

RIGHTS OF PRISONERS IN INDIA

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INTRODUCTION

There is no such definition for a human. According to philosophical view, a human is a social animal. Human can understand moralities and sins. He has got intellectual power to know each other's. The whole world is created by the God. Therefore, being a human is great gift of God. Human has right to survive, to live, right to shelter, right to enjoy etc. rights are nothing but it's the freedom to live as human in the world. No one can stop to enjoy one's freedom and rights given by the natural law. It is natural right and birth right to every citizen of the world. This concept was developed after the Universal Declaration of Human Rights.

ENLARGEMENT OF HUMAN RIGHTS

From ancient time, there were a no rights given to common people. King was to rule over the state. The war that took place between kings resulted to death of lots of innocent people. In the course of king era, poor person or a losing soldier has to surrender and they have to leave the state by order of king. Subsequently, lots of changes took place before the development of human rights. Major role was played by Cyrus, Magna Carta, British bill, French revolution, Mahatma Gandhi's contribution in to expansion of human rights. In addition to that after the cessation of world war, the Genocide Convention was adopted on 9th December, 1948 and thereafter declaration of human rights was adopted on 10th December, 1948.

India's History: Before independence, there was no fulfilling of rights in India. The British Government has taken such advantages that the human was treated as beggar, inhuman with cruelty. There were no kindnesses on people, who fought for the independence. Freedom fighters like Bhagat sinh, Raj Guru, Sukh dev, Veer Savarkar etc. were ill-treated. After

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independence, Government of India has developed some reformatory jail system. Prisoners are too humans like us. The constitution of India has covered this in the seventh schedule, for jail and state law.

HISTORY OF PRISONS AND PRISONERS

Before the independence, prisons were developed for the criminal person and against any illegal activity or against British Government. The prisons were very unsafe to inmate. The British Government used to punish most of the prisoner with inhumaneness and mistreating. Punishment was developed for such criminal and wrong-doers. It was one of the steps towards controlling the people from any illegal movement or crime or wrong doers. In the world, there was different capital punishment included such as flogging, mutilation, branding, pillories, imprisonment and death by hang. Even today, some countries are following capital punishment. In India the Britishers have developed the first prison in Goa, 1600. It was small lockups for prisoners. Afterwards, a large prison complex construction was started in 1896 to 1906. It was Andaman Nicobar jail.

The British Regime has settled more jails for prisoners. Prisoners were treated like animal in jail and rule by the superintendent of prison. During 18th century, there was no knowledge of human rights. The superior has power to rule the nation. After the changing scenario of the country, Indian Government Act 1935 was developed. After independence, Government of India has reforms “jails” or “prison” system with help from United Nation. It has divided into different level like National level, State level and District level prison system developed.

RIGHTS UNDER UNIVERSAL DECLARATION OF HUMAN RIGHTS

Rights are established and acknowledged by the whole world under the Universal Declaration of Human Rights. This document has covered all basic rights for the all human being for the world. It is a natural right. The declaration of document was made on 10th December, 1948. There are some provisions and principle under Universal Declaration of Human Rights given which are as follow;

- The right to freedom of speech;
- The right to equality before law;

- The right to equal respect for all²;
- Everyone is entitled to all the rights and freedom set forth in the declaration, without any discrimination as to race, colour, sex, language, religion, political, or other opinion, national or social origin, property, birth or status³.
- No person should be subjected to cruel or torture, inhuman or degrading treatment or punishment⁴;
- Everyone has to right to life, liberty and security of person⁵;
- No one shall be subjected to arbitrary arrest, detention or exile⁶;
- International covenant on civil and political rights,1966⁷;

The Universal Declaration of Human Rights and protection is developed for the common people of world. It is, therefore all rights are reserved to all human. Here, there is no need to differentiate a prisoner from a common man.

RIGHTS UNDER INDIAN CONSTITUTION

Constitution of India is like human body. The preamble is heart of all citizens. It is covered with all rights and duties of citizen. Prisoners have fundamental rights-, rights to equality, right to freedom, protection of life and personal liberty, rights to freedom of religion, culture and education rights⁸. Prisoner must get all rights within the limitation by court.

RIGHTS OF PRISONERS UNDER PRISON ACT

The supreme court of India has decided to grant some rights and duties of prisoner. In the respect of all India committee on jail reforms during 1980-1983 as given under⁹;

- Right to human dignity.
- Right to basic minimum needs.

² Gaius Ezejoi, "protection of human rights under the law", London Butterworth, 1964, p-151.

³ Universal Declaration of Human Rights,1948, Article-2

⁴ Universal Declaration of Human Rights, 1948, Article- 1.

⁵ *Ibid*, Article 3.

⁶ *Ibid*, Article 9.

⁷ *Ibid*, Article 7.

⁸ The constitutional law of India, 49th edition, Central Law agency, J.N.Pandey, 2012.

⁹ National policy on prison reform and correctional administration manual 2003.

- Right to communication.
- Right to legal aid.
- Right against arbitrary prison punishment.
- Right to meaningful and gainful employment.
- Right to release on due date.
- Right to health care.
- Right to education in prison.

PRESENT SCENARIO

Today, world is shifting fast. The prisoner means a criminal or offender of any law-breaking. It may international or national criminal convict. No one is known about prison and its system or rights of prisoner. Prisons are not functioning properly for prisoner. All jails are constructed years ago. There is no contemporary jail developed.

