

RIGHTS OF PRISONERS

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ABSTRACT

In a developing nation like India that is widely recognized for its very rich cultural heritage, customs and its democratic beliefs, but it is a matter of sorrow that there is no specific codified legislation for the prisoner's rights. Although this cannot be denied that our noble judiciary hasn't really forgotten the prisoners and has acknowledged different rights for them through their decisions and understandings; additionally, the rights of prisoners have received significant attention in recent decades as people become more aware of the dire need for prison reforms. Torture of prisoners and suspects in police custody has grown routine in India. Every person must have human rights in order to exist in a civilised society with a functioning legal system. The Indian Constitution's Articles 14, 19, 20, 21, and 22 all imply that prisoners' rights are safeguarded. Article 14 deals with the right to equality, which ensures that everyone is treated equally in the eyes of the law. This paper describes the prisoner's conditions and the causes of torture against them, current constitutional and legal system in India for protecting prisoners' rights, as well as the various judicial and executive instructions established periodically with regards to prisoner needs and treatment.

INTRODUCTION

A prisoner is a person who has been deprived of his liberty and is being held in a jail or detention center as a result of a crime. Being a convicted criminal or facing a trial does not negate the importance of human rights for survival and life security.

Historically, the relation between prisoners and human rights has been shaky. There have always been differing viewpoints about whether or not inmates are entitled to human rights. Some believe that if an individual becomes deviant and breaks the law, he should be stripped of all of his rights. Others, on the other hand, believe that certain rights remain reserved for an individual even after they have committed a crime. Prisoners have some fundamental rights that protect

them from certain inhumane activities. Torture is one such morally reprehensible tactic that is used against inmates and suspects to elicit confessions about a specific case.

Torture has unfortunately become more common throughout the world. Torture is described as "intense physical, emotional, or psychological pain inflicted on someone against their will to compel them to admit or testify about something". In India, the use of torture on detainees and suspects has become common in police custody. It is necessary for every person to have human rights to live in a civilized society where law and system are available. And if a person is imprisoned for committing a crime, he is entitled to certain fundamental rights, even if some of those rights are limited. It is a system in which inmates are sent to jail as a form of punishment not to be subjected to mental and physical violence. A person's rights cannot be fully waived just because he/she is under trial.

Various articles in the Indian Constitution deals with the basic rights that should be reserved with everyone and the suggested procedure if those rights are violated. Specifically Article 21¹ deal with the Personal Liberty. The court of law has also stated that- "*the ambit of Personal Liberty by Article 21 of the Constitution is wide and comprehensive; it embraces both substantive rights to Personal Liberty and the procedure prescribed for their deprivation*". In addition, they said that the legal procedures must be fair, just, and rational.

In the case Charles Sobraj vs. The Superintendent Central Jail, Tihar², it was made very clear by the apex court that- Except for the fact that being compelled to remain in a jail necessitates the denial of such rights, such as the right to free movement freely or pursue a career of one's desire, an inmate is otherwise entitled to the Constitution's fundamental freedoms. And the accused is sent to jail as a punishment, not for a punishment.

RESEARCH OBJECTIVE

The main objective of conducting this research is to get detailed information regarding the basic rights that are provided to the prisoners when some of their rights are curtailed. The focus of the

¹ Indian Constitution, Article 21

² Charles Sobraj vs. Superintendent Central Jail, Tihar, 31st August, 1978 AIR 1514.

researcher was centered on the Rights to Prisoners against Torture and Mental & Physical Abuse that a prisoner is subjected to confess against their will. The paper further discusses about the obligation of the nations to protect their prisoners from the extreme tortures and safeguard their rights.

