

PRISONERS RIGHTS UNDER INDIAN CONSTITUTION

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Abstract

Criminals are found every system of the world and therefore there is no any crimes free Country in the world. The prison system was developed in all the societies throughout the globe, and to check the system and reduce the rate of crime. Indian prison system is not much developed because the traditions, culture and the poor economic conditions have prevented the jail administration to evolve the better models of prison management. The condition of prisoners in India is very bad. In India management, administration and treatment of prisoners have been much depends on old Prison Act 1894 and also in various other national and international provisions. Though, various committees have worked upon prison reforms along with prison manuals which include the executive instructions issued by the Inspector General of Prisons from time to time for the guidance of prison personnel. The Constitution of India also provides any provisions with respect to prison system and inmates, but there are drastic violations of human rights of prisoners in India. Indian Judiciary like every country has an obligation and a Constitutional role to protect Human Rights of citizens. As per the mandate of the Constitution of India, this function is assigned to the superior judiciary namely the Supreme Court of India and High courts.

In the light of above theme this article presents problems of prisoners and constitutional provisions judicial trends and reports of various committees for the protection of the rights of prisoners in India.

Key Words: *Prison, Constitution, Human Rights, Judiciary etc.*

INTRODUCTION

The prison in a civilized society provides human conditions for its prisoners and treats the prisoners with kindness and affection, and until the society recognizes and accepts their basic human rights and the fundamental rights. A prisoner does not cease to be a human being, though he be a convicted or under trial or a detainee. A prisoner persists to enjoy all his basic human rights and fundamental rights including the right to life guaranteed to him under the Constitution even when lodged in jail. Prisoners shall retain the residue of the constitutional rights, also on being convicted of crime and deprived of their liberty in accordance with the procedure established by law.

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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”. Similarly, Article 21 of the Constitution of India, which recognizes that the right to life includes a right to live with human dignity and not mere animal existence, strengthens this mandate. Thus, the atmosphere of a prison can be accepted as civilized if it recognizes the basic human rights and the constitutional rights of the prisoners and makes efforts for the effective and meaningful enjoyment of the same.

Indian Constitution does not guarantee prisoner’s rights specially, but certain rights are given under Part-III of the Constitution, which are available to the prisoners also, because a prisoner remains a ‘person’ in the prison. Now a prominent question arises, at this point of juncture that, who is prisoner? Answer is: a person who is deprived of his personal liberty, due to the conviction of a crime is a “prisoner”, and imprisonment is the most common method of punishment provided by all legal systems. Imprisonment makes the prisoner apologize about his past conduct. The Judiciary protects the rights of prisoners and recognizes their rights. They are protected from torture and solitary confinement etc. The Constitution and certain statutes provide certain rights to the prisoners. These statutes are: Prisoners Act, 1900; Prisoners (Attendance in Courts) Act, 1955; the Prison Act, 1894 etc. The Prison and Police Manuals also have certain rules and safeguards for the prisoners, and it provides an obligation on the prison authorities to follow these rules.¹ Article 1 of the Universal Declaration of Human Rights provides that, “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience, and should act towards one other in a spirit of brotherhood.”

The Article 21 of Indian Constitution clearly protects the life and personal liberty and provides that, “No person shall be deprived of his life or personal liberty except according to procedure established by law”². A person cannot be denied fundamental rights available to every human being under the Constitution of India, though he/she is a prisoner in the eyes of law and the public.

¹ Aiswarya T., Rights of Prisoners- A Myth Or Reality? Available at <http://www.answerlglaw.com/php/displayContent.php?linkId=1070> [last accessed on: 20/10/2019].

² Article 21 of the Constitution of India.

