

Safeguarding Prisoners' Rights in India: Constitutional Perspective

Navdeep Kadian

Advocate, Bar Council of Punjab & Haryana,
Enrolment No. PH/4916/2019, Central University of Haryana, Mahendragarh

Abstract:

There are certain inalienable rights which are inherited to the human beings since birth no matter in which country he/she takes birth. These inalienable rights are regarded as the basic human rights of the human beings which include the right to food, shelter, water, defense and protection from torture, violence and so on. In India, these basic human rights are granted to the citizens of the nation in the form of Fundamental Rights and the Directive Principles of State Policy as provided under Part III and Part IV. There are three pillars on which the criminal justice system stands upright- the judiciary, police and the prison population. The paper focuses on the basic human rights of the prisoners, how their rights are abused as well as the remedies provided to them for the violation of their inalienable rights. Both in India and at the global level, protections are provided to the rights of the prisoners and it is ensured that no matter what crime they did, just and humane treatment and certain other human rights must never be taken away from them. Although the prisoners are unwanted elements of the society, yet the protection of their basic human rights is a constitutional duty. Safe environment and way of living is what every human being has a right to have.

Keywords: Inalienable rights, human rights, Constitution of India, fundamental rights, criminal justice system.

INTRODUCTION

The basic human rights remain with a person even if he is put behind bars. The rights of the prisoners are an important issue which must be given notice to. Even though prisoners are also the human beings, they are not given equal treatment in similar manner. The Apex Court of India also raised an issue with respect to the rights of the prisoners in its judgment. Prisoners in India are treated cruelly as they are given improper treatment, their health is not taken care of, they are not given proper medical treatment, they are tortured in prisons, there is no clean environment. Indian prisoners are treated cruelly. Poor treatment, multiple fire hazards, subpar food, subpar health and medical facilities, non-operational restrooms, subpar cleanliness, torture while in prison, fatalities, etc. are just a few examples of these cruel situations. The prison administration's inadequate governance results in abuses of prisoners' basic and human rights. It is necessary to enhance the administration of justice and practically apply reformatory theory. The provision of criminal justice includes incarceration in large part. It is a location where the accused or inmates are segregated, making them the target of prejudice with regard to certain privileges that belong to the community's elite but are not available to the accused who are from the underprivileged portion of society.

MEANING OF THE WORD “PRISONER”

A person, who is restrained, imprisoned, or held in custody pursuant to a court order because of breaking a law, is referred to as a prisoner. A person may be imprisoned during a trial until his or her innocence is established or may be there to complete a sentence. Anybody who is denied their freedom against their will is a prisoner, also known as an inmate. By using restraint or imprisonment with force, this freedom may be taken away. In particular, we can say that anyone who has broken a state law and has been found guilty of the crime or is currently awaiting trial for the crime would be kept in custody in a facility known as a jail or prison where they are detained and are referred to as inmates. Hence, as per the legislation, a prisoner is defined as "any individual for the time being in a jail as a result of any necessity imposed by a court or otherwise that he be detained in legal custody"¹

INHERENT RIGHTS OF PRISONERS

If a person is found guilty, it does not mean that he is no longer a human being. He should be treated equally as a human being as all people are endowed with inherent human rights as well as essential liberties guaranteed by Constitution of India. Although a prisoner's ability to roam freely is limited because of other limits on his freedom, basic rights like the right to nourishment and the right to equality are nevertheless guaranteed and inherent to them since birth. Prisoners are given certain fundamental rights by the Constitution of India, which cannot be revoked. They have the option to file a case against the breach of their rights in any court of law whether in the High court or Apex court, whenever their rights are violated. These rights include both constitutional and human rights. Thus, these inherent rights continue with a person till his/her entire life.

PROTECTION OF PRISONERS RIGHTS AT GLOBAL LEVEL

As per UN Charter, it includes a number of rights intended to ameliorate prisoner conditions, protect them from cruel treatment, and enable humane treatment for them. These guidelines are as follows:-

1. Prisoners must be treated with respect and considered as valuable human beings, which means they must be treated just like other people.
2. There should be no distinction of any form based on a person's race, sex, gender, color, religion, language, political nation, or birth place.
3. While it becomes essential to support inmates' welfare and development in order to reform them, prisoners should be held in prison until they have served entirety of their legally mandated sentence.
4. All convicts must have access to human rights and fundamental freedoms outlined in UDHR, ICESCR, ICCPR, and other UN Covenants.