LITERATURE REVIEW

The initial research conducted concludes that there are various sources available in the form of journals, articles, textbooks, case laws and judgments, e-books, etc. to analyze, study and to efficiently conduct the research on the topic. The topic is about the rights that are vested with the people who are convicted as a result of a crime they committed. To obtain a clear picture of the topic, the researcher has referred to **Constitutional Law by MamtaRao³** which is a comprehensive book of Constitutional law. The book gives a detailed description about the concerned topic. Also the book **Introduction to the Constitution of India by Dr. Basu⁴** was referred to add more quality to the content of the paper. **The Indian Constitution⁵** was also studied to add to the effectiveness of the research paper and to collect the qualitative information regarding different fundamental rights that should be provided to the prisoners and the people who are under trial.

Different journals were also the part of the study of the researcher while collecting the information. An article by **A.G. Noorani, A Guide to Prisoners' Rights⁶** was referred to read about the various rights that should be given to the prisoners to prevent them from having inhumane treatment. The other article is- **Forgotten Prisoners' by Edward R. Finch Jr.⁷**, this particular article aims at studying about the situation of the prisoners' that includes the brutal treatment they are subjected to, the mental and physical abuse they suffer during the course of their punishment and suggests the various corrective measures as well.

³MamtaRao, Constitutional Law (2nd Edition)

⁴ Dr. Durga Das Basu, Introduction to the Constitution of India, (20th Edition, 2011).

⁵ The Indian Constitution

⁶ A.G. Noorani, A Guide to Prisoners' Rights, Economic and Political Weekly, 1981 Vol. 16 No. 32

⁷ Edward R. Finch Jr. Forgotten Prisoners', American Bar Association, 1971 Vol. 57, No.1.

Another article by **Mr. Prateek Jain, Rights of Prisoners' in India: A legal Analysis**⁸, was also part of the study as it was a major source of information regarding the topic as the article specifically covers the legal framework in India. **Rights of Prisoners' against Custodial Torture by ShivamJasra**⁹ was also helpful in conducting an efficient research.

Many cases relevant to the concerned topic exist. However, the researcher has quoted a few case laws to draw the reference from them. The case of **Charles Sobraj vs. The Superintendent Central Jail, Tihar** was read to quote the judicial decisions regarding Constitution's Fundamental Freedoms available to a convict. The other case **Joginder Kumar vs. State of U.P.**¹⁰ where it was held by the court of law that if a person is detained or arrested, someone close is entitled to be informed.

RESEARCH METHODOLOGY

The current research topic requires a doctrinal method of research to better understand the topic under the constitutional law. The doctrinal or library based research is most common methodology used by those who are undertaking the researches on legal topics. The doctrinal method of research is mainly concerned with legal propositions and doctrines. The main aim of this research methodology is to specify the facts and attain the objectives of the study. This research is based on the published data. It is entirely a theoretical research that comprises of legal statutes, case citations, case laws or the legal analysis.

The research conducted is also qualitative in nature and is subjected to various analysis and observations. It involves critical examination of the topic and evaluating various facts and information available. Hence, the researcher proposes a doctrinal research as it best fits the analysis of the current subject.

⁸ Mr. Prateek Jain, Rights of Prisoners' in India: A legal analysis, Law Audience Dec,18 Vol. 1 issue 2nd.

⁹ShivamJasra, Rights of Prisoners' against Custodial Torture, April,21

¹⁰“Joginder Kumar vs. State of U.P. A.I.R 1994 S.C 1349”.

RESEARCH QUESTIONS

The questions to be addressed by the researcher in the subsequent part of the paper include:

1. Who are Prisoners? Why are they tortured?
2. What are rights of the prisoners' in accordance with Chapter III of the Indian Constitution?
3. How have the Rights of Prisoners evolved over a period of time
4. Differentiation between the rights of prisoners of EU and India.
5. What role did the judiciary played?
6. Which committee reports and legislations have played an important part?
7. Which International Organizations are working to improve prisoners' situations?

CHAPTERIZATION

PART-1: This part of research paper covers the introduction of the topic, the objective of the study, the questions to be addressed in the later section of the paper, the methodology used, the sources referred for the data and the review of literature.

