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SOCIO-ECONOMIC INEQUALITY IN ACCESS TO CRIMINAL JUSTICE SYSTEM IN INDIA

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Abstract

This paper looks at serious social and economic unfairness that affects how people get justice in India, especially focusing on the problems in the Legal Aid system and how the Bail process works in a way that shows bias. Even though the Constitution promises equal treatment and freedom through Articles 14, 19, 21 and 39-A, the real situation shows that poverty greatly influences how justice is delivered in the legal system. This paper uses the Arthur Road Jail in Mumbai as a main example to show that the poor people who are accused of crimes face serious challenges. They can't get good advocates or pay for bail, which leads to them staying in jail for a long time even before the trial. This long stay in jail acts like a punishment on its own. The paper uses a thorough, careful, and improvement focused approach to examine the current system. It identifies problems in the structure, closely looks at the laws and courts, and suggests specific changes to make the legal aid and bail system better. The main point is that having equal rights on paper but no real access to them makes the Constitution seem empty, and changing this isn't just a good idea it's something the Constitution requires.

Keywords: Access to Justice, Legal Aid, Bail Reform, Socio-Economic Inequality, Undertrial Prisoners, Article 39-A, Arthur Road Jail, Criminal Justice System (India), Pre-trial Detention, Constitutional Rights.

Objective

To understand how social and economic inequality causes problems in the criminal justice system in Mumbai, especially because legal help and bail process aren't working properly

1. Framework vs. reality: To analyze the difference between the promises in the Constitution (Article 14, 21, and 39-A) and how well legal help and bail are actually provided in practice.
2. Legal aid failures: To Identify the underlying problems in Mumbai's legal aid system.

3. Bail inequity: To examine how the monetary bail system, strict surety requirements, and limited judicial discretion together lead to discrimination based on wealth, unfairly punishing defendants from socio- economically disadvantaged backgrounds in the Indian criminal justice system.
4. Empirical case study: To identify the problem of people waiting in jail without being convicted at Arthur Road Jail.
5. To Suggest changes supported by research to cut down on too many people.

Research Methodology

This study is qualitative, doctrinal, and reformative approach to analyse India's Constitutional rule, laws, courts ruling, and other supporting data. Doctrinal legal research requires carefully reading primary sources like the Constitution (Article 14, 21, 39-A), the CrPC 1973, and BNSS 2023. A qualitative case study focuses on Arthur Road Jail in Mumbai, primarily based on NHRC inspection report from may 2017 as the main source of evidence. Mumbai has a big problem where there is a lot of wealth on one side and serious shortage of legal rights and social support on other, making it a perfect example to study how unfair system works.

Secondary data analysis mainly uses the NCRB prison reports from institutions and comments from scholars, to find out general trends and patterns rather than proving specific causes. Reformative Orientation makes sure that recommendations are checked against the country's laws and whether they can be realistically carried out.

Limitations: The study is focused only on Mumbai and uses data that was collected by others. The issue is limited because there is no detailed information on bail decisions broken down by people's economic situations, and the full effects of the new BNSS 2023 law are still being felt.

Introduction

In 1894, The Writer Anatole France said, "The Law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread."¹

This well-known statement shows a sad reality: a law may look fair on paper, but it can be very

¹ *Anatole France, The Red Lily ch.7, ¶19* (W.Stephens trans.Project Gutenberg 2012) (1894), <https://www.gutenberg.org/cache/epub/3922/pg3922-images.html>

harsh when it is actually put into use. A rich person doesn't need to sleep under a bridge, so these laws only affect people who have no other options. This irony is the main problem facing the Indian Criminal Justice System right now.

The Indian Criminal Justice System is based on a strong and honourable idea that every person is treated as equal. This promise is written in our Constitution. Our legal system is a colonial inheritance. The British created this system to keep society under control. The main parts like police looking into crimes, Advocates taking cases to court, and prisons for punishment were not meant to help the poor or protect their rights. Since gaining independence, India has made changes to these law, but there is still a big gap between how the laws are meant to work and how they actually affect people who are already in difficult situations.

