

Prison Inmates - Persons or Non-persons

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Abstract

*This paper analyzes the various significant articles of the Indian Constitution, the Indian Penal Code, judgments of the Supreme Court and High Courts, and its objectives with reference to prison concepts of equality and justice with a basic understanding of the topic of "Prison Inmates - Persons or Non-Persons." Following an introduction to prison persons or non-persons with pertinent provisions and laws, this paper discusses the right to free legal aid for prison inmates and describes some important judgments and articles of the Directive Principle of State Policy (DPSP) that discuss the right of prisoners to live with dignity. The study then explored the ways of rehabilitating offenders and the treatment of criminals in prison rehabilitation centers. This paper examines further current situations of overcrowding in prisons and analyses the data from the National Crime Record Bureau's (NCRB) Prison Statistics India 2019 Report, with reference to the case laws and International Treaties and Conventions, to determine how the subsequent legal systems work to protect human rights. Moreover, in the landmark decision *Re-Inhuman Conditions In 1382 v. State of Assam*, six rulings were issued that imposed authority and government obligation and liability for the protection of prisoners. Lastly, this paper finishes with a summary of the key topics covered and a sound takeaway message taken from the author's effort.*

Keywords: Prison, human being, rights, violation, laws, judgements

INTRODUCTION

"If people get sick, we take them to the hospital and give them the right medicine to get better. If people's behaviour is sick, we bring them to the prison, but we forget the medicines."

—Sri Sri Ravi Shankar [1]

A very high number of under-trial convicts face extended imprisonment even in small criminal issues just because they are not in a position, even in bailable crimes, to produce bail bonds and obtain freed on bail," said our former Chief Justice Adarsh Sen Anand. The Supreme Court of India recognizes criminals as human beings, and thus they have the same right to live with dignity as any other natural or legal person. The apex court has also stated that detention conditions cannot be extended to deprivation of fundamental rights, and thus Section 303 of the Indian Penal Code has been repealed.

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In comparison to today's day, the notion of jail was considerably different two centuries ago. Brutality and fury were used against a prisoner who had done some wrongdoing at the time. However, when India's Constitution went into effect, the notion of human dignity and human rights was firmly established. According to the Supreme Court, a prisoner does not cease to be a human being [2] when incarcerated and retains his basic rights, including Articles 14, 19, and 21 [3]. Article 21 of

India's constitution provides the right to life and personal liberty, and any cruelty or violation of human rights, including torture, is a breach of this fundamental human right. Article 21 states that "the legislation must be just, reasonable, and fair, and not arbitrary, whimsical, or oppressive," according to the Supreme Court in *Sunil Batra v. Delhi Administration* [4]. Otherwise, there would be no process at all, and Article 21's criteria would not be met. It would be a violation of Article 14 if it was arbitrary." Gone are the days when punishment was predicated on the principle of deterrence; currently, prisons conduct reformatory functions to reform the criminal's moral character, as well as restorative functions to help the prisoner reintegrate into society when their sentence is over. As a result, inmates in custody, whether on trial, convicted, or detained, cannot be held in handcuffs or irons, as this violates the principles of social justice and human dignity. In our country, there have been numerous cases where prisoners were never allowed to be tried, and as a result, the Supreme Court has ordered the release of all those who have been imprisoned for periods longer than the maximum term of imprisonment for which they could be sentenced if convicted of the crime charged [5]. In the end, a prisoner is a person, and restricting his human rights goes against the fundamental premise of our constitution, which mandates that all persons, including prisoners, get just fair, and reasonable treatment. Human dignity must be honored regardless of circumstances; hence the rights of prisoners are critical to the concepts of justice and equality.

OBJECTIVES

1. To find the condition of Prisons and Prison Inmates of the Country.
2. To understand the Legal protection provided by the State to the Prisoners.
3. To propose reforms to improve the conditions of prisons and inmates.

RESEARCH METHODOLOGY

The project includes doctrinal sources. In terms of doctrinal sources, the web, books, and articles are the most common.

This project will be written in a descriptive and analytical style. Various literary works from the TISS Remote library and the internet were used as a reference for writing this research paper.

SOURCES OF DATA

- *Primary Source*: Constitution of India 1950, Indian Penal Code 1860.
- *Secondary Source*: Textbooks, Websites, and Case Laws.