The Indian Apex Court, by inferring Article 21 has developed human rights jurisprudence for the preservation and protection of prisoner's right to human dignity. Emphasizing the significance of human dignity the Supreme Court in *People's Union of Democratic Rights v. Union of India*³, observed that the right of life guaranteed under Article 21 is not confined merely to physical existence or to the use of any faculty or limb through which life is enjoyed, it also includes within its scope and ambit the right to live with basic human dignity and the state cannot deprive any one of this important and priceless right without just, fair and reasonable procedure established by law. However, convicts by mere reason of their conviction are deprived of some of their fundamental rights such as right to move freely throughout the territory of India or the right to practice a profession. It was observed in *Sunil Batra v. Delhi Administration*⁴ that the prisoners are not wholly denuded of their fundamental rights. They are entitled to all the constitutional rights unless their liberty has been constitutionally curtailed. Though the prisoner's liberty is in the very nature of the thing circumscribed by the very fact of his confinement, his interest in the limited liberty left to him is then all the more important. The conviction for a crime does not reduce the person into a citizen whose rights are subject to the whim of the prison administration and, therefore, the imposition of any major punishment within the prison system is condition upon the observance of procedural safeguards.

Evolution of Prisoner's Rights:

Lord Macaulay⁵ stand for the deterrent and retributive theory of punishment (like whipping, solitary confinement and death penalty), while Mahatma Gandhi⁶, represented the humanist compassionate and correctional policy as the only process to civilized justice. Gandhi Ji considered that the aim of imprisonment is to restore the imprisoned person to ordinary standards of citizenship. Till very recently, a person convicted of some crime was considered to be legally dead. The conditions of imprisonment and every aspect of institutional life were left on the unregulated discretion of the prison administrators.

³ AIR 1982 SC 1473.

⁴ AIR 1978 SC 1675

⁵ the author of IPC.

⁶ the Father of Indian Nation.

American Courts were hesitant to recognize the existence of prisoner's right in earlier times which contributed to the dehumanizing conditions in the prison. Judicial interference has changed the prison conditions by restricting the abuses of discretionary powers by correctional authorities, and it established a belief that inmates have a place in the society. Even though there are various benefits of the concept of prisoner's rights, there are factors which have prevented its growth and expansion. The courts were disinclined in introducing modification to the correctional process as the Judges felt that they were lacking the expertise necessity to run a prison. The courts cited the doctrine of separation of powers, which made the responsibility of the penal system on the executive and legislative branches of the government. There are various judicial pronouncements made by the US Supreme Court. In the decision made in *Lanza v New York*⁷, the court held that right of privacy to a certain extent is deprived to the prisoner while he is inside the prison. Prison security necessitates extreme restrictions on personal property. A convicted prisoner also retains certain other constitutional rights, but they do not lose all civil rights, though; they are deprived of various rights. In case of *Bounds v Smith*⁸, the Supreme Court held that the prisoners have a constitutional right of access to the courts. This right of access includes right to legal assistance.

In *Bell v Wolfish*⁹ the US Supreme court recognized the right of privacy as a fundamental right. In the American Law, the person's rights are supreme and it could be only taken away by the due process of law. If a person has been sentenced to imprisonment for more than one year, he/she is disqualified for the membership of the House of Commons while serving the sentence.

There was presumption that, when an offender is convicted then he will be deprived of all his rights and also, the prisoner was under the mercy of correctional administrators. But this view was later changed by the development of prisoner's rights. In the earlier centuries there was no authority by the court to interfere with the regulations of punishments imposed upon a person. The prisoner gradually lost his civil rights too. But at present, a sentence of imprisonment does not extinguish all of his rights. The only disability to a convicted person is that he is denied his right to vote for the duration of his sentence.

⁷ 370 U.S. 139 (1962).

⁸ 430 U.S. 817 (1977).

⁹ 441 U.S. 520 (1979).

If a prisoner suffers any injuries due to the other prisoners in the prison, as a result of breach of prison rules, the prisoner was not entitled to sue for damages, in earlier years. But in present time this condition has changed, and now it is a legal duty of the government to take reasonable care for the safety of the prisoners, otherwise the prison authorities would be held liable *i.e.* the prison authorities have a duty to protect the interest of the prisoners in accordance to the prison rules. In 1895, Gladstone Committee recommended the need for better after care of discharged prisoners. The Assembly of the League of Nations stressed on the aspect of re-adaptation of offenders as a means of reclamation in Europe. The UN Charter had given emphasis on prisoner's personhood and their rights.

