

Role of Various Laws in Prison Administration and Improving Conditions of Women under Trials in India

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Abstract – Human rights in simple language may be categorized as the Fundamental Rights to which every man or woman living in any part of the world is entitled by virtue of having been born as a human being, the rights that are required for the full and complete development of human personality. Human rights are derived from the dignity and worth inherent in human person. The Courts in India have been recognizing and enforcing the human rights as natural rights of mankind or as Constitutional mandates or as rights of an Indian in an Independent policy.[1] An important organ of the criminal justice administration of any State is the prison. It is an institution where persons convicted of major crimes or felonies are deprived of their liberty for the purpose of reformation. However, practical experience suggests that prisons are factories where criminals are made owing to regular perpetration of State crime.

Keywords: Women Prisoners, Human Rights, Universal Declaration of Human Rights, 1948, Progressive Legislation, Progressive interpretation, Deterrence, Incarceration, Prison Administration ,Retributive Theory and Reformatory Theory

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INTRODUCTION

In the normal understanding of the society, prisons are unmentionable disease which cultivates social outcasts. In India, the prisons are considered to be the basic indicator of Human Rights violations. Insufficient accommodation, indiscriminate huddling of offenders, unhygienic conditions, substandard water supply and insufficient food reflect the callous attitude of the executive machinery to identify the basic rights of the prisoners. Globally, the change in the trend of treating prisoners as 'out-casts' to treating them as human beings set in only in the last forty years with the introduction of the Universal Declaration of Human Rights, 1948.[2] But in India, the change came only in the late Seventies, through the judgments of an activist Supreme Court.[3] The prisons in India are governed by the antiquated and colonial Prison Act of 1894. Whereas, Advocates according to the Retributive and Deterrent form of Punishments consider the prisoners as 'slaves of the State'. The SC, taking cognizance of the State inaction in recognizing prisoner's basic rights through the implementation of a progressive legislation, set out to enunciate the rights of the prisoner by giving a dynamic progressive interpretation to the provisions of the Constitution.

PRISON ENVIRONMENT AND FACILITIES

Another important observation is, notwithstanding the Provisions in Prison Manuals that Prison authority provide food, clothes, and necessary items for the survival of women prisoners and their young children. Most of the prisons are overcrowded and lack of basic amenities. The children living with their mothers in women prisons used to be taken care of by the same medical staff that is meant for adult prisoners. There is hardly any pediatrician available in any prison to provide special medical treatment to a child. Mostly the prison hospitals are not properly equipped for providing treatment to small kids. Even the physical infrastructure of prison is also not suitable for small kids since the prisons are meant for adults only. Though, some forms of educational programs are reported to be prevalent for the children in some prisons, but these programs are fulfilling the requirements of the children of different age groups. This is also true in case of recreational facilities as well as educational facilities. Though, in some prisons where crèches are available to look after the children of women inmates, women inmates may participate in rehabilitation programs but most of the prisons lack such facilities. It may also be noted that no specific staff or official is assigned to a specialized duty of looking after the children of women inmates. Secondly, prison staff is

overstressed with assigned job and duties. Thus, the change in attitude among the staff to understand the problems of the children is required.

MODERN PRISON SYSTEM IN INDIA

Incarceration in its pure and simple form is a kind of cruel or coercive sanction, its object being primarily to deprive the offender of his liberty, which is the most serious damage, which can be caused to a human being. The imprisonment was a very usual form of punishment in Mughal India, there were no specific rules governing it. Prisoners were treated as animals because there was no regard for their rights. The Prisons in India, at the time of British takeover of the country by the East India Company were in a terrible condition. This was inevitable in the criminal justice system where deterrence was the only aim of the Prison system.

In 1786 Cornwallis formulated a new scheme, which may be referred to as "the trying birth of the modern Prison System in India." Accordingly the control and management of the jails were transferred to European hands. He had tried to secure health and moral as well as safety of the prisoners. During 19th century the prison was a well-recognized, separately identifiable institution for the detention of under trials as well as convicts.

APPOINTMENT OF VARIOUS COMMITTEES

For the internal organization of the modern Prison System, and for achieving the objectives of imprisonment, various Commissions and Committees were appointed and upon their recommendations the Indian Penal Code, 1860; the Prison Act of 1894 and the Prisoners Act of 1900 were passed which are the current laws regarding the Prison in India. After the First World War, an All India Jail Manual Committee 1919-20 was formed. In its reports, a clear departure from earlier stands on deterrent aspect was made and the principle of reformation of prisoners was accepted. The committee observed:

The Indian Prison Administration has lagged behind on the reformatory side of Prison work. It has failed so far to regard the prisoner as an individual. It has lost sight of the effect, which humanizing and civilizing influences might have on the mind of the individual prisoner. they tend to harden if not to the great and that most men come out of prison worse than they went in.

With regard to the report of the above Committee of 1919-20 it may be remarked, "laid the foundation stone of modern Prison system in India." The need for humanizing jail administration was universally recognized at the threshold of independence. After the independence the thought and movement for prisoners' rights got momentum. It is being recognized that a criminal must be considered a victim of social circumstances, a person requiring treatment rather

than punishment. The Mulla Committee has recommended that the conditions of prisons should be improved by making adequate arrangement for food, cloth, sanitation, ventilation etc. Probation, after care, rehabilitation and follow-up of offenders should form an integral part of prison service.

Despite the reformatory measure taken by the Government the general condition of prisoners in India is far from satisfaction. Thus, the history of prison clearly reflects the change in societal reaction to crime from time to time. Whatever has happened in India for the protection of fundamental rights of prisoners and humanizing the prisons atmosphere is the direct outcome of development taking place in these fields in various countries particularly in England and America. Imprisonment can be used as a method of reducing the incidence of criminal behavior either by deterring the offenders as well as potential offenders or by incapacitating and preventing those from repeating the crime or by reforming them into law abiding citizens. Four important justifications are put forward for imprisonment as a mode of punishment, i.e., retribution, deterrence, general and specific, prevention and reformation. The theory of retribution has its origin in the crude animal instinct of individual or group to retaliate when hurt. Accordingly the evil should be returned for evil. The legal discrimination against ex-convicts, the loss of civil and political rights and frequent harassment by authorities undermine the legitimacy of retributive punishment.

