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Rights of Prisoners in India

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ABSTRACT

A prison, in general, is a place where defendants or criminal offenders are held for a fixed time or permanently with the written order of a competent legal authority. The law refers to persons who are imprisoned as a legal punishment issued by a court for a crime, who are physically restricted and detained, and who are usually deprived of their liberty. The result is that in every country, there have been examples of prisons in various forms from ancient times till now, and these prisons sometimes have been used for punishment and sometimes for rehabilitation of criminals to send back in society.

The health status of prisoners is also an important issue that needs the attention of countries and prison officials. Of course, prison officials should know that criminals are not born criminals, but it is society and circumstances that have led them to crime, as Mahatma Gandhi says, hate crime, not the criminal.

In the present age, Prisons officials should think about the future of prisoners, the prison buildings should have welfare facilities and protect the prisoner from cold and heat, and importance should be given to educating and rehabilitating instead of being punished.

The purpose of this research (Rights of Prisoners in India) is to analyze the classification of Prisoners, rights of prisoners, and Prisons history in India. Moreover, the rights which are enjoyed by Prisoners under Articles 14, 19, and 21 of the Indian Constitution are the main topics.

Keywords: *Prison, Rights, Prisoner, Rehabilitation, Prisoners Acts, Classification, prison reform.*

I. INTRODUCTION

In ancient times, imprisonment was used to mean that if a person had committed an act that was displeasing to everyone, he should have been punished there, which began with ordinary imprisonment until the amputation and murder of the person. Currently, imprisonment means the detention of a person who has committed an act

contrary to the law of a forbidden country, and a prisoner is someone who is deprived of his liberty against his will, which has been taken away from him by imprisonment.

It should be noted that in the past, prisons were used only for punishment, but in the present era, we all see that in most countries, efforts are being made to correct the offender and bring him back

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to society. Even if the person is confined because of his crime, they have basic legal rights that cannot be taken away, which include the right to food and water, protection from torture, violence, and harassment.² Other than the basic needs, which have been given to the prisoners right to life under the Indian Constitution also given to them, to avail the guarantee of protection in cases of criminal justice administration, also right to life includes the right to a fair trial as justice.³

Prison discipline is more important in modern times, which means that prisons focus more on the deterrent and rehabilitation aspects of offenders than the punishment of the offender. Early on, the Prisons Committee paved the way for the fight against punishment in 1919-20 in prisons⁴, which was welcomed in most countries, and in India, between 1980 and 1983, they recommended the different rights of prisoners, which began with the proper etiquette of prisoners, right to food properly, a suitable place, duty in prison with a salary, visiting family, etc., it should be noted that the majority of these have now become part of the basic rights of prisoners by the judiciary. However, imprisonment is still the most common punishment for serious crimes around the world, so it is impossible to imagine a penal policy without imprisonment for this purpose and with the attitude that the prisoner of the hated and despicable person should be hidden and Keep away from society and atone for his sin

and anti-social behavior by enduring pain, suffering, humiliation, and humiliation.

In this article, we will try to examine the rights granted to prisoners by the judiciary in India and the conditions and classification of prisoners, and the prison reforms.

(A) Methods and Methodology

The method used in this research paper is theoretical or doctrinal research, which includes research, descriptive and analytical system, and used the secondary data such as Books, Laws, Cases Magazines, Internet sites related to the **rights of prisoners in India**, which were carefully analyzed to get clear results and solutions for Provide research.

(B) Statement of the problem

A prison is known as a place in which criminals are physically confined and deprived of their freedoms to a short time or life imprisonment. Also, prisons are known as a fundamental part of the criminal justice system of any country. In such cases, we should know imprisonment may be meant exclusively for adults, children, females, convicted prisoners, under trials, etc. The objective of imprisonment may differ from country to country, such as retributive, Deterrence, Reformative, Rehabilitative or Expiatory, and in a civilized country like India, it is unfortunate that it does not have codified law on prisoners' rights, and if there is no codified law in a country it will be very hard to

² Legal Services India, available at: <https://www.legalservicesindia.com>

³ Debarati Halder, rights of women prisoners in India, Indian Journal of criminology, Vol 28. No.2, 2007.

