

South Asia Peace Action Network – Sapan

29 August 2021



NOTE: Several prominent legal experts, journalists, and human rights activists have reviewed and commented on this Resolution. We have consolidated and accommodated multiple voices mirroring vast experiences and realities from across South Asia. Besides relying on the knowledge and experiences of experts, the Resolution draws on a long list of international, regional, and local documents and reports to obtain a fuller picture of the situation in South Asian prisons.

The bottom line is that South Asian nations treat their own incarcerated citizens badly and those from other countries even worse, and that things need to change for humanity's sake particularly in a pandemic – Sapan.

Resolution: Rights of the incarcerated in South Asia

The imprisoned in the jails of South Asia bear the brunt of outdated laws and coercive practices, much of which remains as a legacy of the colonial era. The archaic laws and heinous practices victimize a huge number of vulnerable incarcerated individuals who are left to the mercy of jail administrations, in-prison violence, and exploitation.

All over South Asia, overcrowded prisons with abysmal sanitation and hygiene, little privacy, poor quality beddings, and weak healthcare facilities have turned prisons into chambers of perpetual torment rather than places of reform and correction. There is widespread phenomenon of accused persons detained for years if not decades without due process and deprived of legal representation. Many of them, incarcerated through miscarriage of justice, are left to age and die in jail.

Too many individuals are left to suffer behind bars even in the case of bailable offences. Granting of bail has increasingly become the exception rather than the rule, which is a contributory factor to the overcrowding of prisons. As is widely known, those from marginalized communities tend to be more vulnerable than others.

Even under normal circumstances, the prison population suffers inordinately due to poor access to public health facilities. The Covid-19 pandemic has exacerbated the plight of incarcerated people in prisons and detention centres across the region, given the confined spaces and the raging virus.

We urge all those concerned, including the governments, prison authorities, judicial officers, police departments and civil societies of South Asia to take steps for the relief of the incarcerated in their respective societies. We call upon them to:

1. Take immediate measures to reduce prison populations and protect persons in prison from Covid-19 and other infections by granting bails according to stipulated law. Release persons who have been imprisoned due to their inability to pay fines or for minor offences forthwith. Wherever possible release persons on probation or parole.
2. Adhere to Mandela Guidelines and take all actions to treat the incarcerated in a manner that protects their human dignity and human rights, including ensuring that no one is detained without due process of law and quality independent legal representation.
3. End the 'lock-up culture' in police stations, ensure that trials are conducted in a timely manner respecting due process and fair trial rights of detainees.
4. Arrange regular visits, assessments, and transparent audits by national human rights institutions, judges including trial judges, to ensure that prisons and detention centres are monitored properly and assessed for their adherence to human rights standards. Such visits will also help develop empathy for the incarcerated among the judiciary.
5. Conduct training and counselling to enable police and prison officers to adhere to human rights standards and act in a humane and professional manner, develop empathy for inmates, and address the legitimate concerns related to the safety, mental health, and well-being of those who are incarcerated especially the more vulnerable, including children, women, and members of minority communities.
6. Ensure that no person in prison or detention is subjected to torture or abuse at the hands of the police or prison officials, or abuse by other inmates including sexual assault, so that those incarcerated for minor offences do not end up seeking 'protection' from prison gangs or slide towards a life in crime as a result of prison experience.
7. Establish complaint mechanisms to report abuse, torture and inhumane treatment meted out by prison officials or fellow incarcerated in prisons and in

pre-trial police custody; and make the incarcerated aware of such complaint mechanisms.

8. Give due importance to mental health care of those who are incarcerated and provide them with mental health evaluation and assistance as per law and internationally recognised human rights standards.
9. Make segregation arrangements for the incarcerated based on age, gender, severity of offenses, health, and psychiatric condition etc. The specific needs of women, transgender, and other categories also require attention, along with the general matter of access to health that affects all incarcerated persons.
10. Follow repatriation agreements for cross-border incarcerated persons in the jails of different South Asian countries, provide them with consular access and access to their families as well as independent legal representation. The plight of fisherfolk picked up for maritime border violations needs special sensitivity and attention. Provide means for fisherfolks to better navigate the seas so that they do not stray into out-of-bound areas.

Endorsed by the participants of this meeting, 29 August, 2021

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