DETERRENCE RULE OF MEDIEVAL PERIOD

During medieval period the deterrence was the cardinal rule of criminal justice which meant considerable torture and harassment to inmates. Today, also to some extent, the main objective of imprisonment is to deter all men from crime who are capable of committing it. But the charge is made that deterrence apparently does not function effectively. Even assuming that imprisonment could be swift and sure for all convicted offenders, the high recidivism rate of released criminal raised serious question about the effectiveness of deterrence model of imprisonment. According to preventive theory the incarceration is the best mode of crime prevention as it seeks to seclude offenders from society thus disabling them from repeating crime. As against the retributive, deterrent and preventive aspects of incarceration the reformatory approach seeks to bring about a change in the attitude of offender so as to rehabilitate him/her as a law abiding citizen. Thus, the sole aim of prisons should be the reformation and rehabilitation of the offender. Mahatma Gandhi thus emphasized that:

All punishment is repugnant to Ahimsa. Under a state governed according to the principle of ahimsa, therefore, a murderer should be to a penitentiary and there given every chance of reforming himself. All

crime is a kind of disease and should be treated as such.

The reformatory view of penology suggests that imprisonment is justifiable only if it looks to the future and not to the past.

RETRIBUTIVE THEORY OF PUNISHMENT

In India after independence the main objective of imprisonment being reformatory, and as little as possible deterrent. In this context the observations of Justice V.R. Krishna Iyer are apposite:

The retributive theory has had its day and is no longer valid. Deterrence and reformation are the primary social goals which make deprivation of life and liberty reasonable as penal panacea.[4] The reformation and rehabilitation are an appeal for the acceptance of an ideology- the ideology which is nurtured in our own civilization and culture. On the legal front it is a fight to secure to a neglected and off forgotten sector society- the prisoners-their fundamental rights granted under our Constitution-the right to justice, liberty and humanity. According to Justice V.R. Krishna Iyer, justice should be tempered with mercy and that in sentencing an accused the reformatory aspect of punishment shall be born in mind.

EFFECT OF INCARCERATION

The deplorable conditions in prisons are an admitted fact. As per survey in different prisons in India, It was found that there are overcrowding in prisons which is a major problem in mostly prisons in India ,absence of proper and sufficient amenities and due to mingling of all grades of prisoners fresher gets trained to become hard core criminals. When the prisoners return to free society they are suspected, scorned and called ex-convicts. No feeling of obligation to society or ambition to reform can develop under this circumstances.Today, despite progress in other areas, the law regarding free expression in prisons remains virtually unchanged. The right to communicate with the outside world is subject to restriction. Due to incarceration the prisoners, right to privacy as well as freedom of religion is generally violated. A prisoner is not allowed to attend a place of worship or pilgrimage outside the prison. Besides the deprivation of right and liberty of the prisoners, imprisonment frustrates the economic life of offenders' dependents.The prison inmates the most disillusioned victims or beneficiaries of our prison reform effort, even today, are incessantly begging for humane treatment, better food, adequate medical service, protection of fundamental rights and end of brutality. The inmate's conception of self as an acceptable, respectable, morally worthy individual is the ultimate target of the deprivation and degradations of imprisonment. In the modern times the State has undertaken the task of affording adequate protection of the individual and providing reasonable opportunities to every one for full development of

individual's freedom that the concept of Human Rights has been evolved. Prisons are built with stones of law and so, when human rights are hashed behind the bars, constitutional justice impeaches such law. In this sense, courts which send citizen into prisons have an onerous duty to ensure that, during detention and subject to the constitution, freedom from torture belongs to the prisoners. It is a crime of punishment to further torture a prisoner undergoing imprisonment. If we debar a prisoner from human rights only because the prisoner has committed a crime, then we shall threaten our own humanity. A prisoner is sent to jail as a punishment, and curtailment of liberty is itself a punishment, so a prisoner cannot be punished more by debarring him/her rights.

ROLE OF VARIOUS LAWS IN PRISON ADMINISTRATION

Various Laws, Rules, Acts, Charters, and Regulations have been made, passed and enacted at national and international level in order to protect the fundamental rights of the people including prisoners. The fundamental rights are based upon making increasing demand in which inherent dignity and worth of each prisoner receive respect and protection. Human Rights and fundamental freedoms allow the prisoners to fully develop and use their physical, mental, moral and spiritual needs. At International level in 1948, a movement was started in the form of Universal Declaration of Human Rights. The document provides certain basic principles of law which should be applied in order to protect the human rights of prisoners as well all over the world. Amnesty International Covenants contributed to the human rights movement by prescribing certain Standard Minimum Rules for the treatment of prisoners. At the National level the Constitution of India under Part-III provides for the protection of fundamental rights of prisoners. Accordingly barbarous and inhuman treatment is a constitutional prohibition. The punishment of solitary confinement, hand-cuffing, harsh labor and degrading jobs in jails without judicial approval violate the mandate of Article 14 and 21 of the Constitution. Besides the Constitution there are certain Statutes like the Prisons Act, 1894, Prisoners Act, 1900 and the Probation of Offenders Act, 1958 where rights are conferred to the prisoners. Accordingly, all prisoners deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of human person.

The Indian Constitution does not, however, enumerate specific fundamental rights to the prisoners. The judiciary, particularly the Supreme Court and High Courts, through the process of judicial activism have expanded by way of interpretation, the scope of various freedoms enshrined in Part-III of the Constitution and also extended their applicability to the prisoners. The Supreme Court's power of judicial review has come as a boon to prisoners since its verdicts have been

in consonance with basic freedoms and liberties of the prisoners. Justice V. R. Krishna Iyer observed:

“Basic Constitutional rights cannot be halted at the prison gates and can be enforced within the prison campus.”

