

PRISONERS RIGHTS IN INDIA

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ABSTRACT

It has come under the limelight of the manner who have politically sworn to provide the basic needs of roti, kapda makaan. However, the pertinent problem of human rights and treatment is confined to serving the interests of certain people in the divisive nature of us as political beings.

There are various notices and proposals done by the quasi-governmental bodies like the NHRC, at the center and state level addressing these issues being extrapolated for the common people in not recognizing them sufficiently and shoving them as a state list subject and managed by the prison manuals having the state the responsibility to change the current prison laws rules and regulations as per the ministry of home affairs Govt of India.

DEVELOPMENT OF NATURAL JUSTICE TO PRISONERS

It is relevant to understand that human rights have their own set of challenges in our country and advocate cultural effects to bring out the sensitivity of the situations faced by people down the economic order of our society.

Ironically the observations made in the Hussainara Khatoon vs state of Bihar landmark case ruled on march 9, 1979 stated the right of a fast trial for the deprived rights serving longer than the usual lasting sentence awarded to him by the court on a PIL(Public Interest Litigation) on record by advocate Pushpa Hingorani subsequently published an article on the incarceration of under-trial convicts in the Bihar jail.

Under the Prisoners Act, 1894 Chapter IV deals with the admission removal, and discharge of prisoners. The de-facto case is taking cognizance of the prisoners' problems towards judicial proceedings per se. According to section 49, the punishments are imposed de jure in nature. After which is section 51 of the same act. Some of the most prominent cases with the writ sanctioned of article 32 was Smt Ujjam Bai Vs State of U.P.

Evolution of the Tribunal System of India

The Law Commission of India in 2017 noted that pendency in courts leads to delays in the administration of justice, thereby, impacting the efficiency of the judicial system. In 1976, Articles 323A and 323B were inserted in the Constitution of India through the 42nd Amendment. Article 323A empowered Parliament to constitute administrative Tribunals (both at the central and state level) for adjudication of matters related to recruitment and conditions of service of public servants. Article 323B specified certain subjects (such as taxation and land reforms) for which Parliament or state legislatures may constitute tribunals by enacting a law. In 2010, the Supreme Court clarified that the subject matters under Article 323B are not exclusive, and legislatures are empowered to create tribunals on any subject matter under their purview as specified in the Seventh Schedule of the Constitution.

The Standing Committee on Personnel, Public Grievances, Law and Justice (2015) which is chaired by the Prime Minister of India had recommended the creation of an independent body called the National Tribunals Commission (NTC) for the administration of all tribunals in India.

Prevailing Conditions in Jails determining the Legal Position of prisoners -

In the case of Veena Sethi vs the State of Bihar, the Legal Aid Committee directed that all charges be dropped against 16 prisoners kept in Hazaribagh jail for over 25yrs because there were of unsound mind. As per the directive of the Supreme Court, there must be an adequate number of institutions for looking after mentally sick prisoners and the practice of sending persons of unsound mind. The court had according to sections 37, 38 and 39 of the Prisoners Act 1894 to monitor the mentally ill patients under trial.

On the contesting grounds of a similar topic is the case of prem Shankar Shukla vs Delhi administration to administer whether hand-cuffing was constitutionally valid or not. To be taken to court there are cases of pendency in delivering judgments to be hitherto addressed.

It is to be unequivocally understood that the nature of the punishment aligns with the ideal principles of natural justice through the legal maxim of *Audi alterem partem* which is to the other side being heard by the oppositional party.

Hence the court said in this case by the verdict the guidelines for the provisions-

1. Handcuffs can only be made applicable to a person involved in

Serious non-bailable offenses amount to an award of heinous crimes brought into society. E.g. rape, murder, forgery, theft, etc.

The person has an unstable state of mind and an aggressive tendency to cause grievous hurt and injury to their surroundings with no rationale to defend themselves unless it is certified on medical grounds its vulnerabilities or its active problems impacting him or her.

According to the understanding of the legal minds, the conclusive reasoning for application must be justifiable and be explicitly mentioned in the police diary under CRPC sections 173,174, and 175 as being admissible in court.

The torchbearers of prisoners and detainees' justice to human rights Justice Krishna Iyer and Former Chief Justice of India P.N Bhagwati had given several important verdicts in shaping our Indian judicial system. In the pronouncement of the case in having a right to legal counsel (Article 39A) M.H Hosket vs State of Maharashtra in the year 1978 to which it has been a landmark judgment in the building of Legal Services

To give an instance, Furlough is not a right or a concession, which may be granted to convicts. This concession is subject to cancellation. The Government of Inspector General reserves the

right to debar or withdraw any prisoner, or category of prisoners, from the concession of furlough.

In a recent court verdict, a prison inmate was allowed to be released on parole for having intimacy with his wife as it is the infringement of the latter's conjugal rights vested as a married couple. (Rajeeta Patel @ Rajita Patel vs State of Bihar on 12 October 2020). In establishing the petitioner's contention was the precedent case of Charles Sobraj vs Superintendent Central Jail Tihar New Delhi whose judgment was given by the revered Justice Krishna Iyer in the enforcement of part III of the constitution.

CONCLUSION

Thus it can be understood that there are various enactments made for the rights of people detained or undertrial to have contended in the court of law. Other cases of Kharak Singh vs State of U.P.(1963 AIR 1295) had challenged on the grounds of the powers conferred on the police officials in violation of Article 19 and Article 21.

So was the similar case of AIR 1983 (Sheela Barse vs the State of Maharashtra) wherein Sheela Barse a journalist complained of custodial violence to women prisoners in her interaction with fifteen women prisoners in Bombay Central jail with the permission of the Inspector General undetermined the alleged torture followed by.

Section 41 of the Code of Criminal Procedure establishes the fact that those been staying in jail beyond a period of 15 days violate the natural rights conferred upon the said individual.

It is now widely accepted that democracy does not consist merely of people exercising their franchise once in five years to choose their representatives, and once the vote is cast, then retiring in passivity and not taking any interest in the government is the way around in the 21st Century. Today it is common ground to say that democracy has a more positive content and its orchestration has to be continuous and pervasive.