⁴ Dr. Krishna Pal Malik, Penology Victimology and Administration in India. Allahabad Law Agency, Pg. No. 334.

administrate in the absence of law, so the main questions of this research paper are:

Do Indian prisoners have their rights? and if so, to what extent they are aware of it? How much the prisons system or situation as classifications of prisoners has changed since ancient times? What is the main purpose of imprisonment at this moment? And as we know, there is no exact law on the rights of prisoners in India; how important the place of the judiciary was?

The subtitles that we use in this study to prove our hypothesis are how important role these Acts like Prisons Act 1894, Prisons Act 1900, Transfer of Prisoners Act 1950, besides these Acts Article 14, 19, and 21 of the Indian Constitution and judiciary have played to bring administration and improvement in Prisons.

II. PRISON SYSTEM HISTORY IN INDIA

Before 1787, most prisons were called (Prisoners' Houses), but after that year, a group of Philadelphians called the Philadelphia Association began a movement to reform prisons, and this led to Rehabilitated prisoners should be presented to the community. In trying to correct the offender, they tried to act through various means, one of the most important of which was meditation, which later began for the first time in other countries, such as Pennsylvania, by classifying prisoners according to their crimes. The modern Indian prison system is just like the current legal system, a product of the colonial system. The prison system and its origin can be traced back to a long time,

including the Ramayana, the Mahabharata, and many other such documents.

These mythological documents indicate that at least one of the many government officials was there to deal with the prison or the workshops. In Mansamriti, there are narrations about the prison system. Archaeological excavations in India have uncovered a prisoner where Agatasatro imprisoned his father Bimbisara in the Rajagris, the capital of Magada. Ashoka's description of Naraka (Hell) is included in Huen Tsang's writings, and Fa Hing narrates the situation in prisons. During the Muslim period, castles and ancient castles were often used as prisons.⁵

The history of the prison system is divided into three phases; the first phase, which lasted until the middle of the 16th century and is known as detention rooms in a safe part of a society, and prisoners whose trial is pending or whose sentence is executed was kept. In the second phase, there was some improvement in prison systems, and they tried to do experimentation with imprisonment as punishment for certain types of offenders, especially juveniles and first-time offenders. In the third phase, there was a universal agreement of imprisonment as a substitute for all capital punishments.⁶

a. Ancient India

In the ancient time, in an Indian prison, there was nothing in the name of rehabilitation or sending back offenders in society, the offenders were known as no needed persons in society, and they should be punished, the structure of society was

⁵ Girish Shukla, *Criminology*. LexisNexis, Haryana, India, 2013, Pg. No.146.

⁶ Sakshi Gupta, *System of prison, its history and types*

in India, available at: <https://www.legalserviceindia.com/legal/article-4501-system-of-prison-its-history-and-types-in-india.html>

based on the principles pronounced by Manu⁷ and explained by Yagnavalkya, Kautilya and others⁸, and the prison was only a place of detention where an offender was detained till his trial and judgment and the execution of the judgment, in this time the imprisonment was the easiest kind of penalty, and there were various kinds of bodily punishments such as branding, hanging, mutilation and death.

b. Medieval India

Medieval India can be said similar to ancient India and with existing of Muslim rulers. During the Mughal Period, Crimes were divided into three groups that are crimes against God, crime against the state, crime against a private person. The punishments for these crimes were divided into four categories that is Hadd, tazir, quisas and tasir. Imprisonment was not considered as a punishment in the case of ordinary criminals, and in this time, in ordinary crimes, the offender will suffer the same thing that he has done to the victim of crime.

The main prison system features in the pre-British period are:

- There was no improvement in prisons in a Modern sense.
- There was no good internal administration of prisons.
- There was hard to find rules for the maintenance and functioning of prisons.