After the World War II, Standard Minimum Rules were drafted regarding the treatment of prisoners. The General Assembly of United Nations in 1948 had adopted a Universal Declaration of Human Rights, in which, the basic principles of law which have to be applied by the courts in the process of administration of justice are provided. This includes right to life, liberty and security of person, equality of treatment and the freedom from torture, cruel, inhuman or degrading treatment. The UN General Assembly had also adopted "The Declaration of Protection from Torture" in 1975. Amnesty International has adopted certain standard rules for the treatment of prisoners in the year of 1955. Certain basic principles of law of the amnesty international are followed by most of the democratic countries. Some of the important feature of it is for the segregation of prisoners on the basis of sex, age, nature of punishment and gravity of the offence committed. It also predestined the punishment like solitary confinement which was earlier used by the prison authorities, which help for the social rehabilitation and after care programmes of the prisoners.

Antecedents of Prisoners' Rights in India:

The needs for reforms in the prisoners' rights and conditions can be traced back to the year 1835, when Lord Macaulay had exposed the terrible conditions in the Indian prisons and emphasized the need for making imprisonment a dissuading element for the prisoners so that the acts of violence could be avoided. After Macaulay's effort several efforts have been taken up through various laws, e.g. the Prison Act 1894, the Prisoners Act, 1900, the Transfer of Prisoners Act,

1950, and the Prisoners (Attendance in Courts) Act - 1955. 10 The Prison Act of 1894 provides a brief outline of the functioning of the prison administration, which was followed by many other Acts to be used for the prison management. The Prisoner's Act of 1900 merged all the laws made by the court through its orders into an act.¹¹ The Transfer of Prisoners Act, 1950 deals with the transfer of prisoners from one prison to another and the Prisoners (Attendance in Courts) Act of 1955 was passed for simplifying the process of securing attendance of prisoners in courts. In the act, Part IX of the Prisoners Act is repealed and modified. Despite of these Acts there are many other Acts dealing with the rights of prisoners e.g. U.P. Jail Manual, U.P. Security Prisoners Rules, 1972, U.P. Prisoners' Release on Probation Act, 1938, U.P. Prisoners' Release on Probation Rules, Transfer of Prisoners Act, 1950, U.P. National Security Prisoner (Conditions of Detention) Order, 1980, Identification of Prisoners Act, 1920, U.P. Jail Nursing Services Rules, 1982.

In spite of these laws, the Indian judiciary has extended Article 21 of the Constitution with respect to the rights of prisoners to develop it into a more successful and complete article.

Rights of Prisoners under Article 21:

Right to life and personal liberty under Article 21 has larger connotations. For prisoners it not merely provides freedom from physical torture and it's something more than that. Even prisoners who are deprived from their certain rights and liberties still possess certain rights. Ultimately Prisoner's are human beings and their rights shall be protected by the jail authority.

In the case of *Sunil Batra v. Delhi Administration (I)*¹² the practice of keeping under trials with convicts in jail was regarded by the Supreme Court as inhuman. The Court held that it offended the test of reasonableness of Article 19 and fairness of Article 21. In *Shobraj case*¹³ the punishment of solitary confinement was regarded as violative of Article 21 of the Constitution. The Court also observed that bar-fetters make a serious inroad on the limited personal liberty which a prisoner is left with and therefore before such erosion can be justified it must have the

¹⁰ <http://www.preservearticles.com/201107058871/essay-on-prisons-and-prison-reforms-in-india.html> [last accessed on: 16/11/2019].

¹¹ <http://www.scribd.com/doc/21248655/Prison-Acts-Old-New-India> [last accessed on: 17/11/2019].

¹² AIR 1978 SC 1675.

¹³ *Charles Sobhraj v. Superintendent, Tihar Jail*, 1978 AIR 1514, 1979 SCR (1) 512.

authority of law. In furtherance to this case in *Sunil Batra v Delhi Administration (II)*¹⁴, more of Prison reforms were set out by the Judges as guidelines. Another example of judiciary stepping into was the notorious case of *Maneka Gandhi v. Union of India*¹⁵ whose principle was extended in a case pertaining to prison conditions predominantly the under-trial prisoners. Through this case the Supreme Court had directed the Bihar Government and the Patna High Court to furnish to the Supreme Court details of criminal cases pending in Bihar and their year wise breakup. The Supreme Court subsequently directed the release of such under-trials who were in detention for a disproportionately lengthy period.

