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# JUSTICE DELAYED, JUSTICE DENIED: THE INTERSECTION OF PRE-TRIAL DETENTION AND ITS IMPACT ON UNDERTRIALS

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## I. ABSTRACT

For Indian inmates awaiting trial, the notion that justice delayed is justice denied is critical. Despite the fact that the Constitution provides the “presumption of innocence unless proven guilty”, a considerable section of the prisoner population is imprisoned for extended periods of time due to judicial delays, insufficient legal representation, and socioeconomic limits. According to the Prison Statistics India 2022 report by the National Crime Records Bureau (NCRB),<sup>2</sup> 434,302 out of 573,220 prisoners are undertrial, making up a significant proportion of the prison population; of these, 23,772 are women, and of these, 76.33% are undertrial prisoners; additionally, 8.6% of the undertrial women have been imprisoned for more than three years.

This study explores the legal system that governs undertrial detainees, focussing on their rights under the Indian Constitution<sup>3</sup>, the Code of Criminal Procedure, 1973<sup>4</sup>, the Model Prison Manual, and human rights conventions. It distinguishes between convicted and pretrial inmates and emphasizes the abuses of fundamental rights connected with extended pre-trial incarceration. The paper surveys the Supreme Court's position on speedy trials, bail reforms, and access to legal aid through an analysis of court cases like Hussainara Khatoon v. State of Bihar<sup>5</sup>, Khatri vs State of Bihar<sup>6</sup>, and Sunil Batra v. Delhi Administration<sup>7</sup>. It also includes issues like

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<sup>2</sup>Prison Statistics India 2022 report, <https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/psiyearchive2022/1701613297PSI2022ason01122023.pdf>, (last accessed Jan 27, 2025).

<sup>3</sup>Indian Const.

<sup>4</sup>Code of Criminal Procedure, 1973.

<sup>5</sup>Hussainara Khatoon v. Home Secretary, State of Bihar, (1980), (1) SCC 98.

<sup>6</sup>Khatri v. State of Bihar, (1981), SCC (1) 627.

<sup>7</sup>Sunil Batra v. Delhi Administration, (1980), AIR 1579.

overcrowding, custodial violence, and the socioeconomic impact on families of undertrials.

In addition, this paper includes the need for systemic changes to protect the rights of inmates awaiting trial, including a strong legal aid system that guarantees prompt and effective legal representation, simplified bail procedures to avoid needless incarceration, and increased judicial supervision to stop arbitrary pre-trial detention.

## II. KEYWORDS

Undertrial prisoners, Indian Constitution, Pre-trial detention, Fundamental Rights, Legal representation, Prison overcrowding, Justice.

## III. INTRODUCTION

The Indian legal system, which is based on the basic principle that "all accused is innocent until they are found guilty," is in sharp contrast to reality, especially when it comes to inmates awaiting trial. There are concerning concerns about the effectiveness and fairness of the judiciary in India, as more than 75% of the inmates have not yet been convicted, and they face a difficult fight for justice because they are frequently entangled in a maze of court delays.

According to the Prison Statistics India 2022 report by the National Crime Records Bureau (NCRB),<sup>8</sup> 434,302 out of 573,220 prisoners are undertrial, making up a significant proportion of the prison population; of these, 23,772 are women, and of these, 76.33% are undertrial prisoners; additionally, 8.6% of the undertrial women have been imprisoned for more than three years. The harsh reality is that many undertrials face lengthy incarceration, frequently for offenses where their pre-trial detention exceeds the possible sentence for the crime alleged, despite constitutional guarantees under Article 21 of the Indian Constitution.<sup>9</sup> and 39A of the Indian Constitution<sup>10</sup> That protects the right to life and free legal assistance.

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<sup>8</sup>Prison Statistics India 2022 report, <https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/psiyearchive2022/1701613297PSI2022ason01122023.pdf>, (last accessed Jan 27, 2025).

<sup>9</sup>Indian Const. art. 21.

<sup>10</sup>Indian Const. art. 39A.

Although landmark rulings like *Hussainara Khatoon v. State of Bihar*<sup>11</sup> Have brought attention to the urgent need for a speedy legal system, substantial backlogs and procedural impediments still prevent justice from being delivered on time. Prisons that are overcrowded and where inmates are exposed to cruel treatment, violence, and physical and mental abuse exacerbate the effects.

The most severe consequences are experienced by vulnerable populations, especially women and those from low-income backgrounds, who are frequently caught in a vicious cycle of neglect by the law and deprivation. This paper endeavors to provide insight into the various issues that Indian undertrial inmates endure. This study attempts to advance the cause of equitable legal access by critically analyzing the systemic shortcomings in the judicial system and suggesting workable remedies, guaranteeing that justice is a fundamental right for everyone and not simply a luxury for the rich.

#### **IV. RESEARCH OBJECTIVES**

This study aims to evaluate the efficacy of India's legal and constitutional protections for undertrial inmates in preserving the core idea of innocence until they are found guilty. It looks at the structural issues such as judicial hold-ups, poor legal counsel, and socioeconomic inequalities that lead to extended pre-trial detention.

A crucial idea is to explore policy and legislative reforms that can enhance access to justice, expedite trial processes, and ensure that legal aid isn't just an indigenous formality but a palpable right. Eventually, this exploration aspires to contribute to the ongoing converse on felonious justice reform, championing a more humane, effective, and indifferent legal system that prioritizes bail over jail and safeguards the dignity of all individuals, regardless of their economic or social standing.

#### **V. RESEARCH QUESTIONS**

- How are the rights of Indian inmates waiting for trial protected by the constitution, statutes, and court rulings?

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<sup>11</sup>*Hussainara Khatoon v. Home Secretary, State of Bihar*, (1980), (1) SCC 98.

- What are the key reasons for India's high undertrial detention rate, and how do judicial inefficiencies affect the speed at which justice is served?
- How have the landmark judgments influenced the rights of prisoners awaiting trial, and how do judicial inefficiencies impact justice delivery?
- How do strict bail policies and lack of timely legal assistance impact detainees' fundamental rights while under trial?

