

A Study on India's Constitutional Prisoners' Rights

Mamta Rani¹, Shivangi Chauhan¹ and Tulika Sinha²

¹Institute of Legal Studies & Research, Mangalayatan University, Aligarh, UP

²Faculty of Law, Usha Martin University, Ranchi, Jharkhand

E-mail: mamtarani@mangalayatan.edu.in

Abstract: At its inception, the world's longest written constitution contained 395 articles divided into 22 sections and eight schedules. Four hundred forty-eight articles in the Indian Constitution are divided into 25 sections and 12 schedules. India's constitution has had 103 changes since its inception in 1947. The Indian government has taken several in contrast to a rule or regulation; a constitutional provision is a law laid out in the constitution itself. It outlines the foundations of the political system, including the fundamental rights and obligations of all citizens. Only by following the constitution's amendment procedure may these clauses be changed. On this basis, it should be evident that being imprisoned means having one's liberties restricted. Inmates in the United States do have several fundamental human rights, though. The Indian Constitution protects the fundamental rights of even the most heinous criminals. If you or someone you care about is in danger of being arrested, you should be aware of your rights and the rights of the person you care about while they are in prison. Depending on where a person is being held and at what stage of their case's criminal process, their rights while in prison can differ slightly. They have a right to be confined in a humane facility and not "punished" or treated as guilty while awaiting trial for pre-trial stage inmates. Generally, other inmates have all the additional rights listed in the articles. They are being explained to understand better the law enshrined in the Constitution's Articles.

Keywords: Human Rights, Constitution, prisoners, Law, Supreme Court.

Introduction:

The Indian constitution contains a special provision for prisoners' rights. Because a prisoner is still a "person" in jail, they are entitled to the constitutional rights listed in Part III. The Supreme Court has now given a relatively broad interpretation of the right to personal liberty. This right is

available to everyone, including those who are incarcerated. All of a person's rights are protected while in prison, including the right to a speedy trial and access to free legal representation. Article 14 of the Constitution of India is one of the most frequently cited provisions by the courts because it embodies the principle of equality.

Article 19 of India's constitution stipulates that every citizen has six fundamental liberties. Freedoms like "freedom of speech and expression," "freedom to join an association," etc., can be exercised by a prisoner even while confined to an institution of confinement. These, however, will be constrained by prison restrictions. Defending inmates' constitutional rights has been the legal system's primary focus since Article 21 was enacted. It exemplifies the value of individual freedom. The Indian Supreme Court has relied on this rule to safeguard inmates' fundamental rights. Using this article in the wake of Maneka Gandhi's case has become a common defence against administrative overreach in the prison system. With Article 21 of India's constitution, citizens are guaranteed the right to a dignified existence as part of their fundamental human rights [1]. This reaffirms the need for prisons to treat their inmates with respect. Civilized prison environments only respect inmates' fundamental human and constitutional rights and take steps to ensure their fulfilment through jail reforms [2].

Prison officials violated inmates' rights to life and liberty, and the court ordered them to pay damages. *Kewelpatti (SMT) vs. Up and others* The court granted the plea after receiving a letter from the widow of Ramjit Upadhyaya, who was assassinated by a co-defendant while serving his sentence under section 302 of the Indian Penal Code. Central Jail Varanasi is the location of this crime spree. Thus, in *Rajesh Khaitan vs State of West Bengal* it was concluded that a violation of Jail Code dealing, inter alia with the diet, medical treatment and supply of clothing as well as blankets to the inmates, would certainly effectively amounts to the violation of their legal rights, warranting this courts interference under Article 226 of the constitution in fit and proper cases. A prisoner's life and liberty cannot be taken away from him unless in conformity with the law, according to Article 21 of the constitution. All of a prisoner's fundamental rights are still in effect, although they are limited by being incarcerated.

