

A STUDY ON THE TRANSFORMATION OF STATUS OF RIGHTS OF PRISONERS IN INDIA WITH THE CONTRIBUTION OF JUDICIARY

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“Injustice anywhere is a threat to justice everywhere.”- Martin Luther King

Abstract:

Since the very advent; Indian Judiciary has been playing an active role in protecting the rights of prisoners. Be it the Supreme court or even the High courts; none is leaving a tone unheard when it is comes to protecting prisoner’s rights. Things now has been different when the main motto of chaining a prisoner for punishment. Now the judiciary is turning its head towards reformation in the lives of prisoners; and in this process it has found out the very necessary element that is to protect various rights of them even when they are in jail premises. The article mainly tries to put forward the contributions made by the judiciary to protect the human rights of those prisoners who faced various human rights violations. The judiciary has been upholding the dignity of the Constitution by playing an active role in protecting various principles that are laid down by the Constitution like the very basic Right to life, and liberty. Not just that, judiciary is also ensuring that the victims of human right’s violations, despite them being prisoners get their due compensation.

Key words: active, constitution, human rights, judiciary, principles, provisions, role

Introduction:

Supreme court from the very beginning has been dealing with prisoners in a rightful way by providing them with their due rights and upholding the below listed constitutional provisions; despite them being hardcore criminals. The Constitution of India provided various rights to the prisoners through its varied provisions. Starting with Article 14 that ensures equality; and that all prisoners should be equally protected, and reasonable classification of prisoners or even freedoms envisaged in Article 19 that can be enjoyed by prisoners too but in connected with various restrictions as per various prison mandates.

Similarly, the Constitution also provides prisoners with Article 21 to protect their lives, and liberty in accordance to the law. Article 22(1) provides that any prisoner if he can afford a lawyer of his choice can rightly do so in order to enable that lawyer to defend him. Article 23 ensures that no prisoner is exploited by prison officials or co-prisoners when he is in prison. Continuing to the above said provisions, Article 25(1) provides that a prisoner can freely practice his religion even if he is behind bars. Also, Article 39-A, ensures legal aid. By this provision, It is said that a prisoner should be given a lawyer to his assistance if that prisoner is unable to afford a lawyer by his own.

The author of the article tried to list down various instances or cases where the Judiciary played a prominent role to uphold the above said provisions listed down by the Constitution of India. The following cases Sheela Barsevs State of Maharashtra (AIR 1983

SC 378), R.D Upadhyayavs State of Andhra Pradesh and Others (AIR 2006 SC 1946), Sunil Batravs Delhi Administration (AIR 1978 SC 1675), Francis Coralie Mullin vs The Administrator, Union Territory Delhi (1981 AIR 746 1981 SCR(2) 516), T.V. Vatheeswaran v. State of Tamil Nadu (AIR 1983 SC 361 : (1983) 2 SCC 68), Prem Shankar Shuklavs Delhi Administration (1980) 3 SCC 526 70), have been analyzed in an effective manner.

Contribution of Indian Judiciary Towards the Protection of Rights of Prisoners in India:

In the case of Sheela Barse Vs State of Maharashtra (AIR 1983 SC 378), Sheela Barse wrote down a letter to the Supreme Court about the problems of female prisoners in the Mumbai central jail and when the Supreme court considered this letter as a writ petition, it ordered an enquiry that later proved that all problems regarding harassment of female prisoners were proved as true. Following that, to provide a solution, the Supreme court stated that prisoners if they are unable to afford a lawyer should be provided with legal aid and in accordance with the same, the prison officials should also provide a list of worthy legal assistants and lawyers that are to be assist prisoners.

The Supreme court held that every female prisoner should have her own space, and should be monitored, inspected or investigated by only a female staff and that female staff should ensure that female prisoner should know if she can get a bail. Lastly, in this case the prison officials who were subjecting women prisoners to harassment were called out and punished.

In the case of R.D Upadhyaya Vs State of Andhra Pradesh and Others (AIR 2006 SC 1946); the Supreme court presented various guidelines to protect the life of a pregnant female prisoner that any pregnant female prisoner should get proper medical care and arrangements of pregnancy and delivery even if she is in prison and arrangements of parole if she can avail so, and that she should be assisted by a female clerk in the prison.

The supreme court held that pregnant female prisoner should get her due medical checkups by gynecologist and medical care along with proper nutrition that is to be given to her to ensure protection of her life and the life of the unborn. Most importantly to uphold the dignity of the unborn baby the Supreme court held that no birth certificate of the baby should consist prison address as the birth address of the baby.

In the case of Sunil Batra Vs Delhi Administration (AIR 1978 SC 1675), the Supreme court held the importance of treating the prisoners in a humane way. The court also said that prison staff should be taught as to how to deal prisoners in a sensitive and humane way. The apex court in this case held that no prisoner should be exposed to solitary confinement, and that it causes harm to the mental status of a prisoner since prisoners who are already living away from their families and them being subjected to extra confinement would only destroy their mental health.

The case also witnessed a major shift to the rights of prisoners that they should be given a chance to meet their family members and to meet lawyer of his choice and to attend any interviews. The court also held that prison authorities should do periodical checkups of the conditions in the prisons and should submit a detailed report of the same to the local courts.

In the case of Francis Coralie Mullin vs. The Administrator, Union Territory Delhi (1981 AIR 746 1981 SCR(2) 516), the court stated that any prisoner if wanted can meet any lawyer of her choice, and that prisoner should be allowed to meet family members without any hurdles. The court also stated that a prison official may be present during the interview with legal assistant but not be present within hearing distance to uphold privacy of the prisoner.

And in the case of T.V. Vatheeswaran v. State of Tamil Nadu (AIR 1983 SC 361 : (1983) 2 SCC 68), the court stated that every prisoner has a right to get free legal services even if he is in-between four walls of the prison and that his very fundamental right to life and other rights should be protected in any circumstances and that the right to life and liberty can only be taken when only in due circumstances as per law. And lastly, in the case of Prem Shankar Shukla vs Delhi Administration (1980) 3 SCC 526, the court opposed handcuffing of any prisoner until unless it is needed as per law.

Conclusion:

It is unfortunate that till today prisoners have to deal with their very basic rights. Though Judiciary playing an active role from time to time from ensuring that no prisoner is subjected to unnecessary handcuffing, to solitary confinement which is basically the judiciary trying to protect basic rights of prisoners the right to life and that they should be treated in a humane way; the shortcomings caused due to ill treatment and insensitive behavior of police and prison authorities are infact causing huge struggle. This way I conclude by stating that prisoners need be taught about their rights, and the grievance redressal mechanism should be strong even in prisons. Regular checkups and inspections by higher authorities about safety of the prisoners should be made a compulsory mandate. At the end it is honestly believed by me that police or prison authorities should be told or should be sensitized about lives and rights of prisoners.

References:

1. Sheela Barse vs State of Maharashtra (AIR 1983 SC 378)
2. R.D Upadhyay vs State of Andhra Pradesh and Others (AIR 2006 SC 1946)
3. Sunil Batra vs Delhi Administration (AIR 1978 SC 1675)
4. Francis Coralie Mullin vs The Administrator, Union Territory Delhi (1981 AIR 746 1981 SCR(2) 516)
5. T.V. Vatheeswaran v. State of Tamil Nadu (AIR 1983 SC 361 : (1983) 2 SCC 68)
6. Prem Shankar Shukla vs Delhi Administration (1980) 3 SCC 526.