
THE INTRICATE LANDSCAPE OF PRISONERS' RIGHTS: A BALANCING ACT

Kabir Kapoor, B.L.S., LL.B., Rizvi Law College

ABSTRACT

When one thinks of the status of the prisoners in this country, or any other country for that matter, a grim situation comes to mind with horrifying details of the reality they must face day by day. Now even if it is true that in this country there are legislations present that detail the rights granted to them along with the Constitution underlining the unwavering nature of the legal system where all citizens are to be treated equally, and the Supreme Court revitalizing the importance of this; it pales in comparison to the true horrors faced by prisoners inside the four walls of brick and steel.

Keywords: Fundamental rights, limitations, liberties, human rights law, judgement, incarceration.

Introduction

American philosopher Hugo Bedau once remarked that, “Developing a full theory of prisoners’ rights is an oppressively large project.”

In fact, the task is even more complex than he envisioned, which likely explains why few theorists have undertaken it systematically. Perhaps this lack of interest stems from a broader focus among legal scholars on developing general theories about the purpose of punishment, often overlooking the practical realities of how it's implemented. While these broader theories may have implications for prisoner treatment, these connections are rarely explicitly explored.

Capital punishment, at least in India, has been extensively debated upon, with the majority declaring it as too inhumane or the last course of action. Yet, numerous other, less severe losses or deprivations can be, and sometimes are, imposed on offenders. We need a clearer understanding of which losses or deprivations are legitimately imposed, particularly on incarcerated individuals.

Body

Obstacles:

Despite a robust legal framework and judicial activism, several obstacles impede the full realization of prisoners' rights in India.

i. Theoretical Issues:

- **Defining Rights:** The very notion of "rights" is multifaceted, with various interpretations regarding their basis, types, and limitations. Navigating these complexities necessitates careful consideration and potential accommodation of diverse viewpoints.
- **Forfeiture vs. Curtailment:** Determining the extent to which criminal offenders forfeit their moral rights, if at all, is a critical question. This discourse delves into the debate between complete forfeiture and the state's legitimate curtailment of certain rights, ultimately advocating for the latter while acknowledging the potential for retained rights to be diminished in specific contexts.

ii. Practical Challenges:

- **Overcrowding:** Indian prisons face a severe overcrowding crisis, leading to inadequate living conditions, healthcare, and sanitation. This issue is further exacerbated by factors like unnecessary arrests and delays in legal proceedings.
- **Unfair Living Conditions:** While some improvements have been made in areas like clothing and hygiene, the overall quality of life in many prisons remains inadequate. The focus should shift towards establishing humane and dignified living conditions, not replicating the comforts of home.
- **Socioeconomic Disparity:** Reports highlight the presence of a rigid class system within certain prisons, granting undue privileges to individuals from wealthier backgrounds. This undermines the principles of fairness and justice within the correctional system.

iii. The Indian Judiciary:

The Indian Constitution enshrines fundamental rights that extend to prisoners, albeit with certain limitations. Articles 14, 19, and 21 serve as cornerstones, guaranteeing due process, fair treatment, and the right to life with dignity. Landmark judgments like **State of A.P. Vs. Challa Ramkrishna Reddy & Ors**¹ and **T.V. Vatheeswaran v. State of Tamil Nadu**² have further emphasized the inviolability of these rights for incarcerated individuals.

The Indian judiciary, particularly the Supreme Court, has played a crucial role in safeguarding these rights through proactive interpretations and pronouncements. This commitment is exemplified in cases like **Charles Shobraj V. Supritendent**³, where the court reaffirmed prisoners' inherent human rights, and **Maneka Gandhi**⁴ and **Sunil Batra**⁵, which broadened the scope of Article 21 to encompass incarcerated individuals.

Legislation:

According to the Model Prison Manual⁶- A prisoner is anyone who is confined in a prison under

¹ State of A.P. v. Challa Ramkrishna Reddy & Ors (2000) 5 SCC 712

² T.V. Vatheeswaran v. State of Tamil Nadu (1983) 2 SCC 68

³ Charles Shobraj v. Supritendent (1978) 4 SCC 104

⁴ Maneka Gandhi v. Union of India (1978) AIR 597

⁵ Sunil Batra v. Delhi Administration (1978) AIR 1975

⁶ Model Prison Manual 2016, Ministry of Home Affairs India

the authority of a competent body. The Prisons Act of 1894⁷ marked the first legal framework for regulating prisons in India. This act details requirements to ensure the welfare and protection of prisoners, including both convicts and undertrials.

The All-India Committee on Jail Reforms highlighted several important rights for prisoners, emphasising their dignity and humane treatment within the prison system. In the case of **Upendra Baxi v. State of U.P.**⁸, the Supreme Court issued various directions to guarantee that inmates in the protective Home at Agra do not live in inhumane and degrading conditions.

The Legal Services Authority Act⁹, also stipulates that any person in ‘custody’ is entitled to legal aid and the State may cover the cost if the individual is willing to accept it.

In **Sheela Barse Vs. State of Maharashtra**¹⁰, the Supreme Court directed that when a person is arrested, the police must immediately inform the nearest Legal Aid Committee and take steps to provide legal assistance.

In **Hussainara Khatoon v. State of Bihar**¹¹, the Supreme Court highlighted the shocking situation where a significant number of individuals, including children, were incarcerated for extended periods while awaiting trial. The Court expressed concern about the delay in trial, especially for those who could not afford bail. The Supreme Court held that a procedure that keeps many people behind bars without trial for an extended period cannot be considered reasonable, just, or fair.

