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An Overview of the Conditions of Indian Jails

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Abstract

All human beings have natural rights. These Human Rights are neither derived from social order nor conferred upon the individual by society. They reside inherently in the individual human beings even prior to his participation in the society. To deny people their human rights is to challenge their very humanity. The conviction of a human by court of law does not render him non-human. He still remains a human who should be treated like one. The prisoners in jails who are deprived of their liberty and participation in society, have the right to be treated with respect to inherent dignity of human person. The Article 21 of the Constitution of India provides that "No person shall be deprived of his life and Personal Liberty except according to procedure established by law" The article has been interpreted by the Supreme Court of India liberally which has considerably widened its scope and has held that its protection will be available for safeguarding the fundamental rights of the prisoners and for effecting prison reforms. Hence, under the ambit of law of the land prisoners whether convicted, accused or under trial have the right to live life with dignity. This article highlights the conditions of jails and discusses about the human rights enshrined in the present legislation for prisoner's taking into consideration that prisoners have a right to live life with dignity.

Keywords: Prisoners, Fundamental Rights, Article 21, Prisoners Rights, Supreme Court

I. Introduction

The prisoners kept in jails are kept in inhuman conditions and are deprived of even basic human amenities like healthy sanitary conditions and lack of proper food, bedding and clothing facilities. The prisoners though in jails still deserve life with the basic human respect which we all are entitled to being citizens of this country despite the wrongdoings they have committed. Supreme Court Judge Justice Krishna Aiyer in *Marie Andre's v. The Superintendent, Tihar Jail* held: "imprisonment does not spell farewell to fundamental rights although, by a realistic re-appraisal, Courts will refuse to recognize the full panoply of Part III enjoyed by a free citizen. The Supreme Court from time to time has ensured that the fundamentals rights guaranteed by the constitution to every citizen are maintained for the prisoners. The idea behind this judicial intervention is to maintain the purpose, for which jails have been established that is reformation and rehabilitation of prisoners.

II. Categories of Prisoner

The jail inmates can be broadly classified into two categories, namely the under trial prisoners and the convicted prisoners. The former refers to those who have been detained during the investigation or trial period for the alleged offense, and are yet to be convicted. In contrast, the latter category pertains to those who have been found guilty of a crime and are serving a sentence as punishment. According to statistical data presented by the Prisoners Right



organization, a significant majority of prisoners, i.e., 80%, are under trial victims who are subject to inhumane conditions, such as inadequate medical facilities, poor living conditions, and torture by jail authorities. The latest prison data from 2020 highlights that over 70% of such under trial prisoners come from marginalized communities, castes, religions, and genders. These individuals are awaiting their fate and face a prolonged wait for justice. The Supreme Court has recognized the importance of a speedy trial, as it is an integral aspect of a fair trial and a fundamental human right, as noted in the Hussainara Khatoon v. Home Secretary, State of Bihar and Ors. ruling.

III. Laws Surrounding the Prisoners Rights.

The legislation concerning prisoner rights has undergone changes over time. Unfortunately, India does not have a comprehensive codified law on prisoners' rights, which is a matter of great shame. The Prison Act 1894, the oldest legislation dealing with prisoner rights, is more focused on ensuring the smooth functioning of prisons rather than the reformation and rehabilitation of prisoners. The act has a colonial approach that does not align with the current humanitarian ideology of reforming prisoners to become responsible citizens rather than merely punishing and disciplining them. Consequently, there is no comprehensive legislation to regulate prisoner conduct while in jail. However, the judiciary has recognized convicts' fundamental rights and has upheld them time and time again, even in the absence of thorough legislation. The judiciary has established precedents and principles that not only guide but also bind all courts in India.

In the case of Raghbir Singh v. State of Bihar, the Supreme Court expressed its distress over police torture and upheld the life sentence of a police officer responsible for the death of a suspect due to torture in a police lock-up. In Kishore Singh VS. State of Rajasthan, the Supreme Court held that the use of the third-degree method by the police violates Article 21. The Supreme Court's decision in the case of D.K.

Basu is particularly notable. The court focused on the problem of custodial torture and issued several directions to eradicate this evil for the better protection and promotion of human rights. In this case, the Supreme Court defined torture and analyzed its implications.

IV. Condition of Jails

The prisons in India are facing several issues, including overcrowding, extended detention of under-trial prisoners, inadequate living conditions, lack of treatment programs, and allegations of inhumane treatment by prison staff. Additionally, police officials often subject prisoners to brutal physical treatment while in custody, which includes third-degree torture. Female prisoners in police custody are especially vulnerable to rape or sexual abuse. In some countries, corporal punishment and the use of restraints such as leg irons, fetters, shackles, and chains are still allowed. Physical abuse by guards is also a chronic problem in Indian prisons. The prisons in India and Pakistan have a strict class system that grants special privileges to prisoners from upper and middle-class backgrounds, regardless of their crimes or behavior in prison.

V. Rights of Prisoners

A. Rights against Solitary Confinement and Bar Fetters:

Solitary confinement is strongly opposed by the courts, and it has been declared that forcing convicts into it is dehumanizing and degrading. The courts have taken the position that this punishment should only be used in exceptional circumstances, when the offender poses a significant threat and must be separated from other inmates. In the Sunil Batra case, the Supreme Court examined the legality of solitary confinement. Similarly, the court has expressed its opposition to the practice of shackling convicts with bars. The court has stated that the use of bar fetters is against the spirit of the law and amounts to treating a prisoner as an animal, subjected to cruel and unusual



punishment, particularly if they are kept in them day and night.