Any fundamental rights of a prisoner cannot be abridged unless his liberty has been constitutionally curtailed. In *State of Maharashtra vs. Prabhakar Pandurang*¹⁶, where the detained person wrote a book and wanted to send it for publication, but he was denied of such a right by the authorities, it was held by the court to be unconstitutional and the court held that the personal liberty included the right to write a book and get it published and when this right was exercised by a detainee, its denial without the authority of law violated Article 21.

Article 21 impliedly provides the rights to the prisoners. Prisoners have following rights while serving their sentence as explored by judiciary through case laws:

- In *State of Maharashtra v. Prabhakar*, help of Article 21 was made available perhaps for the first time to a prisoner while dealing with the question of his right of reading and writing books while in jail.
- *Suresh Chandra vs. State of Gujarat*¹⁷, the court stating about penological innovation in the shape of parole to check recidivism because of which liberal use of the same was recommended.
- In the case of *Bhutan Mohan Pattnaik v. State of Andhra Pradesh*¹⁸ challenge was made to the segregation of prisoners and a three Judge bench stated that resort to oppressive measures to curb political beliefs (the prisoner was a *Naxalite* because of which he was put in a 'quarantine' and subjected to inhuman treatment) could not be

¹⁴ AIR 1980 SC 1579.

¹⁵ AIR 1978 SC 597.

¹⁶ AIR 1966 SC 424.

¹⁷ AIR 1976 (1) SCC 654.

¹⁸ AIR 1974 SC 2092.

permitted. The Court, however, opined that a prisoner could not complain of installation of high-volt live wire mechanism on the jail walls to prevent escape from prisons, as no prisoner had fundamental right to escape from lawful custody.

- In *Charles Sobraj v. Supdt. Central Jail*¹⁹, there was complaint was against incarcerator torture. It was stated that this Court would intervene even in prison administration when constitutional rights or statutory prescriptions are transgressed to the injury of a prisoner.
- In that case the *Sunil Batra(I)*²⁰ in this case there was a question whether prisoners are entitled to all constitutional rights, apart from fundamental rights. In that case this Court was called upon to decide as to when solitary confinement could be imposed on a prisoner.
- In *Prem Shankar v. Delhi Administration*²¹ case prohibited putting off under trial prisoners in leg-irons.
- In *Sunil Batra (II)*²² the Court while dealing with prison vices, protected the prisoners from these vices with the shield of Article 21, *Krishna Iyer. J.* stated, “Prisons are built with the stones of law”.
- A challenge was made to a prison rule which permitted only one interview in a month with the members of the family or legal advisor in *Francis Coralie v. Union Territory of Delhi*²³ and the rule was held violative, inter alia, of Article 21.
- In *Sheela Barse v. Union Territory*²⁴ it was held that jailing of non-criminal mentally ill persons is unconstitutional and directions were given to stop confinement of such persons.
- In the case of *Mohd. Giasuddin v. State of A.P*²⁵, it was held that, the judicial work done by this Court on the subject at hand would not be complete without mentioning what was held because in that case reformatory aspect was emphasized by stating that the State has to rehabilitate rather than to avenge. *Krishna Iyer, J.* pointed out that the sub-culture that

¹⁹ (1978)4 SCC104.

²⁰ (1978)4 SCC 494.

²¹ AIR 1980 SC 1535.

²² (1980)3 SCC 488.

²³ AIR 1981 SC 746.

²⁴ 1993 (4) SCC 204.

²⁵ (1977) 3 SCC 287.

leads to anti social behaviour has to be countered not by undue cruelty but by re-culturalisation.

- Most importantly amongst all, there is the undoubted right of speedy trial of under trial prisoners. It consists of ordering for release on bail where trial is protracted. In *Supreme Court Legal Aid Committee representing under trial Prisoners v. Union of India*²⁶, the court directed for the release of those under trial prisoners who were languishing in jail for period exceeding half of the punishment provided for the offence.

Problems of the Prisoners:

The literature on prison reform and various reports shows that there are many problems of the prisoners in prison which are: overcrowding, delay in trial, torture and ill-treatment, neglect of health and sanitation, weak food and inadequate clothing, prison vices, deficiency in communication, streamlining of jail visits; and management of open-air prisons etc.

