

Role of Judiciary in Protecting Rights of the Prisoners in India

Dr. Ashok Kumar Kala*

Associate Professor, Apex School of Law, Apex University, Jaipur, 303002 (Rajasthan)

Abstract - It is critical for our nation's courts to safeguard the rights of prisoners. Of course, the Indian Supreme Court is hailed as a guiding light for human rights against torture. By interpreting Article article 21, the Hon. Indian Supreme court created human rights philosophy for the preservation & defence of prisoners' rights to human dignity. In order to determine the feelings held and fresh tactics developed by the Indian court to guarantee the preservation of the prisoners' human rights, this article carefully examines and scrutinises the major judgments handed down by higher judiciary in India.

Keywords - Constitutional Role, Prisoner's Rights, Human Dignity, Human Rights Jurisprudence.

-----X-----

INTRODUCTION

The federal character of the Indian Constitution ensures a separation of powers between the legislative, executive branch, and judiciary. In other words, their powers are not unchecked by the constitution and are only limited to themselves. Throughout history, the judiciary has sought to serve as a defender and defender of human rights. According to the Indian Constitution, both Constitutional Court of India and the High Courts are tasked with carrying out this responsibility. The Indian Supreme court is among the most active tribunals in the area of Human Rights protection. India's constitution includes the principle of judicial independence as a fundamental aspect of its structure. There is always a judicial review of laws, which are enacted by legislators, because of a fundamental constitutional characteristic. However, since they are a respected class, Indian legislators have passed a number of laws protecting the rights of inmates. However, notwithstanding the protections afforded to inmates by our constitution as well as other procedural rules, they remain a vulnerable and abused group within the community. Many of India's supreme court's judgements have addressed this issue and laid out numerous guidelines to safeguard the rights of this clay class, that show the mirror that despite all laws and provisions, there is still a problem at ground zero that has to be looked at more closely.¹

Convicts are held in jail as a sort of punishment for their crimes in order to encourage them to change their ways. As a result, it is a correctional facility or prison. As a result, prisons have become factories for criminals because of the state's habit of committing crimes. When it comes to human rights abuses, jails in India serve as a primary yardstick. As a prisoner,

they have the same rights as anybody else, including the right to adequate accommodations, sanitary circumstances, indiscriminate huddling of criminals, mental and physical abuse, no legal help, no sleeping amenities, and inadequate medical facilities. Prisoners' rights were also recognised by the Universal Declaration. It was only through a series of court rulings and UDHR in the late 1970s that the tendency toward treating inmates as outcasts was reversed.²⁻³

Among India's law-abiding and politically aware population, the most often discussed issue is judicial activism. Judicial intrusion into executive operations is an indication of the judiciary's willingness to investigate public interest issues. Human rights activism has expanded in breadth and frequency in response to expanding boundaries of human rights in domestic and international contexts. As the spirit of Justice marches, so does judicial activism. For a court to be recognised as a court of justice, a judge must engage in judicial activism, which is maybe likened to a flower with colour and scent or a car without fuel and wheels. With respect to India, the High Court has said that it has a specific obligation to broaden basic rights meanings while also advancing human rights doctrines inside the country. In the past three to four decades, the pressing need for prison reform has been brought to light. As a consequence of the appalling circumstances in jails, prisoners' rights are being violated, according to both the Supreme and High Courts. The rights of those incarcerated have risen to the top of the priority list for prison reformers. As a result of the Indian Supreme Court's response to human rights breaches in Indian prisons, Articles 21, 19, 22, 32, 37, and 39A of a Constitution have been interpreted in a positive and compassionate

manner to recognise a variety of prisoner rights. Article 141 of the Indian Constitution states that the Supreme Court's Law is obligatory on all courts in India, hence the recently identified rights are also obligatory on the State. The Indian court has recognised and supported prisoner's rights for the reasons listed below in different case laws.⁴

