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DETENTION CAMPS IN INDIA: LEGAL CONCERNS AND PATHWAYS TO REFORM

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I. ABSTRACT

This study explores the operation of detention camps in India, examining their compliance with legal standards and implications for human rights. Focusing on the regulatory landscape established by the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA), it evaluates the legality and constitutionality of detention practices. By scrutinizing the adequacy of due process and the protection of individual rights within these facilities, the study aims to discern potential violations and gaps in the legal framework governing detention procedures. Furthermore, the study investigates the conditions prevailing within detention camps, including overcrowding, substandard living conditions, and limited access to healthcare, analyzing their conformity with international human rights standards. It also explores allegations of mistreatment and abuse, considering their legal ramifications and the avenues for redress. Moreover, the study examines the impact of detention camps on marginalized communities, identifying patterns of systemic discrimination and disproportionate representation. By elucidating these disparities, it seeks to inform policy discourse and advocate for measures to address underlying inequalities. Ultimately, the study advocates for transparency, accountability, and the protection of human rights within the context of detention practices. It endeavors to contribute to the development of a legal and humanitarian framework that upholds principles of justice, dignity, and equality for all individuals affected by detention policies in India.

II. KEYWORDS

Detention camps, legal compliance, human rights, due process, systemic discrimination

III. INTRODUCTION

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Detention camps have emerged as a focal point of controversy within India's immigration policies, sparking debates over their legality and the consequential human rights implications. This article embarks on a thorough examination of the regulatory landscape governing detention camps, with particular emphasis on the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA). These legislative instruments serve as pivotal components shaping the operational framework of detention facilities across the country.

The National Register of Citizens (NRC) was introduced with the purported aim of identifying undocumented immigrants residing in the state of Assam, but its implications have extended beyond this initial scope. The Citizenship Amendment Act (CAA), enacted in 2019, further compounded the complexities surrounding citizenship and immigration by offering expedited citizenship to certain religious minorities while excluding others. Together, these laws have set the stage for detention practices, triggering concerns about their compatibility with legal standards and human rights principles.

This study undertakes a comprehensive evaluation of the adherence to legal standards within detention camps, probing into the intricacies of due process and the protection of individual rights. Scrutinizing the procedures and protocols governing detention, it aims to uncover potential breaches of legal frameworks and identify gaps in safeguarding detainees' rights. By scrutinizing the implications for human rights, the study seeks to illuminate the multifaceted issues surrounding detention practices in India. Moreover, this exploration extends beyond legal considerations to examine the conditions prevailing within detention camps from a human rights perspective.

Overcrowding, substandard living conditions, and limited access to healthcare are among the challenges faced by detainees, raising concerns about compliance with international human rights standards. Allegations of mistreatment and abuse further underscore the urgency of addressing these issues and ensuring accountability within detention facilities. In addition to legal and humanitarian concerns, the study delves into the disproportionate impact of detention camps on marginalized communities. By examining patterns of systemic discrimination and disproportionate

representation, it seeks to underscore the intersecting inequalities exacerbated by detention practices.

A. RESEARCH OBJECTIVES

- To analyze the legal and constitutional aspects of detention camps in India, focusing on their compliance with national and international human rights standards.
- To evaluate the conditions within detention camps, including overcrowding, limited healthcare, and substandard living conditions, and assess their impact on detainees' rights.
- To investigate the implications of the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA) in the operation of detention camps and their constitutional validity.
- To examine the disproportionate impact of detention camps on marginalized communities, particularly religious and ethnic minorities.

B. RESEARCH QUESTIONS

- How do the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA) influence the functioning and legality of detention camps in India?
- What are the living conditions in Indian detention camps, and do they meet national and international human rights standards?
- How does the practice of confining detainees alongside criminals affect the human rights and safety of detainees in Indian detention camps?
- What role does systemic discrimination play in the overrepresentation of marginalized communities in detention camps, and how can these disparities be addressed?

C. RESEARCH HYPOTHESES

- The implementation of the NRC and CAA has contributed to the rise in the number of detainees in detention camps, particularly from marginalized

communities, without adequate due process protections.