## **VI. RESEARCH HYPOTHESES**

- Pretrial imprisonment is protracted in India because the legal and constitutional protections afforded to undertrial inmates do not adequately apply the doctrine of innocence until proven guilty.
- Long-term pre-trial detention of undertrials in India is a problem that is further worsened by judicial delays, insufficient legal representation, and socioeconomic inequality.
- Undertrials face more problems during the pre-trial stage due to prison congestion, prison violence, and the socioeconomic effects on their families.
- In its present form, legal aid is essentially a constitutional formality that must be transformed into a productive and accessible right for all defendants, especially those from impoverished families.

## **VII. RESEARCH METHODOLOGY**

The methodology adopted in this research paper is doctrinal in nature. The doctrinal research approach makes use of both Internet legal databases and conventional library-based research. For the purpose of comprehending the legal framework pertaining to undertrial inmates, primary sources such as statutory legislation, court decisions, and authoritative legal texts will be examined. The research will be augmented by secondary sources, including scholarly papers, legal digests, and commentary. Scholarly publications and pertinent case laws will be accessed through online resources such as SCC Online. This method seeks to offer a thorough comprehension of the legal concerns pertaining to pre-trial imprisonment as well as practical reform suggestions.

## VIII. LITERATURE REVIEW

The paper makes use of important clauses from the 1973 Code of Criminal Procedure (CrPC)<sup>12</sup> and the Indian Constitution, particularly Article 21<sup>13</sup>, which addresses the fundamental rights of inmates awaiting trial, such as the right to a fair trial and humane treatment while in custody. Important Supreme Court rulings that deal with topics like custodial torture, the right to a speedy trial, and access to legal aid for undertrial such as *Hussainara Khatoon v. Home Secretary, State of Bihar* (1980)<sup>14</sup>, *Khatri v. State of Bihar* (1981)<sup>15</sup>, and *Rattiram & Ors v. State of M.P.* (2012)<sup>16</sup> These are critically analyzed in this paper.

Understanding the law governing the rights of undertrials is based on these examples, which also draw attention to systemic problems like insufficient legal counsel and extended incarceration. In order to provide a thorough legal foundation, the paper synthesises statutory laws and court rulings. It also examines the urgent issues that undertrials face, including overcrowding, prison violence, and delayed trials, and suggests reforms for improved legal and systemic protections.

## IX. PRISONERS

In the pursuit of justice and the protection of society, individuals who violate the law may face confinement as a consequence of their actions. Any individual who is detained in jail on the direction of a competent authority is considered a prisoner, as stated in the Model Prison Manual, 2016<sup>17</sup>. People who are detained because they have committed a crime that is illegal or because they are awaiting trial are referred to as prisoners. Both convicted prisoners, who have been sentenced after a trial, and undertrials, who are awaiting trial or sentencing, are included in the often-used phrases prison and jail in India. These legislative rules protect the values of justice while guaranteeing that those who violate the law are held responsible.

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<sup>12</sup>Code of Criminal Procedure, 1973.

<sup>13</sup>Indian Const. art. 21.

<sup>14</sup>*Hussainara Khatoon v. Home Secretary, State of Bihar*, (1980), (1) SCC 98.

<sup>15</sup>*Khatri v. State of Bihar*, (1981), SCC (1) 627.

<sup>16</sup>*Rattiram v. State of M.P.*, (2012), 3 S.C.R. 496.

<sup>17</sup>Model Prison Manual, (2016).

### **A. Who Are the Inmates Awaiting Trial**

Inmates awaiting trials also known as undertrial prisoners are someone who is kept in judicial custody while their case is still pending in court. Despite the presumption of innocence until proven guilty, many undertrials are held in detention for extended periods of time due to delayed legal proceedings or an inability to pay bail. Individuals who are detained for an extended period of time may spend years in prison before their trial. According to the 2016 Model Prison Manual, an undertrial inmate is a person who has been placed in judicial custody while a competent authority conducts an investigation or holds a trial.<sup>18</sup>

### **B. What Is the Distinction Between Convicted and Under-Trial Prisoners**

The Model Prison Manual gives precise descriptions for convicted and under-trial prisoners, which are vital for comprehending their respective legal positions. According to Clause 1.07 of the Model Prison Manual, 2016<sup>19</sup> A convict Prisoner is "Any prisoner under sentence of a court exercising criminal jurisdiction or court-martial and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1973<sup>20</sup>, and the Prisoners Act, 1900."<sup>21</sup>

According to Clause 1.31 of the Model Prison Manual, 2016 an under-trial prisoner is "A person who has been committed to prison custody with pending investigation or trial by a competent authority."<sup>22</sup> A convict is someone who has been found guilty and sentenced by a court following their trial, and they are serving their punishment as required by law. An under-trial prisoner, on the other hand, is someone who is still being investigated or tried, with their legal guilt or innocence unknown. Under-trial

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<sup>18</sup>Model Prison Manual, (2016), clause 1.07.

<sup>19</sup>Model Prison Manual, (2016).

<sup>20</sup>Model Prison Manual, (2016).

<sup>21</sup>Model Prison Manual, (2003).

<sup>22</sup>Model Prison Manual, (2003), clause 1.31.

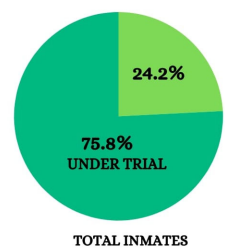
inmates are maintained in custody until their case is resolved, emphasizing the presumption of innocence until proven guilty.

X. UNDERTRIAL INCARCERATION IN INDIA

A. A Statistical Overview from the Prison Statistics India 2022 Report<sup>23</sup>

The National Crime Records Bureau (NCRB) provides a thorough examination of undertrial inmates in India in its Prison Statistics India 2022 report,<sup>24</sup> Illuminating the prevalence of detention prior to trial. It draws attention to the growing number of people who are being held without being found guilty, highlighting the pressing need for judicial reforms.

