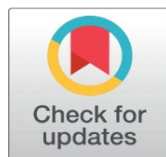
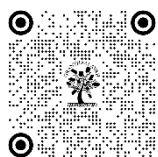


A CASE STUDY ON HUMAN RIGHTS VS PRISONERS' RIGHTS

Mr. Nirnesh Naidu ¹

¹Haveli Institute of Legal Studies and Research, 72C8+492, Bavisa Faliya, Silvassa, Dadra and Nagar Haveli, Daman and Diu 396240, India



DOI

[10.29121/shodhkosh.v4.i1.2023.2962](https://doi.org/10.29121/shodhkosh.v4.i1.2023.2962)

Funding: This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

Copyright: © 2023 The Author(s). This work is licensed under a [Creative Commons Attribution 4.0 International License](#).

With the license CC-BY, authors retain the copyright, allowing anyone to download, reuse, re-print, modify, distribute, and/or copy their contribution. The work must be properly attributed to its author.



ABSTRACT

The balance between human rights and prisoners' rights has been a subject of intense debate within both national and international legal frameworks. While all individuals are guaranteed fundamental human rights, prisoners often face restrictions to their freedoms due to their confinement. This case study examines the intersection of these two rights, analyzing how prisoners' rights are a subset of broader human rights and the extent to which prisoners should be entitled to rights while incarcerated. The study reviews international conventions, national constitutions, and landmark judicial rulings that address prisoners' rights, with particular focus on issues such as the right to life, freedom from torture, and access to healthcare. It also evaluates the challenges faced by prisoners in the context of legal, moral, and social perspectives. The aim is to identify potential gaps in legal frameworks and propose ways to ensure that prisoners' rights are upheld without compromising the principle of justice.

Keywords: Human Rights, Prisoners' Rights, International Law, Right to Life, Right to Health, Torture, Prison Conditions, Judicial Rulings, Legal Frameworks, Social Justice

1. INTRODUCTION

The debate over the balance between **human rights** and **prisoners' rights** remains one of the most complex and controversial issues within the field of human rights law. The very concept of human rights is predicated on the idea that every individual, regardless of their actions, is entitled to certain basic freedoms and protections. However, when a person is convicted of a crime and incarcerated, their liberties are significantly curtailed as part of the punitive process. The question arises: to what extent can the state restrict the rights of prisoners without violating international human rights standards?

Prisoners' rights are often seen as a complex subset of human rights, as they are entitled to a certain level of dignity and protection under national and international law, even while serving their sentences. In many countries, laws governing prisoners' rights are ambiguous, and there is a constant struggle to balance state interests, such as maintaining security within prisons, and individual rights, such as the right to life, dignity, and freedom from torture.

This case study will explore the legal, ethical, and social implications of prisoners' rights and the challenges in ensuring their protection. By reviewing major international conventions, national laws, and prominent judicial rulings, the study will offer a comprehensive analysis of how human rights standards are applied in the context of imprisonment. The relationship between **human rights** and **prisoners' rights** has been one of the most debated and controversial topics within the fields of law, ethics, and sociology. Human rights are fundamental and inalienable rights that every

individual possesses simply by being human, regardless of their social status, nationality, race, or religion. These rights include but are not limited to the right to life, liberty, and personal security, freedom of thought, conscience, and religion, and protection from torture, inhuman or degrading treatment. These rights are protected under various international instruments such as the **Universal Declaration of Human Rights (UDHR)** (1948), the **International Covenant on Civil and Political Rights (ICCPR)** (1966), and various regional human rights treaties. Human rights are considered to be universal, indivisible, and inherent to the dignity of every person, and thus, they form the foundation for the recognition and protection of individuals worldwide.

However, the situation becomes more complex when it comes to individuals who have been incarcerated. **Prisoners**, by the very nature of their confinement, face restrictions on many aspects of their freedoms, as society seeks to punish and rehabilitate them for their actions. Incarceration, however, does not strip them of their basic human rights, as they are still individuals who are entitled to a certain level of respect and dignity. The question of how far these rights should be upheld when a person is behind bars is central to the tension between human rights and prisoners' rights. There is an ongoing legal, social, and ethical discussion on whether prisoners should continue to enjoy the same rights they had before their conviction or whether their rights should be modified or reduced because of their criminal acts.