RIGHT TO FREE LEGAL AID TO PRISON INMATES

"This is the State's obligation, not the Government's charity," Justice Krishna Iyer once observed of the right to free legal assistance. It is the state's responsibility to give free legal help to those who are poor, destitute, or unable to pay it, or else the consequent unfairness would erode the fundamental foundations of our democracy [6]. In the fascinating case of *Sukdas* [7], the Supreme Court ruled that a person accused of a crime that may jeopardize his life or personal liberty has a basic right to free legal assistance at the state's expense. India is a varied nation, and illiteracy makes it difficult to educate people about their rights, such as the right to free legal assistance. When a prisoner is sentenced by a court and has the right to appeal, and he is unable to obtain legal representation due to indigence or illiteracy, it is the state's responsibility to provide him with free legal representation by Article 142 read with Articles 21 and 39-A of our constitution. The state's obligation to offer free legal assistance begins when the accused is first brought before the magistrate and does not end with the trial. And the magistrate or judge in front of whom the accused is initially presented is required to tell the accused that if he is unable to get legal help due to destitution or illiteracy, the state is required to give free legal assistance to the accused [8]. As mentioned in *Hussainara case* [9], providing free legal assistance to those prisoners who cannot afford it is a vital component of a just, fair, and reasonable system. It will be a breach of not only statutory and basic rights but also of the human right and dignity enshrined in our constitution if legal assistance is not provided to the poor. We cannot infringe on prisoners' right to live with dignity since the right to life includes the right to live with dignity.

PRISONS AS REFORMATIVE INSTITUTIONS

A transgression of the legally established order is referred to as a crime [10], and the penalty for the crime is referred to as a punishment. In most cases, the criminals are sentenced to jail. In today's world, jails are sometimes referred to as reformatory facilities. Inmates are supposed to acquire certain vocational crafts while serving their sentences to improve their prospects of finding work after they are freed. According to Justice Ismail, it is the State's responsibility to spend for the prisoners' rehabilitation, reformation, and re-entry into society as long as they have not been cast out of society and continue to be members of society [11], even if segregated temporarily and are expected to re-join the mainstream of society after their release. Along with the increased understanding of offenders' rights, the purposes of punishment have also changed dramatically. The legislators are working to make punishment more humane and to reduce brutality [12]. Many intellectuals support a reformatory approach to punishment, but they also acknowledge that there is no viable alternative to incarceration. As a reformer, Mahatma Gandhi believed that prisoners should receive medical care in hospitals and that jails should be converted into hospitals that would accept such patients [13]. As a result, it is thought that incarceration for a sufficient period in a healthy environment, under the supervision of qualified, competent, and sympathetic prison employees is an excellent method of rehabilitating criminals.

OVERCROWDING IN PRISONS AND SUBSEQUENT LEGAL RIGHT AND HUMAN RIGHT VIOLATION

In today's world, jail overcrowding has become a significant issue. According to the National Crime Record Bureau's (NCRB) Prison Statistics India 2019 Report, 69 percent of detainees are awaiting trial, and Indian jails are overcrowded, with an occupancy ratio of 17.3 percent overcapacity [14]. Overcrowding is mostly caused by an increase in the number of people awaiting trial, a lack of adequate housing facilities for convicts, and a lack of competent policy and execution on the side of the government. Prisoners' human and legal rights are violated as a consequence of overcrowding. The Supreme Court ruled in the **Rama Murthy case** [15] that inmates are not provided with enough food and medical treatment, are not provided with adequate housing, are not provided with free legal help, and are severely tortured by jail officials in the guise of inquiry and confessions.

In the **Shyamsunadar Triwedi case** [16], Justice V.R. Krishna Iyer said that conviction does not take away all of the convict's basic rights and that he does not cease to be a human being. Torture, incarcerated rape, molestation, insufficient food and drink, chains and bar fetters, filthy sanitary facilities, forced labor, and the lack of legal representation for inmates are all examples of human and legal rights violations. To prevent prisoner mistreatment, India's national laws should embrace international treaties such as the Universal Declaration of Human Rights (1948), the Geneva Convention (1949), the American Conventions on Human Rights (1977), and others that address prisoners' human rights. The Supreme Court said in the Joginder Kumar case [17] that how a nation behaves in criminal issues indicates its attitude toward a balanced approach between individual and community rights. To address the issue of overcrowding, a new jail should be created, outstanding cases should be resolved rapidly, and a unified parole and probation policy should be implemented.

RE-INHUMAN CONDITIONS IN 1382 V. STATE OF ASSAM

Justice RC Lahoti, the former Chief Justice of India, wrote to Justice Altamas Kabir, the then Chief Justice of India, about the alarming conditions in Indian prisons, based on an article in Dainik Bhaskar [18]. Custodial torture, custodial killings, overcrowding, and other issues were all highlighted in the case of Re-Inhuman Conditions of 1382 [19]. In his letter, Justice Lahoti specifically stated that "*The State cannot disown its liabilities towards the prisoners to ensure their safety* [20]." This letter was recognized as PIL by the Registrar of SC and subsequently, the order was delivered by Justice Lahoti and Justice RK Agarwal [21] referring to the case of *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* where the SC accepts that every prisoner has the basic human rights which should be extended to an offender on death row. This special bench upon the conclusion of this landmark case gave out these 6 decisions which thereon acts as the precedents which are as follows [22]:

- The *Under Trial Review Committee* should ensure effective implementation of the *Probation of offenders Act, 1958* and the *Code of Criminal Procedure, 1973* especially *Sections 436 and 436A*.