Percentage Distribution of The Total Number of Undertrial Prisoners Nationwide



The size of those who are still behind bars awaiting trial is highlighted by pie chart 1.1, which shows the percentage distribution of the total number of undertrial prisoners nationwide. According to the Prison Statistics India 2022 report by the National Crime Records Bureau (NCRB),<sup>25</sup> **434,302 out of 573,220** prisoners are **undertrial**, making up a significant proportion of the prison population; of these,

<sup>23</sup>Prison Statistics India 2022 report,  
<https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/psiyearwise2022/1701613297PSI2022ason01122023.pdf>, (last accessed Jan 27, 2025).

<sup>24</sup>Prison Statistics India 2022 report,  
<https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/psiyearwise2022/1701613297PSI2022ason01122023.pdf>, (last accessed Jan 27, 2025).

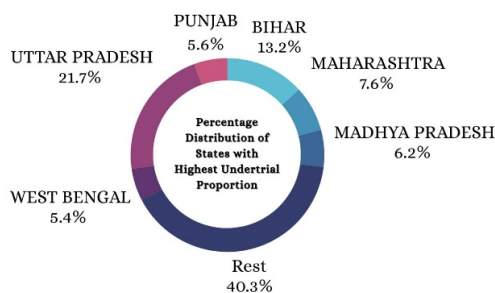
<sup>25</sup>Prison Statistics India 2022 report,  
<https://www.ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/psiyearwise2022/1701613297PSI2022ason01122023.pdf>, (last accessed Jan 27, 2025).



**23,772** are **women**, and of these, **76.33%** are **undertrial** prisoners; additionally, **8.6%** of the **undertrial women** have been **imprisoned for more than three years**.

This data not only reveals the large percentage of inmates held without conviction but also highlights the disproportionate impact on women prisoners, further exacerbating the overcrowding problem. The protracted pre-trial detention period underlines the essential need for judicial changes to clear the backlog, ease congestion, and deliver timely, fair justice. These figures underscore the systemic problems in the criminal justice system that require urgent correction to preserve justice and human rights, raising serious concerns for the rights and well-being of undertrials.

### Percentage Distribution of The Top Six States with The Largest Percentage of Convicts Awaiting Trial



The percentage distribution of the top six states with the largest percentage of convicts awaiting trial is displayed in pie chart 1.2. This information highlights notable geographical disparities in the legal system, showing how some jurisdictions bear an excessive weight of undertrials. It highlights the disparities in the efficiency and speed of court procedures, highlighting the areas where the criminal justice system has the most difficulty handling and processing undertrials. In order to guarantee fair and prompt trials nationwide, the chart is an essential tool for identifying areas that require improvement and for advocating for focused action to rectify the discrepancies and enhance the nation's judicial system as a whole.

## XI. OVERCROWDING

One of the biggest challenges faced by the Indian judiciary is jail overcrowding as illustrated by pie chart 1.1, which represents the percentage breakdown of the total

number of undertrial inmates nationwide. Undertrials, who account for more than 70% of the jail population, frequently spend long periods of time behind bars as a result of judicial delays, inadequate legal proceedings, and the inability to secure bail. Even though the majority of these people are assumed innocent, a lot of them are imprisoned for very minor crimes, and their extended incarceration merely puts more pressure on already overcrowded prisons. The prison system's capacity to provide for inmates' fundamental necessities, such as access to food, medical care, and suitable housing, is severely strained by overcrowding.

Data from the Centre for Research and Planning of the Supreme Court further stresses the issue of overpopulation. There are **5,73,220 prisoners incarcerated in India's jails, despite its 4,36,266 total capacities**, which results in a concerning overcrowding rate. Of these, **75.5% are inmates awaiting trial**.<sup>26</sup> The prison system is under tremendous strain as it tries to house the increasing number of undertrials while upholding fundamental security and living standards, as demonstrated by this glaring disparity between capacity and population.

In addition to the undertrials, the overpopulation in prisons causes a variety of serious issues for the general operation of the prison system. First, there is insufficient space, which leads to insufficient food and water, poor hygiene, and limited access to medical treatment. Inmates' health conditions deteriorate as a result of these conditions, allowing infectious diseases to spread more quickly. There is a greater chance of violence, exploitation, and further criminalization of light offenders when distinct categories of offenders – such as serious criminals and minor offenders – are not kept apart. Rehabilitation efforts are also hampered by overcrowding because it is challenging to establish efficient educational or reformation programs for inmates due to a lack of space and resources. Furthermore, the stress that overcrowding places on prison employees puts more burden on law enforcement, which frequently results in a breakdown in the control of security and inmate conduct.

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<sup>26</sup>Centre for Research and Planning, < <https://www.sci.gov.in/centre-for-research-and-planning/> >, accessed 27<sup>th</sup> January, 2025.

In addition to endangering the inmates' physical and mental health, these overcrowded conditions also violate their fundamental rights, including the right to humane treatment, which is guaranteed by both domestic and international law. The judiciary's ability to uphold its fundamental responsibility of safeguarding individual rights and ensuring justice is eventually compromised by jail overpopulation.

## **XII. INNOCENT UNTIL PROVEN GUILTY**

When it comes to undertrial inmates, those detained pending trial the tenet of "innocent until proven guilty" is particularly important. In his ruling in the *Sanjay Chandra vs CBI* 2012 case, former Chief Justice of India Justice Dattu stated that "the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and found guilty."<sup>27</sup> This basic legal principle states that an undertrial is deemed innocent until and until they are found guilty in a court of law.

However, an undertrial's freedom before trial is not guaranteed by the presumption of innocence. A person may be detained until trial under certain conditions, such as a suspected flight risk or a threat to public safety. The Supreme Court's seminal decision in *Surinder Singh @ Shingara Singh vs. State of Punjab* (2005)<sup>28</sup>, in which it stressed that a speedy trial is a basic right under Article 21 of the Indian Constitution,<sup>29</sup> Should be highlighted. The Court stated that no one's freedom should be taken away from them without a fair, reasonable, and just process. The undertrial's right to a prompt trial is violated by any needless delay in the trial process, which also compromises the fairness that Article 21 guarantees.

