

A Study on the Impact of the Judgments of Justice Krishna Iyer on the Protection of Prisoners' Rights

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Abstract: *Judiciary in every country has an obligation and a Constitutional role to protect Human Rights of citizens. As per the mandate of the Constitution of India, this function is assigned to the superior judiciary namely the Supreme Court of India and High courts. The Supreme Court of India is perhaps one of the most active courts when it comes into the matter of protection of Human Rights. It has a great reputation of independence and credibility. The independent judicial system stems from the notion of the separation of powers where the executive, legislature and judiciary form three branches of the government. This separation and consequent independence is key to the judiciary's effectiveness in upholding the rule of law and human rights. Since every society has a judicial system for the protection of its law-abiding members, it has to make provisions of prisons for the law breakers. But it doesn't mean that the prisoners have no rights. The prisoners also have their rights. The Supreme Court of India, by interpreting Article 21 of the Constitution, has developed human rights jurisprudence for the preservation and protection of prisoner's rights to maintain human dignity. Any violation of this right attracts the provisions of Article 14 of the Constitution, which enshrines right to equality and equal protection of law. In addition to this, the question of cruelty to prisoners is also dealt with, specifically by the Prison Act, 1894 and the Criminal Procedure Code (CRPC).*

Keywords: Prison, judgements, inhuman treatment, administration, Supreme Court.

I. INTRODUCTION

In Sunil Batra (II), arising out of a letter written by Sunil Batra to one of the judges of the Supreme Court alleging that a warden in Tihar Jail had caused bleeding injury to a convict by name Prem Chand by forcing a stick into his anus, the court liberalised the procedural rigidities of time writ of habeas corpus and employed the writ, following the American cases for the oversight of state penal machinery and for the condemnation of the brutalities and tortures inflicted on the prisoners. On the basis of this, the Supreme Court treated Batra's letter as a petition for habeas corpus and issued the writ to the Lieutenant Governor of Delhi and the Superintendent of Central Jail ordering that Prem Chand should not be subjected to torture and the wound on his person should receive proper medical attention.

In this case Justice Krishna Iyer openly acknowledged the activist policy-making role of the judicial process, particularly in view of the legislative laxity, in the humanisation of the prison system and observed thus:

Of course, new legislation is the best solution, but when law-makers take far too long for social patience to suffer, as in this very case of prison reform, courts have to make-do with interpretation and carve on wood and sculpt on stone ready at hand not wait for far away marble structure.

The judge gave a number of guidelines on the humanist reforms of the penal process and the prison administration.

The Supreme Court has directed that the treatment of prisoners must be commensurate with his sentence and satisfy the tests of Articles 14, 19 and 21 of the Constitution. It expanded the scope of the writ of habeas corpus by recognising the right of a prisoner to invoke the writ against prison excesses inflicted on him or on a co-prisoner. Further, the court gave many directions to improve the prison administration. Judicial interference into the prison administration is not a



prohibited thing at present: on the other hand the interference is necessary and welcome to check arbitrary actions of jail authorities. Habeas corpus powers and administrative measures are the pillars of prisoners' rights. Attention of the courts at appropriate times. For instance, where a person sentenced to simple imprisonment with 'B' class treatment is put by the jail authorities under rigorous improvement with 'C' class treatment, or where a prisoner is subjected to brutal treatment, prisoners are able to approach the court for the redressal of their grievance. The post conviction visits by the judges to the prison will bear many beneficial results. They reduce the possibility of the vindictive attitude of the jail authorities and help the prisoner to get suitable treatment. The visits give an opportunity to the judges to observe the impact of a particular punishment on the criminal, to learn directly whether or not it helps to reform the criminal and to understand how they should act in future to make the penal system functionally effective. Highlighting the responsibility of the sentencing court to visit prisons and to guard their sentences, Justice Krishna Iyer gave a new dimension to the sentencing power of courts (Cross). The popular prejudice that attaches itself to convicts did not deter the court in its attempt to eliminate prison injustice. The court expressly stated that conviction, however heinous an offence, did not make a non-person of a person. While imprisonment would deprive the convict of his personal liberty, his fundamental right did not otherwise stand automatically abrogated.

II. ADOPTION OF CLASSIFICATION

Today more and more people are coming to believe that it is the task of the prison to help bring about the reformation of the inmate. If nothing has been done in prison to help them, many of them would become more dangerous to life and property after release than they were before. The treatment inside the prison must help the prisoner to change his ways of thinking and attitudes, and equip him for useful work. Classification of prisoners should facilitate achieving these objectives (Ekunwe).

The purposes of classification programme are the following under Prisons Manual.

- (i) The study of the offender as an individual, to understand the sequence of his criminal behaviour and the problems presented by him;
- (ii) To segregate prisoners into homogeneous groups for the purpose of treatment;
- (iii) To organise- individualized training and treatment programme;
- (iv) To co-ordinate and integrate all institutional activities and develop a system
- (v) To ensure maximum utilization of resources and facilities available in the institution;
- (vi) To review inmates response to institutional activities for treatment and to adjust the programme to suit his needs (Friendship et al.).