PART-2: This part of the research paper deals with the introduction to prisoners and the tortures against them.

PART-3: In this part the constitutional rights are talked in detail along with the relevant case laws for reference.

PART-4: In this part the researcher has briefly studied about the evolution of the rights of the prisoners.

PART-5: The rights of prisoners in European Union and India are compared.

PART-6: Role of Judiciary has been discussed in detail in this part.

PART-7: In this section the committee reports are talked about. This part is divided in two section- Pre-Independence Era & Post-Independence Era.

PART-8: International legislations the deal with torture and inhumane treatment are studied in detail.

PART-9: In this part suggestions are given by the researcher and the study has been concluded thereafter.

PRISONERS& TORTURE AGAINST THEM

A prisoner is described as “a person who has been legally sent to prison as a punishment for a crime or who is awaiting a trial.” “A person who is deprived of his liberty and is kept under involuntary restraint, imprisonment, or custody,” according to the Merriam-Webster dictionary. Against his volition, he is deprived of his liberty and some of his rights. When a person commits a crime, the right to liberty is taken away by the legal system through forced constraints and detention.

CAUSE OF TORTURE AGAINST THEM

The Amnesty International report attempted to uncover the logic underlying the use of cruel and unusual punishments. According to the report, there are a variety of reasons why police officers utilize cruel and inhumane tactics. The first explanation would be India's police officers' poor working conditions. Police officers do not receive adequate training prior to starting their jobs, and they have few resources.

The second factor that surprised everyone was the “Police Act of 1861,” which still governs police operations in most Indian states. The Act was enacted by the British while they ruled India, and it was heavily influenced by the 18th century. Even after India's transition from a colonised nation to a sovereign one, this conduct persists. The Indian government is required to preserve and preserve people's rights and freedoms; nevertheless, the requirements of the old statute do not apply to today's society, and police officers are prone to abusing their powers.

The third factor was political parties' "excessive intervention" in the inquiry process. The research noted the ‘political influence' in all elements of police operations, such as police

recruitment and compelling officers to employ ineffective investigation procedures in order to convey information to the public when there is a serious crime and public uproar.

From all of the reasons cited, it is evident that the police administration has certain fundamental flaws that encourage officers to use arduous investigation tactics. As a result, these antiquated statutes should be abolished and a new statute drafted.

CONSTITUTIONAL RIGHTS OF THE PRISONER'S

“Every Saint Has A Past; Every Sinner Has A Future” – Oscar Wilde

While the Supreme Court is deliberating with state and central governments on how to improve the inhumane conditions of prisoners in Indian prisons, which are primarily due to overcrowding, a lack of training, officers, and infrastructural facilities, the treatment of prisoners in India is grim and secretly violates fundamental and statutory rights of an individual. To remedy the situation, the rights of prisoners should be enshrined in a two-page bullet-pointed manual that is required to be distributed to arrestees and prisoners at the time of their arrest or production before a court, as well as when they are lodged in prisons. Such rights are void and a violation of human faith in the criminal justice delivery system unless they are propagated and executed in every corner and perimeter of the prism.

Various essential rights under Articles 14, 19, 20, 21, and 22 of the Indian Constitution imply that prisoners' rights are protected. Article 14 deals with the right to equality, which guarantees all people equality before the law and equal protection under the law. The right to life and personal liberty are addressed in Article 21. Article 20 addresses, among other things, two issues: first, it prevents double jeopardy, which means that no one should be convicted of the same crime twice. Second, it forbids self-incrimination, meaning that no one can be forced to testify against himself. Article 22 mandates that a person be brought before a magistrate within 24 hours after his arrest and be given counsel of his choosing. All rights, including the right to health, right to food, right to a speedy trial, right to shelter, right to bail, right against custodial violence and death in police lock-ups or encounters, right to free legal aid, right to see friends and family

members, right to a reasonable wage in prison, and right against cruel and unusual punishment, are included in the scope of Article 21.