Section 53 IPC¹² allows prisoners sentenced to rigorous imprisonment to be assigned work; however, it does not mandate that such work must be unpaid.

In the case of **People’s Union for Democratic Rights v. Union of India**¹³, the Supreme Court noted that labour or services provided for remuneration below the minimum wage constitutes forced labour. If a person, whether free or a prisoner, provides labour or services for

⁷ Prisons Act 1894 (Act. IX of 1894)

⁸ **Upendra Baxi v. State of U.P.**⁸ (1983) 2 SCC 308

⁹ Legal Services Authority Act 1987 (Act No. 39 of 1987)

¹⁰ **Sheela Barse Vs. State of Maharashtra** 1983 AIR 378

¹¹ **Hussainara Khatoon v. State of Bihar** 1979 AIR 1369

¹² Section 53 Indian Penal Code 1860

¹³ **People’s Union for Democratic Rights v. Union of India** 1982 AIR 1473

remuneration that is less than the minimum wage, the work falls within the scope of “forced labour” under Article 23 of the Constitution.

There is a clear mention of the rights of prisoners in the CrPC¹⁴ such as- Right of the Prisoner to Be Informed of Arrest and Bail (Section 50), Right of the Prisoner to Be Defended by a Lawyer (Section 303 and Section 304), Right to Speedy Trial (Section 309(1)), Right to Medical Examination (Section 54), Right to Be Present Before the Magistrate Without Delay (Sections 57 and 76), Right to Be Present During Trial (Section 273), Right to Be Released on Probation of Good Conduct on or After Admonition (Section 360) and Right to Be Released on Bail Even If the Prisoner Does Not Have Means (Section 436).

International Human Rights Standards:

International instruments like the ICCPR¹⁵ and the Torture Convention¹⁶ establish clear protections for prisoners, including freedom from torture and cruel treatment, and the right to rehabilitation and reintegration. The United Nations Standard Minimum Rules for the Treatment of Prisoners¹⁷ provides further guidance on upholding these rights.

Furthermore, if one considers supplementary instruments such as Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment¹⁸ or the Basic Principles for the Treatment of Prisoners¹⁹ along with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice²⁰, certain key points are fairly evident.

These international standards emphasize:

- **Retention of fundamental rights:** Prisoners retain their fundamental rights, with limitations only demonstrably necessary due to incarceration.
- **Positive obligation of states:** States have a positive obligation to ensure the dignity and well-being of individuals deprived of their liberty, exceeding the mere avoidance

¹⁴ Criminal Procedure Code 1973 (Act No. 2 of 1974)

¹⁵ International Convention on Civic and Political Rights 1996 (999 U.N.T. 171)

¹⁶ **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 (1465 U.N.T. 85)**

¹⁷ United Nations Standard Minimum Rules for the Treatment of Prisoners 2015 (Resolution 70/175)

¹⁸ Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment 1998

¹⁹ Basic Principles for the Treatment of Prisoners 1990 (Resolution 45/111)

²⁰ United Nations Standard Minimum Rules for the Administration of Juvenile Justice 1985 (Resolution 40/33)

of torture and cruel treatment.

- **Universality of these obligations:** These obligations are universally applicable, regardless of a state's resource constraints.

Thus, international human rights standards establish a clear framework for governments to uphold the fundamental rights and dignity of prisoners, promoting their rehabilitation and reintegration into society.

Remedies:

While working on the inward states of penitentiaries is certainly urgent, a new methodology should dive further, addressing the foundational factors that add to their persistent congestion. This requires a multi-pronged system that handles the accompanying:

- **Reassessment of Imprisonment Practices:** A basic re-assessment of capture and it is central to sentence strategies. Executing stricter rules for captures and detainments, especially for minor offenses, can essentially lessen superfluous imprisonment. For non-violent crimes, looking into alternative sentencing options like community service or restorative justice programs can also help reduce the demand on prison capacity.

- **Advancing Legal Cycles:** Facilitating official actions through smoothed out court techniques and proficient case the executives are fundamental. This not just diminishes the weight on the jail framework by limiting pre-preliminary detainment periods yet additionally maintains the key right to a quick preliminary.

- **Focusing on Restoration and Reintegration:** Moving the concentration from exclusively correctional measures to a rehabilitative methodology holds enormous potential. Putting resources into vigorous recovery projects and encouraging drives that work with reintegration into society. By decreasing recidivism rates, such projects can by implication lighten the strain on jail foundation. By carrying out these far reaching and interconnected measures, we can move past simple enhancement and endeavour towards making a jail framework that lines up with key common liberties standards.

These remedies can encourage a positive change inside people as well as adds to a society where detainment fills in as a device for recovery as opposed to just discipline.

Conclusion

While the exact scope of moral rights retained by prisoners remains an ongoing area of exploration, there is strong evidence to suggest that they possess a significant number of such rights. These rights remain undiminished in their core principles, and the state bears a clear responsibility to ensure their fulfilment. The specific nature of these retained rights may necessitate substantial changes to current penal practices. It's undeniable that advocating for increased rights for prisoners faces significant political challenges. Individuals convicted of crimes, particularly serious offenses, often become convenient targets in public discourse. Proposals for improved treatment are frequently met with derision. Understanding why incarcerated individuals often occupy the lowest rung in societal hierarchy requires delving beyond moral and political theory, venturing into the realm of social theory.

The struggle for prisoners' rights in India is an ongoing process marked by both progress and challenges, however society must take crucial steps towards guaranteeing the dignity and fundamental rights of all individuals, regardless of their incarceration status.