

# Judicial Precedents and Protection of Rights of Prisoners

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## Abstract:

The Rights of prisoners is a very important topic. Prisoners frequently do not receive the humane treatment they are entitled to, despite the fact that they are human. In India, prisoners' problems are made worse by deaths and torture that occurs while they are in custody. The mismanagement of prison administration leads to both the human rights and fundamental rights violation of prisoners. Prisons often become a breeding ground for the discrimination of rights. The present paper deals with the rights available to prisoners from affluent backgrounds are not necessarily afforded to those from impoverished sections of society. The definition of inmates, their rights, human rights, and constitutional rights of the Prisoners are all examined in this paper. It also looks at the Supreme Court judgements pertaining to inmates' rights. The objective is to tackle the problems and promote fair and impartial handling of incarcerated individuals inside the legal system.

**Keywords:** Prisoners' Rights, Fundamental Rights, Supreme Courts Judgements.

## Introduction:

The issue of prisoners' rights in India, highlights the widespread injustices and inhumane treatment that are violating the fundamental human rights. The Supreme Court decisions has revealed deficiencies in living conditions, health facilities, and sanitation, in addition to the mismanagement in prison administration, necessitating urgent and comprehensive reforms in the justice delivery system that focusses on rehabilitation. The socio-economic disparities in the treatment of prisoners and relevant legal frameworks such as The Prisoners Act of 1894 and the Transfer of Prisoners Act of 1950, along with Supreme Court judgments. For equitable treatment that is based on international standards from the United Nations Charter and various conventions, emphasized the dignity and rights of prisoners as human beings. Despite being convicted, prisoners enjoy their fundamental rights under the Indian Constitution, affirmed by landmark Supreme Court decisions. The recommendations call for immediate government action to address systemic issues, enhance living conditions, and bridge socio-economic gaps in prisoner treatment. The overarching goal is to align with global standards, creating a prison environment that respects

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prisoners' dignity, well-being, and rehabilitation. The protection of prisoners' rights necessitates a comprehensive approach involving legal reform<sup>3</sup>.

### **Prisoners' Rights and Constitution:**

Prisoners in India have rights guaranteed to them under the country's constitution, elevating the status of the penal system. A breach of Article 14 (the right to equality and equal treatment of the law), which states that no one shall be deprived of his life or liberty unless in accordance with the method provided by law, is grounds for Article 21's injunction. It is against the law for someone to be penalised or prosecuted for the same offence more than once, as stipulated in Article 22. Prison officials cannot force inmates to submit testimony that might lead to criminal charges against them.

- **Protection against physical harm** – It is the responsibility of the prison authorities (on behalf of the state) to ensure the health and well-being of the inmates. They should also make sure that the jail is clean and safe, and they should inspect incoming detainees to determine what kind of job should be assigned to them.
- **Separation**- male and female convicts shall be kept in separate jails or separate part of same buildings.
- **Solitary confinement**- Solitary detention is used as a mode of punishment but they must be examined by the medical officer if they are kept for 24 hours.
- **Under-trials**- Under trials may be permitted to have their own clothing, food and other accessories from their reasonable sources but at reasonable hours.
- **Civil Prisoners**- Civil prisoners are also treated as under trials. They are allowed to work in jail according to their will.
- **Work**- A offender who is punished to work in prison shouldn't be allowed to work more than 9 hours a day. The medical examiner must check him every fourth day to check the effect of work in his body.<sup>4</sup>

The Supreme Court held that maladministration in prison often leads to violation of prisoners' rights. The jail authorities oblige inmates by giving them illegal concessions and at time even leads to misappropriation of jail fund in connivance with the inmate criminals. (*State of Maharashtra v. Asha Arun Gawali*, 2004). The Supreme Court set out certain guidelines for the prison authorities. The death of women prisoners and suicide committed by them during their prison term was a serious cause of concern for the court and jail authorities were directed to avoid such incidents by upgrading their health care and security programmes in prisons. (*R.D. Upadhyaya v. State of Andhra Pradesh*, 2006) Other inherent rights can still be protected by Habeas Corpus, even if a person is now in jail. The Supreme Court ruled in this instance. Supreme Court argued that the mere incarceration of offenders did not infringe on their constitutional rights. (*D.B.M.Patnaik v. State of Andhra Pradesh*, 1974)<sup>5</sup>