The Indian Constitution offers a "Right- Based" system meant to close gap through three main parts:

- Article 14 ensures that every person is treated equally under the law.²
- Article 21 ensures that every person has the right to live, to be free, and to get a fair trial if they are accused of a crime.³
- Article 39-A says the government must give free legal help so that people who can't afford it still have a fair chance to get justice.⁴

Even though these great promises are made, there is a big contradiction: In india, the ability to enjoy freedom usually depends on how much money someone has. If you have money, you can get out of jail. If you don't have much money, your basic rights as described in the constitution are usually not in real practice. Poverty really takes away the chance for a fair trial.

Mumbai: A Microcosm of Inequality

Mumbai is a key example used in this study. As India's financial capital, it has a lot of extreme differences between rich and poor people. Arthur Road Jail shows how the bigger system is failing on a smaller scale. It is very crowded, and most of the people inside are "undertrial" those who haven't been found guilty of a crime but are still locked up because they can't pay bail.

² INDIA CONST. art. 14.

³ INDIA CONST. art. 21.

⁴ INDIA CONST. art.39-A.

This study looks at two main areas where things went wrong:

1. Legal aid, which is provided by government, is usually not good enough and comes in too late to be useful (India Justice Report, 2023; Commonwealth Human Rights Initiative, 2020).
2. The bail system depends on paying money and the judge's choice, which can put the accused in a situation where being poor makes it harder to get out of jail.

Research Question: How much does Socio-Economic Inequality affect access to Criminal Justice in India, and what changes are needed in the legal aid and bail system to achieve true equality in Mumbai.

Conceptual framework: Justice and Equality

To see why the system doesn't work well in places like Arthur Road Jail, we need to look at the basic beliefs about justice that the law is based on. The rules may seem fair on paper, but in real life they work very differently for someone who is rich compared to someone who is poor.

1. Formal Justice vs. Substantive Justice

Formal justice means treating everyone the same way, no matter who they are, by following the same rule for all. It's like a referee in a race who gives the same treatment to every runner. Substantive justice refers to the concept that when all individuals are subject to the same rule but begin from varying circumstances, the outcome will not be equitable. If one athlete wears specialized running shoes while the other competes without any footwear, the competition is not truly equitable.

In India, the law on paper is the same for everyone, but in practice, the outcomes depend on your social background.

2. Procedural Fairness vs. Real Access

Procedural Fairness means you have the right to a fair trial, which is like a paper promise that the process will be fair.

- **Real Access:** To really have access to their rights, a person needs four things: they must know their rights, they need a good legal representation, they have to be able to pay for legal costs, and there must be a court system that actually listens to them.

- The barrier: For the poor, poverty is like a big wall that's part of the system. Even if the process is considered fair, someone can't surpass the wall without money, so a fair trial isn't really possible.

3. Equality before the law vs. Equality in Effect

- Article 14: Our Constitution guarantees equality, but this remains an "aspiration" (a dream) if the government doesn't help the poor afford their defense.
- De Jure vs. De Facto: De Jure means "by law" everyone is equal on paper. however, De Facto refers to "in practice" or in reality, affluent individuals frequently possess practical advantages. For instance, Vijay Mallya managed to depart from India and contest extradition cases in the United Kingdom for several years by employing costly International legal representatives. A typical individual charged with comparable financial offenses might not possess the same resources or legal safeguards.⁵
- Rawlsian justice Named after philosopher John Rawls, this idea says that true fairness isn't just about making rules; it's about equalizing the conditions so that everyone has a real chance to succeed.

4. Link to Socio-Economic Inequality

- The factors that matter: A person's caste, social caste, and how much money they have in the bank usually determine if they go home on bail or have to stay in a busy jail cell.⁶
- Structural violence: Structural violence isn't about actual physical harm; it's a type of harm that comes from how system are set up. These systems are designed in a way of that unintentionally hurts people who are already in a weaker positions, like the marginalized, more than those who are already in powerful positions, like the elite.
- The Cycle of Disadvantage : poverty starts a harmful chain reaction: if you don't have money you can't afford a private lawyer.

⁵ *Tycoon Mallya Should Be Extradited to India, Rules UK Court*, AL JAZEERA (Dec. 10, 2018), <https://www.aljazeera.com/news/2018/12/10/tycoon-mallya-should-be-extradited-to-india-rules-uk-court>

⁶ Law Comm'n of India, *Amendments to Criminal Procedure Code, 1973 — Provisions Relating to Bail*, Report No.268, at 4 (May 2017).