Additionally, the Supreme Court emphasized the pressing need for extensive bail law reforms in *Satender Kumar Antil vs. CBI* (2021)<sup>30</sup>. Under the tenet that undertrials should not be held in custody unless absolutely necessary, the Court emphasized the idea of "bail, not jail," and it offered guidelines for the prompt processing of bail

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<sup>27</sup>*Sanjay Chandra v. CBI*, (2012), (1) SCC 40.

<sup>28</sup>*Surinder Singh @ Shingara Singh v. State of Punjab*, (2005), (7) SCC 387.

<sup>29</sup>Indian Const. art. 21.

<sup>30</sup>*Satender Kumar Antil v. CBI*, (2022), 10 S.C.R. 351.

petitions. These decisions uphold the necessity of defending the rights of inmates awaiting trial, guaranteeing that they are not subjected to unnecessary detention.

### **XIII. LOCUS STANDI**

Undertrial inmates, who sometimes lack a voice because of financial limitations and a lack of legal knowledge, greatly value locus standi, the right to file a lawsuit or have their case heard in court. Not only is an accused person's liberty taken away, but their fundamental right to access justice is also violated when they are denied the opportunity to contest prolonged incarceration, even though they are deemed innocent until proven guilty. Locus standi plays a pivotal role in enabling undertrial prisoners to register writ petitions or appeals under Articles 32 and 226 of the Indian Constitution, protecting their fundamental rights against illicit detention, refusal of legal aid, and inhumane prison conditions.

In addition to being a legal procedure, incarceration becomes an unfair penalty due to the systemic delays in trials and the inability to seek recourse. If the most vulnerable are not included in the legal system's very workings, justice will remain a myth and the legal system will become a privilege rather than a safeguard for people's rights. Delivering decisions is only one aspect of true justice; another is making sure that everyone, regardless of their circumstances, has the opportunity to be heard. The whole foundation of justice is undermined when undertrial inmates are denied this basic right because of monetary or structural obstacles. In order to ensure that no person's right to pursue justice is curtailed by their inability to pay for it, a legal system that respects equality must not only acknowledge locus standi as a concept but also actively defend it. Only then can we assert that justice is a universally accessible right rather than only a privilege.

### **XIV. FUNDAMENTAL RIGHTS**

The Indian judiciary has continuously maintained that all fundamental rights enjoyed by free persons are retained by convicts, including those who are awaiting trial, with the exception of those that must be restricted due to lawful imprisonment. The Supreme Court upheld the principle that detention does not deprive a prisoner of their

fundamental rights in the 1978 case of *Charles Sobhraj vs. The Superintendent Central Jail, Tihar* 1978<sup>31</sup>. Prisoners whether they are convicted or under trial retain all rights enjoyed by free citizens except those lost necessarily as an incident of confinement.

Article 14 of the Indian Constitution<sup>32</sup> guarantees undertrial inmates the right to equality, which guarantees them impartial and non-discriminatory treatment. The Supreme Court reaffirmed in *T.V. Vatheeswaran v. State of Tamil Nadu* 1983<sup>33</sup> that Articles 14, 19, and 21 provide equal protection for free, convicted and under trial people. No one should be denied equality before the law or equal protection under the law, according to Article 14 of the Indian Constitution.<sup>34</sup> This implies that undertrials must be given the same legal rights as everyone else and cannot be the target of capricious or cruel treatment.

Although incarceration limits certain liberties, undertrials are nonetheless granted certain rights under Article 19 of the Indian Constitution,<sup>35</sup> which provides Indian citizens with six fundamental freedoms. Only two, however, apply to prisoners: Article 19(1)(a)'s right to freedom of speech and expression<sup>36</sup> and Article 19(1)(c)'s right to become a member of groups or association.<sup>37</sup> These rights cannot be denied arbitrarily, even though they are subject to jail laws. Within the parameters of jail regulations, undertrials have the right to speak with their attorney, voice complaints, and pursue justice.

One of the most important fundamental rights for inmates awaiting trial is the right to life and personal liberty guaranteed by Article 21 of the Indian Constitution<sup>38</sup>. The Supreme Court reiterated in *State of Andhra Pradesh v. Challa Ramkrishna Reddy* 2000<sup>39</sup> that a prisoner retains all of their fundamental rights, including the right to life and dignity, regardless of whether they have been found guilty or are still awaiting

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<sup>31</sup>*Charles Sobhraj vs Superintendent Central Jail, Tihar*, (1978), AIR 1514.

<sup>32</sup>Indian Const. art. 14.

<sup>33</sup>*T.V. Vatheeswaran v. State of Tamil Nadu*, (1983), AIR 361.

<sup>34</sup>Indian Const. art. 14.

<sup>35</sup>Indian Const. art. 19.

<sup>36</sup>Indian Const. art. 19(1)(a).

<sup>37</sup>Indian Const. art. 19(1)(c).

<sup>38</sup>Indian Const. art. 21.

<sup>39</sup>*State of Andhra Pradesh v. Challa Ramkrishna Reddy*, (2000), 3 S.C.R. 644.

trial. The Court further stressed in *Maneka Gandhi v. Union of India*<sup>40</sup> that a process that denies someone their life or liberty must be just, fair, and reasonable and cannot be capricious or harsh. This guarantees that undertrials are protected from any kind of degrading punishment or assault in custody, receive decent treatment, and receive appropriate medical attention. As a result, undertrial inmates continue to enjoy their constitutional rights to legal protection, humane treatment, and fair trials. The judiciary has emphasized over and over again that prison officials must uphold these rights to prevent detention from resulting in a loss of justice or dignity.

## **XV. RIGHTS UNDER CODE OF CRIMINAL PROCEDURE (CrPC), 1973**

(NOTE: The rights discussed herein are provided under the Code of Criminal Procedure, 1973.)