### **Precedents and Protection of Human Rights:**

In the case of *DK Basu v State of West Bengal*, there were certain guidelines stated by the court in the context of custodial violence and said that custodial death is perhaps one of the worst crimes in a civilized society governed by the Rule of Law. The rights inherent in Articles 21 and 22(1) of the Constitution required to be jealously and scrupulously protected. We cannot wish away the problem. Any form of

<sup>3</sup> Ganga, Rakesh Kumar, International Journal of Research Publication and Reviews "Examining the Rights of Prisoners in India: A Comprehensive Analysis" Vol 5, no 1, pp 246-249 January 2024

<sup>4</sup> Amrit, P., Jaiswal, A., Uniyal, V., Jha, R. S., & Srivastava, A. (2022). Prisoner's rights and prison reform in India: A legal critique. International Journal of Health Sciences, 6(S3), 10933–10943. <https://doi.org/10.53730/ijhs.v6nS3.8924>

<sup>5</sup> Amrit, P., Jaiswal, A., Uniyal, V., Jha, R. S., & Srivastava, A. (2022) Supra at page 10936

torture of cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation, interrogation or otherwise. If the functionaries of the Government become law breakers, it is bound to breed contempt for the law and would encourage lawlessness and every man would tend to become a law unto him thereby leading to anarchism whereas no civilized nation can permit that to happen.<sup>6</sup>

Though crime is indeed committed by persons and for that they use to be prosecuted it doesn't mean that they cease to be human beings, the question here arises does a person shed off his fundamental right to life, the moment a policeman arrests him? Can the right to life of a citizen be put in abeyance on his arrest? These questions touch the spinal court of human rights jurisprudence. The answer indeed has to be an emphatic 'No'. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convict under trials, detinue and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law.<sup>7</sup>

In *Sube Singh v. State of Haryana*<sup>8</sup> where the people were illegally detained and tortured by the police during an investigation in the context of Justice A.S. Anand said that convicts, prisoners or under-trials are not denuded of their fundamental rights under Article 21 and it is only such restrictions, as are permitted by law, which can be imposed on the enjoyment of the fundamental rights by such persons. The State must ensure that there is no infringement of the indefeasible rights of a citizen to life, except by law, while the citizen is in its custody.<sup>9</sup> Regarding what has been said in the above case it is very clear that becoming a prisoner doesn't put restrictions on the basic fundamental rights of that person whereas by god we all are human beings and should be treated as humans, no law confers power upon anyone to torture, harass and illegally detain any human being.

In *Sunil Batra v. Delhi, Administration*<sup>10</sup> the Hon'ble Supreme Court held that there is no total deprivation of a prisoner's rights of life and liberty. The "safekeeping" in jail custody is the limited jurisdiction of the jailer. "To desert safe-keeping into a hidden opportunity to care the ward and to traumatize him is to betray the custodian of law, safe custody does not mean deprivations, violation, banishment from the lantern baguette of prison life and inflictions of travails as if guardianship were best fulfilled by making the ward suffer near insanity."

Hon'ble Supreme Court also gave a new dimension to the writ of habeas corpus by its judgment in *Sunil Batra 'II' vs. Delhi Administration*<sup>11</sup>. While the decision of the Constitution Bench of the Supreme Court in *Sunil Batra I vs. Delhi Administration*<sup>12</sup> had crystallized the legally enforceable rights of a prisoner, the later decision in Sunil Batra II radicalized the procedure for the enforcement of the rights of the prisoners.<sup>13</sup> In the above famous case, it has been clearly said that if a person's rights are infringed in jail custody, then it amounts to a betrayal of custodian law with human rights.