- No Advocates lead to no bail: if someone cannot post bail, they may have to stay in jail for a longer time while their case is being decided. Going to jail can cause someone to lose their job and family's money, which makes them even more in need than they were before.

Problem Analysis: Diagnostic Section

This part explains why the legal system sometimes does not help the people it is meant to defend, with a particular look at how the legal aid system in Mumbai is not working properly.

1. Legal Aid System: Structural Failure

The "Structural Failure" means the problem isn't about one bad lawyer or one slow office; the whole system is designed in a way that makes it really hard for poor people to get fair treatment.

1.1 Poor Quality of Representation

Picture visiting a doctor who is really tired, hasn't looked into your situation carefully, and isn't getting much money for their work. That's the situation for many poor prisoners. Advocates who work on the government legal aid panel earn a very small amount of money. Because the pay is low there is no incentive or motivation for them to spend hours researching a complex case.

- Overworked: There are too many prisoners and not enough legal aid Advocates in Mumbai. A lone lawyer could be working on many cases at the same time, which leaves little room to build a personal relationship with each client.
- No preparation: Since they are in a hurry, these Advocates sometimes meet their clients for the first time in court, which results in poor arguments and lost cases.

1.2 Delay in Appointment of Counsel

Timing is everything in law. The best time to get a lawyer is right after you're arrested, during the bail process.

- Too Late: In Mumbai, many people don't get a lawyer who helps with legal issues until their trial begins which might happen months or even years after they were first taken into custody.

- **Not Getting Bail Chance:** If there's no lawyer present at the beginning, the person accused loses the opportunity to ask for bail. That's why some people spend years in jail without ever being shown to be guilty.

1.3 Lack of Awareness Among Accused Persons

A right isn't helpful if you don't realize you have it.

- **The Knowledge Gap:** Many people in Arthur Road Jail are from poor families and aren't aware that the Constitution provides them with the right to a free lawyer.
- **Barriers:** Many prisoners have difficulty reading or writing, or they speak a language that is different from the one used in the program. If the police don't explain the prisoner's rights or try to keep them secret, the prisoner stay in trouble just because they weren't aware they could ask for assistance.

1.4 Weak Institutional Capacity

The offices that are supposed to handle legal aid, such as DLSA in Mumbai, are having a hard time.

- **Under- Resourced:** These offices don't have enough workers, computers, or money to keep track of every prisoner.
- **No Quality Control:** There's no way to make sure that Advocates offering legal aid are doing their job properly. If a lawyer isn't doing a good job, the prisoner doesn't have anyone to talk to about it.

1.5 Mumbai Reflection

The clear outcome of these issue is visible in the walls of Arthur Road Jail.

- **Overcrowding:** The jail is well known for being filled to capacity, way more than it was meant to hold. This is not because there's a crime wave, but because thousands of people are trapped there because they don't have a good lawyer to help them apply for bail.
- **The Data Reality:** Statistics show that a large number of prisoners in Mumbai are not being represented. They are just names on a list, waiting for a system that has lost track of them.

2. Bail System: Economic Inequality in Practice

The Bail System is meant to make sure that a person who is accused of a crime comes back for their trial, but also lets them stay out of jail until the trial happens. However, for people who are poor, the system can act as a financial hurdle that keeps them stuck in prison.

2.1. Cash Bail and Surety Requirements

- **De Facto Detention Order:** When a court sets a cash bail amount that someone who doesn't have enough money can't pay, it essentially a detention order in jail because they can't afford to get out. Even if the amount is not very big, for someone who earns a daily wage in Mumbai, it can be really hard to manage.
- **Not having Enough Social Connections:** Courts often need someone called "Surety," which is usually a person like property owner or someone with a steady job, who promises to make sure the accused comes to court when they are supposed to. Marginalized individuals, particularly migrants at Arthur Road Jail, usually don't have these social ties, which means they remain in jail because they don't know anyone who is wealthy enough to help them get out.

2.2 Judicial Discretion – Inconsistent and Socially Biased

This section highlights how judges sometimes make decisions that are not consistent with each other or with established laws. These decisions can also be influenced by social biases, which may affect fairness and equality in legal outcomes.