FEMALE CRIMINALITY

Female criminality is not a new phenomenon; however, the study of criminal behavior has remained a relatively neglected area of research. The research work also reveals that there is paucity of empirical data concerning crimes committed by women. Due to low incidence of female criminality, there is less emphasis on research in this field. However, there are several reasons which have led to the growth of female crimes in India. Large number of crimes committed by women are due to their maladjustments in the families of procreation. These maladjustments are to a great extent the result of women's marriage at an age at which she does not know the significance and the complexity of the marital roles expected of her. About three-fifths of the women (62.5% exactly) were married before fifteen years of age while the average age at which a woman was married was 12.6 years and the mean age at which she came to her husband's house and started leading a marital life was 13.8 years. These are the ages at which the women are both chronologically and mentally immature to understand and take up the marriage roles. The result is that they fail to make necessary adjustments in the new environment and cannot fulfil the divergent expectations of the family, because of which they come to be ill-treated by their husbands and in-laws resulting into long bitterness, frustrations, emotional insecurity and ultimately their indulging in the behavior which is subversive to family and social interests. They either develop extra-marital relations or become guilty of moral turpitude or they come into conflict with their husbands and in-laws and revolting against them, they try to get rid of them OR themselves commit suicide. Some women commit crimes not because of their own infidelity but because of their husband's failure to follow implicitly the sexual code of conduct. They indulge in adultery and neglect their wives and children. Complications and conflicts arise leading to woman's conflict with her expected behavior patterns.[5] In some cases, the crimes of the women are the result of their maladjustment in the economic field in the family. Because of husband's death or low income and failure to perform economic roles, they commit thefts or indulge in excise offences. Strangely enough, in a few cases, the economics offences, are due to the identification of woman's own values and habit patterns with those of her husband's because of which she alters her conceptions of right and wrong and comes to help in his anti-social and economic pursuits. All this shows that maladjustment in families- in social and economic fields and the rejection of family and social values 76.30% is the main cause of woman's crime.

PERSONAL TRAITS AND BEHAVIOUR OF WOMEN CRIMINALS

This does not mean that only situation compels a woman to commit crime. Her personal traits and attitudes are equally important in her criminal behavior. The quarrelsome nature of a woman in one case, arrogance in another case and discourteousness, pride disobedience, narrow-mindedness, impatience, extravagance, selfishness, stupidity, suspicious nature, impoliteness or timidity in yet other cases played significant roles in a woman's criminal behaviour. The crime of a woman is the result of her personality traits like temperament, needs, drives etc. and the circumstances in which she functions, e.g., provocation, temptation, maltreatment, poverty, extreme stress and so on. Further, it is the conjunction of personality structure and situational elements that determines the type of criminal and the type of the crime.

EFFECT OF MODERNIZATION:

The modernization process has brought certain fundamental changes in our socio-cultural life. Some of these changes have also affected the lives of women. In the liberalized and globalized era of economy, there are more opportunities for women's empowerment however, these opportunities have also led to emergence of new social conditions in which emancipation and liberation have become prominent. Indian women are also experiencing considerable stress and strain due to the impact of modernization which are being increasingly compelled to deviate from our traditional norms and report to anti-social or criminal behaviour.

EFFECT OF ENVIRONMENT FACTORS:

The present study has been an attempt to understand the criminal behaviour among women. The empirical evidence has shown that socio-cultural, economic and environment factors have a vital role to play in female criminality. Thus, there is a considerable need for strengthening the loosening grip of the family. These institutional controls direct most of the behavior of its member by internalizing in them certain values like loyalty, security, protection, love and affection and strict rules to its moral conduct. Again, poverty, illiteracy, lack of education and ignorance combined with a social system dominated by traditional value system affect adversely to women leading to criminal behaviour. Since a large number of crimes committed by women are due to adjustment problems of interpersonal relations in family, there is need to adopt a flexible sentencing policy for female criminals.

As observed in most of the case studies done by other writers, our unbiased social system is one of the main reasons why women resort to crime as retribution to her suppression. Thus, there is no such

particular theory to explain female criminality. And also to find a full proof formula to tackle the increasing crime among women, a detailed study by criminologists could probably provide an answer to all unanswered questions.

Generally, women commit crimes such as murder, theft, shoplifting, kidnapping, drug trafficking and prostitution etc. Over half a million women and girls are held in penal institutions around the world, the largest population being in the United States, the Russian Federation and Thailand.[6] Everywhere, women are a minority in national prison populations but their numbers are increasing in many countries.

In other respects, the profile of women's imprisonment relates to the different legal, political, and cultural contexts of the societies in which they live. The majority were detained which included remarriage after divorce, and on charges such as adultery, 'running away from home'.[7]

When taking into consideration the various offences for which women receive a prison sentence, it was found that almost one third of the women were sentenced as a result of drug offences. This clearly shows that drugs are a significant (and increasing) problem in the life of delinquent women. The largest portion of women found guilty of transgressing drug laws were sentenced for drug possession. The possession of illegal drugs and drug dealing are sometimes termed "survival crimes" that serve to support their own drug habits and /or to earn money (escape from the brutality of daily life). This last aspect that the suppressing emotions through drugs and alcohol plays a crucial role in the development of drug addiction in women who have experienced violence.[8]

Some countries make special provisions for prisoners who are mothers. In the Russian Federation, for example, a custodial sentence may be postponed and subsequently cancelled or reduced for a pregnant woman or a woman with children under the age of fourteen unless her sentence is for more than five years.

Women in the contemporary prison face many problems; some resulting from their lives prior to imprisonment, others resulting from their imprisonment itself. Women in prison have experienced victimization, unstable family life, problems in education and work, and substance abuse and mental health problems. Social factors that marginalize their participation in mainstream of society and contribute to the rising number of women in prison include poverty, lack of social support, separation or single motherhood, and homelessness. Lack of financial support and social ostracize makes life after release a veritable hell.

Particularly difficult situations for women are separation from children and other significant people, including family. Some women are pregnant when

they come into prison and this can be a particularly difficult time, physically and psychologically. World over, it has been found that prison services are not sensitive enough in timely recognition and treatment of their mental health problems and do not address their vocational and educational needs adequately when compared to men. As mentioned earlier, women are more liable to abuse. In some parts of the world, it is said that women in prison are likely to be subject to more desperate disciplinary action than the men.

During the survey it was found that :

1. Most of the jails do not have exclusive women's prisons but only separate enclosures for women.
2. The majority of female detainees are under-trials. They languish in jails for offences for which sentences would have been far less if they had been convicted.
3. Special Courts/Lok Adalats were not being held in the jails for expeditious disposal of cases for under-trials and for petty offences.
4. In many jails, the women prisoners were for more than the authorized capacity leading to acute shortage of space and discomfort.
5. General conditions relating to food, lodging, clothing, recreation etc. were far below standard and needed considerable improvement.
6. In most of the jails, there was one common kitchen and no separate kitchen for women prisoners, who desired that they should be allowed to cook food or alternatively a separate kitchen, should be allotted to them.
7. In some jails, there was no whole time lady medical officer but only a part time lady medical officer who seemed to have appeared for our visit.
8. Most of the jails do not have counseling cells for women. There was urgent need for counseling centres especially for psychiatrist counseling in each prison.
9. There was an urgent need for simplification of bail procedures for women prisoners.
10. A need was felt to strengthen the free legal aid cell for women prisoners. It was felt that students from Law Colleges should be involved to render legal assistance to women prisoners.

