

RIGHTS OF PRISONERS UNDER INDIAN SYSTEM: CRITICAL ANALYSIS

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ABSTRACT

Imprisonment is the hallmark of the Indian penal system of all countries in the modern world, and its use has grown rapidly over the decades. The purpose of this study is to analyze the rights of prisoners under Indian law. The research focuses on the historical context, the constitutional and statutory provisions of prisoners based on case law. Moreover, the rights enjoyed by detainees under Articles 14, 19 and 21, although limited, are not static and will become human when a situation arises. The unique characteristics of prisons have wider implications for the treatment of clients in this context. Indian prison systems are no better because the economic conditions do not allow to evolve towards better prison management methods. Therefore, the reconstruction of prisons in India requires special attention.

All men are born equal and are endowed by the creator with certain fundamental rights. These rights are mainly the right to life and liberty, but if a person does not comply with the ethics of the society, that person is deprived of these rights with appropriate sanctions. Women play a vital role in society. The important role she plays is the ability of the mother. The constitution of India confers equal status on women in India. After a long struggle, society has recognized that there are prisoners' rights that should be available to them. The main purpose of prisons is to bring the offender back into the mainstream of society. If a person commits a crime, it does not mean that by committing a crime he ceases to be a human being and can deprive himself of those aspects of life which constitute human dignity. detainees have the right to know the reason for their arrest and the reasons for their arrest. The article presents the centrality of respect and the recognition of human nobility, and studies the ways in which respect can be embodied in the prison condition.

INTRODUCTION

The word prisoner means any person who is kept in custody in jail or prison because he has committed an act prohibited by law. A prisoner also known as an inmate is anyone who, against their will, is deprived of their liberty. This freedom can be deprived of freedom. This freedom can be deprived by coercion or confinement. The Indian socio-legal system is built on non-violence, freedom and the dignity of the individual. If a person is in conflict with the law by committing an act which is prohibited therein, it is unfair to say, by committing an act prohibited by law, that the person is not rejected as a human being and that she may be deprived of those aspects of life essential to the maintenance of her human dignity. It is an

established system that a prisoner goes to jail to be locked up behind bars as a punishment for his crime and not be subjected to physical and mental abuse, other than basic human needs, which are now included in the realm of the right to life. under the constitution of India due to judgments of the Supreme Court, the right to life also entitles a person to avail of the guarantee of protection in the event of the administration of criminal justice. Prisoners' rights include the rights available under section 14, section 19 and section 21. Prisoners also have the right to know why they have been arrested and also have the right to know the grounds of the arrest under Article 50(1) of the CrPC. Right is a generic term that confers certain benefits to a person who possesses it. some rights are innate

and naturally conferred by the fact of being human and others derive from the application of the law. Human rights refer to the freedoms, immunities and benefits that, according to modern values, every human being should be able to claim by right in the society in which he lives.

"The said humanist approach did not exclude the basic necessities of life such as the right to live in dignity, the right to education, the well-being of work, etc. but he also highlighted the other rights essential to living a dignified human life. the right to life which includes a fair trial.

An interned convict is not deprived of all his fundamental rights although it is true that he does not enjoy all the fundamental rights like other people because of the hindrances imposed on him in accordance with the law. The High Court of MP for S.P Anand v Madhya Pradesh State, has extensively dealt with the fundamental rights that prisoners have despite the restriction of their right to liberty, for example, a prisoner must have reasonable accommodation to live a healthy life as provided for under the prison rules.

The Supreme Court of Gujrat State v Gujrat High Court reiterated that reasonable wages should be paid to prisoners for work/Laour performed by in prison and set guidelines in this regard. The court further held that conviction for a crime does not reduce the person to a non-person whose rights are subject to the whims of the prison administration. The right of access to court is the most important of all the rights of prisoners.

HISTORICAL BACKGROUND

As mentioned earlier, the rights of prisoners are growing day by day in ancient times, we can see that there are much less rights that were granted, but now our Indian legal system has granted rights to our prisoners at the broad sense as we can say that they have provided various kinds of fundamental rights, constitutional rights as well as statutory rights by so many leading judgments.

If we go to our past and see the story, it was described about prisoners, in Manusmriti it is stated that the king should have all prisoners where all evildoers and evil are kept. We can therefore say that the post-independence period changes a major change in our penitentiary system.

These are many acts and committees that are made from British India to modern India for the development of prison and prisoners. The vision of punishment shifts from deterrent, retributive to reformative and rehabilitative. The idea of prison has changed as today prisoners who have committed heinous crimes are held in separate prisons, there are also separate prisons for women and special institutes for children who have committed crimes . Now prisoners are treated as human beings and also enjoy many rights and duties. This development is supported by numerous laws and commissions.