- **Inconsistent Outcomes:** Judges have "discretion," which means they use their own judgment to decide the terms of bail. This can result in different outcomes where two people charged with the same crime might receive very different bail decisions based on which judge is holding their case.
- **Implicit Bias:** A person's looks, where they live (like a poor neighbourhood), and not having a college degree can make a judge think they might run away without finishing their court case. Because poor people don't have important social connections, they are often not given bail and stay in jail waiting for their trial. Wealthier people, on the other hand, are usually released. Undertrial detention has become the usual situation for many people who are not yet convicted.
- **Total Number of Prisoners:** As per the NCRB 2022 report, there are 5,73,220 prisoners held in Indian Jails.

- The Undertrial Crisis: Out of that total, a huge number 4,34,302 ⁷people are “Undertrial,” which means they haven’t been found guilty of any crime and are still waiting for their court cases to be heard.
- The Institutional Reality: This means that about 75.8% of all the people in Indian prisons are undertrials, not convicted of the crimes they are being punished for and are still locked up.

Category (NCRB 2022 Data)	Total Number of Persons
Total Prisoners in India	5,73,220
Undertrial prisoners	4,34,302
Percentage of Undertrials	75.8%

Table 1: National Prison Statistics (NCRB 2022)

Case Study: Arthur Road Jail, Mumbai

Arthur Road Jail also known as Mumbai Central Prison, established in 1925-26 and converted into a central prison in 1972, was inspected by the NHRC (**National Human Rights Commission**) of India in May 2017 to look at how conditions were, the state of the building, and how inmates were treated. The study shows exactly how differences in wealth and social position influence people’s ability to get fair treatment in the legal system in India.

Profile of Undertrial Population

The prison has many people who have not yet been convicted, including those charged serious crimes like organized crime, drug smuggling, and economic offence. It also includes foreign nationals, many of whom were booked under the NDPS Act. Some inmates are waiting for their trial or are still in custody even though they have been convicted in another case. Delays in getting court documents because there are not enough of police officers to transport them, which makes their situation even worse. This shows that people who are waiting for their trial and are held in custody often face unfair treatment, especially those who are already in difficult situations and don’t have enough money to help move their case along faster.

Chronic overcrowding as evidence of systemic bail system failure

The prison is severely overcrowded, holding about 3,663 prisoners even though it’s only

⁷ Nat’l Crime Records Bureau, *Prison Statistics India 2022* (2022).

supposed to hold 999 people.⁸This heavy crowding makes it hard for prisoners to live in small and unfair living conditions, and many can't get enough sleep because there isn't enough room. The barracks, which is almost a hundred years old, also make the living conditions worse. Overcrowding is more than just a problem with facilities; it comes from bigger issues in the bail system, where people who haven't been convicted stay in jail for a long time. This shows that delays in procedures and strict bail rules mainly affect with less money, making detention act like a punishment even before they are convicted.

The connection between poverty, lack of proper legal aid, and detention

Many prisoners are still in jail even though they have been given bail because they can't afford bail amounts or produce sureties. The report highlights cases where inmates could not pay small bail amounts or arrange guarantors, which made continued detention for months. Additionally not having access to proper legal representation delays justice further. Some prisoners said they were in jail for a long time without getting proper assistance from Advocates until legal aid authorities step in. This clearly shows that poverty directly restricts access to justice, because not having enough money can make them stay in jail longer, even if they are given the chance to get help through the law.

Health care and living conditions

The prison hospital faces shortages in staff and facilities, with limited bed and they don't have proper tools to diagnose illnesses. Overcrowding causes patients to stay on the floor. The existence of serious diseases like TB, HIV and cancer shows that there are big health dangers in prisons. Basic necessities such as sanitation and water supply are not properly provided, which also makes life harder for people. These conditions shows how economically disadvantaged prisoners suffer from losing their legal rights, physical and their connection to others.

Institutional and systemic challenges⁹

The inspection found problems such as shortage of staff, not using video conferencing, and delays bringing prisoners to court. Outdated buildings and lack of proper maintenance contribute to the crisis along with other infrastructure issues. At the same time the need for

⁸ *Arthur Road Jail packed at 4x capacity: 3,663 inmates against 999 slots*, Times of India (Sept. 14, 2023).