11. Facilities for vocational training, elementary education, legal literacy, free legal aid, etc. we're lacking at most of the places.
12. Women prisoners were finding it difficult to sustain their relation/contact with family members.
13. In some places NGOs were being associated by jail authorities for imparting educational, vocational training and counseling facilities.
14. A good proportion of women after their release from jails, face desertion by their families due to the social stigma attached to having been in jail.
15. Counseling, support and rehabilitation facilities for women after their release from jails, were almost negligible.
16. In some jails convicts and under-trials were lodged together.
17. Seriously ill patients and women with infectious diseases were not segregated.
18. There was no bailer to bail out some of the women inmates who had received bail.
19. The jail authorities were not taking the initiative for premature release of women prisoners.
20. The female jails/enclosures were not managed by women personnel but were staffed by male members.
21. In some jails foreign prisoners were given special facilities in regard to food, clothing, etc.
22. It was difficult to conduct surprise visits to jails to see the conditions prevailing there as prior permission from jail authorities was required.
23. It was noted that the accounts relating to wages paid to the women convicts were not maintained. There was no accountability. The women convicts were not informed about the total amount earned by them as no pass book/account was maintained.
24. The vacancies in the prison cadre especially of female staff were not filled-up.
25. At times the women prisoners were not aware of the grounds of their arrest.
26. Mentally ill patient were languishing in jails and many have breakdowns after coming to jail. They were locked up without any proper care/treatment/help.

27. There were also some cases of exploitation of young women prisoners by the jail staff for immoral purposes.[9]

Some women prisoners want to stay in jail for good ever after completing their sentence due to the same reason of insecurity in future and as told by them, this insecurity of basic necessities may lead them to future crimes including theft etc. and they may again be sent to jails. So, they do not want to leave jail. So, rehabilitation remains major concern with these women prisoners who are insecure for their future. Nobody wants to take risk of providing employment to those who are convicted of heinous crimes like murder etc.

RIGHTS OF PRISONERS:

There is no specific provision in the Constitution which deals with prisoners' rights. Hence the SC adopted an activist role and interpreted Articles 14, 19 and 21 in Part III along with Articles 38, 39, 39A and 42 in Part IV to spell out the various fundamental rights available to the prisoners.

The study of the various rights of the prisoners, enunciated in the catena of judgments in the post Maneka Gandhi[10] period can be done under four sub-headings:

TORTURE:

The SC while exploiting the Charter of Unremunerated Rights' i.e., Art. 21, held in **Francis Caralie v. Administrator, Delhi**[11] that "there is implicit in Art. 21 the rights to protection against torture and human degrading treatment". In other words a convicted man is not reduced from a person to a non-person so as to be subject to the whim of the prison administration.[12]

The trend is clearly reflected in **Sunil Batra v. Delhi Administration**[13] where it was held that keeping a man 'under sentence of death' in solitary confinement is violative of Art. 21 and that the bar-fetters should not be put for an unusually long period without justification.

In **Sunil Batra v.. Delhi Adminstration**,[14] the SC laid down five principles. First, under-trial prisoners should be separated from convicted prisoners. Secondly, hard labour is not harsh labour. Hard labour under S. 53 of the Indian Penal Code must be given a humane meaning. Thirdly, young prisoners should not be exposed to sexually frustrate adult prisoners. Fourthly, the visits of the family members of the prisoner to him should be fairly increased. And lastly, confinement in irons should be allowed only where safe custody is impossible.

RIGHT TO SPEEDY TRIAL:

In the leading case of **Hussainara Khatoon v. State of Bihar**[15] it was held that where under-trial prisoners have been in jail for periods longer than the maximum term to which they could have been sentenced if convicted, then their detention in jail is unjustified and violative of Art.

Developing this, it further held that the right to speedy trial is an integral and essential part of the fundamental right to life and liberty enshrined in Art. 21 and the courts have wide powers to direct the state to take proper measures like setting up new courts, appointing more judges, etc.

RIGHT TO LEGAL AID:

It was held in **Hussainara Khatoon's Case(II)**[16] that "right to free legal aid as given under Art. 39-A was implicit in Art. 21 because a procedure which does not make available legal services to an accused person, who owing to his poverty cannot afford a lawyer and who would, therefore, have to go through the trial without legal assistance cannot possibly be treated as just fair and reasonable procedure and is thus, violative of Art. 21."

The Court further laid emphasis on the fact that "the State cannot take the excuse of inadequate Infrastructural facilities for its inability to provide free legal aid, as it is its duty to do so."

The principle laid down in **Hussainara Khatoon's Case** gets further strengthened by **Ranchod v. State of Gujarat**[17] where it was held that adequate care should be taken in providing competent lawyers for legal aid. In **Khatris v. State of Bihar**,[18] it was held that the legal aid should not be provided at the commencement of the trial only, but it should be provided when the person is brought before the magistrate for the first time.

Lastly; in the chain of these cases ensuring justice to the prisoners, comes the case of **Suk Das v. Union Territory of Arunachal Pradesh**[19] which held that it was an obligation on the part of the Magistrate or Session Judge to tell the accused of his right to have a lawyer at State's cost.

RIGHT TO COMPENSATION:

In the famous **Bhagalpur Blinding Case**[20] the question that the Court addressed was whether the Court which can certainly injunction a State from taking any action in contravention of Art. 21 could give compensation as a form of relief when the State has already infringed upon the person's rights to life?

The Court taking recourse to dynamic Constitutional Jurisprudence held that it was not helpless and a

certainly devise new tools and new remedies and hence, can compensate.

This view of the Court was reinforced in **Rudul Shah v. State of Bihar**[21] where the Court awarded Rs. 35,000/- as compensation for illegal detention for 14 years. It pointed out that "under Article 32 the SC could pass an order for the payment of money in the nature of compensation that would be one of the effective ways by which the SC could prevent gross violation of the Fundamental Rights by the administrators."