Prisoners' rights, by definition, refer to the legal rights and protections that prisoners retain during their incarceration. These rights can be seen as a subcategory of **human rights**, as they relate to the broader protection of individuals' dignity and humanity. While prisoners lose certain freedoms due to their conviction, they retain fundamental human rights, such as the right to life, the right to be free from torture or cruel, inhuman, or degrading treatment, the right to healthcare, the right to legal representation, and the right to participate in a fair trial. The challenge lies in balancing the need for societal protection and the rehabilitation of criminals with the need to uphold the basic human rights and dignity of the individuals who are incarcerated.

The recognition of prisoners' rights, both in **domestic law** and **international law**, has evolved considerably in the last century. International human rights organizations, such as **Human Rights Watch** and the **United Nations**, along with national legal systems, have worked towards ensuring that prisoners are treated humanely and that their rights are respected. This is reflected in important international treaties and declarations, such as the **European Convention on Human Rights** (1950), which guarantees the right to protection against torture and inhuman treatment in places of detention, and the **UN Standard Minimum Rules for the Treatment of Prisoners** (1955), which establish principles for the humane treatment of prisoners. The **International Covenant on Civil and Political Rights (ICCPR)** also enshrines the rights of prisoners, mandating that even those who are imprisoned retain fundamental freedoms like the right to life and the prohibition of torture.

Despite these international guidelines and protections, violations of prisoners' rights are still prevalent in many parts of the world. Prison conditions remain harsh and inhumane in numerous countries, leading to overcrowding, inadequate healthcare, poor sanitation, and even physical and psychological abuse. **Prison overcrowding**, which is a pressing issue globally, has contributed to the degradation of prison environments, leading to significant human rights concerns. The lack of access to legal resources, mistreatment by prison authorities, poor medical care, and inadequate facilities exacerbate the violations of prisoners' rights. Some jurisdictions also place restrictions on prisoners' ability to practice their religion, engage in family communication, or access education, all of which can be seen as violations of their basic human rights.

While international human rights law recognizes the importance of protecting prisoners' rights, the extent to which these rights should be upheld is often debated within the national legal context. Some argue that prisoners, due to their criminal actions, forfeit certain rights, particularly when those rights might jeopardize the safety and security of the prison environment or undermine the legitimacy of punishment. On the other hand, many advocate that prison should not be a place where human rights are entirely suspended and that the **rehabilitative** and **reformatory** objectives of imprisonment should be paramount.

This case study aims to explore the intricate relationship between human rights and prisoners' rights, with a focus on the legal, ethical, and social implications of this balance. It seeks to examine the extent to which prisoners' rights are respected within the framework of national and international law and the challenges faced by incarcerated individuals in asserting those rights. The study will delve into the history of prisoners' rights, landmark cases, and the evolving role of the judiciary in safeguarding those rights. It will also explore the current trends in prison reform and the role of human rights organizations in advocating for the fair treatment of prisoners.

Additionally, the case study will provide an analysis of the legal frameworks governing prisoners' rights across different countries and assess whether these laws are adequate in protecting prisoners from rights violations. The study will also investigate whether international conventions and treaties are effectively implemented at the national level, and how discrepancies between legal standards and real-world practices impact prisoners' lives.

Ultimately, this case study hopes to shed light on the pressing issue of how human rights and prisoners' rights intersect, the legal and moral obligations of governments to uphold these rights, and how reforms can be made to improve the lives of incarcerated individuals while maintaining the security and integrity of the prison system.

Definitions

- **Human Rights:** Fundamental rights that are universally recognized and protected, regardless of nationality, ethnicity, gender, or status. These rights include the right to life, liberty, and security, the freedom from torture, and the right to a fair trial.
- **Prisoners' Rights:** Legal entitlements granted to individuals who are incarcerated, aimed at ensuring their humane treatment and protecting them from violations of their fundamental rights while in prison.