⁹ Nat'l Hum. Rts. Comm'n, *Report on inspection visit of Sh. S.C. Sinha, Hon'ble Member, NHRC, to Mumbai Central Prison, Arthur Road, Mumbai, Maharashtra* (2017)

legal aid, better medical services, and changes to the administrative system. These structural weaknesses show that inequality in the justice system isn't just a mistake but is deeply built into how institutions work.

Category	Details
Prison population	Mostly Undertrial prisoners, including foreign nationals
Overcrowding	3,663 inmates vs. capacity of 999
Bail issues	Prisoners remained jail due to inability to pay bail or surety
Trial delays	Delays due to lack of police officers and legal representation
Living conditions	Congested barracks, poor sanitation, old infrastructure
Health facilities	Limited beds, staff shortage, presence of serious diseases

Table 2: Arthur Road Jail Case Study (Short Summary)

Legal and Judicial Framework

Constitutional provision

The Indian Constitution acts as the main protection against unfair government actions, making the rights of people who are accused but not yet convicted more than just legal steps they are seen as basic human rights

Article 21 (Protection of Life and Personal Liberty)¹⁰ : This provision is often viewed as the “heart of fundamental rights” within Indian constitutional law. It ensures that no person can be deprived of their personal freedom unless the state adheres to a process that is fair, just, and reasonable, a doctrine established in *Maneka Gandhi v. Union of India*.¹¹ In further broadening this mandate to tackle socio economic disparities, the Supreme Court in the case of *Hussainara Khatoon v. The State of Bihar* clearly stated that the right to speedy trial and the provision of free legal aid are implicit, non-negotiable components of personal liberty under Article 21.¹²

Article 22 (Protection Against Arrest and Detention)¹³: Requires that a person who is arrested must be told immediately about reasons for their arrest and has the right to consult and be represented by a lawyer of their own choice.

Article 39-A (Free Legal Aid)¹⁴: This is a guiding principle that tells the government to offer free legal help so that people aren't stopped from getting justice because they don't have

¹⁰ INDIA CONST. art. 21.

¹¹ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.

¹² *Hussainara Khatoon v. State of Bihar*, (1980) 1 S.C.C. 81.

¹³ INDIA CONST. art. 22.

¹⁴ INDIA CONST. art. 39-A.

enough money or face other difficulties. At first, it was not a law that could be enforced, but the Supreme Court later connected Article 39-A with Article 21, turning free legal help into a right that can be enforced with people who cannot afford a lawyer.

Statutory Framework

Moving from the Code of Criminal Procedure (CrPC),1973 to the Bharatiya Nagarik Suraksha Sanhita (BNSS),2023 marks a significant change in how criminal procedure works in India.

- Bail provisions (CrPC 436-439¹⁵/ BNSS 478-483¹⁶): These parts explain the court's power to decide whether to let someone go free on bail. BNSS keeps the main idea that people should usually get bail and only be jailed in special cases, but it makes the courts decide faster.
- Section 479 BNSS (Maximum period of detention): These section sets the longest time that a person can be held in custody without being charged or released. It ensures that there is a legal limit how long someone can be detained, which helps protect their rights and prevent unnecessary or prolonged holding without proper legal reasons.
- The Half-Sentence Rule: If someone is awaiting trial and isn't facing death or life imprisonment, they should be released on bail once they have spent half the maximum time they could be sentenced for the crime they are accused of.
- First-Time Offender: A major change in BNSS lets people who have never been convicted before ask for bail after they have served one -third of the longest possible sentence.

One important thing to note is that Section 479(2) of the BNSS says that if someone has several cases or charges going on against them, they might not be able to get this automatic bail. Some people who criticize the reform say this could reduce how much of a difference the change makes.¹⁷

Critical Gap Analysis: The core Argument

The main problem in the Indian legal system is the big gap between what the law says should happen and what really happens in real life. This gap is clearly seen in Mumbai's legal system, where the process of justice often works more like a system that leaves people out.

¹⁵ Code of Criminal Procedure, No. 2 of 1973, §§ 436–439 (India).

¹⁶ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, §§ 478–483 (India).

¹⁷ Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 479(2) (India).