- Detention camps in India violate international human rights standards, particularly regarding overcrowding, healthcare, and arbitrary detention, leading to significant human rights abuses.
- The practice of detaining individuals alongside criminals in Indian detention camps exacerbates risks of abuse, mistreatment, and violence, further undermining detainees' human rights.
- The disproportionate representation of religious and ethnic minorities in detention camps is a result of systemic discrimination in India's immigration enforcement policies.
- Legal and policy reforms, including improved oversight, transparency, and alternatives to detention, will significantly improve the treatment and rights of detainees in India.

D. RESEARCH METHODOLOGY

This research employs a doctrinal legal research approach combined with comparative and qualitative analysis. It involves an in-depth examination of relevant legal frameworks such as the NRC, CAA, and constitutional rights, alongside international human rights treaties. The research utilizes primary sources including government reports, court judgments, and international human rights documents to assess the legality and constitutional validity of detention camps.

Secondary sources such as academic articles, NGO reports, and media coverage are reviewed to analyze the conditions in detention camps and the systemic issues of discrimination and abuse. Interviews with human rights experts and legal practitioners, alongside case studies of specific detention camps, will provide additional qualitative insights into the functioning of these camps and their impact on detainees. The methodology also includes proposing policy reforms and recommendations based on the findings.

E. LITERATURE REVIEW

The issue of detention camps in India, particularly in relation to the National Register

of Citizens (NRC) and the Citizenship Amendment Act (CAA), has been a topic of growing scholarly attention. Research has highlighted significant concerns regarding the constitutional validity of these laws and their implications for human rights. Scholars like Chandrachud (2020) and Kumar (2021) argue that the implementation of these laws leads to arbitrary detention and human rights violations, particularly for marginalized communities. Studies by Human Rights Watch (2020) have documented the substandard conditions within detention camps, raising alarms about overcrowding, inadequate healthcare, and discriminatory practices in the detention of Muslims and other minority groups.

Other works, such as Sharma and Raghavan (2022), analyze the lack of legal recourse for detainees, underscoring the absence of due process protections in Indian detention camps. While literature on the systemic discrimination against marginalized communities in detention facilities is growing, there is still limited research on the long-term effects of these practices on detainees' mental and physical health. This study aims to bridge this gap by examining both legal and humanitarian dimensions of detention camps in India, with a focus on policy reforms to address these issues.

IV. LEGAL COMPLIANCE AND CONSTITUTIONALITY OF DETENTION PRACTICES

The regulatory framework established by the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA) forms the foundation upon which detention practices in India are built. These laws dictate the criteria for identifying individuals as citizens and provide the legal basis for detaining those who are suspected of lacking proper documentation or citizenship status. However, the implementation of these laws raises significant questions about their legality and constitutionality, particularly concerning the due process rights and protections afforded to individuals detained in these facilities.

One of the primary concerns surrounding detention practices in India is the adequacy of due process. Due process is a fundamental legal principle that ensures fair treatment and procedural safeguards for individuals facing detention or deprivation of their liberty. This includes the right to be informed of the reasons for detention, the right to

legal representation, and the right to challenge the lawfulness of detention before an independent and impartial tribunal. However, reports from human rights organizations and legal experts suggest that these due process rights may not always be upheld in the context of detention camps in India.

Furthermore, the protection of individual rights within detention facilities is another area of concern. While individuals deprived of their liberty retain certain rights, such as the right to be free from torture and cruel, inhuman, or degrading treatment, there are reports of violations of these rights within detention camps. Allegations of mistreatment, abuse, and harsh living conditions have been documented, raising questions about the government's compliance with its human rights obligations.

By examining the legality and constitutionality of detention practices in India, it becomes evident that there may be potential violations and gaps in the legal framework governing these procedures. These violations not only undermine the rights of individuals detained in these facilities but also erode the rule of law and the principles of justice and fairness. Therefore, it is imperative for authorities to ensure that detention practices adhere to international legal standards and respect the rights and dignity of all individuals, regardless of their immigration status.

V. CONDITIONS IN DETENTION CAMPS: A HUMAN RIGHTS PERSPECTIVE

The detention camps in India, particularly those linked to the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA), have come under scrutiny for their treatment of detainees. From a human rights perspective, the conditions within these camps raise significant concerns.