First-time offenders should be released so that they can reintegrate into society. The Secretary of the District Legal Services Authority will also investigate the release of under-trial prisoners accused of compoundable offences.

- The Member Secretary of the State Legal Services Authority should collaborate with the Secretary of the District DLSC to ensure that an adequate number of competent lawyers are appointed to assist under trial prisoners and convicts, particularly the poor and indigent, and to ensure that legal aid for the poor does not become poor legal aid.
- The Director-General of Police or the Inspector General of Police in charge of Prisons will ensure that funds are used properly so that prisoners' conditions are commensurate with human dignity, including health, hygiene, food, clothing, rehabilitation, and so on.
- The Ministry of Home Affairs will ensure that the Management Information System is implemented in all central, district, and women's jails for better prison and prisoner management. Furthermore, the Ministry will review the Model Prison Manual 2016 on an annual basis to ensure that it does not become another obsolete document.
- The under-trial committee will investigate the issues raised in the Model Prison Manual, 2016, and will visit jails on a regular basis.
- MHA is also tasked with developing a similar manual for juveniles detained in Observation Homes, Special Homes, or Places of Safety established under the Juvenile Justice (Care and Protection of Children) Act, 2015. Accordingly, the Secretary of, the *Ministry of Women and Child Development* issued a notice to help the MHA to prepare the Model.

CONCLUSION AND SUGGESTIONS

To sum up, simply because a person has committed a crime does not mean that he has ceased to be a human being, and as a result, he cannot be denied access to those basic rights that are accessible to everyone, even immigrants. Articles 14, 21, 39, 20, 22, and 143 of our constitution discuss the rights of prisoners in general and in detail. The right to life and personal liberty are discussed in Article 21, and the right to life encompasses the right to live with dignity and respect.

As a result, if such detainees cannot afford legal representation, they are entitled to free legal assistance from the state. The state is obligated to give legal assistance to such detainees so that their basic rights are not violated. Instead of deterrence, the emphasis nowadays is on the reformation and restoration of convicts so that they might be made suitable to live in our community. Convicts awaiting trial or detention should be given a prompt hearing and should not be detained in captivity for longer than is necessary. The convicts' human rights should be maintained, and they should be provided with enough food, housing, water, sanitary facilities, and other necessities for life.

Prisoners' rights are also outlined in the Prison Reform Act of 1894, but the key issue is ensuring that they are properly implemented for the benefit of the inmates. There are several articles for convicts, but the issue is the lack of appropriate laws. If we want to ensure that prisoners' rights are not infringed, we need to integrate suitable and effective laws, as well as appropriate fines and punishments for those who do not follow the norms that protect prisoners' human rights. In this method, prisoners' rights may be safeguarded.

The following proposals may be made based on the aforementioned conclusion:

1. Actions should be made to bring the Indian prison management system up to date, otherwise, the Criminal Law and Justice System would never function properly. The infrastructure of prisons, the circumstances and treatment of inmates, jail employee training, and improved correctional administration and management are all issues that demand immediate attention.
2. The issue of jail overcrowding may be addressed by lowering the number of under-trial convicts via faster trials in special fast-track courts, Lok Adalat's, special courts, and video conferencing trials.
3. Careful consideration should be made to ensure that prisoners are not denied their fundamental right to speak with their counsel. It should also be guaranteed that video conferencing, as

envisaged, does not obstruct this fundamental freedom in any manner. Article 39-A of the Indian Constitution establishes a fundamental right to free legal assistance, which should be fully fulfilled.

4. The resolution of appeals pending in higher courts is being delayed. This is owing to a large number of appeal cases pending, as well as a shortage of judges with the necessary qualifications. As a result, quicker appeal hearings are required, which would be doable if the number of judges in the higher court was appropriately expanded.
5. All inmates should be given a free jail guidebook in their native language to inform them of their rights and responsibilities. Prisoners should also be given proposal boxes, complaint boxes, and first aid boxes.
6. Community-based treatment programs should be expanded, and suitable money should be allocated for this purpose so that offenders can contribute to society and lower their chances of committing another crime.
7. All states should have accountability methods in place to keep track of all jails and whether or not all of the improvements are being implemented.
8. They should be given jobs, and sufficient facilities for their hygiene and other basic needs should be provided.

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