Constitution Promise vs. Ground Reality

The Constitution of India was made to be a document that brings about change. It imagines a fair justice system that where every person, no matter how much money they have, is treated the same way by the judge. However, the real situation in Mumbai's Magistrates Courts and Sessions Courts shows a different picture. The difference between the law as written and the law as practiced is not just a series of chance mistakes or small problems. It is a system that keeps going on its own and hurts the poor the most. The system often operates in a way that disproportionately disadvantages people with fewer resources. For a daily wage worker in Dharavi, one court isn't just a legal problem; it means missing a whole day of work, spending money on travel, and facing the chance to losing their job. In this way, the idea of equality that the Constitution promises is broken by how money and wealth really work in the city.

Formal Rights ≠ Real Access

There is a big difference between having a right and actually being able to use it.

- **The Quality of Legal Aid:** Although the right to legal aid is written into law, the actual quality of legal aid is often not as good as it should be. Legal Aid Advocates in Mumbai often work too much and don't have enough support or resources. A prisoner who gets a lawyer chosen by the state usually gets a weak defense instead of strong one.
- **The Bail Paradox:** The right to have bail is a key part of personal freedom, but is still depends on how much money someone has. Courts usually requires cash deposits or ask for "Solvent Sureties," which means people who can prove they own property, but migrant workers often don't have documents to show this.

When the system asks for financial proof to let someone exercise their "rights," those rights don't really mean anything anymore. Without having the means to support it, the law becomes something only the wealthy can afford.

Disproportionate Impact on Poor

According to published information from Prayas-Tiss report on undertrial prisoners in Maharashtra reveals that significant number of these individuals originate from economically disadvantaged backgrounds. They frequently experience instability in housing, lack support from family, and do not receive sufficient legal aid. The report also highlights that marginalized and vulnerable groups encounter obstacles in obtaining free legal assistance and in effectively

navigating the criminal justice system.¹⁸

Mumbai as Evidence of Structural Inequality

Mumbai is a great, yet sad, example of this failure. Arthur Road Jail is facing a serious overcrowding issue that has become major problem across the country, but it is not just about there not being enough space or the jail not having enough room for everyone. It is a justice access problem. The prison is full of people who have not been found guilty of any crime. They stay in jail for a long time because the courts take a lot of time to make decisions and the chance to get out (called bail) is blocked because they don't have enough money to pay for it. The data from Mumbai court shows a consistent problem with delays and people being left out. These issues are not just mistakes by certain judges; they are what you'd expect from a system that does not really care much about property.

Failure of Substantive Justice

The Indian Criminal Justice System usually gives everyone the same treatment according to the law, but it does not take into account the real difference in people's situation. Treating a billionaire and a beggar the same when they both need a lawyer isn't really fair if only one can pay for the lawyer's help.

This is a major violation of the "Golden Triangle" in the Constitution

Article 14: The right to Equality before the law¹⁹

Article 19: The right to freedom²⁰

Article 21: The right to life and personal freedom²¹

Article 39-A: The specific duty to make sure that no citizen is prevented from getting justice because of their economic situation or other difficulties.²²

Until the system recognizes the poverty of those on trial, Mumbai's courts will keep offering "law" to many people but "justice" will only reach a few.

¹⁸ Prayas-TISS & Project 39A, *Legal Aid to Undertrial Prisoners in Maharashtra (2018–2021): A Socio-Legal Intervention Model in the Criminal Justice System* 9–12 (Tata Inst. of Soc. Scis. 2023). https://tiss.ac.in/uploads/files/Prayas_Report-_Legal_Aid_to_Undertrial_Prisoners_in_Maharashtra_A_Socio-Legal_Inte_JwAfRVW.pdf

¹⁹ INDIA CONST. art. 14.

²⁰ INDIA CONST. art. 19.

²¹ INDIA CONST. art. 21

²² INDIA CONST. art. 39-A

Reformative and Suggestive Analysis

To close the gap between what the Constitution promises and how Mumbai's legal system actually works, changes to the system's structure are necessary. These suggestions aim to ensure that justice is easy to get, cost less, and is treated equally for all people, no matter how much money they have.

Legal Aid Reforms

Legal Aid should not just be a routine process; it needs to really help people who don't have much money.