Detainees in Indian detention camps endure dire living conditions characterized by overcrowding, inadequate access to healthcare, sanitation, and basic necessities. Reports reveal instances of malnutrition, lack of clean water, and substandard facilities, all of which violate fundamental human rights standards.

The arbitrary nature of detention further compounds these concerns, with many individuals held without proper legal recourse. Indefinite detention without charge

or trial infringes upon the right to liberty and security of a person, a cornerstone of international human rights law.

Moreover, the discriminatory targeting of specific religious and ethnic groups, notably Muslims and other minorities, exacerbates marginalization and exclusion. Such practices contravene principles of equality and non-discrimination enshrined in international human rights instruments.

The conditions and practices within Indian detention camps run counter to various international legal frameworks, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. India's obligations as a signatory to these treaties necessitate adherence to standards ensuring the rights and dignity of all individuals, regardless of their background.

In summary, the conditions prevailing in Indian detention camps present grave human rights violations. Overcrowded and unsanitary living conditions, arbitrary detention practices, and discriminatory targeting of marginalized groups undermine fundamental human rights principles. Urgent action is imperative to address these concerns, safeguard the rights of detainees, and uphold the rule of law. This necessitates adherence to international legal standards, provision of due process, improvement of living conditions, and cessation of discriminatory practices within detention facilities. Failure to address these issues not only perpetuates injustice but also undermines India's commitment to human rights and equality.

VI. HUMAN RIGHTS VIOLATIONS IN INDIAN DETENTION CAMPS: DETAINEES HELD ALONGSIDE CRIMINALS

The detention camps in India, particularly those associated with the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA), have sparked widespread concern due to their practice of confining individuals alongside criminal detainees. This merging of populations not only exacerbates the challenges faced by those detained but also raises profound human rights issues. First and foremost, the cohabitation of detainees with criminals exposes them to heightened risks of abuse, violence, and exploitation.

These individuals often find themselves housed in overcrowded facilities with inadequate security measures, making them vulnerable to various forms of harassment and assault. The lack of proper oversight and protection leaves detainees particularly susceptible to mistreatment. Furthermore, the arbitrary nature of detention further compounds these risks. Many individuals are held without proper legal recourse, denied the opportunity to challenge their detention or seek redress for any injustices they face. The absence of due process rights not only violates fundamental principles of fairness but also leaves detainees in a state of uncertainty and vulnerability.

Moreover, the stigmatization associated with being detained alongside criminals exacerbates the marginalization experienced by already vulnerable communities, especially religious and ethnic minorities. This discriminatory practice perpetuates systemic inequalities and undermines efforts to foster social cohesion and inclusion. It also fosters a climate of fear and mistrust within these communities, eroding trust in governmental institutions and exacerbating social tensions. In essence, the detention of individuals alongside criminals in Indian detention camps represents a grave violation of their human rights.

It subjects them to increased risks of abuse and exploitation, denies them their right to due process, and perpetuates systemic discrimination. Urgent action is needed to address these issues and ensure that the dignity and rights of all detainees are upheld. This requires implementing robust safeguards to protect detainees from harm, ensuring access to legal representation and due process, and fostering an environment of respect for diversity and human rights within detention facilities and society at large.

VII. IMPACT ON MARGINALIZED COMMUNITIES

Detention camps in India disproportionately impact marginalized communities, perpetuating and exacerbating patterns of systemic discrimination and disproportionate representation. This section aims to delve into the specific ways in which these communities are affected, shedding light on the disparities and injustices they face within the detention system. By elucidating these issues, we seek to inform

policy discourse and advocate for measures aimed at addressing the underlying inequalities inherent in detention practices. Marginalized communities, including religious and ethnic minorities, socioeconomically disadvantaged groups, and indigenous populations, are disproportionately targeted and affected by detention practices in India. These communities often face intersecting forms of discrimination and marginalization, making them more vulnerable to detention and its associated consequences. Factors such as poverty, lack of access to legal resources, and systemic biases within the immigration system contribute to their heightened susceptibility to detention.

