such as reserving leadership roles in prison administration for individuals from marginalized communities—can also help break entrenched caste hierarchies. Furthermore, ensuring that rehabilitation programs focus on equitable access to opportunities; can prevent the cycle of marginalization from continuing post-incarceration.

The Supreme Court's intervention also has broader implications for India's fight against caste discrimination beyond prison walls. Prisons are a reflection of the larger society, and their treatment of inmates is indicative of the nation's commitment to justice and human rights. A prison system that upholds equality and dignity can set a precedent for broader social change, challenging caste biases in other public institutions. By enforcing these reforms effectively, India can take a decisive step toward realizing the constitutional vision of an egalitarian society free from caste oppression.

Moving forward, it is imperative that the Supreme Court's mandate does not remain a mere legal pronouncement but translates into tangible reforms that transform prison governance. Policymakers, law enforcement agencies, and social justice advocates must work in unison to ensure that caste discrimination is eradicated from the prison system. Only through sustained efforts and a firm commitment to equality can India create a justice system that truly upholds the values of fairness, dignity, and human rights.

The road to reform may be challenging, but the Supreme Court's ruling has provided a crucial opportunity to confront caste-based discrimination head-on. By seizing this moment and implementing comprehensive reforms, India can make significant strides toward a prison system—and ultimately, a society—where every individual, regardless of caste, is treated with dignity and respect.

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