- Early stage legal aid : People need legal support right away, as soon as they are arrested, not just later during the trial. An advocates who is assigned to help people in need should be at every police station and during the first court hearing to make sure the person being arrested isn't made to say something that could hurt their case.
- Strengthening Authorities: The district Legal services Authority (DLSA) in Mumbai requires additional funding and more personnel to function effectively. Every court building, whether it is a small Magistrate Court or Session Court, should have a special office where people can get help right away.
- Quality Standards: We need to stop the pattern of providing low quality legal help to people with low income. Legal Aid Advocates should be chosen based on their experience and ability to do their job well. Their fees should be connected to how well they do their job so that they are motivated to work harder and better for their clients.
- Monitoring and Audits: There needs to be a separate group that checks how many legal aid cases end up with bail or not guilty verdict. If the success rate is not high enough, the system should be repaired.
- Police Awareness: When the arrest a person, they need to tell them in a language they know, such as Hindi or Marathi, that they have the right to get a free lawyer.
- Digital Access: Using technology, such as legal aid apps can help prisoners speak with their Advocates without having to wait for transportation that often doesn't arrive.

Bail System Reforms

The current bail system works like a "property-based" system it needs to switch to a system that focuses on risk.

- Risk based Bail: The criminal justice system needs to undergo an important change from a bail system that relies on financial resources to one that assesses risk-based. This new model should focus on the specific circumstances of each individual rather their ability to pay. Bail should be implemented only to guarantee public safety and to ensure that the accused appears to trial. However, the current dependence on cash bonds frequently imposes an unjust burden on those who are financially disadvantaged. Judicial discretion should be based on objective measures of risk, including the possible threat to the community or the chances of an individual fleeing. For individuals who show solid family relationships, consistent employment, and well-defined connections to their community, court should regularly allow release on personal bonds instead of mandating financial payments. This guarantees that an individual's freedom is based on their character and the stability of society, rather than their economic situation, thereby effectively addressing the inequality that presently exists between the rich and the poor.
- Standard Guidelines: To make sure all judges handle the same crime the same way, there should be a clear list of things to check when deciding if someone gets bail.
- Fast Track hearings: Mumbai needs "Bail Benches" that only focus on bail applications. No one should have to wait longer than 48 hours after being arrested before their first bail hearing happens.
- Periodic review: Every 90 days, a committee needs to go to Arthur Road Jail to check on people who have been there for a long time. If a person has spent half of the longest possible time they could be sentenced to while still being considered an undertrial, they should be set free away according to Section 479 of BNSS.

Institutional and Policy Reforms

The people in charge need to have a different way of thinking.

- Judicial Training: Judges should receive training to help them understand and recognize any hidden biases they might have towards people from specific castes, religion, or social groups based on their economic situation.
- Coordination: The lack of coordination among jails, courts, and police leads to avoidable inefficiencies that obstruct the justice system. We suggest an "Integrated Case Management System" to replace disjointed communication with a cohesive digital platform. By offering all involved parties immediate access to the statuses of cases and

transport schedules, we can eliminate confusion, minimize delays, and ensure a smooth and transparent flow of information across the board.

- **Data Based Monitoring:** data based monitoring within the criminal justice system serves as an essential tool for fundamental reform by converting vague social issues into concrete, measurable evidence. By requiring the yearly release of comprehensive demographic data about prison populations, the government shifts the conversation from personal assumptions to factual examination. This change highlights the specific areas such as policing methods, decision made by prosecutors regarding charges, and differences in sentencing where systemic bias frequently arises. This openness establishes a strong requirement for accountability, as it compels policymakers to address the underlying reasons for the overrepresentation of marginalized groups. This shift in focus moves away from solely punitive actions towards solutions based on evidence, such as community support and investment in socio-economic development. In conclusion, viewing this incarceration statistics as an essential measure of societal well-being encourages a shift from an opaque justice system to a clear public service. This shifts urges lawmakers to focus on fair outcomes and lasting solutions rather than just short-term administrative fixes.

Expected Impact of Reforms

If the proposed changes to the legal aid and bail systems are put into action, it would bring a major change to Mumbai criminal justice system. These changes would take the system away from punishing the poor and make it a fair process for everyone.

Decongestion of Mumbai's Prison

The most noticeable and direct effect would be the reduced overcrowding at Arthur Road Jail.

- **Faster Release for People in Trial:** By using a system that checks risk and offering help with legal matters early on, many prisoners who are waiting for their cases to finish will be able to go back to their families faster, especially those who can't afford to pay bail. This would significantly reduce the undertrial population. Once the problem of overcrowding is solved, the prison staff can better take care of the buildings and facilities. If there are fewer prisoners, there will be enough room for everyone to sleep, cleaner bathrooms, and better medical care. A jail with fewer people is simple to run and much better for the prisoners.

