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## Prison Justice, Human Rights And Judiciary In India

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**Abstract:** *"Every Saint Has A Past; Every Sinner Has A Future" - Oscar Wilde*

*The topic of 'Prison Justice' always attracts each member of the society and particularly to a human rights activist. The international law relating to human rights and the Constitution of India are always against the violation of human rights of a prisoner. Further neither the penal nor any procedural law permits them.*

*The concept of Prisoner's Rights is not a new modern phenomenon. It is the result of the pragmatic approach of the judicial offices which have been greatly influenced by the American Prisoners' Rights Movement and certain Human Rights Conventions in the past decades. As there is no formal declaration of the any sort of rights of prisoners, the court through the process of Judicial Activism and by interpreting the prison rules broadly, have provided certain minimum protections to the prisoners.*

*This research paper will try to identify the action of the Indian judiciary in the safekeeping of the fundamental civil liberties available to prisoners and to provide basic amenities to prisoners. It will also study the prison reforms and activism of the judiciary in the advancement of the prison conditions.*

**Key Words:** Prisoner's rights, Human Rights, Prison, Prisoner, Judicial Activism, modern phenomenon.

The degree of civilization in a society can be judged by entering its prisons. A society cannot be recognized as a civilized society unless it treats the prisoners with sympathy and attention. This treatment is not possible till the society recognizes and accepts their basic human rights and fundamental rights. A prisoner, be he a convict or undertrial, does not cease to be a human being. Even when lodged in jail, he continues to enjoy all his basic human rights and 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, prisoners shall retain the residue of the constitutional rights. The Universal Declaration of Human Rights, 1948, stipulates that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

In earlier India, the situation was of near total disregard of human rights in the administration of Indian prison system. So one would have expected that the judiciary would provide a major forum for vindication of rights and amelioration of prison conditions. This has just not happened until very recently because of several factors, the socio-economic background of most Indian prisoners is a major inhibitive factor. Indeed, most litigation concerning prison conditions so far has come from political detainees rather than from prisoners awaiting trial or several sentences. Pathetic lack of legal service programs focussed on prisoners' right and grievances is another factor. The structure of legal profession in India, as well of the judiciary, is such as to encourage the view of which virtually regards prisoners as 'non-persons'. Although Indian Courts have not really developed a judicial 'hands-off' doctrine concerning the internal administration of prisons, they have in effect (until early 1977) shown a lack of appreciation and concern for conditions of detention in Indian Jails.

The prison in India should also be transformed from place of detention in a sub-human condition to a place of reformation. The reformations are possible only when basic rights are made available to such prisoners. Thus, in this work an attempt has been made to trace the contour of various rights of prisoners which have been recognised by the courts in accordance with the provisions of the Indian Constitution and other related enactment.



**ROLE OF JUDICIARY IN THE ADMINISTRATION OF PRISON JUSTICE-** Indian Judiciary, primarily Supreme Court, plays a vibrant and active role in the reformation and administration of prisons. One can say that till the eighties Indian Judiciary adopted status quo jurisprudence and showed a lack of understanding and concern in its "hand-off" approach to the functions of prisons. It was in 1974 when Apex Court came up with new prison jurisprudence. In a major breakthrough the Supreme Court in D.B.M. Patnaik's case<sup>1</sup> asserted that mere detention does not rob the convicts of all the fundamental rights enshrined in our Constitution. Supreme Court again in 1977, in Hiralal's case<sup>2</sup>, stressed on the rehabilitation of prisoners and reformation of prisons. This judicial wave continued. In Sunil Batra's case<sup>3</sup>, which is taken as a milestone in the field of prison justice and rights of the prisoners in India, Court held that "the fact that a person is legally in prison does not prevent the use of Habeas Corpus to protect his other inherent rights". In Prem Shankar Shukala's case<sup>4</sup>, the Supreme Court observed that no person shall be hand-cuffed, fettered routinely for the convenience of the custodian's escort. The Supreme Court, again in R.D. Upadhyay's case<sup>5</sup>, has held that the right to fair treatment and the right to judicial remedy are pre-requisites for the administration of prison justice.

**HUMAN RIGHTS AND PRISONERS-** In recent years, the Supreme Court of India has been particularly attentive in its enforcement of inmates' human rights. The Supreme Court has decided that the provisions of Part III of Indian Constitution shall be given the broadest possible interpretation in the instances of Maneka Gandhi, Sunil Batra, M.H. Hoskot, and Hussainara Khatoon. The Supreme Court of India has significantly expanded the scope of Article 21, ruling that it will be available to defend prisoners' fundamental rights and to implement prison reforms. The Indian Supreme Court has created Human Rights jurisprudence to preserve and protect the Right to Human Dignity of prisoners.

**PRISONERS' RIGHTS AGAINST SOLITARY CONFINEMENT-** The courts have taken a strong stance against solitary confinement, ruling that it has a very demeaning and dehumanizing effect on the convicts. The courts have ruled that it can only be imposed in rare circumstances, such as when the convict's character is so dangerous that he needs to be separated from the other inmates. Solitary confinement was upheld by the Supreme Court in the case of Sunil Batra Vs Delhi Administration<sup>6</sup>.