PROTECTION OF PRISONERS RIGHTS IN INDIA: CONSTITUTIONAL PERSPECTIVE

Fundamental rights are the core rights of Human being. Likewise prisoners are also entitled to these rights. It was stated by Apex Court that “Imprisonment does not create a spell to waive off the

¹ Prison Security Act, 1992, s. 1.

fundamental rights”. The court also declared that fundamental rights are enforceable in the case of Prisoners as well their rights are not restricted by their imprisonment.

Prisoners have access to the fundamental rights outlined in Part III of the Constitution of India since they are considered as individuals when they are incarcerated. In addition to introducing the idea of reasonable classification under the concept of Rule of Law, it considers the idea that like should be treated similarly.² The basis for classifying prisoners into different groups with the goal of rehabilitation is provided by the Constitution of India for prison officials. There are six liberties guaranteed by the Constitution of India to all citizens equally, albeit some of them are not available to prisoners. These are freedom of movement³, freedom to live and work anywhere, and freedom to practice any profession of one’s choice⁴. Nonetheless, the convicts also benefit from other privileges granted within the same. In addition, the Constitution also contains a number of provisions that, while they cannot quite be referred to constitute prisoner rights, may nonetheless be important.

Another provision under Part III provides for protection from the ex post facto laws wherein, a prisoner is protected from being subjected to any punishment or conditions of punishment (including imprisonment) that were not permitted by law at the time he committed alleged act and for which he was found guilty and sentenced following the trial than was permitted by law.⁵ In other words, no harsh labor conditions can be established against someone who committed the offence for which they were imposed but were not required to do so under the law at the time.

The nemo debet rule of common law states that no person should be subjected to risk of doing the same offence twice, or vis veari. The earlier prosecution and punishment for the same offence may serve as a complete defense in the subsequent prosecution and punishment.⁶

Another fundamental right provides that no one may be may be deprived of their life or personal freedom other than in accordance with legal procedures. In case of granting bail to a prisoner, refusal to post bail would be a violation of fundamental right to personal liberty, which might be restored in accordance with the legal process.⁷ Other rights include following rights- to a quick trial, to appeal and free legal representation, against use of handcuffs and bar fetters, to publish book, against violence while in custody, freedom to leave, no legal right to elude arrest, firmly opposed to inhumane treatment, firmly opposed to solitary confinement and so on.

The Constitution of India provides that the State must ensure that functioning of the legal system promotes justice on the basis of equal opportunity and, in particular, must provide free legal aid through appropriate legislation or programs or in any other way to ensure that no citizen is denied the opportunity to secure justice due to their financial situation or another disability.⁸

² The Constitution of India, art. 14.

³ The Constitution of India, art. 19(1) (d).

⁴ The Constitution of India, art. 19 (1) (g).

⁵ The Constitution of India, art. 20(1).

⁶ The Constitution of India, art. 20(2).

⁷ The Constitution of India, art. 21 .

⁸ The Constitution of India, art. 39(a).

The State is also required to guarantee a judicial system that advances justice based on equal opportunity for all. To provide legal assistance programming across the nation with a statutory foundation that followed a set pattern, the Legal Services Authority Act (the Act) was passed in 1987. The Act was eventually put into effect on November 9th, 1995. Legal assistance programmes work to guarantee that Constitution's promises are upheld in law and spirit and weaker, poorer, and more oppressed segments of society have access to equal justice. The National Legal Literacy Mission was introduced on March 6, 2005, to symbolize transition from "ignorance" to "legal empowerment". NLLM is project in which three wings of governance—the Legislature, the Judiciary, and the Executive—have joined forces to reach out to the most marginalized and vulnerable sections of our society and inform them of their rights, as Chief Justice Lahoti (as he was then) noted in his speech on the occasion..

In order to provide effective legal assistance and achieve goal of "Access to Justice for all," legal aid goes beyond simply representing clients in court disputes. It also includes promoting legal literacy and legal awareness. The goal is to raise knowledge of legal rights and legal aid programs so that the targeted populations, for whom the Legal Services Authorities Act has provided free legal assistance, will become aware of them and contact the relevant legal services professionals.

PROTECTION OF PRISONERS RIGHTS: ROLE OF INDIAN JUDICIARY

Judiciary plays a crucial role to determine that inherent rights of the prisoners can never be taken away from them. Following are the judgments where in the judiciary has emphasized on the rights of the prisoners which are protected.