Improved Access to Justice

The changes would help people who can't afford good Advocates by making legal help more fair and equal for everyone.

- **Quality for the Urban Poor:** For the urban poor in Mumbai, like migrant workers and people living in slums, there will finally be access to good.
- **Reducing the Wealth Gap:** Justice would no longer be something that only the rich man can afford. When legal helps start as soon as someone is arrested (at the FIR stage), it stops the poor from being scared or forced by the system before they even get to a judge.

Strengthening of Article 14 and 21

These reforms would bring new energy and strength to the basic rights that are promised by the Indian Constitution.

- **Closing the Gap:** Right now, there's a big difference between what the law says in the books and how it is actually followed in Mumbai. Making these changes would help bring the real situation on the ground closer to what the Constitution promises.
- **Equality and liberty:** The system would ensure fairness by treating both the rich and the poor in the same way during legal processes, as required by Article 14. More importantly, it would protect Article 21 (Right to Life and Liberty) by ensuring that no person is deprived of their freedom except through a process that is truly "just, fair, and reasonable."

Shift Towards Substantive Justice

The main aim of these changes is to shift from having equal rights on paper to achieving real fairness in practice.

- **Genuine Fairness:** Formal equality means everyone is told they have a right to a lawyer; substantive justice means everyone actually has a competent lawyer. This changes make sure that the result of a case is based on the facts and the law, not on how much money the person accused has in their bank.
- **Breaking the Cycle:** By taking away the unfair advantages that keep people in poverty, the criminal justice system stops becoming a system that keeps poor people trapped in a cycle of poverty. Instead, it becomes an instrument of fairness, ensuring that the legal process does not become a secondary punishment for the marginalized.

Conclusion

This paper has said that socio-economic inequality is not just something that happens in the background of criminal justice systems it is really a key part of how the system works in real life. The evidence from the country constitution, laws, courts decisions, data from the National Crime Records Bureau, and the Study of Arthur Road Jail shows that rights mentioned in Article 14, 21, and 39-A are mostly not really enjoyed by a big part of India's accused people. They remain more like goals than actual realities.

The Indian Constitution was made to bring about change it is not just about writing down how things are now, but about changing how things work. The Criminal Justice System still unfairly treats the poor and those from marginalized groups. The problem with people in India's jails who have not been convicted of a crime is not something that happened suddenly. It is the result of many years of not investing enough in legal aid, a justice system that depends on how much money someone has, and a court system that only works well for those who can afford to keep up with its pace. For the accused who cannot read, does not know the rights, and earns a daily wage that vanishes upon detention, the Constitution's promise is written in a language they were never taught to speak.

Arthur Road Jail is more than just a case study it is like a mirror reflecting the justice system at its most broken and failing point. It holds 3,663 people when its maximum capacity is 999, making it a clear sign that the system for bail and legal aid have completely failed. The people there are mostly poor, unable to read, and have moved from other places they don't have the connections or resources to deal with a system that relies on paperwork and money. That this happens in Mumbai, India's richest city, makes the failure even more unacceptable. If fair justice is not possible here, then the situation in other places must be even worse.

The reforms suggested like giving legal help early, making DLSA stronger, using a risk based approach for bail, and setting up fast-track bail courts are not big changes from what the law already has. They are calls to do what the Constitution already requires. Hussainara Khatun fought for the right to a quick trial many years ago; the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 included section 479 to address the problem of people waiting a long time without being convicted. What is missing is not legal requirement, but the willingness of institutions, the priority given by political leaders, and the resources invested by administrators. As Anatole France observed, formal equality unaccompanied by substantive support becomes

its own form of oppression. India's criminal justice system gives poor people the same legal rights as rich people, like bail, having a lawyer, and getting a fair trial. But it does not give them proper conditions to actually use those rights. The outcome is a system that is officially fair but in practice ends up leaving people out. Every day and undertrial prisoner remains in Arthur Road Jail not because they are guilty, but because they cannot afford freedom is a day the constitution is violated in practice, even though it is upheld in theory. Closing this gap is not just about making changes to a plan. It is a moral and constitutional imperative.

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