Inmates' treatment: a universal set of instruments

ICCPR, ICESCR, and the Convention On Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment are the three primary international legal instruments that safeguard the rights of people around the world, including those in jail (CAT). According to Article 9 of the International Covenant on Civil and Political Rights (ICCPR), detainees have the right to life and personal liberty and be arraigned promptly tried adequately within a reasonable period, whether or not they are freed with or without restrictions. According to the Human Rights Committee, a "reasonable duration or release" is defined as "pre-trial detention should be an exception and as short as possible," according to the Human Rights Committee. This article is extremely essential in light of the high number of people being kept in jails awaiting trial [3]. According to Article 10, "all those deprived of their liberty will be treated with humanity and respect for the inherent dignity of the human person." Article 10. The Human Rights Committee has interpreted it in its General Comment No. 21 that detained persons may not be subjected to hardship or constraint besides that resulting from the deprivation of liberty; respect for their dignity must be regarded under the same conditions as free persons. A closed environment necessitates only those limitations that can't be avoided. Unless it is a last resort and only for the shortest period, the Convention on children's Rights forbids children's cruel, inhuman, and degrading treatment. The jailed child should be treated without humanity & respect for their natural human dignity is a further requirement [5]. Specific mention is made in the International Convention on the Protection of Migrant Workers' Rights to their arrest and detention conditions. The Geneva Convention on the treatment of prisoners of war is relevant to all detainees, even though its application is limited to those held in connection with armed conflict. It is mandatory for states that have ratified the International Covenant on Civil and Political Rights (ICCPR) since its inception in 1979 to implement the covenant's provisions into domestic law and official practice. Articles 7 and 10 contain the most important regulations relating to the use of corporal punishment and the rights of detainees.

The provisions of Article 7 are as follows:

All forms of torturous treatment or punishment must be banned simultaneously. ICCPR Article 10(2) states that "all persons deprived of liberty gets treated with humanity and respect for the

inherent dignity of the person.". U.N. Human Rights Committee stated that Article 7 has no defined meaning, but rather that distinctions are based on the nature of a situation. Article 7 prohibits "corporal Punishment, particularly excessive chastisement prescribed as punishment for a crime" and "the prohibition shall apply to corporal punishment."

According to its communications method and in its final observation of the state report, Various forms of physical punishment inflicted on detainees and convicts have been judged by the UN Human Rights Committee to violate articles 7 and 10 of the Universal Declaration of Human Rights. Solitary confinement, using means of constraint like as shackles, and placing inmates on "death row" for a protracted period of time are all examples of these methods of discipline. In India, most of these are still practised regularly. *Tobago and Trinidad and Tobago vs. Patterson Matthews* The Human Rights Committee asked the state to determine whether giving 20 lashes was legal. According to Section 46(12) of the Indian Penal Code, the Jail superintendent may punish any prisoner by whipping them no more than 30 times. I think this is an apparent breach of the ICCPR's Articles 7 and 10. To ensure the jail superintendents follow a fair and equitable method for considering punishment for a prison offence, the Prison Act of 1894 and the corresponding state Jail manuals must be amended right away. Second, the use of corporal punishment should be prohibited to bring the law into line with international norms for the treatment of detainees in prisons.

Health and well-being in inmates are crucial rights. State governments have a legal commitment not to restrict or limit equal access to preventive, curative, and palliative health care services to all people, including prisoners or detainees. It is the goal of the CAT to outlaw torture in all forms. Torture of detainees is also included in this. To prevent torture, governments are obligated to keep an eye on interrogation procedures and the arrangements for the detention and treatment of those who have been arrested, detained or imprisoned under their authority. Aside from SMR, the UN's Body of Principles for the Protection of All People in Detention or Imprisonment, Basic Services for the Treatment of Prisoners, and the Code of Conduct for Law Enforcement Officials are all important standards to consider. 80 These guidelines don't constitute treaties, but they do elaborate on the clauses included in existing international agreements.