- The right to be released on bail, even in the absence of surety, is guaranteed by Section 436 of the Code of Criminal Procedure (CrPC).<sup>41</sup> Even if they are unable to furnish surety, an accused person charged with a bailable offence has the right to be freed on bail, according to Section 436 of the CrPC. This clause is especially helpful to those who are impoverished or indigent and cannot afford sureties. If the accused agrees to appear in court for a trial, the court or police may release them on a personal bond. This clause guarantees the right to bail by stating that anyone who is unable to post bail within seven days of their arrest is deemed destitute. This section's guiding principle emphasises that bail should be the norm rather than incarceration and that taking away someone's freedom should only be done as a last option.
- The right to be released after serving half of the maximum sentence is guaranteed by Section 436-A of the Code of Criminal Procedure (CrPC)<sup>42</sup>. A crucial protection for inmates awaiting trial is offered under Section 436-A of the CrPC. Undertrials who have completed half of the maximum sentence for

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<sup>40</sup>*Maneka Gandhi v. Union of India*, (1978), AIR 597.

<sup>41</sup>Code of Criminal Procedure, (1973), s436.

<sup>42</sup>Code of Criminal Procedure, (1973), s436-A.

their alleged offence are eligible for bail under this provision. By guaranteeing that people who have already spent a considerable amount of time in custody awaiting trial are entitled to be released after serving a significant portion of the potential sentence, the provision upholds the principle of justice and safeguards their right to equitable treatment and a prompt trial.

- The right to bail on incomplete investigations is protected by Section 167 of the Code of Criminal Procedure (CrPC)<sup>43</sup>. An accused person cannot be wrongfully held because of investigational delays, according to Section 167 of the CrPC. This clause states that the Magistrate must release the accused on bail if the investigation is not finished within a certain amount of time, which is 60 days for all other offences and 90 days for offences punishable by death, life in prison, or a term of imprisonment of ten years or more. The accused must also be willing to provide bail. By highlighting the significance of prompt legal proceedings and the rights of the accused, this safeguard protects people from extended detention brought on by delays or inefficiencies in the investigation process.
- The right to appear before the magistrate without delay is guaranteed by Sections 57 of the Code of Criminal Procedure (CrPC)<sup>44</sup> and 76 of the Code of Criminal Procedure (CrPC)<sup>45</sup>. The accused has the right to be physically presented before the magistrate without needless delays in the proceedings, as granted by Sections 57 and 76 of the CrPC. These clauses mandate that the accused be brought before the court as soon as possible, protecting their rights against unwarranted imprisonment or procedural errors and promoting the prompt administration of justice.
- The right to be present at trial is guaranteed by Section 273 of the Code of Criminal Procedure (CrPC)<sup>46</sup>. The right to be present during the trial and the

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<sup>43</sup>Code of Criminal Procedure, (1973), s167.

<sup>44</sup>Code of Criminal Procedure, (1973), s57.

<sup>45</sup>Code of Criminal Procedure, (1973), s76.

<sup>46</sup>Code of Criminal Procedure, (1973), s273.

requirement that all statements and evidence be recorded in front of the accused or their legal representation are guaranteed by Section 273 of the CrPC. By enabling the accused to hear the evidence against them and take part in their defence, this clause upholds the natural justice concept and guarantees openness and justice throughout the trial process.

## **XVI. LEGAL RIGHTS OF UNDERTRIAL INMATES**

### **A. Right to Human Dignity**

The Right to Dignity is a cornerstone of human rights, emphasizing the inherent worth of every individual, including prisoners. The Supreme Court of India has unequivocally affirmed that inmates cannot be treated as non-persons, underscoring their entitlement to humane treatment and respect. This right encompasses bodily integrity, ensuring protection against physical abuse or violence by custodial staff or fellow inmates. It also safeguards mental integrity, shielding individuals from aggression or psychological harm. Furthermore, prisoners retain their fundamental rights enshrined in the Indian Constitution, except where lawful restrictions are imposed due to conditions of confinement. This holistic recognition of dignity ensures that no individual, regardless of their circumstances, is stripped of their humanity or subjected to inhumane treatment.

### **B. Right to Accesses Law**

Prisoners have a number of rights as individuals inside the legal system that are intended to preserve their access to legal resources and to uphold their dignity while they are incarcerated. One essential component of these rights is the right to thorough information regarding the terms of their incarceration, including the laws that regulate it. Knowing their legal status gives inmates more control and makes it easier for them to make wise decisions. Equally important is their freedom to choose the lawyer they want to work with, which allows them to get legal counsel that suits their needs. Inmates can also seek assistance from State Legal Aid Boards or similar organisations that offer pro bono legal aid because the system acknowledges their need for such services.



In order to guarantee that legal aid is a right rather than a privilege, the system also acknowledges the necessity for inmates to have access to legal aid services. This is achieved by allowing them to seek assistance from State Legal Aid Boards or other comparable organisations that offer pro bono legal guidance. In order to preserve the chance for redress against potential injustices, inmates must be promptly notified of their choices for recourse upon admission.

These options include the right to appeal, have their conviction or sentence reviewed, or request revision. In order to support these channels, inmates are entitled to all relevant court documents required to start these legal procedures, guaranteeing that nothing stands in the way of their ability to contest the court's decisions. Beyond formal processes, prisoners have the right to communicate grievances and individual complaints to the appropriate authorities, lobbying for the prompt resolution of concerns raised during their incarceration.

Finally, the right to petition the jail administration, government institutions, and judicial authorities to correct any infringement of their rights demonstrates the commitment to a justice system that is accountable and responsive. All these rights ensure that prisoners do not lose their agency and have meaningful access to justice during their incarceration.

### **C. Right to Speedy Trial**

Article 21 of the Indian Constitution<sup>47</sup>, which states right to life and personal liberty<sup>48</sup> includes the fundamental right to a timely trial. Although it isn't stated clearly in the constitution, the Supreme Court has interpreted this right in important rulings to make sure that inmates awaiting trial aren't kept in custody excessively. The Hon'ble Supreme Court in the case of *Rattiram & Ors. Vs. State of M.P.*<sup>49</sup> held that the accused is entitled to a speedy trial. The whole purpose of a speedy trial is intended to avoid oppression and prevent delay.<sup>50</sup> This ruling highlighted how trial delays can cause excessive hardship and violate fundamental rights to inmates awaiting trial. This right

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<sup>47</sup>Indian Const. art. 21.

<sup>48</sup>Indian Const. art. 21.