In India, there is a classification committee and the process of classification and reclassification work should be phased through different stages. Here prisoners should be classified on the basis of age, physical and mental health, length of sentence, degree of criminality and character. Sequence of offender's criminal behaviour, his sophistication of crime and urban rural backgrounds, requirements of gradations in custody, vocational and educational needs also has to be considered. So first offenders should not be put along with hardened criminals. If they are not separately treated it will spoil the deviants and the prisons will become breeding ground for new criminals. In India, the prisoners have several complaints against non-categorization under certain heads like habitual offenders, first offenders etc (Sempé). **The main aim is to study the impact of judgments of justice Krishna Iyer on the protection of prisoners' rights.**

III. OBJECTIVES

1. To study prisoners rights.
2. To study the verdicts of justice Krishna Iyer.
3. To study the provisions of prisoners act 1900.



IV. REVIEW OF LITERATURE

Different criteria are adopted for the classification of prisoners in India. It is made on the basis of sex, age and the nature of the sentence awarded to prisoners. In India, prisoners are classified mainly as A Class, B Class and ordinary prisoners, female prisoners, youthful prisoners, lunatics, civil prisoners, under trial prisoners and prisoners sentenced to death. ("Sociological Analysis on Prisoners; with Special Reference to Prisoners of Death Penalty and Life Imprisonment in Sri Lanka Sociological Analysis on Prisoners; with Special Reference to Prisoners of Death Penalty and Life Imprisonment in Sri Lanka") If a prisoner is having a contagious disease he should not be put along with other prisoners. The female prisoners are classified and separated, not only the unconvicted from convicted but also adolescent from older prisoners, habitual from non-habitual and prostitutes from respectable women. There are various safeguards provided for female prisoners. They are not permitted to leave the enclosure set apart for females, except for release, transfer or attendance at court or under the order of the Superintendent (Annison and Hageman).

Prisoners Act 1900 also stipulates such a classification of female prisoners. If a male prisoner is below twenty one years he has to be treated differently from other prisoners. As seen earlier civil and criminal prisoners and convicted and under trial prisoners are also treated differently (Gibbon). Among the convicted prisoners, if circumstances warrant, further classification can be made, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other. Thus, Section 28 of the Prisoners Act empowers the jail Superintendent to segregate the convicted prisoners keeping them in separate cells and restrict their movements for the purpose of maintaining discipline within the prisons (Bartlett).

The constitutional validity of Section 28 of the Prisoners Act which empowers In Valambal, the petitioners were found indulging in activities in jail like indoctrinating the other co-prisoners by preaching the policy of violence and annihilation of moneyed class and planning to escape from the jail (World Health Organization. Regional Office for Europe). The court held that the petitioners formed a class by themselves. Their separate classification in the matters of security measures was not arbitrary. So the action of the prison authorities did not violate article 14 of the Constitution. Disciplinary segregation taken by the jail superintendent cannot be characterised as solitary confinement as contemplated under Section 73 of the Penal Code, nor can it be characterised as cellular confinement or separate confinement which are intended as punishment for prison offences under Sections 46(8) and 46(10) of the Prisons Act (Lytton and Warton).

In *Madhukar Bhagwan Jambale v. State of Maharashtra*, along with other grounds the prisoner questioned the classification of convicts as class I and class II prisoners on the basis of higher status, better education and higher standard of living in the state of Maharashtra. According to the petitioner it was discriminatory and violative of Article 14 of the Constitution (Behan). While rejecting the contention, the court held that the grievance about classification of convicts as class I and class II prisoners does not survive since the classification has been already abolished in that state (Roy).

V. DISCUSSION

Though, the Constitution of India does not expressly provide the Right to Legal Aid, but the judiciary has shown its favour towards poor prisoners because of their poverty and are not in a position to engage the lawyer of their own choice. The 42nd Amendment Act, 1976 has included Free Legal Aid as one of the Directive Principles of State Policy under Article 39A in the Constitution. This is the most important and direct Article of the Constitution which speaks of Free Legal Aid. Though, this Article finds place in part-IV of the Constitution as one of the Directive Principle of State Policy and though this Article is not enforceable by courts, the principle laid down there in are fundamental in the governance of the country. Article 37 of the Constitution casts a duty on the state to apply these principles in making laws. While Article 38 imposes a duty on the state to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life (Gonsalves et al.). The parliament has enacted Legal Services Authorities Act, 1987 under which legal



Aid is guaranteed and various state governments had established legal Aid and Advice Board and framed schemes for Free Legal Aid and incidental matter to give effect to the Constitutional mandate of Article 39-A. Under the Indian Human Rights jurisprudence, Legal Aid is of wider amplitude and it is not only available in criminal cases but also in civil, revenue and administrative cases (Gonsalves et al.).

VI. CONCLUSION

Human Rights are part and parcel of Human Dignity. The Supreme Court of India in various cases has taken a serious note of the inhuman treatment on prisoners and has issued appropriate directions to prison and police authorities for safeguarding the rights of the prisoners and persons in police lock-up (Madhurima). The Supreme Court read the right against torture into Articles 14 and 19 of the Constitution. The court observed that “the treatment of a human being which offends human dignity, imposes avoidable torture and reduces the man to the level of a beast would certainly be arbitrary and can be questioned under Article 14”. In the Raghuraj Singh v. State of Bihar, the Supreme Court expressed its anguish over police torture by upholding the life sentence awarded to a police officer responsible for the death of a suspect due to torture in a police lock – up (Scott and Codd). In Kishore Singh VS. State of Rajasthan the Supreme Court held that the use of third degree method by police is violative of Article 21. The decision of the Supreme Court in the case of D.K. Basu is noteworthy . While dealing the case, the court specifically concentrated on the problem of custodial torture and issued a number of directions to eradicate this evil, for better protection and promotion of Human Rights. In the instant case the Supreme Court defined torture and analyzed its implications.

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