1. Convicts are not stripped of their basic rights because of their conviction.
2. Jail inmates are human beings, just like the rest of us." Thus, the prisoner retains all of his or her rights, even though those rights were taken away via the legal process of incarceration. Among them are both those pertaining to the detainee's fundamental human dignity and those that promote his or her personal growth.⁵
3. If a person commits a crime, it does not entail that he is no longer a human being with that he is no longer entitled to those components of life that define human dignity.
4. When someone is imprisoned, he or she is still a citizen, and this is becoming more widely accepted.⁶
5. Convicted criminals are sent to jail as a form of punishment, not as punishment. It is forbidden for prison officials to impose further punishment on inmates without the court's permission.
6. To prevent prison officials from misusing their authority over inmates, the system of rights rises up. Due to their vast discretionary powers, prison officials must consequently be held accountable for the way in which they manage the custody of those they are responsible for.⁷
7. The concept of "rehabilitative punishment" has been introduced to replace the term "punishment." Individuals are imprisoned in order to learn healthier ways of behaving, which they may then use when they are released. Since these tendencies may lead to criminal behaviour, the correctional system was created in an effort to remedy them. According to the rehabilitative paradigm, the goal of jail is to use education, training, and counselling to help offenders change their lives. No change can take place unless certain human rights are upheld in the process.

Disturbing prison conditions and violations of basic human rights such as custodial deaths and physical violence/torture, police overuse, problems observed by the apex court have sparked judicial activism.⁸

Overcrowding in jails, protracted incarceration of under-trial detainees, poor housing conditions, and charges of apathetic or even cruel behaviour by

prison personnel have all drawn criticism throughout the years. Sadly, not much has changed since then. In India, there have been no significant changes in the fundamental aspects of jail management Both the Indian Constitution and the country's jail legislation reflect the rights of inmates. The decisions of the High Courts and the Supreme Court have had a significant impact on the recognition of prisoners' rights. In a landmark decision, Justice V.R. Krishna Iyer outlined the inmates' fundamental human rights. In a statement from Tihar Jail, Delhi, Sunil Batra provided the Supreme Court with details concerning the Rison's torture and inhumane treatment. A major case in prison management has been made in this case. ⁷ In this instance, the rights of inmates were acknowledged in the most complete way possible. Prisoners cannot be subjected to deprivation that isn't required by their imprisonment and the punishment imposed by the court," the ruling said. Reading, writing, exercising, and meditating are among the many other freedoms he has at his disposal. He is also entitled to the protection of extreme harsh weather, the freedom from humiliation such as forced nudity, forced sodomy, and other such unendurable vulgarity, movement inside the prison campus, and the negligible joys of self-expression. The Right to Basic Needs is a logical follow-up to this judgement. Accommodation, sanitary living circumstances; a well-balanced food; clean clothing; bedding; prompt medical care; rehabilitation/treatment programmes are all included.⁹

The right to compensate in circumstances of wrongful loss of personal liberty is yet another landmark ruling handed down by the court. An important development in human rights law occurred with the Rudal Shah case⁸. Rudal Shah, the petitioner, had been held against his will for almost a decade. He requested his immediate release in a Habeas Corpus petition, as well as reimbursement for the costs of his rehabilitation and medical care, as well as damages for his wrongful incarceration. Was it possible to order money to be paid to him after he was freed from prison under Article 32's jurisdiction??" Was the loss of a basic right the cause of an order in the form of compensation? India's constitution does not specifically mention compensation for the deprivation of a person's life and personal liberty. Legal compensation for unlawful loss of liberty has been established, however. Despite the person's acquittal, the Bihar Government was fined Rs.35,000 by the Court for holding him in unlawful imprisonment for 14 years.¹⁰

Prisons And Prisoners: A Short History

No, the term "prison" does not indicate "to employ sudden force" or "to cage.". The jail serves as a graveyard for the elderly. Prison is a facility where criminals who have been convicted of a crime are held in order to ensure their safety while they await trial or punishment. While it was originally only a

holding facility for those awaiting trial and the ultimate penalty, it reached a stage where incarceration was seen as an aim in itself. - "Imprisonment is the penalty to which we must principally depend," Lord Macaulay said in his book "Minutes of 1835" Those laws and restrictions were put in place by him, with the primary goal of eradicating the criminal streak in convicted criminals. It is said in Manusmriti that the King should get all the jails where all the bad and wrongdoers are confined if we go back into our old Indian history. Huein-Tsang and Fa-Hein, in their accounts of ancient India's penal system, write of the brutality and barbarism with which captives were punished.¹¹