- There was no existence of separate prison service, and courts were not feeding centers for prisons.⁹

c. Modern India

Our current prison system is largely taken over by the British government. In the past, prisoners were subjected to very severe punishments and were mostly focused on punishment, but in this period, the wisdom of severe punishments was abolished, and imprisonment was replaced.

After 1784, East India was given relative authority by the Indian Parliament to enforce law and justice in prisons. At that time, 75 criminal prisons, 143 civilian prisons, and 68 different prisons expanded by the Mongols were given to the East Indies. It was also in the British government's interest to relinquish control of the East Indies. It did not take long for Lord Macaulay to realize the unacceptable attention to prison conditions in 1835, in collaboration with the Indian Legislative Council, and to set up a committee to gather information and prepare a plan or system for improving prison conditions. Of course, this Committee came with various complaints about the conditions of prisons, such as lack of access to basic needs, neglect of the prison system, prison walls, dilapidated rooms, etc., and ways to improve it. They were employed who deliberately rejected moral and religious teachings or rewards in the field of upbringing and education.

The prison law was finally passed by the Indian government in 1870. The law required that each

⁷ Prof. N. V. Paranjape. *Criminology Penology Victimology*, Central Law Publication, 17 Edition 2017, Pg. No. 505.

⁸ Girish Kathpalia, *Criminology and Prison reforms*. LexisNexis, New Delhi, 2014, Pg. No. 183.

⁹ Id. Note 6

prison have a supervisor, a medical officer, a prison guard, and some other subordinate officers that the local government deems necessary. The law of 1894 was passed in the investigation of more committees. It should be noted, however, that each state under Indian law can consider a variety of strategies for managing its prisons.¹⁰

III. CLASSIFICATION OF PRISONS

Imprisonment is still the most significant response of the criminal policy system to crime. In the past, this punishment had a more empowering function and was mainly used to keep criminals away from society, but nowadays, it is mostly used to correct and treat criminals and sometimes to deprive a group of criminals. Reconstructing the personality system of criminals in the context of criminal justice requires several tools and mechanisms, including the separation of prisoners. According to this method, prisoners are kept in separate sections of the prison due to their dangerous situation. This approach can provide a good basis for more effective criminal justice rehabilitation measures.

One of the objectives of prison administration is to clean the offender from crimes in the future and make him return to society safe and useful. To achieve this classification of prisoners is one of the most important requirements. Without classification of prisoners, it will be impossible to treat them, and for classification of prisoners knowing the background, criminals will be the top goal of prisons administration, which can be

family background, education, place in society, history of a crime, culture, and various other aspects of criminal's life¹¹.

There are different types for the classification of prisoners. At first, it enables the prison authorities to know about the background of the offender and to organize an entire, balanced, integrated, and individual training and treatment program; another benefit of classification can provide sufficient custodial supervision and control. Proper classification provides for better discipline and increased efficiency.

For now, Jail Codes of various countries, States, and Union Territories provide separation of prisoners more or less based on their age, sex, criminal background, nature and terms of imprisonment, physical and mental conditions, etc. Classification of prisoners is highlighted by the All India Committee on Jail Reforms (1980-83) in the following words: Under-trial prisoners, prisoners, sentenced to short, medium and long terms of imprisonment, prisoners sentenced to simple imprisonment, habitual offenders, life imprisonment, hardened and dangerous prisoners, children, young offenders, women offenders, civil prisoners, criminal and noncriminal lunatics, persons detained under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, smugglers, etc. were all kept in the same institution and the arrangement for their separation even in different wards were not effective.¹²

¹⁰ Id. Note 6

¹¹ Prof. N. V. Paranjape. *Criminology Penology Victimology*, Central Law Publication, 17 Edition

2017, Pg. No. 518.