- In a relevant judgment, the Court ruled that when such a person is found guilty of a crime, this does not render him a non-person; his rights are still connected to him and cannot be taken away by anyone, including jail administration. Prisoners sentenced to civil death are no longer regarded as slaves of country, and committing offence and going through incarceration doesn't automatically preclude someone from being a person.⁹
- According to court, the prisoners' rights under Constitution of India are restricted but cannot be unchanging. According to Rule of Law provision, all convicts must be treated equally and it also discusses equal protection under law on Indian soil. Although there may be a fair classification of convicts, there shouldn't be any type of prejudice against them.¹⁰
- The court ruled that prisoners have right to a speedy trial, which covers all stages of the legal process—*inquiry, trial, appeal, and revision*. On the grounds that accused did not request it, the right cannot be denied to him. Legal Assistance is also his right, if the accused cannot afford to hire a lawyer to represent him, it is the state's duty to do so. The state must also keep him informed at every stage of the case as it proceeds through the court system.¹¹
- The judge ruled that the Constitution guarantees everyone the right to a dignified life. This idea contends that each person has the right to a dignified existence and that every person's life is valuable.¹²

⁹ DBM Patnaik v. State of Andhra Pradesh, (1975) 3 SCC 185

¹⁰ Charles Shobraj v. Superintendent, AIR 1978 SC 1675.

¹¹ AR Antulay v. RS Nayak 1988, AIR 1988 SCR.

¹² Kharak Singh v. State of U.P., AIR 1964 SCR 1

- The court determined that everyone should have access to essential human rights, including right to medical care and instructed jail administration to offer inmates afflicted with any illness, required physical and mental health care facilities. Every prisoner has the right to a quick trial regardless of the crime they are accused of committing in order to receive justice. Justice should not be delayed since a delayed justice is a justice denied. The prisoners should be given a prompt trial.¹³
- According to court, relevant provisions of Constitution of India underline that the government of the nation has a responsibility to offer legal aid and legal services to the accused.¹⁴ Prisoners have the right to be free from solitary confinement, which is a type of imprisonment in which the offender is housed in a distinct cell under close observation.¹⁵
- The court ruled that prisoners cannot be treated inmates like animals. They are also people, hence, cannot be subjected to degrading or offensive act against nature. It's illegal to do this. Other rights that apply to prisoners include right to privacy, the prohibition against cruel or inhuman treatment, the right to education, right to receive books, right to freedom of expression, etc.¹⁶
- Apex Court decided against request for transfer of case in progress. The court agreed that the prisoner's request for a court not granted by statute was valid.¹⁷
- Apex Court ruled that state should offer free legal representation to accused if they are unable to do it on their own.¹⁸
- Apex Court ruled that state should offer free legal representation to accused if they are unable to do it on their own.¹⁹

CONCLUSION

The Constitution of India established a democratic welfare state with equal opportunities for everyone, without any kind of discrimination, to advance personally and further the interests of the country. A major goal of the Constitution is to create necessary infrastructure in jails to ensure that those detained there receive prompt and effective legal assistance, are made aware of their rights, including the important Right to Life and Liberty guaranteed by Indian Constitution, and have access to means, necessary to defend those rights. Prisoners have all rights which are granted by International law as well as Indian constitution only some rights are subject to the restriction as they are prisoners. They cannot enjoy each and every right but that does not mean they should be ill-treated. They have laws regarding their rights, safety and everything. Universal declarations are there to support them and provide them an environment which is safe and healthy for them. Although in general there are applicability of these rules and laws is mere in numbers but in India the execution authorities are keeping their eye on this and definitely after a time it will become more progressive.

¹³ *Rasikbhai Ram Singh Rana v. State of Gujarat*, (1998) CriLJ 1347.

¹⁴ The Constitution of India, arts. 21, 39A, 142.

¹⁵ *Madhav Hayawadanaro Hoskot v. State of Maharashtra*, (1978) 3 SCC 544.

¹⁶ *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 409.

¹⁷ *Kalyan Chandra Sarkar v. Rajesh Ranjan and Pappu Yadav*, (2005) 3 SCC 284.

¹⁸ *M.H. Hoskat v. State of Maharashtra*, AIR 1987 SC 1548.

¹⁹ *Sheela Barse v. State of Maharashtra*, AIR 1983 SC 378.