Our jail system underwent significant transformations after independence. It was given considerable attention by the government³. Prison management was reportedly studied by UN specialists in 1951, and some suggestions for improving prisoner rights were reportedly made. Even in nations like India and China, where the rights of prisoners are not legislated, our Honorable court has recognised a large number of prisoners' rights.¹²

Prisoners' Rights

A number of provisions and laws in the Indian constitution as well as other procedural legislation exist to protect prisoners' rights against infringement. As a result, the Supreme Court has interpreted articles 14, 19, and 21 of the constitution (part 3) and its annex (part 4) to establish or set out a variety of basic rights for inmates. Articles 14 and 19 of the law may be read in a similar way as torture and cruel treatment. As stated in Article 21 of the Constitution, "Human Dignity" is a fundamental principle of the United States Constitution. Article 32 of the Indian constitution provides several writs, including as habeas corpus, mandamus, quo warranto, ban, and certiorari, for enforcing these rights. It is possible to launch a complaint in the supreme court and even in the high court under article 226 for violations of these rights. As an independent judiciary, the Supreme Court acts as a defender of these rights, and it has also established standards to ensure that no new laws in violation of these rights are enacted, since they are subject to legal scrutiny. These rights cannot be taken away from convicts, but they may be restricted to some extent in order to aid in their rehabilitation if this interpretation is correct.¹³

As a result, prisoners enjoy the same rights as everyone else, and they can't be taken away from them. A person's right to freedom is one of the most essential basic rights since it is guaranteed by the constitution but not guaranteed in its entirety. As soon as someone has been convicted and sentenced to incarceration, he or she becomes a prisoner.¹⁴

Prisoners have the right to be treated humanely

Prisoners, like everyone else, need to be treated as individuals and not as objects. Prisoners have the right to be protected against cruel treatment by a variety of authorities, including the jail's administration and law enforcement personnel. A violation of the constitution's Article 14 & Article 19 if a prisoner is subjected to torture or inhuman treatment in a police lockup. Similarly, the police use the third degree to punish anyone who violate Article 21, which deals with human dignity. By Article 14 of the Indian Constitution, any arbitrary action by the responsible authorities would be questioned . A police official was sentenced to life in prison by the Supreme Court in the case of Raghbir Singh v of Bihar because of his role in the murder of a suspect tortured in a police lock-up⁶. Since "state acts must be right, just, and fair," torture to elicit a confession would be neither right nor just, the Supreme Court declared in Kishore Singh v. State that the use of third-degree tactics or torture on to an accused individual violates Article 21.¹⁵

Bar Fetters And Other Forms Of Solitary Confinement

Prisoners are reduced to animals by solitary confinement as well as Bar Fetters, which is against the spirit of the constitution. A punishment of this type is considered unnecessarily cruel because it causes the prisoner mental suffering. Solitary confinement and handcuffs are thus illegal, and prisoners have the right to protest them. According to Indian courts, a such punishment is inhumane and demeaning for the convicts it is intended to punish. Solitary confinement was up for debate in the Sunil Batra case before the Supreme Court. However, it may only be applied in circumstances when the guilty individual is so dangerous that he or she must be held apart from the rest of the inmates. In view of the constitution, the use of solitary confinement and handcuffs is an arbitrary act against the prisoner and a violation of the fundamental right to life and liberty. However, just though a prisoner's rights may be more limited than those of the average citizen, it does not follow that they may be stripped of them via the use of capital punishment. It is only from the perspective of our legal system that it is possible to construe that such a severe and cruel penalty violates the constitution, as opposed to the retributive view that prevails in other jurisdictions.¹⁶

The right to a fast trial

Every legal system inside a democratic country has as its primary goal the prompt and impartial administration of justice to its people. Human rights organisations throughout the world now regard the right to a swift trial as a fundamental human right. It is the role of the court, as an independent institution, to give such a privilege. The constitution, as keeper of rights, should guarantee the right to a quick trial to everyone, including

victims, suspects, and detainees. It is true that "justice delayed is justice denied" applies if any court does not give this right. As a result of the incompetent or careless trial, the accused suffers greatly. Those who have been convicted have the right to an expedited trial since they may appeal their conviction. Section 309 of the Criminal procedure Code addresses the investigation and prosecution of criminal charges in terms of timeliness. To avoid any sense of delayed justice, this clause must be followed fairly, although it will not be adequately applied. To ensure that prisoner's rights are protected, as stated by the Supreme Court, the following proposals have been set forth: Article 21 of a Indian constitution states that a defendant has the right to a prompt trial, and the supreme court agreed.