¹² Report of all India Committee, On Jail Reforms (1980-83) Vol- I P. 108.

a. Jail Reform Committee (1980-83) on Classification of Prisoners

While speaking about the separation of offenders based on age, sex, criminal record, and social background, we should know that it is a basic feature of the modern prison system; the Jail Reforms Committee of 1980-83 observed that in reality, even today all prisoners are being kept together like under trial prisoners, convicted prisoners sentenced to short, medium and long terms of imprisonment, habitual offenders, juveniles or young offenders, civil and political prisoners, women offenders, persons detained under laws like National Security Act, Foreign Exchange Regulation Act, Terrorist and Disruptive Activities (Prevention) Act, 1987, NDPS Act, etc. The Committee, therefore, recommended a different kind of separation as follows:

- Separate prisons for under trials and convicted criminals;
- Separate prisons for women;
- Separate prisons with semi-open institutions for juveniles with needed security arrangements;
- Maximum security for professional and hardened or habitual criminals.
- Separate camps or prisons for social or political offenders etc.¹³

These recommendations have been accepted as a rule by the government, but the major problem was in applying these rules and how to apply them? Even in most of the Indian prisons today,

¹³ Girish Kathpalia, *Criminology and Prison reforms*. LexisNexis, New Delhi, 2014, Pg. No. 214.

there are strict separations; unfortunately, in almost each of the jails, one can find 4-5 juveniles in the jail.

These can be the purpose of classifying prisoners

- Dangerous criminals should be separated from criminals who have committed a crime for the first time because if they are in contact, they are more likely to become more dangerous criminals.

- The division of prisoners can facilitate their treatment because for treatment, first of all, knowing the personality of the offender is very important, and then knowing the personality of the offender, the treatment plan should be provided to him as soon as possible.

As Nelson Mandela, who is known as Africa Gandhiji, talks about the classification of prisoners on Robben Island jail in his autobiography, he states that prisoners are divided into four (A, B, C, and D) classes, from all of these four classes (A) is in the most comfortable zone in prison, which includes meeting, reading, buying food, etc. and the last class is (D), which includes political criminals.¹⁴

b. Requirements for classification of prisoners:

According to rule 8 of (Standard Minimum Rules for the Treatment of Prisoners 1955) by the UN, there are different categories and requirements for the classification of the prisoners, which can be according to sex, age, criminal record, the

¹⁴ Dr. Krishna Pal Malik, *Penology, victimology & correctional administration in India*, Allahabad Agency, P No. 321.

reason for the detention, and the neediness of rehabilitation and treatment.

- Separation of Men and women prison as possible can be.
- Untried prisoners shall be kept separate from convicted criminals.
- Criminal offenders and civil offenders shall be kept separately.
- Young prisoners shall be separate from Adults.¹⁵

The fifth chapter of the prison Act 1894: deals with “Discipline of prisoners” and speaks about different kinds of classification in their sections.

- Section 27 on Separation of Prisoners¹⁶
- Section 28 on Association and segregation of prisoners.¹⁷
- Section 29 on Solitary confinement.¹⁸
- Section 30 on Prisoners under sentence of death.¹⁹

¹⁵ Ibid

¹⁶ **27. Separation of prisoners.** -The requisitions of this Act with respect to the separation of prisoners are as follows: -

1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;
2) in a prison where male prisoners under the age of twenty-one are confined, men shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;
3) unconvinced criminal prisoners shall be kept apart from the convicted criminal prisoners; and
4) civil prisoners shall be kept apart from the criminal prisoners.

¹⁷ **28. Association and segregation of prisoners.** _ Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined

According to these sections of the Prison Act 1894, we can separate the prisoners as follow:

1. Separation according to sex:

According to section 27 of Prison Act 1894, In a prison where is female as well as male prisoners, the females shall be imprisoned in separate buildings or separate parts of the same building, so they can't see or converse or hold any sexual offense with, the male prisoners.

This section also applied in the Sheela Barse case, ²⁰where the apex court held that for the safety of women suspects and administration of prisons, Female criminals should be kept in separate lock-ups.

In Punjab and Haryana High Court held that if husband and wife both are criminals, then they can be kept together in jail. And in these circumstances, separation of prisoners under the Prison Act 1894 is not applicable.

2. Separation according to age:

either in association or individually in cells or partly in one way and partly in another.

¹⁸ **29. Solitary confinement.** — No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the medical officer or medical subordinate.