<sup>49</sup>*Rattiram v. State of M.P.*, (2012) 3 S.C.R. 496.

<sup>50</sup>*Rattiram v. State of M.P.*, (2012) 3 S.C.R. 496.

aims to strike a balance between the rights of the accused and the purposes of justice, preventing people from being unnecessarily detained for long periods of time without being given a chance to be heard.

#### **D. Right to Legal Aid**

The right to legal representation is an important part of a fair trial and is deeply embedded in India's constitutional and legal structure. Article 21 of India's Constitution<sup>51</sup> provides the right to life and personal liberty, which includes access to legal representation as an important safeguard against arbitrary detention and erroneous convictions. Article 39A<sup>52</sup> of the Constitution requires the State to provide free legal aid through legislation or other means, guaranteeing that no citizen is denied legal representation because of financial hardship, and it requires the State to make sure that justice is available to everyone, regardless of financial or other limitations<sup>53</sup>.

According to the Legal Services Authorities Act of 1987<sup>54</sup>, everybody detained has the right to legal aid, and if they choose to be represented, the State will pay for it. But there is still a big problem: a lot of prisoners awaiting trial don't know their rights, which can result in abuse and a lack of justice. To ensure that legal assistance programs are effective, it is imperative that this gap be filled by legal awareness campaigns. Similar to this, the Supreme Court stressed that the State's duty to offer free legal aid goes beyond the trial phase in *Khatri v. State of Bihar*<sup>55</sup>. It must be accessible during the remand procedure and as soon as the accused is brought before a magistrate. This guarantees that people won't have to deal with legal proceedings without adequate legal counsel. By guaranteeing the availability of legal help from the initial contact with the legal system, the justice delivery mechanism protects against procedural violations, stops arbitrary detentions, and maintains the idea that access to justice should not be restricted to those who can afford legal counsel.

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<sup>51</sup>Indian Const. art. 21.

<sup>52</sup>Indian Const. art. 39(A).

<sup>53</sup>Indian Const. art. 39(A).

<sup>54</sup>Legal Services Authorities Act, 1987.

<sup>55</sup>*Khatri v. State of Bihar*, (1981), SCC (1) 627.

Understanding the importance of legal aid, the Supreme Court has upheld this privilege in important decisions and rulings. The Court held in *Sheela Barse v. State of Maharashtra* (1983)<sup>56</sup> that the authorities must notify the closest Legal Aid Committee right away whenever someone is detained and taken into police custody. If the accused agrees to accept such aid, this committee must then act quickly to provide legal representation at State cost.

The right to legal aid is an important right of the under-trial prisoners against false convictions and unjust legal proceedings. By offering legal support to undertrial detainees, the justice system respects the fundamental premise that no person should be denied their rights only because of financial constraints. Ensuring the accessibility and efficacy of legal assistance is critical to upholding the rule of law and delivering justice in an equitable way.

### **E. Habeas Corpus**

The right to habeas corpus is one of the most important constitutional remedies for protecting under trial prisoner's personal freedoms and preventing wrongful detention. A person is protected from unlawful and arbitrary detention by habeas corpus, which means "to produce the body." It is essential for preventing arbitrary detention of undertrial inmates. Article 22(2) of the Indian Constitution<sup>57</sup> stipulates that, disregarding travel time, everyone who is arrested must appear before the closest magistrate within 24 hours of the arrest. This is reinforced by Section 57 of the Code of Criminal Procedure (CrPC), 1973 which states "Person arrested not to be detained more than twenty-four hours"<sup>58</sup>. These provisions aim to prevent misuse of police powers and protect detainees from illegal confinement.

The Hon'ble Supreme Court ruled in *Sharifbai Mehmoob v. Abdul Razak*<sup>59</sup> that a detention would be unlawful if the accused did not appear before the magistrate within the allotted period. Also, the police officer cannot hold the arrested individual in jail without disclosing the reason for the arrest. Additionally, his legal entitlement

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<sup>56</sup>*Sheela Barse v. State of Maharashtra*, (1983) AIR 378.

<sup>57</sup>Indian Const. art. 22(2).

<sup>58</sup>Code of Criminal Procedure, 1973, s57.

<sup>59</sup>*Sharifbai Mehmoob v. Abdul Razak*, AIR 1961 BOM42.

to bail will be explained to him. The arrested person has the right to request bail and to promptly prepare any additional defense. In order to safeguard undertrial inmates from unjustified detention and to secure the preservation of their fundamental rights, the writ of habeas corpus becomes a crucial instrument.

## **XVII. ISSUES FACED BY UNDER TRIAL INMATES**

### **A. Violence in Prison**

Violence in jail is a severe and persistent issue, especially for inmates awaiting trial. Undertrials are more likely to experience abuse from other prisoners as well as from prison personnel. Inadequate staffing, overcrowding, and inadequate surveillance exacerbate this susceptibility and foster an atmosphere that allows violence to thrive unchecked. Since they have not yet been found guilty, undertrials frequently endure abuse, exploitation, and neglect, sometimes with disastrous results.

Sexual exploitation, especially homosexual abuse, is one of the most upsetting types of maltreatment that undertrials experience. Younger or more vulnerable inmates are in danger of being targeted because of the glaring power dynamics in many jails where same-sex inmates are housed in close quarters. Some inmates may perform sexual actions with other inmates of the same sex in an attempt to satisfy their sexual cravings; younger, weaker inmates are sometimes coerced or forced into performing such acts. This sexual violence causes long-term psychological distress in addition to being a serious violation of their bodily autonomy.

Tragically, the victims' sense of helplessness and the shame and humiliation that come with such abuse have sometimes caused them to commit suicide. Apart from the sexual and physical abuse that undertrial inmates endure, one of the most serious human rights abuses that occurs in the prison system is still custodial torture. Authorities frequently subject prisoners, especially those awaiting trial, to cruel and inhumane treatment, which can include everything from physical assault to mental anguish. The intentional and illegal infliction of pain to extract information or force confessions is known as custodial torture, and it has a lasting impact on the victim's physical and mental health.