RELATED CASE LAWS

The court concluded in the case of *State of Andhra Pradesh v. Challa Ramkrishna Reddy*¹¹ that a prisoner is entitled to all fundamental rights unless the constitution restricts them.

“Something more than simple animal existence,” the Court stated in *Kharak Singh v. State of U.P.* (1964)¹², when the Court elucidated on the connotation of the word ‘life’ under Article 21, The resistance to its deprivation spreads to all of the limbs and faculties that allows life enjoyment. The rule also prohibits the mutilation of an arm or leg, the removal of an eye, or the destruction of any other part of the body through which the soul communicates with the outside world.

The Supreme Court affirmed the detention in the case of *AK Gopalan vs State of Madras*¹³, where the petitioner was detained at Madras Jail under the Prevention Detention Act, 1950, and held that it did not violate article 21 because it was done according to “process established by law”. In the case of *ADM Jabalpur vs. Shiv Kant Shukla*¹⁴, the Court stated that the scope of life and liberty is suspended during an emergency. However, in the landmark decision of *Maneka Gandhi vs. Union of India*¹⁵, the Supreme Court expanded the definition of ‘life’ under Article 12 and concluded that any state procedure must be equitable and reasonable. This case paved the way for the development of people's rights and the creation of Article 21 by the courts, which contained every basic human right necessary for living.

In *Pramod Kumar Saxena v. Union of India and Others*¹⁶, the petitioner, who had been imprisoned for more than ten years and was facing 48 criminal charges, petitioned the Supreme Court for the enforcement of his fundamental rights. The Supreme Court ruled that he should be

¹¹*State of Andhra Pradesh v. Challa Ramkrishna Reddy*, (2000) 5 SCC 712.

¹²*Kharak Singh v. State of U.P.* (1964).

¹³*AK Gopalan vs State of Madras* (1950).

¹⁴*ADM Jabalpur vs. Shiv Kant Shukla* (1976).

¹⁵*Maneka Gandhi vs. Union of India* (1978).

¹⁶*Pramod Kumar Saxena v. Union of India and Others*(2008).

released on bail so that he can arrange for the settlement of the debt and defend himself against the charges filed against him.

EVOLUTION OF PRISONER'S RIGHTS

Prisoners' rights have been a work in progress. From *Platek v. Aderhold* (USA), in which the courts held that they had no authority to interfere with the conduct of the jail or its rules and regulations, to *Johnson v. Avery*, in which the court recognised certain rights of the prisoners, the transformation has been gradual. In the Indian context, the country's courts have regularly utilised the Constitution's Fundamental Rights to free detainees. The Supreme Court Judge Justice Krishna Aiyer ruled in the landmark case of *Charles Sobraj through Marie Andres v. The Superintendent, Tihar Jail*, that:

“...imprisonment does not spell farewell to fundamental rights although, by a realistic reappraisal, Courts will refuse to recognize the full panoply of Part III enjoyed by a free citizen”.

He went on to say that incarceration is not only for vengeance or deterrence, but also for rehabilitation.

The concept of open jails is gaining traction in today's right-conscious society, where rights are accorded far more weight. Prisons are no longer considered as places of deterrence, but rather as places of rehabilitation, which is why the concept of open-jails is so important. Prisoners do not cease to be human beings, and the Supreme Court has reiterated this position in numerous cases, recognizing the rights of prisoners so that they do not suffer and that a better rehabilitative environment is provided to them so that they can improve and become better human beings while serving their sentence.

RIGHTS OF PRISONERS: EUROPEAN UNION V/S INDIA

The rights of prisoners vary by country, however the European Union has succeeded to establish regulations that are applicable to all high contracting parties. In Europe, as in India, prisoners are an integral part of the social fabric because the system is reformative rather than punitive.