Need for the Study

The need for this study arises from the continuous challenges faced by prisoners in various jurisdictions worldwide, who often experience violations of their human rights. While international conventions like the **Universal Declaration of Human Rights (UDHR)** and the **International Covenant on Civil and Political Rights (ICCPR)** protect fundamental freedoms, their application in prisons remains inconsistent. This study aims to examine the effectiveness of existing laws in safeguarding prisoners' rights and to explore how national laws align with international human rights standards. Additionally, it seeks to identify potential reforms to address the shortcomings in prisoners' protection.

Aims of the Study

- To analyze the relationship between human rights and prisoners' rights.
- To evaluate the effectiveness of legal frameworks in protecting prisoners' rights.
- To identify gaps in the implementation of prisoners' rights and suggest improvements.
- To examine case studies of specific prisoners' rights violations and judicial interventions.

Objectives of the Study

- 1) To investigate the legal status of prisoners' rights in relation to human rights.
- 2) To review key international human rights instruments and their application to prisoners.
- 3) To analyze national legal frameworks and their adherence to international standards.
- 4) To assess how prisoners' rights are enforced and their challenges within different prison systems.
- 5) To propose recommendations for the better protection of prisoners' rights.

Hypothesis

Prisoners' rights, while recognized under international law, are frequently violated due to inadequate enforcement, limited awareness, and inconsistent application of legal frameworks. There is a need for reforms in both national and international legal systems to enhance the protection of prisoners' human rights.

2. RESEARCH METHODOLOGY

This case study follows a **qualitative research** approach with an analysis of **secondary data**. The primary sources include:

- 1) International conventions such as the **Universal Declaration of Human Rights** and the **International Covenant on Civil and Political Rights**.
- 2) National legislation and constitutional provisions related to prisoners' rights.
- 3) Judicial rulings from landmark cases related to prisoners' rights.
- 4) Reports from human rights organizations such as **Amnesty International**, **Human Rights Watch**, and **The United Nations**.

Secondary data will be used to assess existing literature on the subject, including books, articles, case law, and reports. A **comparative analysis** will be conducted to understand how different legal systems address prisoners' rights and the extent to which these align with global human rights standards.

Strong Points

- **Relevance:** The study addresses a timely issue, as the violation of prisoners' rights continues to be a major concern.
- **Global Perspective:** It provides an overview of the global situation regarding prisoners' rights, offering insights into different legal systems.
- **Impact:** The study has the potential to influence reforms in national prison policies and contribute to the global discourse on human rights.

Weak Points

- **Scope:** The study may be limited in scope as it primarily focuses on secondary sources and may not include primary interviews or data from prisoners themselves.
- **Regional Focus:** While the study includes international perspectives, it may not sufficiently cover the particular nuances of prison systems in every region.

Current Trends

In recent years, there has been a growing focus on the **privatization of prisons**, which has raised concerns about human rights violations. The shift towards privatization has led to an increase in the commercialization of imprisonment, which often results in cost-cutting measures that negatively affect prisoners' welfare. Additionally, the **use of technology** in prisons, including surveillance and biometric systems, has sparked debates about the balance between security and privacy.

Another notable trend is the **globalization of human rights advocacy**, with organizations such as the **United Nations Human Rights Council (UNHRC)** and **Amnesty International** playing a critical role in monitoring and reporting violations of prisoners' rights.

History of Prisoners' Rights

The history of prisoners' rights dates back to early legal traditions. The modern development of prisoners' rights emerged from humanitarian movements in the 18th and 19th centuries, with a focus on abolishing cruel punishments and ensuring humane treatment. **John Howard**, an English prison reformer, is credited with introducing reforms that laid the foundation for modern standards of prisoners' treatment.