Reports of Committees for the Protection of Prisoners' Rights:

Various committees have been set up time to time to seek protection of prisoners' rights in India. The first Committee on Prison Reforms was appointed in 1836, with Lord Macaulay as one of its members. The next committee was appointed in 1864. In the year of 1877, there was a conference of experts to enquire in the administration in prison. Again in the year of 1888-89, another committee was appointed to examine jail administration. On basis of this report, Prisons Act 1894 and Prisoners Act 1900 were passed. The Indian Jails Committee examined conditions of prisons in India as well as in other countries.

- In 1956, the Government of India set up the *All India Jail Manual Committee*. The committee prepared the Model Prison rules in 1959 for the guidance of the State Governments.
- In 1977, *Ismail Committee*²⁷ in its report submitted the allegations of ill treatment and beating. This committee made suggestions for prison reforms and rights of the prisoners.

²⁶ 1994(6) SCC 731.

²⁷ constituted by the Tamil Nadu Government.

According to Justice Ismail, it is the duty of the state to spend for the rehabilitation and reformation of prisoners and making them to re-enter into the mainstream of the society.

- In 1979, *the Tamil Nadu Prison Reforms Commission* was constituted which suggested that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity and rights of human persons. The Committee had made some progressive suggestions for women prisoners and also suggested that short term prisoners should be given wages for their work. This committee also suggested for the separation of accused persons from convicted persons and the accused person must be given the status of a non convicted person.
- The Government of India, has brought to the notice of the 78th *Report of the Law commission of India* for the need for undertaking suitable judicial reforms and changes in law in with respect to the problem concerning with a large number of under trial prisoners in Indian jails. This Commission has recommended for the speedy investigation of the case, and separate places of detention for under trial prisoners.
- In 1983, *Justice A. N. Mulla Committee of Jail Reforms* suggested for the modernization of prisons also for setting up of National Prison Commission. According to this Committee there was a total ban on heinous practice of clubbing together juvenile offenders with the hardened criminals in prison; and it also suggested the removal of the diarchy of prison administration at a union and state level. This Committee suggested that the classification of prisoners in jail should be rational as well as scientific.
- In 1986-87, *National Expert Committee on Women Prisoners* was constituted under the headship of Justice V R Krishna Iyer. In 1988, this Committee submitted its report to the Union Government and suggested that, in police force the number of women must be increased. This Committee made recommendations to make aware about their rights and duties to the women while in custody. In this view, the Committee suggested that literate prisoners must be given an easy readable text in which the fundamental rights of prisoners are contained in, and therefore socio-legal counselling and legal aid camps are established in the prisons to support women inmates.
- In 1991-93, *the 9th Kerala Legislature Estimate Committee*, made certain suggestions regarding the rights of prisoners in the state of Kerala. The report was submitted on 28th January, 1993. The main objective was for the sufficient opportunities to be provided to

the prisoners as a reformatory move. The committee also suggested that the prison labour can be made more profitable if certain necessary provisions are made, in accordance with the ability and taste of the prisoner. The Committee also made recommendation to the government to enhance punishment for those prisoners who violates the conditions of parole.

- *The Travancore- Cochin Prisons Act, 1915* was enforced in Kerala, which extends to the whole area of the State of Travancore– Cochin.
- The Central Act 9 of 1894 was enacted in the Malabar District including the State of Madras.

These committees analyzed the situation and recommended some alternatives so as to improve the condition of the prisoners. The jail reform committee given the following recommendations in this regard:

- **Departmentalization:** There shall be in each State and Union Territory a Department of Prisons and Correctional services dealing with the adult and the young offenders- their institutional care, treatment, aftercare, probation and other non-institutional services.
- **Under trial prisoners (UTPs):** The State shall endeavour to evolve proper mechanism to ensure that no under trial prisoner is unnecessary detained. This shall be achieved speeding up trials, simplification of bail procedures and periodic review of cases of under trial prisoners. Under trial prisoners should, as far as possible, be confined in separate institutions.
- **Alternatives to imprisonment:** Since it is recognized that imprisonment is not always the best way to meet the objectives of punishment, the government shall endeavour to provide in law, fresh alternatives to imprisonment such as community service, forfeiture of property, payment of compensation to victims, public censure, etc in addition to the ones already existing, and shall specifically ensure for the effectively implementation of the Probation of Offenders Act, 1958 throughout the country.
- **Suitable living conditions:** Living condition in every prison and allied institutions shall be compatible with human dignity in all aspects such as accommodation, hygiene, sanitation, food, clothing, medical facilities etc. All factors responsible to vitiate the atmosphere of these institutions shall be identified and dealt with effectively.
- **Prison cadre:** Prison service shall be developed as a professional career service. The State shall endeavour to develop a well-organised prison cadre based on appropriate job requirements, sound training and proper promotional avenues.