**PRISONERS' RIGHTS AGAINST INHUMANE TREATMENT-** In the case of D.K. Basu<sup>7</sup>, the Supreme Court of India has taken serious note of inhumane treatment of inmates and has issued appropriate directives to jail and police officials to protect the rights of inmates and people in police custody.

**CONSTITUTIONAL RIGHTS OF THE PRISONER'S-** While the Supreme Court of India is deliberating with state and central governments on how to improve the inhumane conditions of prisoners in Indian prisons, which are primarily due to overcrowding, a lack of training, officers, infrastructural facilities and the treatment of prisoners in India is grim and secretly violates fundamental and statutory rights of an individual. To remedy the situation, various essential rights of prisoners are protected under Articles 14, 19, 20, 21, and 22 of the Indian Constitution. Article 14 deals with the right to equality, which guarantees all people equality before the law and equal protection under the law. The right to life and personal liberty are addressed in Article 21. Article 20 addresses two issues: first, it prevents double jeopardy, Second, it forbids self-incrimination, meaning that no one can be forced to testify against himself. Article 22 mandates that a person be brought before a magistrate within 24 hours after his arrest and be given counsel of his choosing. All rights, including the right to health, right to food, right to a speedy trial, right to shelter, right to bail, right against custodial violence and death in police lock-ups or encounters, right to free legal aid, right to see friends and family members, right to a reasonable wage in prison and right against cruel and unusual punishment are included in the scope of Article 21.

The Supreme Court concluded in the case of State of Andhra Pradesh Vs Challa Ramkrishna Reddy<sup>8</sup> that a prisoner is entitled to all fundamental rights unless the constitution restricts them.



In *Kharak Singh Vs State of U.P.*<sup>9</sup>, the Supreme Court elucidated on the connotation of the word 'life' under Article 21. The resistance to its deprivation spreads to all of the limbs and faculties that allows life enjoyment. The rule also prohibits the mutilation of an arm or leg, the removal of an eye or the destruction of any other part of the body through which the soul communicates with the outside world.

In the case of *A.K. Gopalan Vs State of Madras*<sup>10</sup>, where the petitioner was detained at Madras Jail under the Preventive Detention Act, 1950, and held that it did not violate article 21 because it was done according to "process established by law". In the case of *ADM Jabalpur Vs Shiv Kant Shukla*<sup>11</sup>, the Supreme Court stated that the scope of life and liberty is suspended during an emergency.

However, in the landmark decision of *Maneka Gandhi Vs Union of India*<sup>12</sup>, the Supreme Court expanded the definition of 'life' under Article 12 and concluded that any state procedure must be equitable and reasonable. This case paved the way for the development of prisoner's rights and the creation of Article 21 by the courts, which contained every basic human right necessary for living.

In *Pramod Kumar Saxena Vs Union of India and Others*<sup>13</sup>, the Supreme Court ruled that the petitioner should be released on bail so that he can arrange for the settlement of the debt and defend himself against the charges filed against him.

The Indian Supreme Court reviewed the breadth of a prisoner's or detainee's right to have interviews with family, friends and counsel. In *Dharmbir Vs State of Uttar Pradesh*<sup>14</sup>, the court ordered the state government to enable family members to see the convicts and to allow the inmates to visit their relatives under guarded conditions at least once a year.

The Court stated in *Jogindar Kumar Vs State of Uttar Pradesh*<sup>15</sup> that the scope of Human Rights is expanding as the crime rate is also rising, and that the court has been hearing complaints regarding Human Rights violations due to indiscriminate arrests. The court also stated that everyone has the right to be informed.

Now we can say that Indian Judiciary has played an imperative role in developing the concept of legal aid and also widened its scope to give fair justice to the prisoners. In the case of "*M. Hayawadanrao Hoskot Vs. State of Maharashtra*<sup>16</sup>, the Court held that the 'Right to Legal Aid' is one of the components of the procedure.

**CONCLUSION-** To ensure good discipline and administration, an initial classification must be made to separate male from females, the young from the adults, convicted from the unconvinced prisoners, civil from criminal prisoners and from casual from habitual prisoners. The main object of prison labour is prevention of crime and reformation of the offenders. And the other main object was to engage them so as to prevent mental damage and to enable them to contribute to the cost of their maintenance. The undertrial prisoners constitute a majority of population in prison than convicted prisoners. The undertrial prisoners are presumed to be innocent and most of them are discharged or acquitted after immeasurable physical and mental loss caused to them by detention due to delay in investigation and trial.

When people are imprisoned, they do not lose their humanity. The Supreme Court of India, as well as many other Indian courts, have reaffirmed this position in a number of cases to ensure that prisoners do not become victims.

And they're put in a good rehabilitation setting to help them grow and become better people. The federal and state governments must not only provide acceptable living circumstances for prisoners, but also teach them about their rights so that they are not violated by the powerful inside the prison.

When the legislative and executive branches of government make mistakes, the country's court can be claimed to have played a critical role in protecting the rights of inmates. It has repeatedly acted as a saviour for prisoners, upholding their fundamental rights. It has vigorously exercised its authority through judicial activism, and it has repeatedly invented new remedies and measures to preserve prisoner's human rights.



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