¹⁹ **30. Prisoners under sentence of death: -**

1. Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the jailer and all articles shall be taken from him which the jailer deemed it dangerous or inexpedient to leave in his possession.

2. Every such prisoner shall be confined in a cell apart from other prisoners, and shall be placed by day and by night under the charge of guard.

²⁰ Sheela Barse v. State of Maharashtra, AIR 1983 SC 378.

Sub-clause (2), section 27²¹ of prison act 1894 says if male prisoners are under the age of 21, cannot be together with older prisons also if the offender is below the age of 18 years, cannot be kept in police lock-up or prison according to JJ (Care and Protection of Children) Act, 2000. For the 'juvenile in conflict with law', a separate criminal justice system has been created by the JJ Act and should be sent to JJB for court procedures, and the juvenile will be kept under the custody of observation home during the pendency of their inquiry. If the juvenile is known as the offender, then he or she should be sent to 'Special Home', not prisons.

3. Separation based on conviction:

According to sub-clause (3) Of Section 27 of the Prisons Act, 1894²², there are three kinds of separation based on convicted criminal prisoners. First detenues (preventive detention) Second under trial and third convicted prisoners.

4. Separation of civil prisoners from criminal prisoners:

Sub-clause 4, section 27, of prison act 1894,²³says Civil prisoners shall be kept apart from the criminal prisoners. The aim is to separate civil offenders from criminal prisoners because their attitude is different and need a different kind of reformation or deterrence.

5. Separation of the prisoners under sentence of death and special class offenses.

Section 30 of the Prisons Act, 1894, infect speaks about duty and death penalty because it says after arriving a prisoner under sentence of death he or she shall be immediately by order of jailer must be searched, and articles or statement shall be taken from him, and such prisoner should be apart from other prisoners, under the charge of the guard in day and night, because they have nothing to lose and can do more serious crime in prison also.

There are some special classifications in prisons too which can be used by prison administrations for having better control prison also it is recommended in Rules 212 and 213 of the Jail Manual to separate their cells, and it can be said in these circumstances there is no violation of Article 21 of the Constitution of India, like Gang wise classification which is held valid by Bombay High Court.²⁴

6. Justice Mulla Committee 1980-83

According to Mulla Committee, 1980-83 at present prisoners are classified into A, B, and C or I, II, and III classes based on their social, economic, and educational background, and according to this Committee, such classification is not proper. Because, in their view, prominent people in the community or educated people were provided with special facilities in prisons, which ordinary people were deprived of. And this Committee provided these guidelines for the classification of prisoners:²⁵

a. Sex

²¹ Sub-clause 2, of Section 27, the prison Act 1894.

²² Sub-clause 3 of section 27, the Prisons Act, 1894

²³ Sub-clause 4 of section 27, prison act 1894.

²⁴ Ibid, Pg. No. 327-328.

- b. Age, Juvenile or adult or an old person.
- c. Bases of crime: civil or criminal.
- d. Under-trial or convicted prisoner.
- e. Kind of sentence: rigorous, simple, short, medium, or long term.
- f. The casual offender or habitual offender.
- g. Socio-economic status, A, B, or C classes.
- h. Kind of imprisonment, life imprisonment, or death sentence.²⁶

IV. RIGHTS OF PRISONERS

In a civilized country like India, it is unfortunate that it doesn't have a law as codified on prisoners' rights, and also, there is no general legislation to deal with the rights of prisoners. Although there is no specific law on the rights of prisoners in India, we should not ignore the functions of the judiciary; the Indian judiciary recognized a long list of prisoners' rights, and all government institutions must obey it in the absence of law, but legislation deals with prisons in India in Prisons Act 1894, Prisons Act 1900, Transfer of Prisoners Act 1950, besides these Acts Article 14, 19 and 21 of the Indian constitution also relevant to prisons rights. But because we know that where the law is not clear and codified, it will be very difficult to follow, so we can say that there are still prisons where the rights of prisoners given by the judiciary are not applied properly. In the modern era, the concept of prison discipline, or better to say, prison

conditions, have changed more than ever, the most important changes of which can be expressed as a deterrent to correction and rehabilitation.