- **Open prisons:** Prisons are hitherto a closed world. It is necessary to open them to some kind of positive and public discernment. Selected distinguished public person shall be authorized to visit prisons and give independent report on them to appropriate authorities.
- **Essential functions:** Probation, aftercare, rehabilitation, and follow up offenders shall form an integral part of the functions of the Department of prisons and correctional services.
- **Planned and systematic development:** The development of prisons shall be planned in a systematic manner keeping in view the objectives and goals to be achieved. The progress of implementation of such plans shall be continuously monitored and periodically evaluated.
- **Resource allocation:** The government at the Center and in the States/Union Territories shall endeavor to provide adequate resources for the development of prisons and other allied services.
- **National development plan:** The government recognizes that the process of reformation and rehabilitation of offenders is an integral part of the total process of social reconstructions, and therefore, the development of prison shall find a place in the national development plans.

Though the Judiciary was much vigilant with respect to the prisoners' rights in all the countries, the contribution of legislature has not been substantial enough in this process. In this context, the Judiciary has been influenced by the deliberations and recommendations that have been made in the Human Rights Conventions. Several other recommendations have also been made by some other Prison reform Committees and these have significantly influenced the Indian judiciary. Thus by making a value-oriented interpretation of the provisions contained in the Indian Constitution, Judiciary has made many significant changes in the arena of prisoners' rights.

Judicial Response:

In Rama Murthy v State of Karnataka the Supreme Court issued the following guidelines to various authorities for the streamlining of prison reforms in India:

- To take appropriate decision on the recommendations of the Law Commission of India made in its 78th Report on the subject of 'Congestion of under trial prisoners in jail' as contained in Chapter 9.

- To apply mind to the suggestions of the *Mulla Committee* as contained in Chapter 20 of Volume I of its Report relating to streamlining the remission system and premature release (parole), and then to do the needful.
- To consider the question to commend the duty of producing UTPs on remand dates to the prison staff.
- To deliberate about enacting of new Prison Act to replace century old Indian Prison At, 1894.
- To examine the problem of framing of a model new All India Jail Manual.
- To replicate on the recommendations of the *Mulla Committee* made in Chapter 29 on the subject of giving proper medical facilities and maintaining appropriate hygienic conditions and to take needed steps.
- To consider for the need of complaint box in all the jails.
- To think about introduction of liberalization of communication facilities.
- To take needful steps for streamlining of jail visits.
- To think over for introduction of open-air prisons at least in the District Headquarters of the country.

The Apex Court has also given directions from time to time in various cases for the amelioration of prison conditions. These are:

- **Separation of the young offenders:** The young inmates must be separated and freed from exploitation by adults.
- **Companionship:** Subject to discipline and other security criteria, the right of the society of fellow men, parents and other family members cannot be denied in the light of Article 19 and its sweep.
- **Legal consultancy:** Some experienced lawyers nominated by courts be given all facilities for interview, visits, and confidential communication with prisoners, subject to discipline and security considerations.

- **Judicial surveillance:** District Magistrates and Sessions Judges shall personally or through substitutes, visit prisons in their jurisdiction and afford effective opportunities for ventilating legal grievances of the prisoners.
- **Standard Minimum Rules:** The State shall take steps to keep up to the Standard Minimum Rules for treatment of prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact **and correctional strategy.**
- **Just and rationale Prison Act and Manual:** The Prisons Act needs modification and the Prison Manual total overhaul. A correctional cum orientation course has become necessitous for the prison staff indicating the constitutional values, therapeutic approaches and tension free management.
- **Legal protection of prisoner's rights:** The court shall protect the prisoner's right by its writ jurisdiction plus contempt power. To make this jurisdiction viable, free legal services to the prisoners shall be promoted through recognized legal aid.

