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## PRISONERS' RIGHT AND LANDMARK JUDGEMENTS

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### ABSTRACT

This research article delves into the dynamic terrain of prisoners' rights, tracing the historical evolution and analyzing major legal judgments that have significantly impacted the treatment of incarcerated individuals. By examining key legal precedents, the article provides insights into the constitutional rights of prisoners, including healthcare, freedom of expression, and protection from discriminatory practices. The analysis extends to contemporary challenges such as overcrowding and solitary confinement, shedding light on ongoing legal battles and emerging trends that influence the trajectory of prisoners' rights jurisprudence. This comprehensive exploration aims to contribute to a nuanced understanding of the legal landscape surrounding prisoners' rights, facilitating informed discussions among policymakers, legal practitioners, and scholars seeking to foster a more just and humane correctional system.

**Keywords:** Constitutional remedies, prisoners rights jurisprudence, freedom of basic rights, protection

## INTRODUCTION

Imprisonment stands as a ubiquitous facet within the contemporary penal systems of nations worldwide, demonstrating a persistent and escalating trend over the course of many decades. As per the World Prison Brief database, the global count of prisoners currently stands at approximately 10.36 million. This expansive carceral landscape encompasses diverse nations, each grappling with the challenges and implications of incarcerating a substantial portion of their population.

In the specific context of India, data from the National Crime Records Bureau Ministry of Home Affairs underscores the magnitude of this phenomenon. The country accommodates 1,387 operational jails, collectively equipped to house 356,561 prisoners. However, the stark reality reveals an overcrowded scenario, with a staggering 418,536 inmates currently held in these facilities. Notably, among this population, 2.8 lakh individuals find themselves in the status of undertrials – a figure equivalent to the entire population of the nation of Barbados.

During the colonial era when India was under the dominion of the British, the conditions within prisons were characterized by brutality and a lack of humanity. Indian prisoners, including those who were pivotal figures in the fight for independence, were subjected to dehumanizing treatment, being vilified and regarded as monstrous entities. Notably, freedom fighters who valiantly fought for India's sovereignty were unjustly labeled as criminals and endured harsh imprisonment in facilities marked by woeful conditions. The administration of jails at that time was inadequate, leading to immense suffering for the incarcerated individuals.

The stark contrast in treatment between Indian and English prisoners was evident, reflecting a bias that permeated the colonial penal system. The absence of rules, regulations, and legislative frameworks governing the rights of prisoners exacerbated the hardships faced by those in custody. The absence of a legal framework meant that the protection of human rights within the prison system was neglected.

The concept of prisoners' rights has undergone substantial transformation over the years, reflecting societal shifts, legal developments, and an evolving understanding of human rights. This article seeks to explore the major legal judgments that have played a pivotal role in shaping the landscape of prisoners' rights. The focus will be on cases that have set precedents,

influenced legislative changes, and contributed to the ongoing discourse surrounding the humane treatment of individuals in custody.

## **HISTORICAL OVERVIEW**

Prisons, as institutions designed for the secure confinement of individuals undergoing legal proceedings or serving sentences, have evolved over time. Initially conceived as facilities for the temporary detention of offenders awaiting trial or facing punishment, the concept of imprisonment gradually transformed into a distinct and meaningful aspect of the punitive process.

The notion of imprisonment as a consequential form of punishment found notable advocacy in the words of <sup>1</sup>Lord Macaulay, as documented in his “Minutes of 1835”. In this seminal work, Lord Macaulay asserted that “Imprisonment is the punishment to which we must chiefly trust”. His perspective marked a significant shift, elevating imprisonment from a mere transitional phase in the legal process to a substantive and impactful means of addressing criminal conduct. Lord Macaulay's vision emphasized the potential of imprisonment not only for confinement but also as a tool to reform and mitigate the criminal tendencies of the incarcerated.

Delving into the historical context of Indian penal practices, ancient texts like<sup>2</sup> Manusmriti provide glimpses of the early understanding of the role of prisons. Manusmriti, an ancient legal text, articulates the necessity for kings to establish prisons, serving as places where wrongdoers and malefactors could be held. This historical perspective underscores the longstanding recognition of the need for facilities dedicated to the containment and control of individuals engaged in criminal activities.

Following India's independence, there was a notable shift in the approach to the prison system. <sup>3</sup>In the early post-independence period, the government took a keen interest in prison reforms. In 1951, the Indian government sought the expertise of United Nations professionals to conduct a comprehensive study aimed at assessing and offering recommendations for the enhancement of the country's prison administration, with a particular focus on developing and safeguarding

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<sup>1</sup> J G Roy, “Prisons & Society-A study of the Indian Jail System”, Gian Publishing House, 1989.

<sup>2</sup> Ibid

<sup>3</sup> “A.Mohanty and N.Hazary, Indian Prison System, APH Publishing, 1990”

the rights of prisoners. This collaborative effort marked a significant step towards aligning the Indian prison system with international standards and principles.

