

## Human Rights of Prisoners and Prison Administration

**Dr. Mane Sachin Babruvan**

Asst. Professor

Dayanand College of Law, Latur

### Introduction: -

“**H**uman rights mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by the Courts in India, this definition has given under Section 2(d) of Protection of Human Rights Act, 1993. The Universal Declaration of Human Rights 1948 in its Article 3 also declared that "Everyone has the right of life, liberty and Security of person". Part III of the Constitution of India contains a long list of fundamental right. Fundamental rights were deemed essential to protect rights and liberties of the people. The aim of having declaration of fundamental rights is that certain elementary rights. Such as, right to life, liberty, freedom of speech, freedom of faith and so on, should be regarded as inviolable under all conditions. The Supreme Court has considerably widened the scope of Article 21 and has held that its protection will be available for safeguarding the fundamental rights of prisoners and for effecting prison reforms. Convicts are also human beings. Inhuman and barbarous treatment with prisoners is constitutionally prohibited.

### Right to Life and Prisoner: -

Right to life is one of the basic human rights. It is guaranteed to every person under Article 21, Constitution of India and not even the State has authority to violate that right. Life" in Article 21 of the Constitution has extended meaning given to the word and those citizens who are detained in prisons either as under-trials or as convicts are also entitled to the benefit of the guarantees subject to reasonable restrictions. A prisoner, be he a convict or under-trial or a detenu, does not cease to be a human being. Even when lodged in the jail, he continues to enjoy all his Fundamental Rights including the Right to life

guaranteed to him under the Constitution. On being convicted of crime and deprived of their liberty in accordance with the procedure established by law. Prisoner still retain the residue of constitutional rights.

Justice Krishna Iyer said that in recent decisions of Supreme Court, Today human rights jurisprudence in India has Constitutional Status. In 1979, India became party to the International Covenant on Civil and Political Rights. Article 10 of the International Covenant provides that "All persons deprived of their liberty shall be treated with the humanity and with respect for inherent dignity of the human persons. Article 5 of the U.N. Declaration of Human Rights, 1948 says No one shall be subjected to torture or to cruel inhuman or degrading treatment or punishment. Prison is a place where person kept in captivity as result of legal process. It is an institution for rehabilitation of offenders, and to prepare them for living a normal life. The real object of sending criminals in the prison institute is to transform them into honest and law abiding citizens by inculcating in them to offend form crime and criminality. Prisoners who confined or detained in prison is entitled to all constitutionally guaranteed rights.

### Prison Administration and Human Rights: -

Never before in its history, was prison administration in India subject to such a critical review by the higher judiciary as in the last few decades. Discarding its erstwhile "hands off" doctrine towards prisons. The Supreme Court of India came strongly in favor of judicial scrutiny and intervention whenever the rights of prisoners in detention or custody were found to have been infringed upon. In Sunil Batra v. Delhi Administration and others (1978), Mr. Justice V.R. Krishan Iyer pronounced: "prisoners have enforceable liberties, devalued may be but not demonetized; and under our basic scheme, Prison power must bow before Judge Power, if

fundamental freedoms are in jeopardy". Again in Sunil Batra v. Delhi Administration (1979), the Court asked and affirmed: "Are Prisoners' persons? Yes, of course. To answer in the negative is to convict the nation and the Constitution of dehumanization and to repudiate the world legal order, which now recognizes rights of prisoners in the International Covenant on Prisoners Rights to which our country has signed assent". In a number of judgments on various aspects of prison administration, the Supreme Court of India has laid down three broad principles.

1. A person in prison does not become a non-person.
2. A person in prison is entitled to all human rights within the limitations of imprisonment.
3. There is no justification in aggravating the suffering already inherent in the process of incarceration.

**Treatment to Prisoners and Human Rights: -**

The treatment of prisoners should be in accordance with the Constitutional mandates to secure them the basic rights. The treatment of prisoners should not be by emphasizing their exclusion from the community but their continuing part of it. The Supreme Court of India in Sunil Batra v. Delhi Administration' said that "it is imperative, as implicit in Article 21, that life or liberty shall not be kept in suspended animation or congealed into animal existence without the freshening flow of fair procedure. Fair procedure in dealing with the prisoners calls for another dimension of access of law- provision, within the easy reach of the law which limits liberty to persons who are prevented from moving out of prison gates".

Justice Chandrachud long ago spelt out that "Convicts are not by mere reason of the conviction, denuded of all the fundamental rights which they otherwise possess. The prisoner, be a convict or under trial or a detune, does not cease to be a human being, even when they lodged in the jail, mere detention is no ground for suspension of detenu's fundamental rights. Fundamental rights do not flee the persons as he enters the prison although they may suffer shrinkage necessitated by incarceration

**Rights of Prisoners:-**

The All India Committee on Jail Reforms, 1980-83 suggested rights of prisoner as under;

- a) Right to Human Dignity
- b) Right to Basic Minimum Needs
- c) Right to Communication
- d) Right to Access to Law
- e) Right against Arbitrary Prison Punishment
- f) Right to Meaningful and Gainful Employment
- g) Right to be released on the due date.

**Duty of Prison Authority: -**

The prison authority has duty to give effect to the court sentence. To give effect to the sentence means that it is illegal to exceed it and so it follows that prison official who goes beyond mere imprisonment or deprivation of locomotion and assaults or otherwise compels the doing things not covered by the Sentence acts in violation of Article 19. Punishments of rigorous imprisonment oblige the inmates to do hard labour, not harsh labour, 'Hard labour in section 53 Prisons Act' to receive a human meaning, So vindictive officer victimizing a prisoner by forcing on particularly harsh and degrading jobs violates the law's mandate. The prisoner demand soft jobs but may reasonably be assigned congenial jobs.

**Report of National Human Rights Commission- 1993-94:-**

The National Human Commission in its First Annual Report (1993-94) has expressed its deep concern about the appalling conditions of overcrowding, lack of sanitation, poor medical facilities, and inadequate diet and likes, most of the jails of the country.

**U.N. Standard Minimum Rules for Prisoner: -**

The U.N. Charter has put human Rights on a higher footing than ever before and has spawned new penological thinking on prisoner's personhood and constitutional rights. The philosophy which has informed the judiciary in this jurisdiction is what the United Nations Agency in the Standard minimum Rules has stated: "Imprisonment and other measures which result in cutting-off offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty.

**Conclusion: -**

The present conditions of Indian prison are not according to the standard set by united nation and even it is not as per constitution. If we consider of condition prison in India and treatment meted out to the prisoner inside the prison by the prison authorities, then we feel that a correctional-cum-orientation course is necessary for the prison staff for inculcating among them the Constitutional values, therapeutic approaches and tension free-management. The Prisons Act needs rehabilitation and prison Manual total overhaul even the Model Manual being out of focus with healing goals.

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