B. Rights against Inhuman Treatment of Prisoners

Human dignity is a crucial element of human rights, and the Indian Supreme Court has expressed serious concerns about the inhumane treatment of prisoners in various cases. The court has directed jail and police officials to take reasonable measures to safeguard the legal rights of prisoners. The Supreme Court has interpreted Articles 14 and 19 of the Constitution to prohibit torture. The court has stated that any treatment of a human being that violates human dignity, causes unnecessary suffering, and reduces the person to the level of an animal would be considered arbitrary and could be challenged under Article 14.

C. Right to have Interview with Friends, Relatives and Lawyers

The scope of Human Rights is continuously expanding, and prisoners' rights are now recognized not only to protect them from physical torture but also to prevent mental suffering. The Right to Life and Personal Liberty guaranteed by Article 21 of the Constitution does not merely refer to physical existence but encompasses much more. This right includes the freedom to have contact with one's family and friends, and this is an essential aspect of personal liberty. Article 22(i) of the Constitution mandates that no arrested person shall be denied the right to consult and be defended by a legal practitioner of their choice. This legal right is also available in the code of criminal procedure under sections 304 and 41.

D. Right to Speedy Trial

One of the fundamental goals of the criminal justice system is to ensure a prompt trial of offenses. Once the court takes cognizance of the accusation, the trial must be conducted without delay to punish the guilty and exonerate the innocent. As per the principle of "innocent

until proven guilty," it is essential to determine the guilt or innocence of the accused as soon as possible. Therefore, it is the court's responsibility to ensure that justice is not delayed, and the accused are not subjected to indefinite harassment. In fact, a delay in the trial can amount to a denial of justice, and as the saying goes, "justice delayed is justice denied." It is crucial that accused persons are speedily tried so that those who are refused bail do not have to stay in jail longer than necessary. The right to a speedy trial has been recognized as a human right worldwide.

E. Right to Legal Aid

Although not explicitly mentioned in the Indian Constitution, the judiciary has shown a preference for providing legal assistance to impoverished convicts who cannot afford their own lawyers. The Constitution's Article 39A and 42nd Amendment Act of 1976 outline Free Legal Assistance as a Directive Principle of State Policy, with Article 37 and 38 imposing duties on the state to apply these principles and promote social, economic, and political justice. The parliament has enacted the Legal Services Authorities Act, 1987, guaranteeing legal aid, and various state governments have established legal aid boards and schemes to give effect to Article 39-A. Legal aid is not limited to criminal cases but extends to civil, revenue, and administrative cases under Indian Human Rights jurisprudence. In the Madhav Hayawadan Rao Hosket vs. State of Maharashtra case, the Supreme Court declared that the government was under an obligation to provide legal services to accused persons by combining Articles 21 and 39-A with Article 142 and section 304 of the Cr.PC.

F. Rights against Hand Cuffing

In the case of Prem Shanker vs. Delhi Administration, the Supreme Court made another contribution to the ongoing battle for prison reform and prisoner's rights. The central issue in the case was whether the use of handcuffs on prisoners was constitutionally



valid. The court examined the legal precedent related to handcuffing in detail, as the case was brought before the court through a Public Interest Litigation seeking a ruling on the constitutionality of the "handcuffing culture" under Article 21 of the Constitution. The court ruled that routine handcuffing of prisoners was unconstitutional and declared that the distinction between classes of prisoners was no longer relevant. The court also stated that handcuffing was inherently inhumane, unreasonable, harsh, and arbitrary, and without proper procedure and objective monitoring, the use of handcuffs amounted to animalistic tactics that violated Article 21 of the Constitution.

VI. Lack of Enforcement

It is crucial that prison officials strictly follow the security provisions outlined in the jail manuals and appoint well-trained staff to ensure safety measures are in place. Judicial officers must conduct regular and timely inspections, and all police and administrative departments should work together to promote effective social rehabilitation of inmates. The Code of Criminal Procedure lays out the primary procedure for investigating and trying offenses, including the right to speedy trial under section 309. Proper implementation of these provisions is essential to prevent grievances from arising. The Constitutional guarantee of the right to speedy trial under Article 21 should be reflected in the provisions of the code. In *A.R. Antulay vs. R.S. Nayak*, the Supreme Court established several propositions that protect the human rights of prisoners, including the right to speedy trial at all stages of the process, such as investigation, inquiry, trial, appeal, revision, and retrial.

VII. Conclusion

The Supreme Court and other Indian courts have repeatedly emphasized that prisoners are still human beings and should not be treated as victims. It is the responsibility of the Central and State governments to provide them with a rehabilitative environment and humane living

conditions, as well as educate them about their rights to prevent abuse by those in power. The judiciary has played a critical role in protecting the rights of prisoners when the legislative and executive branches have failed, using judicial activism and developing new tools to uphold the right to life and personal liberty. However, more needs to be done, including widespread circulation of prisoners' rights, media publicity, and prison surveillance, to ensure their rights are upheld and they have a safe space in prison.

VIII. References

1. <https://blog.ipleaders.in/prison-laws-india/>
2. <https://blog.ipleaders.in/rights-prisoners-major-judgments/>
3. https://www.mha.gov.in/sites/default/files/2022-09/Prisons_act1894_0%5B1%5D.pdf
4. <https://www.legalserviceindia.com/legal/article-75-rights-of-prisoners.html>
5. <https://www.mondaq.com/india/crime/1207678/rights-of-accused-before-and-after-arrest-in-india#:~:text=No%20person%20who%20is%20arre>
6. Dr.V.K Anand Human Rights