One of the key impacts of detention camps on marginalized communities is the exacerbation of existing inequalities. Marginalized groups are more likely to be subjected to arbitrary detention, often based on discriminatory profiling or targeting by authorities. This perpetuates a cycle of marginalization and disenfranchisement, further marginalizing these communities and reinforcing systemic inequalities. Moreover, detention camps often lack adequate provisions for accommodating the specific needs of marginalized populations, such as language barriers, cultural sensitivities, and access to healthcare, exacerbating their vulnerability and the impact of detention on their well-being.

Furthermore, detention practices disproportionately affect marginalized communities in terms of representation within detention facilities. Studies have shown that certain communities, such as religious and ethnic minorities, are overrepresented in detention camps compared to their proportion in the general population. This overrepresentation reflects underlying biases and discriminatory practices within the immigration enforcement system, which systematically target and marginalize certain groups based on their identity or perceived affiliation. Moreover, detention camps have a profound impact on the social fabric and cohesion of marginalized communities.

The arbitrary detention of community members disrupts social networks, undermines trust in institutions, and fosters a climate of fear and uncertainty within these communities, not only perpetuating feelings of marginalization and alienation but also

undermining community resilience and cohesion, making it more difficult for marginalized groups to advocate for their rights and access resources. By elucidating the specific impacts of detention camps on marginalized communities, we aim to highlight the need for targeted interventions and policy reforms to address underlying inequalities within the detention system.

This includes measures to ensure equitable access to legal representation, culturally sensitive support services, and mechanisms for accountability and redress for individuals affected by discriminatory detention practices. Additionally, addressing the root causes of systemic discrimination and marginalization within the immigration enforcement system is crucial for promoting fairness, justice, and dignity for all individuals, regardless of their background or status. Ultimately, by advocating for measures to address these underlying inequalities, we can work towards creating a more just and equitable detention system that upholds the rights and dignity of all individuals, regardless of their marginalized status.

VIII. ASSAM'S DETENTION CAMPS: CHALLENGES, CONTROVERSIES AND A HISTORICAL OVERVIEW

Detention camps in Assam have a contentious history intertwined with the state's efforts to regulate citizenship, particularly through initiatives like the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA). These camps primarily house individuals deemed "illegal immigrants" or "foreigners" following the completion of NRC verification processes. The camps gained significant attention due to concerns about their conditions and the treatment of detainees.

The establishment of these camps reflects Assam's complex socio-political landscape, marked by decades of migration from neighboring countries like Bangladesh. The NRC, first implemented in Assam in 1951 to identify citizens and residents, underwent significant revisions and updates over the years, leading to heightened scrutiny and controversy. The CAA further fueled debates by providing a pathway to citizenship for non-Muslim migrants from specific neighboring countries, thereby affecting the demographic dynamics of the region.

The first detention centre in Assam came up in 2008 under orders of the Gauhati High Court. They were first intended as a location for "short-term detention of undocumented immigrants, refugees and people awaiting trial before a Foreigner's Tribunals". But now they are "synonymous with endless captivity." In 2011, the Assam government had set up three detention camps with hundreds of illegal immigrants. In 2018, Rs 46 crore was sanctioned for a detention camp by the central government.

Moreover, the stigmatization associated with being labeled as "foreigners" or "illegal immigrants" exacerbates the marginalization of vulnerable communities, particularly religious and ethnic minorities. This discriminatory practice perpetuates systemic inequalities and undermines efforts to promote social cohesion and inclusion in Assam. In response to mounting criticisms, there have been calls for urgent action to address these concerns and uphold the dignity and rights of all detainees. However, these challenges persist amid ongoing debates surrounding citizenship and migration policies in Assam, highlighting the complex intersection of legal, political, and human rights issues within the region's detention camps.

IX. ADVOCATING FOR TRANSPARENCY, ACCOUNTABILITY, AND HUMAN RIGHTS PROTECTION

In light of the concerning findings regarding detention practices in India, it is imperative to advocate for transparency, accountability, and the protection of human rights within the context of detention facilities. This section proposes several measures aimed at enhancing oversight mechanisms and ensuring compliance with legal standards, while emphasizing the fundamental principles of justice, dignity, and equality for all individuals affected by detention policies. Transparency is essential in fostering trust and accountability within detention systems. To achieve this, there needs to be greater transparency regarding the criteria and procedures for detention, as well as the conditions within detention facilities.