CONCLUSION

Mahatma Gandhi said that, "Hate the sin and not the sinner", because there is a chance for a sinner to become of pious mind. Therefore the persons behind the bars cannot be forced to live an undignified life, because life is not merely animal existence. It is guaranteed to every person under Article 21 of the Constitution and even the State has no authority to violate that Right without just, fair and reasonable cause. A person cannot be deprived from their fundamental right for just being in prison and he continues to enjoy all his Fundamental Rights, even when lodged in the jail. Thus prisoners still retain the constitutional rights even being convicted of crime and deprived of their liberty in accordance with the procedure established by law.

However several steps have been taken to improve the conditions of prisons, but much more is required to be done. The Central Government, NGO's and prison administration should take adequate steps for effective centralization of prisons and a uniform jail manual should be drafted throughout the country and uniform standards can be maintained by all the States. Such type of practices will help in changing the traditional and colonial outlook of the Indian Prison System

and also help the prisoners to become more responsible, creative and potential citizen. Programmers for reformation and rehabilitation of offenders, for making them useful citizens, must find a place in our national plans. In this context, there is no denying to the fact that an effective and adequate prison reform policy in the light of fast developing and widely recognized principles of human rights is civilization of every country. However, even after more than *seven decades* of independence the conditions of prison and prisoners in India appear not to have improved much. There is large network of criminals, officials, and non-officials in the prison: the house of correction and drug racket, alcoholism, smuggling, violence, theft, un-constitutional punishment by way of solitary cellular life and transfer in other jails are not uncommon. The law has an important role to play towards achieving the noble goal of maintaining the human right standard in Indian Jail. The role of judiciary, legislature, press and most importantly the participation of people cannot be sidelined for formulating a comprehensive prison management policy at the national level.

Most of the violations of human rights in prisons arises from the lack of proper accommodation, overcrowding, absence of scientific classification, lack of diversification, inadequate health services, and uneven facilities for correctional treatment, and education and training, acute shortage of technical staff and, of course, from an overreliance on so called 'star' prisoners in matters of internal management.

There is a well known saying in law that, 'Justice delayed is justice denied', this means that, when these prisoners are denied speedy trial, there can be no procedure, which is reasonable, fair and just, according to Article-21. Detainees are not prisoners, as they are kept in prison even though they have not been yet convicted of a crime. This leads to an increase in the number of inmates of the prison. Also, the torture inflicted on the prisoners may make them hardened criminals.

Prison laws provided various provisions such as parole, remission, premature release for preparing the convicts to be rehabilitated easily after being released from jails. But if we look into the practices of these correctional methods provided in the law as revealed from the Annual Directorate it would be seen that the application of this beneficial provisions are not being adequately used by the jail authorities, by the police and other competitive authorities. This

means there need a proper in-service training and charge of attitude of the prison personnel within our prison justice.

BIBLIOGRAPHY

BOOKS:

- V.N. Shukla, "Constitution of India", 10th Edn. Lucknow: Eastern Book Company; 2001. Revised by Singh MP.
- M.P. Jain, "Indian Constitutional Law" 6th Edn. Nagpur: LexisNexis Butter Worth Wadhwa; 2010. Revised by Ruma Pal, Samaraditya Pal JJ.
- B.L. Hansaria, "Right to Life and Liberty under the Constitution: A Critical Analysis of Article 21" Bombay, N.M. Tripathi; 1993.
- K.D. Gaur, Criminal Law : Cases and Materials, 8th Edn., 2015.
- P.S.A. Pillai's Criminal Law, 13th Edn., 2017, Revised by ,K. I. Vibhute.

WEBSITES & ARTICLES:

- Aiswarya T., "Rights Of Prisoners - A Myth Or Reality?", Available at: <<http://www.answeringlaw.com/php/displayContent.php?linkId=1070>>.
- Plight of under trials, Farhah Naz, <<http://www.dailykashmirimages.com/news-plight-of-undertrials-31113.aspx>>.
- Prison conditions in India, Human Rights Watch publishers, pg. 32, 1991, April, <<http://www.hrw.org/sites/default/files/reports/INDIA914.pdf>>.
- "Essay on Prisons and Prison Reforms in India", available at <<http://www.preservearticles.com/201107058871/essay-on-prisons-and-prison-reforms-in-india.html>>.