ACTS

- 1) Prisons Act, 1894
- 2) Prison manuals / regulations supervised by the state
- 3) West Bengal Corrections Act, 1992
- 4) The Prisoner's Act 1900
- 5) The Prisoners Repatriation Act 20033.

COMMITTEE:

- 1) All India Prisons Committee (1919-1920)
- 2) WG Reckless Report on Prison Administration in India (1951-1952)
- 3) All India Model Prisons Manual Committee (2000)
- 4) Mulla Justice Committee (1983)
- 5) Judge V.R Krishna Iyer Commission Worken Prisoners (1986)

BASIC PROVISION RELATING TO THE RIGHTS OF PRISONERS:

All human beings have their own basic rights so prisoners are also human beings so they also have basic rights to some extent under prison

"Hate the crime not the criminal" – Mahatma Gandhi

This line is said by Mahatma Gandhi that we should hate the crime but not the criminal. likewise, prisoners also have the right to get their basic rights which are provided by our constitution, so the law of the land also guarantees some of these rights to prisoners like articles 14, 19 and 21 to prisoners. In the Indian constitution, there was no express provision for the rights of prisoners, but in case of

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In this case, we are basically talking about the rights of prisoners that they cannot lose their fundamental as well as constitutional rights.

The Supreme Court held that the prisoners under the prison have does not mean that they are not human beings and that they do not have their basic human rights, they also have their basic right. prisoners are entitled to all basic rights unless restricted by the constitution. All of these claims are supported by various judgments from higher courts as well as lower courts.

According to Judge V. R Krishna Iyer, "Prisoners have enforceable freedoms developed but not demonetized and under our basic regime. The prison power must bow before the judge the power of fundamental freedoms Sar in danger. SUNIL BATRA VS DELHI ADMINISTRATION & ORS.. In this case, the petitioner, who was sentenced to death, challenged his sentence of solitary confinement as provided for in Section 30(2) of the Prisons Act 1894. The petitioner argued that Section 56 of the Prison Act which confers arbitrary powers on the Superintendent to confine a prisoner in irons, violates Sections 14 and 21 of the Indian Constitution. In this case, two questions arose, the first is related to the free hands doctrine and the second is the

human of the prisoner? The Court held that yes, prisoners are people and struck down the free hands doctrine.

Three main principles of prison administration established by the Supreme Court in this case are:-

- 1) A prison is a prison does not become a non-person.
- 2) A person in prison is entitled to all human rights.
- 3) There is no justification for adding to the suffering inherent in the incarceration process.

Restructuring of the penitentiary system to be done in terms of:

- 1) Humanization of prison staff.
- 2) Prison reorganization programs.
- 3) Rationalization of prison rules and regulations.

Here are the rights of prisoners which have been recognized by the various laws of India, The Prisoners Act, 1900.

Prisoners have the right to know why they were arrested and on what grounds they arrested. Right to know reasons for arrest sec 50(1) CrPC.

Sec (55) talks about the procedure when the police officer challenges subordinate to the arrest without any warrant. They must therefore show the orders certified at the time of the arrest of the accused. They must show the written order from the office.

1) Right to Minimum Standards: Minimum standards means the requirement and procedure set out in the minimum standards. something that is established by authority, customs or the general. No prisoner shall be subjected to, all prisoners shall be protected from torture and other cruelties. So they have inmate rights while behind bars. They have fundamental rights that we cannot take advantage of.

2) Rights to human dignity: The right to human dignity means that all human beings are born

equal in dignity and rights. This is the most important thing for the human spirit, which is also the same and also applies to prisoners. This means that dignity is valued based on who you are, what you believe in and how you live. Fundamental rights include the right to food and water, the right to maintain hygiene, freedom from torture or racial harassment, etc.

In the case: Maneka Gandhi v. Union of India: The Supreme Court proposed a new dimension of Article 21 in which it stated that the "right to life or life" is not limited to mere physical existence but also includes the right to live with human dignity. .

3) Legal Access Rights: Detainees have basic legal rights that cannot be taken away. The fundamental rights which are also granted to them without any restriction such as the right to food and clean water to drink, the right to have a lawyer to defend themselves, the right to engage their own choice of legal heir and protection against torture and abuse affecting the thought prisoner. The Supreme Court has included other rights applicable in the administration of criminal justice, such as the prisoner can enjoy a fair trial and a speedy trial, these rights must be free racial segregation. Defendants have full rights to represent any choice of witness. To be informed of the legal rights to file requests for appellate review and review.