RIGHTS OF UNDER-TRIALS AND DETENUES FOR SEPARATE TREATMENT

The under-trials and 'preventive detainees' require separate treatments because no guilt is to be proved against the latter. The preventive detainees are simply kept in jail as a preventive measure which is not by way of punishment. But the system of prisons particularly in our country has not been able to achieve its purposes for which it was established. Generally the under-trials as well as detainees are treated like convicts and kept together. As in a book stated:(Indian Prison Laws and Correction of Prisoners, written by Nitai Roy Chowdhury) One of the most horrendous aspect of jail sentence is the fact that not only are the young housed with the older offenders, but those awaiting trial share the same quarters as convicted inmates. The latter individuals have little to lose in seeking sexual gratification through assault, for they have to serve their time anyway. As matters now stand, sex is unquestionably the most pertinent issue to the inmate's life behind the bars. There is a great need to utilize the furlough system in corrections, men with good record showing good behavior should be released for weekends at home with their families and relatives:

So, there is a need for providing special status to the under-trials' and detainees. In the **Sunil Batra**[22] case, the Supreme Court discussed the problems of the prisoners in wide prospective. Justice Krishna lyer condemned the practice of keeping under-trials and detainees with convicts and reacted against the practice in the following words:

The under-trials, who are presumably innocent until convicted, are being sent to jail, by contaminated made criminals - a custodial perversity which violates the test of reasonableness in Article 19 and of fairness in Article 21. How cruel would it be if one wants to go to a hospital for a checkup and by being kept along with contagious cases came home with a new disease. We sound the tocsin that the prison reform is a constitutional compulsion and its neglect may lead to drastic court actions. Justice Krishna lyer condemned the practice of keeping under-trials

and detenues with convicts and reacted against the practice.

Taking various reports into consideration the Apex court issued directions and guidelines to ensure that certain minimum standards are to be observed with respect of women prisoners and their children in **R.D. Upadhyay v. State of Andhra Pradesh and Ors.[23]**:

- (1) Arrest of women should be made by lady officers only.
- (2) A child shall not be treated an under-trial or a convict while in jail, with his or her mother. Such a child is entitled to food, shelter, medical care, clothing, education, and recreational facilities as a matter of right.
- (3) Where a woman prisoner is suspected to be pregnant at the time of her admission or at any time thereafter, the lady medical officer shall report to the superintendent. Before sending her to jail, the concerned authorities must ensure that the jail in question has basic minimum facilities for child delivery as well as for providing prenatal and post-natal care to both mother and child.
- (4) Where possible and provided she has a suitable option, arrangement for temporary release or parole, should be made to enable an expectant prisoner to deliver outside the prison. Only exceptional cases constituting high security risk or cases of equivalent grave descriptions can be denied this facility.
- (5) Birth in prison, when they occur shall be registered in the local birth registration office, but the fact that the child was born in the prison, shall not be recorded in the birth certificate.
- (6) Female prisoners shall be allowed to keep their children with them in jail, till they are 6 years old on the attainment of which, the child shall be handed over to a suitable surrogate as per the wishes of mother or sent to a suitable institution run by the social welfare department.
- (7) Child kept under protective custody in a government home shall be allowed to meet the mother at least once a week.
- (8) A permanent arrangement is needed in all jails to provide separate food, with ingredients to take care of the nutritional need of children, who are regular residents.
- (9) Children shall be regularly examined by the Lady Medical Officer, to monitor their physical growth and shall also receive timely vaccination.

- (10) The child shall be given proper education and recreational opportunities. While their mothers are at work in jail, they shall be kept in a crèche or a nursery under the charge of a matron or a female warden.

In **Shri Ram Murthy v. State of Karnataka[24]**, the Supreme Court reviewed almost every case regarding prisoners' rights decided by it and various High Courts. Nine major problems which afflict prison system was brought to the notice of the Court, viz, overcrowding, delay in trial, torture and ill-treatment, neglect of health and hygiene, insubstantial food and inadequate clothing, prison vices, deficiency in communication, streamlining of jail visit and management of open air prisons. The Court issued following directions in this regard.

- (1) To take appropriate decision on the recommendations of Law commission of India in its 78th Report on the subject of "under trial prisoners in jail."
- (2) To apply mind to suggestion of the Mulla Committee relating to streamlining the remission system and premature release (parole) and then to do the needful.
- (3) To deliberate the enacting of new Prisons Act to replace sentencing old Indian Prisons Act, 1894. We understand that National Human Rights Commission has prepared an outline of an all India Statue, which may replace the old Act and some discussions at national level conference also took place in 1995. We are of view that all the States must try to amend their own enactments if any, in harmony with all India thinking in this regard.
- (4) To think about introduction of liberalization of communication facilities.
- (5) To take needful steps for streamlining of jail visits.

Many other directions were also issued by the Apex Court. This is a very landmark judgment as far as prisoners' rights and humanization of prisons is concerned. But the Government has not taken any proper step in this regard even till date. In respect of fundamental rights of prisoners the Court has been acting as the leader preceptor and path finder while the Govt. has been only reacting, stalling or at times prevaricating. In these circumstances it is the onerous duty of the Court to ensure that prisoner's fundamental rights should not be violated at any cost.

Though most of the cases discussed in this chapter are related to men prisoners but as mentioned earlier in this study that men and women are equally treated under the provisions of Constitution of India,

therefore, rights provided through these judgments are equally applicable on all prisoners.

This study has shown prisoners were declared persons entitled to all the rights except those curtailed by the very nature of imprisonment. The Protection of Human Rights Act, 1993 declares that only those rights are Human Rights which are enumerated in the Constitution and recognized by the court in India. Indian judiciary in giving effect to Article 21 of the Constitution with respect to the prisoners has evolved several rights in favor of prisoners with a view to reform and rehabilitate the prisoners subsequent to release from prison. The rights which have emerged through various pronouncements of the courts, may be enumerated as under:

- (a) Freedom of Speech and Expression.
- (b) Rights to Counsel: Free Legal Aid.
- (c) Rights to be treated as Person: Right to Human Dignity.
- (d) Rights against Bar-fetters, Solitary confinement and Hand Cuffing.
- (e) Rights to know the Grounds of Punishment.
- (f) Rights against Torture.
- (g) Rights to Protection from Violent Prisoners.
- (h) Rights to Wages for Prison Labours.
- (i) Right to Fair Trial.
- (j) Rights to Mail.
- (k) Rights to Health Care.
- (l) Rights against Discrimination.
- (m) Right to Access to Court.
- (n) Right to Speedy Trial.
- (o) Right to Compensation.
- (p) Right to be released on Bail.
- (q) Right to get free copy of prisoners hand-book

THE PROBLEM OF NON-IMPLEMENTATION:

The activist role adopted by the SC in enunciating the various prisoners' rights, has undoubtedly changed the outlook of the Indian legal system towards the prisoners. A perusal of the plethora of SC judgments after the **Maneka Gandhi Case**[25] reveals that the prisoner is a human being with all the basic

fundamental rights and the SC is the custodian of these rights.