There are different types of prisoners including such as adolescent prisoner, adult prisoner, casual prisoner, civil prisoner, juvenile, women prisoner and under-trial prisoner. There are some hard core criminal who try to escapes the jail through illegal means. The prison is for the rehabilitation and introspection or realisation to prisoners on their misconduct. As we know the prison and prisoner's situation is very difficult as compare our country with foreign countries prison. There are many problem prisoners suffered a lot as given below:

1. **Overcrowding:** India has a no new source to kept prisoner during overcrowding of prisoners. This problem was not solved even in 21st century. Due to more prisoners, indiscipline arises in prison. The administrator cannot handle the proper manner of safety in prison. Most of prisoners who got the imprisonment must transferred to another court like sub jails in helping to reducing overcrowding.
2. **Under trial prisoner and their rights:** Furthermore, of the prisoners are under the trial. The lack of fast proceedings prisoners is suffering a lot. Crime is alleged by most the illiterate person or due to lack of economic means and International criminal are trained.

So, they don't have the knowledge about their rights. Therefore, legal aid service and Human right commission will help them to inform about their rights.

3. **Health care and hospital competence:** According to my knowledge, I visited to one central jail. I have observed the whole things and system of jail. In this, we have hardly seen the hospital area. It was facilitating with first aid kit told by the superintendent. There were many prisoners including women. With the permission of superintendent allowed us to visit female's compartment, prisoner's area was not in good condition or clean. The dresses of prisoners should be clean, will protect from the infection or any diseases. The most important issues are about bathroom and toilets facility for prisoners. As per the Swachh Bharat mission or any schemes of Government should be applied in prison. Due to cleanliness prisoners will get fresh and clean environment of prison.

4. **Food capability:** Food is limited to all prisoners. As per the prison manual, prisoners have some restriction on time and food. Prisoners have to do work on basis of their skills. From these prisoners will get minimum amount for the work done, which is as per the prison manual. Food must be different for each day. It should not be same for a whole year. Food should be inspected before circulated to prisoners. Drinking water should be clean and cool during summer period.

5. **Insufficient of prison staff:** In jail, there are very less prison personal to maintain prisoners in good manner including women staffs for women prisoners. The history ticket and visiting person's registration documents are not maintain properly. The checking of visiting persons and prisoners are required high security during entry/ exist of prison.

6. **Lack of administration:** Prison administration department is very weak in to implementing of new training programmer for the prisoners. Prison Administration has to invite some reputed Institution for Vocational programme and Workshop in prison. In that the prison administration is very feeble to give them proper training. Prison system has not changed from many years. Now it's the time to innovative structure for prisoners with added benefits of Human rights.

NEED OF CHANGES IN PRISON SYSTEM

The prison has to developed in such way that prisoner can feel like a home-based. It will help them to rehabilitate. In addition to that terrorist must kept in separate lockup from the all criminal and other prisoners. The Government of India has to reform all jails as per the recommendations made by the Mr Justice A.N. Mulla¹⁰. It is need to develop work programme as per their skills such as handicraft, tailor machine work, agriculture, gardening etc.

The Human Rights Commission is set-up in different part of state. There are National Human Rights Commission and State Human Rights Commission. The Human Rights Commission have to develop awareness programmes in jail. There must require legal aid services for prisoners by consultants.

Let see the prisons health facility and medical treatment, women prisoners and male prisoner's hospital should be different in prison. Women prisoners must get free medical treatment on weakness. During pregnancy, women prisoners need some healthy food for their child. Moreover, the prisoner's clothes and bedding system should be inspected by the staff member at daily routine basis. Moreover, laundry shop should be established. Prisoners can take clothes out of jail with proper law and regulation. The prisons are developed for the introspection and for the rehabilitation. The Yoga, Bhakti and concentration system has to develop. The administration has to develop whole day programme in the prison for the development of the prisoner's. Unique time table is desirable for the vocational training or any other programmes.

I would like to add some new topics with innovative arrangement of prisons:

1. To developed high security construction of new prison with proper space.
2. To developed medical administration for 24*7 hours with ambulance service.
3. To provide communication centre with recording base system.¹¹
4. To provide proper education for prisoners.
5. To organize vocational training and work programmes on monthly basis.
6. Legal aid service and human rights commission for protection of prisoner's rights.
7. The under trial prisoner and young offender must be kept in separate cells.

¹⁰ National Policy on Prison Reform and Correctional Administration Part- I, pdf.

¹¹ It must be secret and protected by law.

8. Women prisoners have provided all private security and facility with proper manner.
9. To encourage in Swachh Bharat Mission and make proper toilet facility.
10. Maintain proper food facility with clean vessels and groceries.
11. Proper inspection for all administration and organization.

The workshop and seminar should be conducted in jail. It will explore the knowledge of prisoners. The recent one of the National Institution of Design has frame a workshop programme for prisoners against theft. Policemen are known to often think like a criminal to solve complicated crimes. Taking one step forward, design gurus at national institution of design are collaborating with prisoners of Sabarmati jail to come up with theft proof designs¹². There are many institutions that want to make some fun for prisoners and happy life in prison. For that administration of prison and prison personnel have to play active role into all programmes.

CONCLUSION

This Article will help to understand human right and problem of prisoners. Prisoners should be given equal rights and opportunity under the human rights. Prisoner must protect and promoted under human rights. Human rights of prisoner are for the care, protection, development and rehabilitation. Therefore, all prisoners are treated as human being and they have the rights under Indian constitution.

¹² See, Times of India, by Sarfaraz.Shaikh, 27-february-2016.