5) Right to communication: It is also the fundamental right of prisoners to communicate properly with others to know what is happening outside the world through appropriate means, such as through the communication media. They also have the right to interview: The Supreme Court of India has ruled that there are These are lawyers appointed by the District Magistrate, Magistrate Judge, High Court and guided by the rights of prisoners accorded to interviews, to confidential communication with prisoners subject to discipline and to the receipt of information.

6) Right to employment: If prisoners work under the prison and do their hard work, they have the

right to take their jobs, this is the basic rights of prisoners. The right to work or engage in productive employment and should not prevent them from doing so, they have the right to work and to receive their wages on time.

7) Right to be released on the scheduled date: The right to be released on the scheduled date is provided for in article 50(2) of the CrPC. The duty of the police is this right to be brought before a magistrate without any delay because it is the fundamental right of any accused. Due to the outbreak of the covid 19 pandemic in India in March 2020, these have created a big problem of overcrowding in our prisons. There are many, many issues raised at the time of the pandemic, the court offered the solution still ignores these intimates and this time the due date of the bail also extended in many cases to the higher risk of rise of the pandemic as it is also not safe for prisoners giving them instructions.

8) Right against arbitrary punishment: These rights are provided for in Article 9 of the Universal Declaration of Human Rights, which states that the right to consult and their right to personal liberty which establishes that no one shall be arrested in the event of arbitrary arrest and the right to consult the persons represented by a lawyer of their choice. Article 20 of the Indian constitution protects against arbitrary and excessive punishment anyone who commits a crime and article 359 of the Indian constitution cannot be suspended even in an emergency.

9) Right to freedom from discrimination: Article 14 of the Indian constitution guarantees everyone in the state equal opportunity without any form of discrimination for all its citizens.

10) Right to privacy: The right to privacy is one of the most important rights available to prisoners. They form the part of the right to life and personal liberty under Article 21 of the Indian constitution. They were also applicable to prisoners.

CONSTITUTIONAL PROVISIONS AND OTHER LEGAL PROVISIONS RELATING TO THE RIGHTS OF PRISONERS IN INDIA:

Prisoners' rights deals with the rights of intimates behind bars. They have their legal rights which cannot be taken away from them. According to article 21 of the Indian constitution which prohibits any humane, cruel and bad treatment towards any person. There is also a law provided for the Prisoners Act 1984 which deals with the cruelty of prisoners.

1) Right to protection and care of their children: Children are entitled to protection under the Indian constitution against abuse, neglect, exploitation and discrimination on various grounds. It also provides a safe place for children to play, maintain discipline, parenting behavior, and recognition of children's evolving abilities.

There is also a right to the protection of little girls that they have provided a safe and protected environment. There are also various provisions in the Juvenile Acts.

2) Right to Legal Aid: We Indians have complex economic structure and crises like poverty due to lesser economic factor between countries. Legal aid basically means offering free legal services to the poor and weak who cannot afford their legal services due to poverty, so they provided a lawyer to carry out a lawsuit or any legal proceeding in the court.

In the case of Hussainara Khatoun v. State of Bihar: In this case, it was held that if a defendant is unable to afford legal service, he has the right to obtain a free lawyer at the expense of this state.

3) Right to a speedy trial: Detainees have the right to a speedy and fair trial. One of the fundamental rights mentioned in Article 21 of the Indian constitution guarantees a fair, equitable and reasonable procedure. It is the concept that totally deals with settling cases as soon as possible to make the justice system more efficient, and it is considered an essential part of the right to life and personal liberty.

In Babu Singh v. State of U.P.: In this case, Judge V.R Krishna Iyer is dealing with the bail application. Here in this case, the plaintiff is abusing bail during the ongoing trial and in order to secure his attendance, proclamation and then the trial court prosecutes him according to the law. Bail is the temporary release of a person from police custody.

4) Prisoner's Right to Security: The right to security is the fundamental legal right of prisoners that we cannot take away from them. This right includes the safety of prisoners. They benefit from appropriate medical facilities and take care of their hygiene, their cleanliness and their protection against torture or dissuasive sentences and racial harassment.

5) Right to protection against humanity: No one may be subjected to torture or cruel and inhuman punishment. It also includes not being subjected to medical treatment unless the person consents if the person does not want medical treatment or gives full consent which they do not have to force.

6) Right to meet friends and consult their lawyers: Detainees have the right to consult their lawyer in private and to meet the person they want. They are not only protected physically, but also mentally, that is why they have the right to meet his friends as well as to consult lawyers, because visiting them can also give the prisoner mental support to survive and face the situation he is going through.