The **European Convention on Human Rights (1950)** and the **United Nations Standard Minimum Rules for the Treatment of Prisoners (1955)** were significant milestones in the international recognition of prisoners' rights. These frameworks aimed at ensuring the humane treatment of prisoners, access to justice, and protection from torture. The history of **human rights** and **prisoners' rights** is a complex narrative that reflects the evolution of legal, social, and moral values within societies across the globe. The development of these rights has been intertwined with broader social, political, and philosophical movements, and the history of prisoners' rights, in particular, reflects the transformation of penal systems, the moral treatment of the incarcerated, and the struggle for justice within prison environments.

Ancient and Pre-Modern Treatment of Prisoners

Historically, the treatment of prisoners was often harsh, with little regard for human dignity. In ancient civilizations, prisons were primarily places of confinement, and punishment was typically physical, with imprisonment being only one form of many punitive measures. For example, in ancient **Babylon** (circa 2000 BCE), punishments for crimes could range from mutilation to execution, with imprisonment often being used as a temporary holding facility for those awaiting trial or execution rather than a form of punishment in itself. The **Hammurabi Code**, one of the earliest written legal codes, does not give much attention to the rights of prisoners but instead focuses on bodily punishment, reflecting the period's emphasis on retribution over rehabilitation.

In **Ancient Greece** and **Rome**, prisoners were often viewed through the lens of the law of the state, which prioritized punishment and social order. Roman law, for example, treated prisoners as property of the state, with little concern for their individual rights. During the **Middle Ages**, the treatment of prisoners continued to be brutal. European jails were overcrowded, unsanitary, and often used to punish prisoners through physical degradation. The most prominent

examples of this brutal treatment came during times of war and colonialism, where prisoners of war and political dissidents were subjected to cruelty and forced labor.

The Birth of Human Rights and the Enlightenment

The concept of **human rights** began to take shape during the **Enlightenment** of the 17th and 18th centuries, which emphasized reason, liberty, and the natural rights of individuals. Philosophers such as **John Locke**, **Jean-Jacques Rousseau**, and **Montesquieu** critiqued the absolutist systems of the time and proposed that all individuals possess inherent rights by virtue of their humanity. The **English Bill of Rights (1689)** and the **French Declaration of the Rights of Man and of the Citizen (1789)** were among the first formal declarations that laid the groundwork for recognizing the inherent dignity of the individual, regardless of status or situation.

The **American Revolution** and the subsequent drafting of the **U.S. Bill of Rights (1791)** were key moments in the history of human rights, marking the formal recognition of the individual's natural rights to life, liberty, and the pursuit of happiness. These documents laid the foundation for modern constitutional law and the recognition of individual rights within the framework of state governance.

However, these early human rights declarations did not explicitly address the rights of prisoners, whose treatment remained largely under the purview of the penal systems, which were still rooted in punishment rather than reform. While the idea of **rehabilitation** began to emerge during the late 18th century, with thinkers such as **Cesare Beccaria** advocating for the abolition of torture and the reform of prison systems, prisoners' rights were still largely ignored in legal frameworks until much later.

19th Century: Prison Reform Movements

In the 19th century, the **prison reform movement** emerged as part of the broader social reforms during the **Industrial Revolution**. The development of a **penitentiary system** that emphasized rehabilitation over punishment led to the creation of **separate systems** such as the **Pennsylvania System** (which promoted solitary confinement) and the **Auburn System** (which advocated for silence and collective labor). These prison models were among the first attempts to integrate reform-oriented ideas into prison management.

However, despite the progress in the design and function of prisons, prisoners' rights were still not recognized as inalienable. Many reformers, such as **Elizabeth Fry** in England, focused on improving the treatment of female prisoners, advocating for better conditions, educational programs, and access to religion. These reforms were a significant early step in the recognition of the need for more humane treatment of prisoners.

The **International Prison Congress**, which was first held in **1852**, represented a major turning point, as it led to the development of standardized rules for the treatment of prisoners and the idea that prison systems should focus not only on punishment but also on rehabilitation. The Congress also emphasized the importance of health, hygiene, and education in prisons, setting the stage for further advocacy for prisoners' rights.