Theoretically, the above proposition can undoubtedly be accepted. However, the existing deplorable state of Indian prisons and its inmates, questions the extent of practical impact that the activist decisions of SC has made. Are the SC decisions, mere 'Paper Tigers'?

It is submitted that the directions of the SC vis-a-vis the rights of the prisoners', are not being implemented by the executive authority which labels the various decisions as mere 'Paper Tigers'.

This fact of judicial activism of the SC being reduced to the state of an ineffective practical instrument of change is reflected in the SC decisions itself. In **Khatri's case**[26] the SC expressed its anguish at the fact that the decision of **Khatoon's Case** was not implemented in the state of Bihar. Further the facts of **Veena Sethi v. State of Bihar**[27] reveals that the requirement of **Khatoon's Case** to have a regular list of under-trials and other acquitted prisoners was not complied with, as a result prisoners stayed unlawfully in jail for periods varying from 19 to 37 years. In fact, in a case of Patna High Court where the Chief Justice has directed the authorities to furnish a list of under-trial prisoners and the stage of their proceedings.[28]

This shows that the executive authority is not keen in implementing the decisions of the SC to ensure rights to the prisoner. There can be two reasons for this. Firstly, that the implementing authority is the violator of prisoners' rights, against whom the direction is given. Hence, they are Indifferent while implementing those decisions.

Secondly, that in a particular case the direction is given to the violating State which is the party in that case. The decision is not circulated to the respective authorities of each State. As result, the direction given in **Sunil Batra's Case**[29] against Delhi Administration won't be applicable in the state of Bihar and in a subsequent case the Bihar government cannot be held up for contempt. For example, in **Sunil Batra's Case** the Court directed that no prisoner be kept in iron bars for a prolonged period. But subsequently in **Kadra Pahadiya's Case**,[30] under-trial children were made to work in chains during daytime outside jail. The Government was not held up for contempt. This indicated the non-uniform implementation of the SC decisions and the restricted scope of Article 141 of the Constitution.

It was found that the requirement of keeping under-trial prisoners separately from the convicted prisoners was done subject to accommodation. The prisoners are allowed to meet their family members only once a fortnight as required by the Prison Act, 1894. The number of meetings has never been enhanced. Both these findings go against **Sunil Batra's Case**. It was also found that there was no

special arrangement made to provide intellectual work to qualified prisoners as required by **Md. Gissuddin v. State of AP**[31]. The prisoners are allowed to write four letters and all of them are censored. There is no library facility available in most of the prisons in India. Besides this, the legal aid facility was not provided at the lower stages of the proceedings. It is interesting to note that this is contrary to the direction given in *Khatris Case*. This reflects the indifferent nature of the executive in implementing decisions which are specifically given against them.

This latter point gets further established from the findings of *Shamona Khana on Tihar Jail in Delhi*[32]. It was found that there were three times more prisoners than the capacity on 4th Jan. 1993. Out of this, 90% were under-trials. This state of excessive overcrowding compounded with inadequate water supply, unhygienic conditions, insufficient medical facilities and substandard food has caused the prisoners to live in inhuman conditions which has resulted in 153 deaths between 1988 to Nov. 1992. This is clearly violative of Art. 21 as laid down in *Sunil Batra's Case* and **Francis Coralie's Case**[33]. But, it is unfortunate that in spite of these decisions, violations of prisoners' rights are taking place in Tihar Jail.

REMEDY FOR EFFECTIVE IMPLEMENTATION:

It is established beyond doubt that the executive has been insensitive in implementing the SC decisions which has confined the judicial activism of the SC within the academic books. It has made a mockery of the judicial activism of the SC by making it an intellectual exercise with no practical implications.

The question that arises for consideration now is, what is the extent of the role that the SC can play in developing a new prison jurisprudence? Does its role stop after spelling out the various rights of the prisoners? Or does it have a role in seeing that its decisions get implemented?

It is submitted that the SC has been successful in creating a new humane prison jurisprudence, through its judicial decisions. The endeavor of the SC of providing rights to the prisoners would have no practical import if it doesn't play role in seeing that its activist decisions are implemented, especially, in the case where the executive body has failed to obligate. Hence, the SC has a definite role to play in seeing that its judgments are enforced.

There are three possible ways of ensuring the implementation. First, the SC can direct the State legislatures to repeal the Prison Act, 1894 and make a new progressive legislation, incorporating all the various prisoners' rights declared by the SC and the various schemes for implementation developed by it in the cases and all the rules framed under Standard Minimum Rules for the Treatment of Prisoner adopted

and approved by United Nations. This would surely bring uniformity in implementation and shall be a formal recognition of the prisoners' rights.

However, this remedy, though, most effective, is not within the control of the SC. It does not possess the power to direct the legislature to do a particular function, but can only suggest. For instance, in *Sunil Satra's Case*, the SC suggested the overhauling of Prison Act, 1894. But unfortunately, only a few states have brought changes in their respective Prison Manuals.

The second possible solution is the adoption of a much stricter attitude by the SC while giving its judgments. For instance the SC finally laid down in **Nilabati Behera v. State of Orissa**[34] that the claim for compensation under Art.32 for the contravention of fundamental rights by State agencies is the only distinct acknowledged remedy and not an optional one. Likewise, the SC can also hold the authorities in contempt when their decisions are not enforced. Besides this, it can also make it mandatory that all its decisions relating to prisoners' rights should be circulated to all states with a direction that it must be complied within a specific period, otherwise, the state authorities shall be held up for contempt.

It is submitted that by adopting such an attitude the SC shall move towards making the prison jurisprudence more humane and its implementation more certain. However, it must be noted that this remedy has a major drawback, This remedy will only come into effect when some case comes to the SC. i.e. violation of prisoner's right and a subsequent proceeding in the SC for their protection is a condition precedent for this remedy to come into action. This certainly wouldn't deter the executive authorities from violating the rights of the prisoner.