7) Right to adequate housing: Prisoners provided appropriate bedding to sleep in and a safe and secure place to sleep.

RIGHTS OF WOMEN PRISONERS:

As the Indian society perceives Indian women as a respective status, it plays the role both inside a domestic territory and outside also the constitution protects the rights and freedom of women through various provisions. There are also so many rights which have been given to women to protect liberty and through various provisions so it becomes necessary for the rights of women to be much worse in Indian

prison there are also various committees recommended by the superior court for the safety of women under the prison. It could be neglecting the rights of women in prison, as we can in the Prisons Act 1894, which provides that it is necessary to make the necessary changes and the salient points of the problems of women prisoners list fundamental and constitutional rights of women prisoners. How we position ourselves. The provision of the 1894 Act must be amended for the various provisions concerning the rights of women and must not be violated. They also granted the right to live separately from male prisoners. Legal awareness should also be conducted so that women know their rights and also provided women detained by a doctor and a woman and if women were pregnant, she has the right to get out of jail at the time of childbirth.

PROBLEMS FACED BY DETAINED WOMEN:

As we know, women inmates had to face many problems in the prison, their condition is much worse. They were faced both mentally and physically which includes various things like pregnancy and childcare vulnerabilities, poor health, etc.

- 1) Lack of women in prisons and prison staff: - In India, there are fewer women in prisons than in other prisons. Especially in prison staff, the number of female prisoners is lower. In many women's prisons, there are male inmates who physically and sexually abuse women inmates, which also shows an inhuman nature and also needs more women's prisons and women inmates because women inmates are human too.
- 2) Absence of Legal Aid: We have the fundamental right to self-choose legal services and satisfactory legal aid in the prison. The Supreme Court of India grants every prisoner the right to hire a lawyer of their choice, but most women who are ignorant and uneducated are not aware of these rights, which is also a major problem. .

3) Rape in custody: The possibility of rape in custody in India varies from state to state and prison to prison. Many cases go undetected or unreported, only a few occur by chance. In India, according to some crime statistics, it seems that rape in detention is on the increase. Women who are detained by the police are at particular risk of being raped in police custody. If the rape victim remains silent, it will never be known to anyone other than the victim and her rapist(s) and if the rapist(s) are police officers, the fear of further reprisals is great because the woman does not have little or no opportunity to raise an outcry after the rape and the final outcome of the complaint is that the victim would suffer more in the place of his or her rapists.

SITUATION OF PRISONERS DURING THE COVID-19 PANDEMIC:

As we know, because of covid-19, it was a big challenge for the whole world. We are facing many health problems as well as economic crises which are aggravating instability. As people are in jail, they also face many problems and are affected by the pandemic. In prison, they were also at risk of getting infected and living in the common place there were most of the affected people and also creates overcrowding in the prison. This pandemic also makes the lives of prisoners most threatened and the situation much worse and also the violation of their human rights during this pandemic. The management of the prison was inadequate during the covid 19 pandemic, which could not affect the mental health of the prisoners but also that of their family members. Many restrictions were imposed for visiting purposes in prison, only two visitors were allowed to meet at a time, entry was not allowed with disinfection and mask, maintaining social distance between prisoners, the Checking of visitors was carried out to see if they were not suffering from any illness before visiting a prison, there were all medical facilities available for prisoners.

CONCLUSION:

The Apex Court has taken (remedial) action and provides the executive as well as the legislature with important guidelines as Indian justice protects the human rights of every individual. The right of the authorities (police and prisoners) accommodated to take the rights was granted to the prisoners with vigor.

According to the Human Rights Law for the Protection of the Imprisoned Person, an imprisoned person means a person deprived of personal liberty as a result of being convicted of any offence, and imprisonments means the condition of a person imprisoned. But the fundamental dignity of an arrested or convicted person must be duly respected. The protection of these dignities is mentioned in the Universal Declaration of Human Rights as well as in Article 21 of the Indian Constitution. It is urgent that prisoner security provisions mentioned in prison manuals are strictly followed and that well-equipped and trained prison staff are appointed to seek security measures. Regular and timely inspection of bailiffs should be carried out. All police and administrative bodies must work together to ensure the effective social reintegration of detainees. To conclude, Indian prisoners have various ways which cannot be violated of their human rights. The soul behind bars cannot be denied, said the Supreme Court in the case: MANNA V. PEOPLE OF ILLINOIS. Article 21 of the constitution has provided every citizen and also offered all the rights which an individual of society has with some reasonable restrictions.