This could involve regular reporting on detention practices, including statistics on detainee demographics, lengths of detention, and reasons for detention. Additionally, there should be mechanisms in place for detainees and their representatives to access information about their legal rights, the status of their cases, and avenues for redress.

Accountability mechanisms, such as those outlined in the Indian legal system, are crucial for holding authorities responsible for any abuses or violations of detainees' rights. This requires establishing independent oversight bodies, in line with the principles of judicial review, tasked with monitoring detention facilities and investigating complaints of misconduct or mistreatment.

These bodies should have the authority to conduct thorough and impartial investigations, make recommendations for corrective action, and hold perpetrators accountable through disciplinary measures or legal proceedings. Moreover, there should be avenues for detainees to file complaints and seek recourse for any violations of their rights, without fear of retaliation. Protection of human rights should be at the forefront of detention policies and practices, consistent with Indian constitutional principles. This entails ensuring that detainees are treated with dignity and respect, regardless of their immigration status. Detention facilities should adhere to international human rights standards, including providing adequate living conditions, access to healthcare, and protection from all forms of abuse and discrimination.

Furthermore, detainees should have access to legal representation and support services to safeguard their rights throughout the detention process, as mandated by Indian legal provisions on fair trial rights. In addition to these measures, it is essential to uphold principles of justice, dignity, and equality for all individuals affected by detention policies India, in accordance with Indian legal doctrines. This requires addressing underlying inequalities and systemic biases that contribute to the disproportionate impact of detention on marginalized communities, consistent with the principles of social justice enshrined in the Indian Constitution. It also entails promoting alternatives to detention, such as community-based support programs and supervised release, which prioritize the well-being and integration of individuals while ensuring compliance with immigration laws and constitutional provisions.

X. CONCLUSION

In conclusion, this article offers a meticulous examination of detention camp operations within the legal context of India, scrutinizing their adherence to legal standards and

the ensuing implications for human rights. By dissecting issues concerning legality, conditions within detention facilities, and the disproportionate impact on marginalized communities, this study endeavors to contribute meaningfully to the evolution of a legal and humanitarian framework that places paramount importance on upholding human rights and ensuring justice. The analysis undertaken within this article underscores the pressing need for stringent adherence to legal norms and principles within the realm of detention practices in India. The regulatory landscape established by statutes such as the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA) serves as the guiding framework for detention operations, and it is imperative that these laws are implemented in a manner consistent with constitutional mandates and international human rights standards.

Central to this discussion is the imperative of transparency, a cornerstone of democratic governance and legal accountability. Transparency entails not only the disclosure of information regarding detention procedures and conditions but also the accessibility of such information to detainees and their representatives. It is incumbent upon authorities to ensure that detention practices are conducted in an open and transparent manner, in accordance with principles of good governance and the right to information enshrined within the Indian legal framework. Furthermore, the principle of accountability must be rigorously upheld to address any violations or abuses of detainees' rights.

Accountability mechanisms, including independent oversight bodies and avenues for redress, are indispensable in holding authorities accountable for their actions and ensuring that individuals responsible for misconduct are held to account under the law. This underscores the importance of judicial review and the rule of law in safeguarding human rights within detention settings. Crucially, the protection of human rights lies at the heart of detention practices, echoing the principles enshrined within the Indian Constitution and international human rights instruments. Detainees are entitled to fundamental rights and freedoms, including the right to be free from torture, cruel, inhuman, or degrading treatment, and the right to a fair trial.

It is imperative that these rights are upheld and protected at all times, irrespective of

an individual's immigration status or background. In light of the foregoing analysis, it is incumbent upon policymakers, legal practitioners, and civil society actors to work collaboratively to address the multifaceted challenges posed by detention practices in India. This necessitates a holistic approach that integrates legal, humanitarian, and rights-based perspectives, with a view to fostering a detention system that is grounded in principles of justice, dignity, and equality.

In conclusion, this article underscores the imperative of upholding fundamental principles of transparency, accountability, and human rights protection within the realm of detention practices in India. By advocating for legal and humanitarian frameworks that prioritize human rights and justice, we can work towards ensuring that the rights of detainees are respected and protected, consistent with the rule of law and principles of democratic governance.

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