Despite the fact that he is incarcerated, the prisoner has the ability to challenge his conviction on appeal, revision, or re-examination. Article 21 of a Indian constitution holds that a person's right to due process has been violated if a court makes an unreasonable, unjustified, unfair, or negligently delayed verdict.¹⁷

Free legal assistance is a fundamental human right

No particular provision on the right of freedom legal help is provided explicitly in the Indian constitution; yet the court has shown its generosity toward impoverished inmates who are unable to hire or retain the attorneys of their own choosing. The reason for this is because they are in need or in a bad state of health. Under Article 21's fair, just, and reasonable processes, the Supreme Court ruled that an indigent or impoverished defendant who can not afford legal representation was entitled to free legal assistance at the state's expense. An appellate court panel based on Articles 21 and 39-A, as well as Article 142 & Section 304 of Cr.PC, determined that a government responsibility to provide legal assistance to the accused was established. The 42nd constitutional amendments act of 1976 included a free legal assistance provision, Article 39A, into the constitution. It's one of the most essential articles in the Indian constitution, which guarantees free legal help. Article introduced under Directive Principles of State Policy is not enforceable. This is one of the state policy directions in the administration of the states. In addition to the Legal Service Authority Act of 1987, which guarantees free legal services, several states have also formed Legal Aid & Advice Boards. In addition to criminal cases, this free legal assistance is accessible in civil, tax, and administrative matters as well.¹⁸

Friends, family, and lawyers have the right to interrogate you

The Human Right's scope is widening as time goes on. Mental torture is just as important as physical torture when it comes to a prisoner's human rights. Article 21 guarantees the right to liberty. According to this interpretation, a prisoner has the right to meet and speak with members of his family, friends, and

law enforcement officials throughout his or her confinement. Because the article 21 states that a prisoner has the right to liberty as well as the right to meet with family and friends, the article 22(1) states that an imprisoned person cannot be refused the right to consult and be represented by a legal professional of his choice. Section 304 of the Criminal procedure Code likewise protects this legal privilege. In addition, the rights of inmates are regularly upheld by the courts' decisions. At least once a year, the court ordered the state government for allowing family members to visit convicts and for the detainees, under guarded circumstances, to see their loved ones. In other instances, the court ruled that interviewing a prisoner is essential to get accurate information. According to Francis Coralie Mullin case of *r v The Superintendent, Union Territory of Delhi and or others*, another landmark Supreme Court decision, the right to liberty and security includes the right to live with human dignity, and thus a detainee would be obligated to have interviews to family members, friends, and lawyers without strict limits. The Supreme Court.¹⁹

The Right To Freedom From Handcuffs

The right to be handcuffed is among the most crucial for both the defendant and the prisoner. This kind of treatment is harsher because it hurts human dignity and is seen as more harsh, capricious, and cruel. The principle of freedom is guaranteed by Article 19 of the Indian constitution, yet arbitrary actions like this one go against that guarantee. Both the accused and the prisoner have a right to be free of handcuffs. A police officer may need to employ handcuffs if they have grounds to think that an accused or prisoner they are searching for has escaped. A guy who is bound by hoops of steel shuffle then paraded in public in such a state is subjected to mental torment by being held in such a state for long periods of time. In certain cases, the penalty for an alleged crime is greater than the punishment for this form of torture, hence this type of conduct is dehumanising. The Supreme Court also ruled that it cannot be done on a regular basis since it violates people's dignity. He is subjected to a form of mental torment. However, police personnel do not adhere to these rules, and inmates are forced to suffer as a result.²⁰

CONCLUSION

An examination of the Supreme Court's major cases shows that Indian judiciary has acted as an institution for delivering effective remedies against infringement of Human Rights via its positive attitude and action. According to the working of the judiciary, its powers have been used creatively to guarantee that inmates' Human Rights are protected. Using the tactic of Public Interest Litigations, India's Supreme Court has recently helped enforce the rights of inmates. According to the judicial conscience, incarceration should be used to rehabilitate rather than harden offenders,

since inmates are also people. After reading the aforementioned input, it is clear that Indian Judiciary has been particularly attentive and awake to the preservation of the Human Rights of a convicts. In order to safeguard the most valuable Human Rights of inmates, it has pioneered new methods and remedies via judicial activism. Prison justice, despite its shortcomings, has been greatly improved by the judiciary's own creative spirit, guaranteeing essential human rights for inmates.²¹