The Prisons Committee in 1919-20 and the Indian Prison Reform Committee in 1983-²⁷1980 had a great impact on the situation of prisons; it can be said that the ways of inhuman punishments were eliminated and more discipline had come into prisons over time, which included encouraging prisoners to pardon, paying for their work, allowing visiting family and friends, in all this, the role of the judiciary is very important, and even these rights have become to some extent the basic rights of prisoners.

In the majority of cases, prisoners have been given specific rights by the judiciary and held that: "when a person commits a crime, he does not turn into a non-human being, and this does not mean that he should not be punished at all cost",²⁸ Indian law also understands this and believes that a prisoner is a human being, a natural person as well as a legal person, and he has his human rights and should not even be taken from him in prison. And the court that sends the convicts to prison must be aware of the consequences of the unnecessary torture there.

There are some important rights of prisoners given by the judiciary:

1. Access to court and Legal Facilities:

In any country with a larger population, it is clear

²⁶ Ibid Pg. No. 330 – 331.

²⁷ Dr. Krishna Pal Malik, Penology, victimology & correctional administration in India, Allahabad Agency, Pg. No.334.

²⁸ Patnaik v. State of Andhra Pradesh, AIR 1974 SC 2092; Sunil Batra v. Delhi Administration, AIR 1978 SC 1675; and Sunil Batra v. Delhi Administration, AIR 1980.

that crime is higher in that country and in a country like India, which is the second-most populous country in the world. Crime is on the rise, and most of the country's prisons are hasty trials, extrajudicial trials, and trials that have not even begun after years of patrolling, while having the right to a lawyer legal aid, is provided for in the Constitution and the Code of Criminal Procedure and is a personal right of individuals.

In the case of *M.H. Hoskot v. the State of Maharashtra*,²⁹ the Supreme Court dealt with the problem at length in the context of the prisons, which was about an illegal activity in which the offender claimed that he had not received a copy of the court order from the competent authorities for three years, and in case the court found his legal rights are violated based on the Articles 21, 22, 39A and 42 of the Constitution and the following principles laid down by the court.

a. Provide as soon as possible a copy of the court order to the convict by the court.

b. In case of sending any copy to the prison authorities for the sake of a convict, the relevant authority shall immediately deliver the court order to the convict and obtain his approval.

c. In case of a legal request of the convict, such as an appeal, any necessary facilities to exercise this right shall be provided by the prison administration.

d. If the offender does not have a defense lawyer or is unable to get a lawyer for the convict

due to poverty, the court is obliged to provide a lawyer for the convict.

e. The state which prosecuted the prisoner and moved the process which deprived him of his freedom shall pay to assigned counsel such sum as the court may equitably fix.³⁰

Some other cases which can be referred to:

i. *Ranchod Mathur Wasawa v. State of Gujarat* (1974).³¹ (On Free Legal Aid)

ii. *Sheela Barse v. the State of Maharashtra*.³² (On Custodial Torture)

iii. *Sukdas v. Arunachal Pardesh*(1983).³³ (On Free Legal Aid)

2. Speedy trial:

In the case of *Kadara Pahadiya v. State of Bihar*³⁴ supreme court held that **Speedy trial** is a fundamental right of prisoners under Article 21 and delaying to it is the denial of justice, so the court has to take necessary steps to solve the urgent handling of cases because of giving time to other cases as urgent as possible.

Also, in the case of *Hussainara Khatoon v. the State of Bihar*³⁵, the speedy trial of an accused is known as their fundamental right by the court under Article 21.

3. Meetings with family members and friends:

²⁹ (1978) 3 SCC 544: 1978 SC 1548.

³⁰ Ahmed Siddique, *Criminology and Penology*, Eastern Book Company, Sixth Edition, 2009, Pg. No.198.

³¹ AIR 1974 SC 1143.

³² AIR 1983 SC 378.

³³ AIR 1986 SC 991.

³⁴ AIR 1983 SC 1167.

³⁵ AIR 1979 SC 1360.