In the *Khatri v. State of Bihar* (1981)<sup>60</sup> Case, the Supreme Court was presented with a horrifying case of torture in custody, providing a clear illustration of the brutality endured by undertrials. In this case, police officers used acid, a cruel and horrific type of torture, to blind a number of undertrials at Bhagalpur Central Jail. The Court ordered the State to compensate the victims after ruling that such actions infringed against the prisoners' fundamental rights under Article 21 of the Indian Constitution, which protects the right to life and personal liberty.<sup>61</sup>

The case also emphasized the need for the government to provide free legal assistance in order to guarantee that undertrials' rights are respected and safeguarded regardless of their legal status. Similar to this, the Supreme Court addressed the problem of torture in prisons in the *Sunil Batra v. Delhi Administration* (1980)<sup>62</sup> Case. In this case, a death row inmate named Sunil Batra stated that another prisoner had been abused by jail authorities who were trying to extract money from the victim's family. This case demonstrated how easily undertrials can be manipulated and exploited in the jail system, where serious maltreatment can result from their lack of legal protection.

The systematic exploitation and mistreatment of undertrial inmates within the prison system constitutes a serious breach of their constitutional rights and fundamental human rights. The persistence of sexual, psychological, and physical abuse of undertrials in spite of legal safeguards such as those provided in *Khatri v. State of Bihar* and *Sunil Batra v. Delhi Administration* highlights the urgent need for extensive reforms.

## **B. Inadequate Healthcare and Deterioration**

Indian undertrial inmates suffer from severe health issues as a result of their extended confinement in filthy, cramped, and inadequately ventilated prisons. Infectious diseases spread quickly when there are insufficient healthcare facilities. Many prisoners have long-term conditions that are left untreated because there is a shortage of medical personnel and access to emergency care is delayed. Mental health is

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<sup>60</sup>*Khatri v. State of Bihar*, (1981), SCC (1) 627.

<sup>61</sup>Indian Const. art. 21.

<sup>62</sup>*Sunil Batra v. Delhi Administration*, (1980), AIR 1579.

another urgent issue; prolonged uncertainty, loneliness, and substandard living conditions can lead to severe anxiety, sadness, and, in the worst situations, suicidal thoughts. According to studies, stress-related hypertension and malnourishment are common among inmates awaiting trial, which worsens their health.

### **C. Prolonged Investigation and Trial Stagnation**

The delay in investigation and trials for undertrial prisoners remains a critical issue in India's criminal justice system. The investigation and trial process is often delayed by police and prosecution functionaries due to resource constraints, procedural inefficiencies, and bureaucratic hurdles. This backlog results in prolonged detention of undertrial prisoners, violating their fundamental right to a speedy trial stated under Section 309(1) CrPC<sup>63</sup> Contributing to prison overcrowding.

Approximately 14.6% of undertrials have served one to two years, 7.8% for two to three years, and 6% for longer than three years. Since 2017, the number of undertrials has increased by 40.7%, according to NCRB.<sup>64</sup> Overworked courts and a dearth of fast-track procedures are the causes of judicial delays. The Supreme Court addressed this issue in *Hussainara Khatoon v. Home Secretary, Bihar* (1980)<sup>65</sup>, recognizing the negative impact of lengthy investigations on undertrials. The Court noted that the delay in investigation and trial violates individuals' fundamental rights, particularly the right to a fair and prompt trial.

### **D. Unjust Incarceration**

For undertrial inmates, unjust detention is a serious issue, particularly when people are held for long periods of time without adequate justification or a fair trial. Despite the presumption of innocence until found guilty, many undertrials are held in custody for extended periods of time, even when there is minor to no evidence against them.

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<sup>63</sup>Code of Criminal Procedure, (1973), s309(1).

<sup>64</sup>Ministry of Home Affairs, Press Release: Press Information Bureau, 06th February, 2024, < <https://search.app/fmdR5FSTRQYzYb376> >, accessed 28<sup>th</sup> January, 2025.

<sup>65</sup>*Hussainara Khatoon v. Home Secretary, State of Bihar*, (1980), (1) SCC 98.

In addition to undermining the idea of justice, this violates the undertrial's right to personal liberty and a timely trial as ensured in Article 21 of the Indian Constitution.<sup>66</sup>

### **E. Infringement of Legal Rights**

Because of systemic flaws in the criminal justice system, undertrial inmates frequently experience serious violations of their legal rights. Many are unable to obtain legal representation in a timely manner, which makes it difficult for them to properly defend themselves. Furthermore, it frequently happens that undertrials are not told of the charges against them, which is against Article 22 of the Indian Constitution<sup>67</sup> Which states that "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice."<sup>68</sup>

Prolonged confinement and a lack of legal aid make them even more vulnerable because they can't afford proper legal representation. Undertrials' rights are further violated by delays in the investigation and trial process. According to *Rattiram v. State of M.P.*<sup>69</sup>, a speedy trial is a fundamental right that guards against mental discomfort and wrongful incarceration. Unreasonably long investigation and trial times violate this right and jeopardize the justice system's impartiality.

### **F. Prolonged Trials Due to Inadequate Legal Representation**

One of the most significant challenges for undertrials in India is the length of proceedings brought on by a lack of legal counsel. Due to their inability to pay for qualified legal counsel, many undertrials have trial delays. Undertrials may be detained for years before their cases are resolved, and protracted court proceedings are the result of inadequate legal counsel. Many undertrials are unable to understand their legal rights and successfully traverse the intricate legal system on their own, which is exacerbated by a lack of legal representation.

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<sup>66</sup>Indian Const. art. 21.

<sup>67</sup>Indian Const. art. 22.

<sup>68</sup>Indian Const. art. 22.

<sup>69</sup>*Rattiram v. State of M.P.*, (2012), 3 S.C.R. 496.

## **G. Detention In Bailable Offence Due to Economic Hardship**

Economic inequality frequently serves as a cover for injustice, particularly when it comes to the problem of incarceration for crimes that are subject to bail. Even while the law guarantees that those who are charged with crimes that are subject to bail have the right to it, the truth is that many people are still imprisoned only because they are unable to provide the funds that the system requires. This leads to a vicious loop in which those who are already marginalized become even more so, ensnared in a system that requires resources that they do not possess.