REFERENCES

1. Act No. 10 of 1994
2. AIR 1980 S.C. 1535- This was a case taken cognizance by the Court upon a telegram from a prisoner complaining of forced handcuffs on him and other prisoners, protesting against the humiliation and torture of being held in irons in Public, back and forth, when as under-trials kept in custody in the Tihar Jail, they were taken in Delhi Courts for trial. Issues on hand-cuffing were extensively covered by the Court in the case.
3. Burns H. Weston, March 20, 2014, Encyclopaedia Britannica, Human Rights.
4. Burns H. Weston, March 20, 2014, Encyclopedia Britannica, Human Rights.
5. D.K.Basu v. State of West Bengal , AIR 1997 SC 610 - In view of the increasing incidence of violence and torture in custody, the Supreme Court of India has laid down 11 specific requirements and procedures that the police and other agencies have to follow for the arrest, detention and interrogation of any person.
6. <http://webcache.googleusercontent.com/search?q=cache:CV7sl7WzYBEJ:www.ssmrae.com/admin/images/4e2b6d3b31c9c080b28959e10ff84f83.pdf+&cd=4&hl=en&ct=clnk&gl=in&client=firefox-a>
7. <http://webcache.googleusercontent.com/search?q=cache:CV7sl7WzYBEJ:www.ssmrae.com/admin/images/4e2b6d3b31c9c080b28959e10ff84f83.pdf+&cd=4&hl=en&ct=clnk&gl=in&client=firefox-a>
8. James Nickel, with assistance from Thomas Pogge, M.B.E. Smith, and Leif Wenar (Dec 13, 2013) Stanford Encyclopedia of Philosophy, Human Rights
9. James Nickel, with assistance from Thomas Pogge, M.B.E. Smith, and Leif Wenar (Dec 13, 2013) Stanford Encyclopaedia of Philosophy, Human Rights
10. Judicial Review refers to the power of the judiciary to interpret the constitution and to declare any such law or order of the legislature and executive void, if it finds them in conflict the Constitution of India.
11. Sepulveda, Magdalena; van Banning, Theo; Gudmundsdottir, Gudrun; Chamoun, Christine; van Genugten, Willem J.M. (2004), Human rights reference handbook (3rd ed. rev. ed.), Ciudad Colon, Costa Rica: University of Peace.
12. Sepúlveda, Magdalena; van Banning, Theo; Gudmundsdóttir, Gudrún; Chamoun, Christine; van Genugten, Willem J.M. (2004), Human rights reference handbook (3rd ed. rev. ed.), Ciudad Colon, Costa Rica: University of Peace.
13. Sirohi : J.P.S.; Criminology, and Penology, Haryana, Allahabad Law Agency, ed. VI (2004).
14. Sirohi : J.P.S.; Criminology, and Penology, Haryana, Allahabad Law Agency, ed. VI (2004).
15. The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 23 March 1976. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.
16. The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 23 March 1976. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.
17. The Prisons Act, 1894.
18. The Supreme Court has given a new dimension to the writ of habeas corpus by its judgement in Sunil Batra(II) v. Delhi Admin, AIR 1980 SC 1579. While the decision of the Constitution Bench of the Supreme Court in Sunil Batra(I) v. Delhi Admn., AIR 1978 SC 1675 had crystallized the legally enforceable rights of a prisoner, the later decision in Sunil Batra II has radicalised the procedure for the enforcement of the rights of the prisoners.
19. The United Nations, Office of the High Commissioner of Human Rights, What are human rights?
20. The United Nations, Office of the High Commissioner of Human Rights, What are human rights?
21. The Universal Declaration of Human Rights is a declaration by the United Nations General Assembly. It talks about basic human rights -- rights that all people have just because they are human. It was adopted by the United Nations General Assembly on December 10, 1948.

Corresponding Author

Dr. Ashok Kumar Kala*

Associate Professor, Apex School of Law, Apex
University, Jaipur, 303002 (Rajasthan)