People need to meet for information; this is the right of the people, the prisoners are protected not only physically but also mentally. Visiting friends and family members gives them mental stability and positive motivation to survive in the worst situations where people are unknown to each other and to try to be a healthy and better person with the family again.

The Supreme Court ruled that prisoners could meet and interview family members, friends, and lawyers without strict legal restrictions, and in certain cases, were allowed to leave the prison but could not socialize outside the prison.³⁶

4. Right to reasonable wages:

They have to be paid a reasonable wage for their work in prisons if they are forced to work. As stated in the case of Mohammad Ghiasuddin v. the State of AP³⁷. by the Supreme Court, the court ordered the government to take the necessary measures to finalize the rules for the payment of salaries to prisoners. **In Re Prison Reforms Enforcement of wages of Prisoners**,³⁸ the court declares that in case of hiring the convicts and not paying them properly for their work, it means "forced labor" and is a violation of Article 23 of the Constitution.

5. Right against Solitary Confinement, Handcuffing and Protection from Torture:

"Solitary confinement" means keeping a prisoner separate from the rest of human society and other prisoners in such a manner that he has no direct

contact with any human being or has a job or education. This matter is settled by the court in the case of **Sunil Batra V. Delhi Administration**³⁹ the court stated that solitary confinement could be used only in exceptional cases where a convict had a dangerous personality; in fact, solitary confinement torture in prisons had a degrading and inhumane effect on prisoners, and keeping criminals in this situation will cause damage to their physical and mental health.

6. Right to health and treatment:

The Hon'ble Supreme Court, in a series of cases, held "right to health care" as an essential part under Article 21 of the Constitution. It is also held in the case of **Parmand Katara v. Union of India**⁴⁰ and as Article 21 guaranties the people right to life and every doctor at the Government hospital or has the professional obligation to save the life bound to extend medical assistance for preserving life, this is a fundamental right of prisoners.

7. Jail Reforms Committee 1980-83:

This Committee has also given some points regarding prisoners' rights, and this Committee has recommended the following rights in the proposed scheme of "National Prison Legislation":

- a) Right to have human dignity.
- b) Right to communication.
- c) Right against punishments in prison.

³⁶ Francis Coralie Mullin V. The Administrator, Union Territory of Delhi and Others.

³⁷ 1977 AIR 1926, 1978 SCR (1) 153.

³⁸ AIR 1966 SC 424.

³⁹ 1980 AIR 1579, 1980 SCR (2) 557.

⁴⁰ AIR 1989 SC 2039.

- d) Right of significant and gainful employment.
- e) Right to personal needs & rights.
- f) Right to Know about the laws.
- g) Right to be released at special times.⁴¹

principle of innocence, the prohibition of forced confession due to torture and intimidation, the right to access water, food, and prisoner treatment, the right to visit family, the use of a lawyer, legal aid, etc. are known as fundamental rights of prisoners.

V. CONCLUSION

As Mahatma Gandhi says, prisons should be like hospitals, and prison guards should be like hospital nurses, which means prisoners should be prepared for development and rehabilitation of prisoners to return to society, they also have human rights and should be a friendly behavior by prisons administration to prisoners, therefore, all prisoners are treated as human beings, and this is enshrined in the most of the cases by Indian Constitution and judiciary.

For sure, the days are gone when prisons were lodged to separate dark cells, for now, prisons are no more a place retributive and deterrent aspects of punishment simply as torture it has changed mostly in a place of rehabilitation, and for now, prisoners are mainly enjoying the rights under Articles 14, 19, and 21 of Indian Constitution. In modern days there is an opinion for a prisoner that imprisonment itself is a punishment and thus, there is no need for extra punishment, and should not violate their human rights. because the main goals of today's Laws are rehabilitation, not to make a bad person a worse person.

Although in countries like India there is no specific law on the rights of prisoners, the judiciary plays a very important role, and the

⁴¹ Ahmed Siddique, *Criminology and Penology*, Eastern Book Company, Sixth Edition, 2009, Pg. No.202.

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