The rights granted to convicts aid in their rehabilitation and reintegration into society. There is a significant distinction between the privileges granted to convicts in Europe and those granted to inmates in India. This is due to the fact that European countries are more developed and have fewer people than India, allowing them to devote more resources on jails and cells. However, as the world's largest democracy, India must enact certain rules to ensure that these convicts are treated fairly and equally, as they must be granted basic human rights.

The following are some of the most significant legal differences between India and the EU:

➤ PERSONAL DATA OF DETAINEES IS PROTECTED.

The General Data Protection Regulation (GDPR) is a directive established by the EU for the protection of personal data of all individuals within the EU, the European Economic Area (EEA), and even those outside the EU who collect personal data from people inside the EU. Apart from the Information Technology Act of 2002, India does not have anything like the General Data Protection Regulation (GDPR). India's Personal Data Protection Bill, on the other hand, was introduced in 2019 and would be implemented soon.

In the case of prisoners, Indian jail authorities are not required to destroy a prisoner's personal data after he is no longer incarcerated, as GDPR mandates. In the event of a breach, Indian authorities do not notify the detainee of the data principal unless it is absolutely essential, in violation of GDPR regulations. We trust that the new data protection law will prevent this infringement of the right to life and privacy.

➤ THE RIGHT TO VOTE FOR CONVICTS

Prisoners have the right to vote, as established in the decision of *Hirst v. United Kingdom*¹⁷, as this right is given to every individual. However, in India, the Representation of People's Act, 1951, prohibits convicts from voting, which should be declared unconstitutional under Article 21 of the Indian constitution, because the concept of punishment in India is reformatory rather than retributive.

➤ JUVENILE DETENTION CONDITIONS

Juveniles cannot be imprisoned with adults unless it is in their best interests, according to EU law. Children under the age of 18 can be kept with "young adults"

¹⁷Hirst V. United Kingdom, (No.2), (2005) ECHR 681

under the age of 24. Separate juvenile jail camps do exist in India, though. Whether or not the youngster has been tried as an adult in court, he will be held in a juvenile detention centre rather than an adult prison.

➤ THE DEATH ROW CONCEPT

Death row is still a thing in India, although it has been abolished in Europe since it breaches article 3 of the European Convention on Human Rights and constitutes torture. Article 2 of the ECHR prohibits the use of the death penalty since member states are obligated to preserve prisoners' right to life. In India, the death sentence is still applied in the "rarest of rare" cases and has not been abolished.

As a result, it is clear that the European prison system is significantly better organised than India's. The ECHR guarantees not just basic human rights, but also specific and absolute rights to prisoners, ensuring that the state does not exploit individuals who are in a vulnerable position.

ROLE OF JUDICIARY

Every country's judiciary has a commitment and a constitutional function to defend citizens' human rights. This function is delegated to the superior judiciary, namely the Supreme Court of India and the High Courts, by the Constitution of India. The Supreme Court of India is one of the most active tribunals in the world when it comes to human rights protection. It has a strong reputation for independence and reliability. The separation of powers, in which the executive, legislature, and judiciary form three departments of government, is the foundation of the autonomous judicial system. The judiciary's effectiveness in preserving the rule of law and human rights is dependent on this separation and subsequent independence.

Every society, in order to safeguard its law-abiding citizens, must establish prisons for those who disobey the law. It does not, however, imply that the detainees are without rights. Inmates enjoy the same rights as everyone else. The Supreme Court of India has produced human rights jurisprudence for the preservation and protection of prisoners' rights to maintain human dignity by interpreting Article 21 of the Constitution. Any breach of this right is punishable under Article 14 of the Constitution, which guarantees equality and equal protection under the law. In addition, the Prison Act of 1894 and the Criminal Procedure Code address the issue of prisoner

maltreatment (CRPC). Any violation of a prisoner's rights by police officials attracts the attention of both the legislation and the judiciary. In recent years, the Indian court, particularly the Supreme Court, has been extremely attentive regarding infringement of inmates' human rights. The Supreme Court and the High Courts have both expressed their displeasure with the jail circumstances, which have resulted in violations of prisoners' rights. The rights of inmates have been a hot topic in prison reform discussions. During the previous three to four decades, the necessity for prison reform has been more apparent.