The Strictly Minimum Rules are the most well-known example of such guidelines (SMR). It is a foundational principle in prison policy and practice, dating back to the early 1900s, and is widely acknowledged for its importance and effect. The standards outlined here are the bare minimum. Preliminary observations emphasise that while prison conditions may vary due to the world's geographic, legal, social and economic contexts, efforts should be made to adhere to the strict guidelines accepted by the United Nations and advancements further than the minimum are not precluded. Both condemned and untried inmates are covered by the SMR and those who are adolescents, mentally ill, or otherwise incarcerated. Inmates must be registered, and their living quarters must meet minimum requirements for space, lighting, heat, ventilation, sanitation, hygiene, clothes, bedding, and food, exercise, and medical treatment. All of the other relevant standards are comparable to the SMR, and they just reaffirm what is stated in the SMR itself. In some cases, they focus on a specific group of convicts, such as adolescents, or on a specific issue, such as the administration of justice, or on the medical profession's participation in torturing prisoners. Imprisoned and detained persons are primarily protected by the Principles against Torture and the Principles for the Protection of All Persons Under the Form of Detention or Imprisonment against violations of their physical integrity. They provide standards for protections such as the prohibition of torture in all forms, how arrests should be made, the availability of legal support, a complaints procedure for detainees, and independent prison inspections. Members of the medical profession are prohibited from participating in acts that constitute torture, cruel and degrading punishment, or treatment by virtue of their occupation. The United Nations Rules for the Security of Juveniles Deprived of their Liberty protect juveniles as a vulnerable group of offenders. The Rules specify the basic requirements to be followed when incarcerating minors as a last option. The rights sought to be safeguarded by these Regulations apply equally to everyone. These rules ensure that adolescents' human rights are protected while focusing on activities that will help them reintegrate into society when they are released. Pre-trial incarceration of minors is discouraged, but if it is necessary, their trials should be hastened and their rights upheld. Food, lodging, and sanitary facilities are all included in the basic package. For the most part, general provisions of legal instruments are used to address the problems of prisoners. As far as detainees are concerned, no international treaty binds states to specific

commitments. States have backed the SMR and other standards, but they are simply guidelines. The UN General Assembly has adopted the majority of them.

An NGO's role:

There is a lot of room for NGOs and other non-profit organisations to get involved in the rehabilitation and treatment of criminals. According to the Mulla committee's vision, well-organized non-governmental organisations might play a role in the following ways.

- An advisory group at the national and state level could benefit from the expertise of professionals in many fields such as education and psychology, as well as law, social work, and media, in the development of disciplinary policy.
- In providing free legal aid and adult education programmes.
- Organizing health fairs and conferences
- The non-governmental organisations (NGOs) must play a larger role in raising public knowledge about jail management and the underlying problems of the various correctional systems.

Human rights and the necessity of abiding by humanitarian rules are becoming increasingly familiar concepts to the general public. Public and court attention have been called to a wide range of issues, including violence and deaths in custody, excessive imprisonment times for those subject to special laws such as TADA, COFEPOSA, and so on. Efforts by social workers and non-profit organisations to educate the public on the importance of adhering to the law's procedural requirements will help ensure that law enforcement officers are held accountable for their actions.

The judiciary has a critical role to play in ensuring that the victim is fairly compensated. The judiciary has been a pillar of social justice for centuries, and it continues to do so now. If human rights violations are not adequately addressed, the concept of social justice will remain a myth [7]. The judiciary took up arms against the exploitation and abuse of human rights of people in prison with a slew of constitutional and legislative regulations.

the right of prisoners to bodily protection under the case D.B.M Patnaik versus state of Andhra Pradesh, the Indian court has established precise rules and guidelines B) Protection against violent abuse in the case Sunil Batra vs Delhi Administration (c) Constraint on hand cutting and bar-fetters in Prem Shankarshukla vs Delhi Administration (d) On solitary in the case Sunil Batra vs Delhi Administration and other and the state of Rajasthan (e) The right to a speedy trial in the case of Hussainarakhaton and others vs Home secretary, Bihar, Patna (f) In Citizens for Democracy vs. State of Assam, the Supreme Court ruled that cutting and tying with rope the hands of patient prisoners is inhumane and a violation of human rights [8] (g) In D.K Basu vs. State of West Bengal, the Supreme Court ruled that any form of torture [4], cruel or abhorrent treatment falls within the habitability of article 21 whether it occurs all through investigation, interrogation, or any other stage of the criminal process (h) Judicial emphasis on humane treatment and safeguarding of prisoners' fundamental rights in this manner. The judiciary has been responsibly performing its job, but it still needs to be done and done well.