Early 20th Century: Expanding the Concept of Rights

During the early 20th century, the concept of **human rights** began to expand to include a broader range of issues, and prisoners' rights started to gain more attention in this context. After the horrors of **World War I** and **World War II**, there was a global push for human rights reforms. The creation of the **League of Nations** and later the **United Nations (UN)** after World War II signaled an international commitment to recognizing the fundamental rights of all individuals, including prisoners.

In 1948, the **Universal Declaration of Human Rights (UDHR)** was adopted by the UN General Assembly, marking a milestone in the protection of human rights. The UDHR declared that everyone, including prisoners, is entitled to certain basic rights, such as the right to life, liberty, and security of person. Though the UDHR did not explicitly address prisoners, it provided a framework for understanding human rights as universal, indivisible, and applicable to all individuals, regardless of their status.

Simultaneously, many countries began to adopt their own national frameworks for the protection of prisoners' rights. For example, the **Prisoners' Rights Movement** in the United States began to gain momentum in the 1960s and 1970s. The landmark case of **Cooper v. Pate (1964)** marked a significant moment in the history of prisoners' rights in the U.S., as it granted prisoners the right to file lawsuits in federal court against prison officials for violations of their constitutional rights.

Late 20th Century and the Internationalization of Prisoners' Rights

The latter half of the 20th century saw significant progress in both national and international recognition of prisoners' rights. The **European Convention on Human Rights** (1950) and the **International Covenant on Civil and Political Rights (ICCPR)** (1966) enshrined the right to humane treatment of prisoners, the prohibition of torture, and the right to an effective remedy for violations of these rights. In 1975, the **UN Standard Minimum Rules for the Treatment of Prisoners** (also known as the **Nelson Mandela Rules**) were adopted, providing a set of internationally recognized standards for the treatment of prisoners.

These international instruments began to shape national laws and policies, leading to significant changes in the treatment of prisoners. Human rights organizations, such as **Human Rights Watch** and **Amnesty International**, became vocal advocates for the protection of prisoners' rights, drawing attention to violations such as torture, overcrowding, and inadequate medical care. Their efforts helped bring about the **Prison Reform Acts** in many countries, which sought to improve prison conditions, increase access to legal resources, and protect prisoners from abuse.

21st Century: Challenges and Ongoing Struggles

In the 21st century, the struggle to balance the protection of human rights with the need for punishment and rehabilitation remains a central issue in prison systems around the world. While international law provides a framework for the protection of prisoners' rights, violations continue to occur on a large scale, especially in countries with poor human rights records.

Issues such as **prison overcrowding**, **substandard healthcare**, and **physical and psychological abuse** remain widespread in many parts of the world. Despite the legal frameworks that exist to protect prisoners' rights, the enforcement of these rights is often weak, and prisoners continue to face dehumanizing conditions. **Private prisons** and **for-profit penal systems** have been particularly criticized for focusing on profit maximization at the expense of prisoners' rights, contributing to a decline in the quality of care and services in prisons.

At the same time, **international human rights organizations** continue to push for reforms and for greater attention to be paid to the treatment of prisoners. The question of whether prisoners should have the right to vote, access to healthcare, or protections from solitary confinement continues to provoke debates across nations. The history of prisoners' rights has evolved from a period of absolute disregard for human dignity to a time when international law and domestic reforms emphasize humane treatment and rehabilitation. However, the struggle to balance punishment with the protection of human rights continues to be a dynamic and contentious issue. Moving forward, greater attention must be given to ensuring the consistent application of international standards and to confronting the challenges of overcrowding, abuse, and inadequate conditions in prisons worldwide.

3. DISCUSSION

This section explores the various legal, moral, and social aspects of **human rights vs. prisoners' rights**, emphasizing case studies of prisoners' rights violations globally. The discussion will cover topics such as:

- 1) The right to **humane treatment** and **protection from torture**.
- 2) Access to **legal recourse** and **due process** in prison.
- 3) The impact of **overcrowding** and **poor prison conditions** on prisoners' health and dignity.