➤ HUMAN RIGHTS AND PRISONERS

In recent years, the Supreme Court of India has been particularly attentive in its enforcement of inmates' human rights. The Supreme Court has decided that the provisions of Part III shall be given the broadest possible interpretation in the instances of Maneka Gandhi, Sunil Batra, M.H. Hoskot, and Hussainara Khatoon. The Supreme Court of India has significantly expanded the scope of Article 21, ruling that it will be available to defend prisoners' fundamental rights and to implement prison reforms. The Indian Supreme Court has created Human Rights jurisprudence to preserve and protect the Right to Human Dignity of prisoners.

➤ RIGHTS AGAINST SOLITARY CONFINEMENT

The courts have taken a strong stance against solitary confinement, ruling that it has a very demeaning and dehumanizing effect on the convicts. The courts have ruled that it can only be imposed in rare circumstances, such as when the convict's character is so dangerous that he needs to be separated from the other inmates. Solitary confinement was upheld by the Supreme Court in the case of Sunil Batra¹⁸.

➤ PRISONERS' RIGHTS AGAINST INHUMANE TREATMENT

In a number of cases, the Supreme Court of India has taken serious note of inhumane treatment of inmates and has issued appropriate directives to jail and police officials to protect the rights of inmates and people in police custody. "The treatment of a human person that offends human dignity, imposes avoidable torture, and degrades the man to the level of a beast would undoubtedly be arbitrary and can be called into question under Article 14," the court said.

¹⁸Sunil Batra vs. Delhi Administration, AIR 1978 SC 1675.

The Supreme Court's judgement in the case of D.K. Basu¹⁹ is notable. While hearing the case, the court focused on the subject of custodial torture and issued a set of directives aimed at eradicating this heinous crime and improving the preservation and promotion of human rights.

➤ RIGHT TO MEET WITH FRIENDS, RELATIVES, AND LAWYERS FOR AN INTERVIEW

Prisoners' rights have been established to protect them not only from physical discomfort or abuse in person, but also from mental trauma. Article 21's right to life and personal liberty cannot be limited to the existence of animals. It implies a lot more than just physical survival.

The Indian Supreme Court reviewed the breadth of a prisoner's or detainee's right to have interviews with family, friends, and counsel. In Dharmbir vs. State of Uttar Pradesh²⁰, the court ordered the state government to enable family members to see the convicts and to allow the inmates to visit their relatives under guarded conditions at least once a year.

The court stated in Jogindar Kumar vs. State of Uttar Pradesh that the scope of Human Rights is expanding as the crime rate is also rising, and that the court has been hearing complaints regarding Human Rights violations due to indiscriminate arrests. The court stated that everyone has the right to be informed.

➤ RIGHT TO LEGAL AID

Despite the fact that the Indian Constitution does not clearly provide for the right to legal aid, the courts has favoured poor inmates who are unable to hire a lawyer of their choice due to their poverty. Under Article 39A of the Constitution, the 42nd Amendment Act of 1976 includes Free Legal Aid as one of the Directive Principles of State Policy.

A three-judge bench ruled in MadhavHayawadanRaoHosket vs. State of Maharashtra²¹, that the government had an obligation to provide legal services to the accused.

¹⁹D.K.Basu vs. State of W.B – AIR 1997 SC 619

²⁰Dharmbir v. State of Uttar Pradesh, July 16, 1979.

²¹MadhavHayawadanRaoHosket vs. State of Maharashtra, Aug 17, 1978.

A analysis of the Indian judiciary's judgements on the preservation of prisoners' human rights reveals that the judiciary has acted as a saviour in cases when the administration and legislative have failed to solve the people's problems. The Supreme Court has stepped up to take corrective action and give the executive and legislative branches the guidance they need.