This brings us to the third remedy. It is submitted that the SC can ensure the implementation of its decisions by exploiting the wide scope of its administrative rule making power provided under Art. 145(1)(c) read with Art. 144. The SC can formulate a scheme in its administrative capacity for supervision of the High Court[35] and the District Courts along with the prisons of the state. This supervision will help the SC in obtaining first-hand information about the extent to which its decisions are being implemented and shall also give the opportunity to it to handle the cases of prisoners' rights violation at the lower level itself.

THE SCHEME:

It is submitted that accepting the third remedy as the most practicable, the following suggestions are tendered for the formation of the scheme.

First, the Scheme should be divided into two categories. The first part should deal with specific

issues and the second one should deal with general ones.

In the specific category, the issue of free legal aid to prisoners is of great importance. Considering the various SC rulings on this issue, it is suggested that first, the Supreme Court Legal Aid committee[36] headed by one of the SC judges must supervise the functioning of the legal aid committees dealing with prisoners of the State. Secondly, for convenience and better functioning the HC under S. 304(1) of the Criminal Procedure code must formulate a High Court legal aid committee headed by one of its judges. This committee should formulate rules in consultation with SCLAC for proper dispensing of free legal aid and supervision in the subordinate courts of the state.

In the general category, it is suggested that first, a judge or a number of judges (as desired) must be given the power to supervise the judiciary of a particular state. The SC judge or judges should not belong to that state.

Secondly, at the HC level, the Chief Justice[37] must allot every judge a district for supervision of the District and Sessions Court and other subordinate courts along with the Prisons. The supervising HC judge must visit the District at least once in three months. He should inspect the prison personally and should keep an account of the complaints, the developments made in prison and other information tendered to him by the District Judge. If the Inspecting HC judge feels that the authorities, both judicial and prison authorities, are not complying with the decisions of the SC or the HC. then he can sue or take administrative or judicial action against them under Art. 227 of the constitution. He must then prepare a quarterly report and submit it to the CJ of the HC, who shall send it to the supervising SC judge.

Thirdly, at the District level, it shall be the duty of the District and Sessions judge to ensure that the magistrates and other judges take a humane stand towards the prisoners. He should also, keep an account of all the under-trial prisoners and must prepare a monthly report about the progress in each case. Besides this, he should, along with other Judges and magistrates must visit the prisons frequently and must cull out the grievances of the prisoners by being friendly with them and informing them of their rights,

After hearing the grievances, the District Judge can take any administrative judicial action to ensure the validity of the grievances and for the protection of the prisoners' rights. Henceforth, he should prepare a monthly report and submit it to the supervising HC judge.

SUGGESTIONS FOR THE FORMULATION OF THE SCHEME:

The suggestions for the formulation of the scheme by the SC to ensure effective implementation of its prisoners' rights decisions has multi-dimensional and far-reaching advantages.

- (a) The non-implementation of the decisions of the SC is a direct consequence of the lack of the 'Constitutional Culture' in the executive machinery and the lower levels of judiciary. This scheme would definitely ensure a positive steady development of respecting the constitutional mandates by all levels of judiciary and at least the prison authorities in the executive machinery.
- (b) The supervision of the SC on the HC and other District level courts along with the prisons of that state would ensure properly directed, channelized trickling down of the concept of judicial activism from the SC to the lowest court. The scheme will make the judicial system and at least the prison authorities, realised the importance of Human Rights of the prisoners, which would compel their conscience to respect them. This would generally provide a definite progressive path for Human Rights in India.
- (c) Once the judicial system and the prison authorities start respecting prisoners' rights, then the awareness amongst the people would increase. This would enhance the emergence of active social action groups like the People's Union for Democratic Rights and would definitely change the thinking of the people, thereby creating a positive public opinion.
- (d) The change in public opinion and the emergence of social action groups, will undoubtedly make the executive machinery go on the defensive. The firm approval or disapproval of the executive action will motivate them to become just, fair and reasonable in their action.
- (e) Thus, it is submitted that the formation of the scheme will not be a mere desperate action of the SC to enforce its activist judgments. but would cause a positive development of a 'constitutional culture' in the people which shall have wide-scale enduring effects on the society.
- (f) It must be emphasised that when the Legislature and the Executive are not taking affirmative action to ensure the constitutionally guaranteed rights of people then it is a mandatory duty of the Judiciary to

take active steps to the maximum extent possible, in order to make the other pillars of democracy realize their duty.

- (g) Hence, it is believed that the SC would adopt the scheme for ensuring the implementation of its decisions and by doing so, it will cause the new humane prison jurisprudence to step out of academic books and reach its practical end.

CONCLUSION

The study has evaluated the present conditions of rights of women prisoners and during this way it has been searched out that there are many vacant corners in this field. So by way of suggestions a humble effort has been made for the improvement in this area and these suggestions are if followed properly can really prove fruitful. Since, majority of prisoners belong to the middle aged group, they can be easily redeemed through counseling. They have the stamina and strength to work hard, the details of job opportunities and small business avenues may be explained to them and necessary help may be extended to them through prison aid societies. Measures may be initiated for free and compulsory education to the girls and also provide adult education to the adult women. Lectures on moral, ethical, and human values be arranged at regular intervals to convert the mind of the convicted persons that crime does not pay. Majority of the prisoners are married, counseling may be given to the members of the inmate's families to treat the woman with respect and dignity after her return from the prison. Awareness should be created among the rural people about the severe consequences of commission of crime and its adverse impact on the family. Provision has also made for the constitution of State Human Rights Commissions by the State Governments, subject to the broad principles and framework provided in the Act. Considering the size of the country, provision has also been made for establishment of regional offices of the Commission in different parts of the Country.[38] The National Human Rights Commission is functional in India. State Human Rights Commissions have also started working in 8 States.[39] Women prisoners – like men – should be informed of their rights under the law. At the time of custody, the arrested woman should be informed of the grounds of arrest and communication of the arrest should also be sent to the nearest relatives of arrested women. Women Voluntary Organizations should be encouraged to be associated with women prisoners to express the problems they are facing in the prisons and get their problems sorted out at the appropriate level. The characteristics of women offenders and their pathways to crime differ from male offenders. The system responds to them differently, therefore there is the need for gender-responsive treatment and services.[40] Separate jails should be provided for women. The hardened criminals should not be clubbed with other inmates. The prison administration should associate the students of Law Colleges to render legal assistance to women, follow-up cases for