The combination of financial difficulty and lack of understanding of the bail process results in gratuitous and prolonged detention for petty offenses, highlighting deep-rooted differences in the justice system. In addition to violating the Constitution's guarantee of personal liberty, such detentions uphold a system in which access to justice is determined by one's financial situation.

The incarceration of individuals owing to economic hardship in circumstances where bail is normally available raises serious concerns about the fairness and accessibility of our criminal justice system. Bail policies must be altered to take into account criteria other than financial capacity, ensuring that justice is not a privilege of the wealthy but a right available to all, regardless of income.

## **H. Inmates Family - Silent Victim**

An undertrial's incarceration does more than only imprison the individual; it also leaves their family to deal with emotional pain, social estrangement, and unstable finances. Since many undertrial inmates are the sole breadwinners, their abrupt departure puts families in a difficult financial situation, frequently causing them to incur debt or forcing their kids to drop out of school in order to support the family.

The stigma attached to jail further isolates families, particularly women, who find it difficult to obtain work while juggling court cases, child care, and social discrimination. Resource limitations and lack of legal information also compound these difficulties, making it harder for families to seek assistance or legal remedies for their incarcerated loved ones. Family members, especially children, who experience



emotional neglect, academic interruptions, and the weight of societal discrimination, frequently experience psychological suffering.

## **XVIII. SUGGESTIONS**

The problems that undertrial inmates encounter necessitate a thorough strategy that takes into account both individual rights and systemic defects. The implementation of a multifaceted plan that centres on reforms in the legal, judicial, and jail systems is necessary to provide justice for undertrials and protect their constitutional rights. These improvements ought to focus on preventing future abuses of the rights of undertrials as well as addressing the current issues.

Improving jail conditions, cutting down on trial delays, increasing legal aid, and tackling socioeconomic hurdles are the main areas of concentration in order to guarantee that everyone is treated fairly by the law, regardless of their financial situation. By acting swiftly in these areas, India may establish a criminal justice system that is more equitable and compassionate while guaranteeing the rights of prisoners awaiting trial.

- **Increased Legal assistance and Awareness:** The government should increase legal assistance programs to ensure that inmates awaiting trial have access to their legal rights. This can be accomplished by expanding the number of attorneys working in correctional facilities, enhancing the effectiveness of State Legal Aid Boards, and launching extensive legal rights awareness efforts. Prisons must set up procedures that instantly inform inmates of their right to counsel and the availability of pro bono legal assistance.
- **Faster Trial Process:** By creating fast-track courts and hiring more judges, the backlog of cases should be reduced. Prolonged incarceration of undertrials will be lessened with the implementation of judicial reforms targeted at minimising trial delays. To guarantee that investigations are finished on time, police and prosecutorial efficiency should also be increased.
- **Jail Reform and Better Conditions:** To stop violence and mistreatment of inmates, jail reforms need to include better training for staff, adequate monitoring, and stricter accountability procedures for custodial staff. By

strengthening bail policies and encouraging alternative sentencing for nonviolent offenders, overcrowding should be reduced. Extending mental health care is necessary to ensure that the psychological requirements of prisoners are satisfied.

- **Enhancements to Healthcare:** By funding prison medical facilities, recruiting more medical personnel, and guaranteeing timely access to care, the state should give undertrial inmates' healthcare top priority. Improved mental health treatments are essential in addressing the psychological effects of long-term incarceration, and routine health examinations and hygienic facilities can help to limit the spread of sickness.
- **Assistance Programs for Families:** The state should implement programs for financial aid, counseling, and social reintegration in order to lessen the difficulties faced by the relatives of convicted felons on trial. This would lessen the emotional toll that a family member's incarceration takes on them while also relieving the financial strain.
- **Better cooperation between Agencies:** Effective relationships between the police, judiciary, legal services, and prison authorities are crucial to ensure a smooth and efficient criminal justice process. A concentrated mechanism should be established for tracking undertrial cases, guaranteeing timely legal aid, and expediting bail and trial procedures. Regular inter-agency meetings, data sharing, and accountability mechanisms can help streamline processes and prevent avoidable procrastination in justice delivery.

## **XIX. CONCLUSION**

For justice to be administered fairly and impartially, undertrial inmates' legal rights are essential. Even while the Indian Constitution and numerous court decisions have given undertrials important protections, the fact is that these rights are frequently not adequately upheld. Numerous issues affect undertrials, including extended incarceration without charge or trial, limited access to legal representation, subpar jail conditions, physical and psychological abuse, and the violation of fundamental human rights. These problems reveal a pervasive dysfunction in the criminal justice

system, as the most disadvantaged people are still marginalized by institutional, procedural, and financial hurdles. In addition to violating their constitutional rights, the ongoing abuses of undertrial inmates' rights compromise the integrity of the legal system as a whole.

Systemic problems like overcrowding, abuse in detention, and violence in prisons exacerbate the problem by creating a poisonous atmosphere that further harms undertrials. Comprehensive reform is desperately needed to address these issues. The main goals of reforms should be to speed up trials, increase access to legal aid, guarantee better jail conditions, and give inmates medical and psychological support. The economic inequalities that frequently hinder undertrials from obtaining bail or adequate legal representation must also be addressed by the criminal justice system.

In addition to the legal and institutional reforms, there is a serious need for a shift in societal perspectives, as the stigma environment undertrials often leads to their social exclusion, further disowning them even after their release. To stop the misuse of power and guarantee justice for everyone, regardless of their social or economic status, a more accessible and responsive legal system that prioritizes the defense of fundamental rights and dignity is required.

The predicament of inmates awaiting trial is a serious human rights concern that requires prompt consideration and resolution. The state can endeavor to guarantee that the rights of undertrials are recognized and upheld by putting various changes into place, such as increasing legal aid systems, improving court procedures, improving jail facilities, and addressing socioeconomic impediments. The Indian judicial system will only be able to uphold the Constitution's tenets of equality, justice, and human dignity by making such comprehensive and persistent initiatives.

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