COMMITTEE REPORTS FOR RIGHTS TO PRISONERS

PRE-INDEPENDENCE ERA

India's prison system was a legacy of British rule. It was based on the idea that even the strongest criminal code will be of little service to a group unless exceptional hardware is available to combat the curse of disciplines. The Second Commission of Inquiry into Jail Management and Discipline, which was established in 1864, made comparisons to the 1836 Committee after the report of which prisons were formed. This Commission also provided a few recommendations for prisoner convenience, as well as improvements in meals, clothes, bedding, and therapeutic care.

The Fourth Jail Commission was established in 1888. A combined jail bill was drafted based on its recommendation. A gathering of experts on Jail Administration thoroughly examined the arrangements relating to jail offences and discipline. With the permission of the Governor General of India, the proposed charge got closer to becoming law in 1894.

THE PRISION ACT, 1894

The Prisons Act of 1894 is the sole integrated framework for jail management and administration that applies throughout India. This is an antiquated law that continues to operate without modification. However, certain concerns remained unresolved as a result of this act. The Indian Jail Committee's 1919-1920 report on the rehabilitation and reformation of prisoners addressed the act's flaws.

INDIAN JAIL REFORM COMMITTEE

Sir Alexander Cardew was the chairman of the Indian jail reform commission, which was created to recommend prison improvements in 1919-20. After analysing the state of prisons

around the world, the committee came to the conclusion that prisons should not only have a deterrent effect, but also a reformative approach. The committee stressed the importance of a reformative approach to offenders and condemned the use of corporal punishment in prisons. It advised that an inmate be used for productive purposes. The Committee emphasised the importance of post-release rehabilitation programmes for freed inmates.

The Jail Committee also recommended that, as part of prison reform, each jail's maximum intake capacity be determined based on its shape and size.

POST-INDEPENDENCE ERA

Various committees and acts were established in the post-independence era to address issues connected to jail management in India.

ALL INDIA JAIL MANUAL COMMITTEE

In 1957, the Government of India approved the appointment of an All India jail manual group to draught a model prison handbook. In the year 1960, the committee submitted its report. The report made strident calls for a uniform policy and the most up-to-date methods in the areas of jail administration, probation, aftercare, juvenile and remand homes, certified and reformatory schools, borstal schools and protective homes, and the suppression of immoral traffic, among other things. Furthermore, the report recommended that the century-old Prisons Act of 1894 be amended to establish a legal foundation for correctional activity.

MODERN PRISON MANUAL

In 1960, the committee completed the Model Prison Manual and handed it to the Indian government for implementation. The guidebook serves as the foundation for present Indian prison administration. The Model Prison Manual opened the groundwork for the Government of India's Ministry of Home Affairs to create a working group on prisons in 1972.

MULLA COMMITTEE

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India's Ministry of Home Affairs to create a working group on prisons in 1972. The Mulla Committee's major recommendations include:

- Improving jail conditions by providing enough food, clothing, sanitation, and ventilation, among other things.
- The jail personnel should be well-trained and divided into various cadres. For the recruitment of Prison officials, it would be prudent to establish an all-India service known as the Indian Prisons and Correctional Service.
- After-care, rehabilitation, and probation should all be a part of the jail experience. Regrettably, the country's probation laws are not being properly implemented.
- The media and members of the public should be permitted to visit prisons and other correctional institutions on a regular basis so that the public can learn firsthand about the condition in there and be willing to engage with prison authorities on rehabilitation efforts.
- Undertrials' jail stays should be restricted to a minimal minimum, and they should be kept isolated from convicted inmates. Because those awaiting trial make up a significant component of the jail population, fast trials and liberalisation of bail rules can help to lower their numbers.
- The government should make a concerted effort to allocate sufficient resources and funding to jail reform.