Article 21 outlines the rights to life and liberty of individuals:

The Indian Constitution makes no mention of a specific right for prisoners. The Supreme Court has given an expansive interpretation to the right to personal liberty. This right is available to everyone, including those who are incarcerated. A person's rights to a speedy trial, free legal representation, protection from torture, and other cruel or inhumane treatment follow them into prison [9]. When it comes to prisoners' rights in India, Article 21 is a prominent focus for litigation. It exemplifies the value of individual freedom. The Supreme Court of India has invoked this rule to safeguard some of the most fundamental rights of inmates. Because of the Maneka Gandhi saga, this item has been used to challenge the executive branch's inconsistent behaviour, particularly that of prison officials. Individuals' lives and freedoms must be taken away following a fair and reasonable process after decision was made Using Article 21 of the Constitution, India's Supreme Court has established a human rights theology to safeguard and preserve prisoner's rights and dignity [6]. Even if it has been stated that Article 21 deprivation is justifiable according to the established legal system, this method cannot be arbitrary, unfair, or irrational in any way. As part of a high-profile celebrity case, the Apex Court stated that the method cannot be arbitrary, unfair or irrational. Article 21 restricted the state's ability to take

away someone's life or liberty in certain circumstances. This was bolstered by additional evidence. No one can be deprived of his or her life or liberty until the procedure provided by the law and this process must be reasonable, fair, and just and not arbitrary, fanciful or implausible. "

Conclusion:

Prison conditions have not improved, and a considerable percentage of inmates are living in appalling conditions. In the confines of jails, their human rights are continually abused by the police. As stated in Article 21, no one, even the state, can infringe on anyone's rights in the constitution. However, there is still more to be done to reform prisons so that inmates can be treated humanely. As a result, a new and stricter law must be enacted to avoid police abuse and the violation of inmates' legal and human rights. Courts are responsible for protecting people' fundamental human rights, hence it is their holy duty to deter violations of those rights. The importance of these rights cannot be overstated. The Supreme Court has gone a long way when it comes to their rights. While this may be true, the police and prison authorities need to be adequately trained and orientated to ensure that convicts are taken seriously.

References:

1. P. Sukumar Nair, (2011). Human Rights in a Changing World. Gyan Publishing House, New Delhi.
2. S.N. Chaudhary, (2005). Human Rights and Poverty in India: Theoretical Issues and Empirical Evidences. Vol. 5, 216, Concept Publishing Company, New Delhi, 1stedn
- 3.Lalwani, D.P. (2006). Foundations of Human Rights and Role of Government. 9(1) Journal of the Institute of Human Rights 40-57.
4. Verma, S.K. and Kusum (2000). Fifty Years of the Supreme Court of India: It's Grasp and Reach. New Delhi, Oxford University Press.
5. S.N. Chaudhary, (2005). Human Rights and Poverty in India: Theoretical Issues and Empirical Evidences. Vol. 5, 216, Concept Publishing Company, New Delhi, 1stedn.

6. D. D. Basu (2015). Introduction to the Constitution of India. 22nd edition, 2015, LexisNexis Wadhwa Nagpur, ISBN 978-93-5143-446-7.
7. Shashi Motilal and Bijayalaxmi Nanda, (2010). Human Rights, Gender and Environment 113. Allied Publishers Pvt. Ltd., Mumbai.
8. P. Sukumar Nair, (2011). Human Rights in a Changing World. Gyan Publishing House, New Delhi.
9. Singh, Saket, (1994). Role of the Supreme Court towards a New Prison Jurisprudence. 6 Student Adv.