<sup>6</sup> [www.indiankanoon.org](http://www.indiankanoon.org)

<sup>7</sup> Yash Ashesha, Human Rights of Prisoners: A Critical Commentary, available at International Journal of Research Publication and Reviews, Vol 4, no 4, pp 838-842 April 2023

<sup>8</sup> 31988 AIR 2235.

<sup>9</sup> [www.indiankanoon.org](http://www.indiankanoon.org)

<sup>10</sup> 1980 AIR 1579.

<sup>11</sup> (1978) 4 SCC 409.

<sup>12</sup> Ibid.

<sup>13</sup> [www.pucl.org](http://www.pucl.org)

In *Maneka Gandhi Vs the Union of India*<sup>14</sup>, the Apex Court laid down that the procedure cannot be arbitrary, unfair or unreasonable. This was further endorsed in *Francis Coralie Mullin Vs the Administrator, Union Territory of Delhi and Others*<sup>15</sup>.

In the case, *Hussainara Khatoon & Ors vs. Home Secretary, State of Bihar*<sup>16</sup>, and Supreme Court observed that our legal and judicial system which continuously denies justice to the poor by keeping them for long years in pre-trial detention is a highly unsatisfactory legal system. It suffers from a property-oriented approach which seems to proceed on the erroneous assumption that the risk of monetary loss is the only deterrent against fleeing from justice.

In the case of *Shahid vs. Scottish Ministers (Scotland)*<sup>17</sup> the issue was related to the solitary confinement of a person named Imran Shahid and the Hon'ble Supreme Court held that the continuation of a prisoner's solitary confinement for safety reasons was not authorized under domestic rules and incompatible with the right to private life under Article 8 of the European Convention on Human Rights (ECHR). Lord Reed held that not only was the continued segregation invalid according to domestic law, but it also amounted to a violation of Article 8. In the case of human rights, it's immaterial whether that person is acquitted or convicted the walls of jails didn't lay down any barrier to the right which are available to another person in society.

Hence, in all the above-mentioned cases, facts and judgments outcomes are different but they are connoting towards the same issue i.e., the rights of prisoners of which they are deprived. Demanding such rights and providing the same are different from each other if a deprived or aggrieved person not putting himself forward for his rights so it doesn't mean that he didn't want to avail them, at this very stage obligations fall on the governance mechanism of the state<sup>18</sup>

## CONCLUSION:

Life is more than just animal existence. One cannot deny the same to the souls incarcerated. Article 21 of the Constitution guarantees it to every individual, and not even the State can infringe upon that right. A prisoner, be he a convict, does not cease to be a human being. They also have all the rights which a free man has but under some restrictions. Just being in prison doesn't deprive them from their fundamental rights. Even when lodged in the jail, he continues to enjoy all his Fundamental Rights. On being convicted of crime and deprived of their liberty in accordance with the procedure established by law, prisoners still retain the residue of constitutional rights. Supreme Court has gone a long way fighting for their rights. However, the fact remains that it is the police and the prison authorities who need to be trained and oriented so that they take prisoner's rights seriously.<sup>19</sup> Thus, we see that there is no doubt that it is the democratic legitimacy which characterizes our era. Liberty and freedom are the elements of prisoner's human right and democracy.

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<sup>14</sup> AIR 1978 SC 597.

<sup>15</sup> 1981 SCR (2) 516.

<sup>16</sup> 1979 SCR (3) 532.

<sup>17</sup> 2015 UKSC 58.

<sup>18</sup> Yash Ashesha, supra note Page no 840-841

<sup>19</sup> Dr Jai Shankar Ojha\* Faheem Wani, The Rights of Prisoners And Their Abuse In India: A Critical Analysis, 2018 IJCRT | Volume 6, Issue 2 April 2018