KRISHNA IYER COMMITTEE

The Krishna Iyer committee was constituted by the Indian government in 1987 to conduct a study on the issue of women prisoners in India. It has advised that more women be recruited into the police force because of their unique role in policing women and children. In 1988, the committee submitted its report to the Indian government. In *Ramamurthy vs. State of Karnataka*²², the Supreme Court issued orders to create a single national consolidated framework on prison legislation and to produce a model prison manual; as a result, a committee was formed inside the Bureau of Police Research and Development (BPR&D).

To replace the Prisons Act, a Draft Model Prisons Management Bill was circulated in 1999.

²²Ramamurthy v. State of Karnataka, (1997) S.C.C. (Cri) 386.

INTERNATIONAL LEGISLATIONS➤ **Universal Declaration of Human Rights (UDHR)**

Following the tragedies of World War II, the United Nations General Assembly included a provision in this basic international treaty that prohibits the use of torture under its 'Article 5'. "No one shall be tortured or subjected to cruel, inhuman, or degrading treatment or punishment," the article declared. The inclusion of a ban on torture in this key human rights document paved the path for this right to be included into a vast network of other international and human rights accords.

➤ **THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)**

The International Covenant on Civil and Political Rights (ICCPR) continues to be the most important international treaty relating to the protection of prisoners' rights. The Covenant was ratified by India in 1979, and the country is required to integrate its provisions into domestic law and official practise.

➤ **THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESR)**

According to the International Covenant on Economic, Social, and Cultural Rights (ICESR), prisoners have the right to the best physical and mental health possible. [10] Apart from civil and political rights, inmates are also entitled to the so-called second-generation economic and social human rights outlined in the ICESR.

➤ **DECLARATION ON PROTECTION FROM TORTURE, 1975**

A proclamation on the protection of torture was unanimously accepted by the United Nations General Assembly. This declaration works in combination with an individual's human rights principles to safeguard that person from torture and other inhumane and cruel treatment.

➤ **GENERAL UN DIRECTIVES**

Separate housing for young and child detainees from adult prisoners was also mandated under the UN Standard Minimum Rule. The Basic Principles for the Treatment of Prisoners (United Nations 1990)[12] and the Protection of All Persons in Any Form of Detention or Imprisonment (United Nations 1990)[13] were further UN directives (United Nations 1988)

➤ CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The United Nations Assembly enacted the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which places the burden of proof on the state to implement effective judicial, legislative, and administrative measures. It also clearly lays out the guidelines for interrogation, as well as a number of other directions.

SUGGESTIONS

- A mobile complaint box should be placed outside each prisoner's cell to ensure that the complaints of the inmates are addressed. Only the bodies inspecting the prison should have access to the key.
- Mentally sick convicts should be placed in the psychiatric section of the prison hospital if one exists, or be sent to closest psychiatric hospital for care.
- In all states, a Prisoners Welfare Fund with government funding would be established to implement different welfare programmes for released prisoners and their families.
- The advisory group will conduct inspections at regular intervals without influence from the jail administration. The Right to Information Act of 2005 should be applied to the jail administration.
- Allowing NGOs and philanthropists who are truly concerned about the wellbeing of prisoners to participate freely in all aspects of prison treatment, including classification, learning, skills courses, medical and health care, hygiene and sanitation, recreational facilities, and so on.
- The National Human Rights Commission's mandate should be expanded.

CONCLUSION

When people are imprisoned, they do not lose their humanity. The Supreme Court of India, as well as many other Indian courts, have reaffirmed this position in a number of cases to ensure that prisoners do not become victims. And they're put in a good rehabilitation setting to help

them grow and become better people. The federal and state governments must not only provide acceptable living circumstances for prisoners, but also teach them about their rights so that they are not violated by the powerful inside the prison.

When the legislative and executive branches of government make mistakes, the country's court can be claimed to have played a critical role in protecting the rights of inmates. It has repeatedly acted as a saviour for prisoners, upholding their fundamental rights. It has vigorously exercised its authority through judicial activism, and it has repeatedly invented new remedies and measures to preserve people's rights to life and liberty.

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