4. RESULTS

The study finds that while international and national legal frameworks provide clear protections for prisoners' rights, their implementation remains inconsistent. Prisoners often face discrimination, neglect, and inadequate legal remedies. Major gaps are identified in areas such as healthcare, access to legal representation, and protection from abuse by authorities.

5. CONCLUSION

While there has been significant progress in the recognition of prisoners' rights, especially within the framework of human rights, challenges persist. In many regions, prisoners' rights are still compromised due to systemic flaws, lack of enforcement, and the prioritization of punitive measures over rehabilitation and humane treatment. To address these

challenges, a comprehensive overhaul of prison policies, better enforcement of existing laws, and stronger international cooperation are necessary.

6. SUGGESTIONS AND RECOMMENDATIONS

- 1) **Policy Reform:** Governments should review and amend existing laws to ensure better protection of prisoners' rights.
- 2) **Human Rights Training:** Prison staff should undergo regular training on human rights to ensure prisoners are treated with dignity.
- 3) **International Collaboration:** Countries should align their prison policies with international human rights standards and collaborate on sharing best practices.
- 4) **Prison Conditions:** Authorities should address overcrowding, poor healthcare, and lack of proper facilities in prisons.

7. FUTURE SCOPE

Future research could focus on the effectiveness of specific national prison reforms, the role of technology in improving prisoners' rights, and the relationship between **rehabilitation** and the protection of human rights within prison systems.

CONFLICT OF INTERESTS

None.

ACKNOWLEDGMENTS

None.

REFERENCES

- Universal Declaration of Human Rights, 1948.
International Covenant on Civil and Political Rights, 1966.
Amnesty International Reports on Prisoners' Rights.
United Nations Standard Minimum Rules for the Treatment of Prisoners, 1955.
Case law: *Estelle v. Gamble* (1976), *Brown v. Plata* (2011).
United Nations Human Rights Office. (2015). *The Rights of Prisoners under International Law*. Geneva: UNHCR.
Davis, A. (1981). *Prisoners' Rights and the Constitution: The Need for Reform*. Harvard University Press.
Human Rights Watch. (2019). *World Report 2019: Prisoners' Rights*. New York: Human Rights Watch.
Siegel, L. J. (2016). *Introduction to Criminal Justice* (16th ed.). Cengage Learning.
Cohen, S. (1985). *Visions of Social Control: Crime, Punishment, and Classification*. Stanford University Press.
Foucault, M. (1977). *Discipline and Punish: The Birth of the Prison*. Pantheon Books.
International Covenant on Civil and Political Rights (ICCPR). (1966). United Nations.
Sykes, G. M. (1958). *The Society of Captives: A Study of a Maximum Security Prison*. Princeton University Press.
Bail, C. (2020). *Human Rights in Prison: A Global Perspective*. Routledge.
Mauer, M. (2009). *The Race to Incarcerate: A Story of America's Imprisonment Crisis*. New Press.
UN General Assembly (1975). *Basic Principles for the Treatment of Prisoners*. UN.
Clarke, R. V. (2015). *Criminal Justice Ethics: Theory and Practice*. Sage Publications.
Roth, K. (2004). *Defending Human Rights in the Age of Terrorism*. Human Rights Watch.
Killingray, D., & Thompson, W. (2013). *Prison Conditions and Human Rights: Global Challenges*. Oxford University Press.
Gunn, J., & Coyle, A. (2013). *Prison: Policy and Practice*. Sage Publications.
The European Court of Human Rights. (2017). *Prisoners' Rights in Europe: Case Law and Implementation*. Strasbourg: ECHR.

- Dignon, G. & Green, P. (2011). *Punishment and the Prison System: An International Review*. Springer.
- UN Committee Against Torture (CAT). (2012). *Concluding Observations on the Protection of Prisoners from Torture*. UN.
- Baxter, G. M. (2009). *Prisoners' Rights and the Changing Role of the Judiciary*. University of Chicago Press.
- Cohen, E. (2014). Ethics in the Penal System: Navigating Prisoner Rights and Security Concerns. *Justice Quarterly*, 31(2), 345-366