bail and other procedures to get relief from the courts. The women prisoners should be aware of the amount earned by them and, they should have bank accounts where the amount earned by them during the conviction period could be deposited and they should be provided pass book of their bank accounts. The Prison authorities are maintaining the accounts, but the inmates do not know about it. Therefore, the women inmates should be kept aware of their accounts. Measures like premature release/remission of sentences of women prisoners suffering from serious ailments like Cancer, AIDS, TB, mental breakdown and depression and those above 60 years of age should be implemented. Since the Indian Prison System is criminogenic in its present form with little hope of improvement due to inherent deficiencies contained it, therefore only those convicts should be incarcerated who are beyond redemption and also beyond the redeeming reach of therapeutic measures particularly regarding women prisoners. There is an urgent need of an Inmates Grievance Committee in each prison. It should be comprised of elected inmates to speak to the administration without fear of reprisal, concerning grievances more so in cases of women prisoners and simultaneously causing development of other procedure for inmates participation in the operation and decision making process of the jail. Appropriate amendment should be made in Criminal Procedure Code to liberalize the bail procedure so as to maximum prisoners could be released on bail. It is the fundamental principle of natural justice that "an offender is deemed innocent unless his guilt is proved". Hence an unconvinced offender should not be sent into prison for bailable offences. "Justice delayed is justice denied," therefore, a maximum time period should be fixed for the trial of the women offenders. The speedy trial should be made the fundamental right of prisoners through constitutional enactment. No under trial prisoner shall be required to do any laborious work. The under-trial prisoners have the privilege to purchase or receive from outside the prison; the prison authority should provide clothing, bedding and other necessities to them into the prison. Women prisoners are treated as non-persons and denied the access to court and legal facilities because of their own position in life. Their grievances can only be redressed through public interest litigation. The benefit of PIL to women prisoners should not be denied. PIL jurisprudence should be strengthened not stultified, developed not minimized. Free legal aid should be a fundamental right in conformity with the judgments of the Apex Court. There is a grave necessity that the Government should make suitable rules and regulations to protect the women prisoner's fundamental rights in conformity with the decisions of the Supreme Court and various High Courts in this regard. The prisoners should be adequately compensated for violation of their fundamental rights. Since the sole aim of prison is reformation and rehabilitation of offenders. The objective of imprisonment should be to devise and use techniques of correcting the effects of the long drawn causative factors in the controlled atmosphere

of the campus, utilizing the helpful factors in her personality, family situation and attitudes and approaches, thus helping the women prisoners to reconstruct her life pattern with increased capacity for adjustment to the socio-economic situation and healthy interpersonal relationship and skills to earn an honest livelihood, to live as an honest and law abiding citizen. The transit hostels should be provided to the women who are not adopted by their families just after their release from prisons. All efforts being made for their rehabilitation and generating work for them to earn their livelihood. Since we have already ushered in the arena of human rights jurisprudence and any violation thereof is seen as a serious phenomenon worldwide. Therefore, the police, prison officials etc. should be educated in this behalf and such a sensitization programme is of urgent necessity. The prison officials have to take tenderly care of an inmate, therefore, they should be made conscious and sensitive about prisoner's fundamental rights through proper training and education. They should realize that convicts are not by reason of mere conviction denuded of all the fundamental rights which they do not possess as citizens of the country, nor they stand stripped off the divinity which has been bestowed upon every human being by birth. She deserves human treatment so that her personality continues to develop during detention and does not die. The prison reform should be an urgent agenda of the Central Government for uniform and effective implementation of various directives issued by the Supreme Court of India from time to time, and thus "prisons" and "reformatory institutions" must, at least, be brought on the Concurrent list of Seventh Schedule of Indian Constitution. Some provision should be made so that the women prisoners should not cutoff from the society where in they have to return ultimately. Such a provision may take care of the maladjustment of women prisoners after their release due to their prisonisation and adoption of the prison culture. The number of conjugal visits of prisoners should be increased and spouses should be allowed to visit the prisoners. Every effort should be made for mental, moral and spiritual upliftment and physical betterment of women prisoners through "Yoga" and other creative activities. General awareness of the role of woman in a society, her rights and laws for them should be briefed to the uneducated women. Legal awareness and awareness about illegal activities and to report or keep themselves away from illegal activities should be provided by social service/ adult education units. Sex education plays an important role wherein the women indulge in crime following lack of awareness regarding sex-rackets and flesh trade. There is needed to be informed about the harsher laws against being a part of such crimes. It is necessary to treat domestic violence cases harshly to avoid future crimes and laws against dowry must be implemented properly. Female criminals who are serving their term in the prison due to crime committed by them or in collaboration with other companion / companions, should be given a chance to rectify or correct their ways so that when they finish their term and come out of the prison, they

should be a lady with no criminal attributes, well informed and more aware, which would enable her to stay away from the crimes and other criminals. Most women are deprived of their liberty and do crimes to break off the chains of cruel traditions. Such women should be given enough support and help to be independent and do something worthwhile for herself, her family and her kids. Proper public awareness is also a need as a criminal returning to her society is not accepted and is taunted by everyone. This might result in her ending up committing other harsher crimes. People need to be made aware of the rights of a reformed criminal as they too have the right to continue with their life as before. Under rehabilitative and supportive measures, a female criminal should be given chance to fulfill her parental responsibilities. Attention should be paid on providing female prisoner with proper medical aid and even on rehabilitation. Caretaking of children of imprisoned mothers should be done or they should be allowed to be in touch with their kids and relatives. As with the UN Standard Minimum Rules for treatment of prisoners (1955), in great variety of legal, social, economic and geographical conditions worldwide, it is evident that not all of the above mentioned measures can be equally applied in all places and at all times. The concerned authorities should, however, serve to motivate a constant effort to overcome practical difficulties in how the rules and measures are implemented, as it would lead to the common goal of improving outcomes for women prisoners, their children and their communities. It should also be kept in mind that Law is not merely the solution to all the problems existing in our society. So, there is a need that society should also change its perceptions and attitude towards women prisoner. It would be unreasonable to assume that merely because a person is moderately well fed and looked after under humane conditions in the jail she is unconcerned with the sentence or feels happy in the jail. The courts while deciding cases should look at the reasons and compelling factors which led a woman to commit that particular crime. To a person under restraint the most valuable right, the absence of which feels deeply, is her personal freedom, the freedom to move about freely in society, the freedom to associate with her kith and kin and the freedom to work as she likes. The absence of access to the affection of her family members makes her emotionally upset and she waits for the day when she will be able to back to her home for a re union with her close relatives and the friends. Every day of her sentence is of count to her materially.

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