## **RIGHTS OF PRISONERS**

Both the Supreme Court of the United States and the Indian Supreme Court have unequivocally affirmed that even when incarcerated, an individual in custody maintains their identity as a human being and a legal entity. The judicial bodies, both in the United States and in India, affirm that being convicted of a crime doesn't strip an individual of their status as a person with rights. It does not reduce them to a state of non-existence, where their rights become whimsically subject to the discretion of prison authorities. As a result, the application of substantial penalties within the confines of the prison system is conditional upon the existence of “procedural safeguards”. This underscores the crucial need to safeguard the fundamental rights of individuals in custody.<sup>4</sup>

### **“Right to Fundamental Rights”**

Central to the concept of human rights in India are the fundamental rights enshrined in the constitution, constituting the foundational principles that safeguard and uphold the inherent dignity and entitlements of every individual. The esteemed Supreme Court has clarified that being in prison doesn't equate to a relinquishment of fundamental rights. However, a realistic reassessment might lead to a constrained application of the complete array of rights under Part III, which are exercised by individuals in a society characterized by freedom and liberty. When Article 21 is considered alongside Article 19(1)(d) and (5), it goes beyond its initial limitations and should be understood in accordance with the progressing norms of decency and dignity in an advanced and mature society. The crux of Article 21 revolves around ensuring the adherence to just procedural practices, while Article 19(5) underscores the importance of the reasonableness of restrictions. Any discretionary powers that devolve into arbitrary discrimination are vehemently rejected under the purview of Article 14. In essence, these constitutional provisions reflect an adaptable legal framework that resonates with the evolving principles of justice and fairness in a progressive society.

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<sup>4</sup> “Charles Wolff v. McDonnell, (1974) 41 Law Ed 2nd 935”, “DBM 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 Cr.LJ 1099”

## Case Laws

### 1. “State of Andhra Pradesh v. Challa Ramkrishna Reddy”<sup>5</sup>:

- ☐ Affirmed that prisoners possess all fundamental rights unless expressly restricted by the constitution.
- ☐ Recognition that the constitutional framework provides a baseline for the entitlements of prisoners.

### 2. “State of Maharashtra v. Prabhakar Pandurang Sanzgir”<sup>6</sup>:

- ☐ Emphasized that mere detention is insufficient grounds for the abrogation of fundamental rights.
- ☐ The limitations imposed on the terms of incarceration must not reach a level where they infringe upon the fundamental rights of the detained individual.
- ☐ Incarcerated individuals maintain the majority of rights enjoyed by those in free society, with exceptions only when essential due to the inherent limitations of imprisonment.

### 3. “Charles Sobaraj v. Supdt Central Jail Tihar”<sup>7</sup>:

- ☐ Emphasized the dynamic nature of prisoners' entitlements under Articles 14, 19, and 21, acknowledging that these rights can undergo changes over time.
- ☐ Asserted that these rights can evolve to new levels, particularly in response to challenging circumstances.

### 4. “Francis Corahe Mullin v. The Administrator, UT Delhi”<sup>8</sup>:

- ☐ The principles articulated by Justice Douglas and Justice Marshall were noted and referred to by Justice Bhagwati in the context of the case.

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<sup>5</sup> “State of Andhra Pradesh v. Challa Ramkrishna Reddy, AIR 2000 SC 2083”

<sup>6</sup> “State of Maharashtra v. Prabhakar Pandurang Sanzgir, AIR 1966 SC 424”

<sup>7</sup> “Charles Sobaraj v. Supdt Central Jail Tihar, AIR 1978 SC 1514”

<sup>8</sup> “Francis Corahe Mullin v. The Administrator, UT Delhi, AIR 1981 SC 746”

- The case drew upon the jurisprudential contributions of Justice Douglas and Justice Marshall, indicating the significance of their perspectives in shaping the legal discourse.

Mr. Justice Douglas reiterated his standpoint, asserting, *“Every prisoner’s liberty is, of course, circumscribed by the very fact of his confinement, but his interest in the limited liberty left to him only the more substantial. Conviction of a crime does not render one a non-person whose rights are subject to the whim of the prison administration, and therefore, the imposition of any serious punishment within the prison system requires procedural safeguards.”* Similarly, Mr. Justice Marshall echoed this sentiment, expressing, *“I have previously stated my views that a prisoner does not shed his basic constitutional rights at the prison gate and I fully support the court’s holding that the interest of inmate.”*<sup>9</sup>

### **“Right to life and personal liberty”**

Article 21's significance has been underscored by the esteemed Supreme Court in various instances, and the rule has been consistently applied in several cases. The interpretation of the term "life" has been expanded by the Court, building upon the elucidation provided by Field J., who declared that *“life means more than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by the amputation of an arm or leg, or the putting out of an eye or the destruction, of any other organ of the body through which the soul communicates with the other world.”* This expansive interpretation found application in the well-known case of *“Kharak Singh v. State of UP”*<sup>10</sup>.

### **“Right to live with human dignity”**

The constitution safeguards the inherent right of every person, even prisoners, to live with dignity, recognizing that deprivation of their liberty through conviction does not rob them of their inherent humanity. Forming a crucial element of the comprehensive right to life safeguarded by the Indian Constitution, this entitlement is grounded in the principle that the life of every individual is invaluable, irrespective of the circumstances, and they deserve a

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<sup>9</sup> The views were referred by Justice Bhagwati in *“Francis Corahe Mullin v. The Administrator, UT Delhi, AIR 1981 SC 746”*

<sup>10</sup> *“Kharak Singh v. State of UP, AIR 1963 SC 1295”*

sense of dignity to sustain their existence. Through judicial interpretation, the courts have expansively construed Article 21 to encompass this specific right, reinforcing the notion that dignity is an essential aspect of the “fundamental right to life” preserved in the constitutional framework.

## Case Laws

### 1. “Maneka Gandhi v. Union of India”<sup>11</sup>:

- Expanded the scope of Article 21, asserting that the "right to life" encompasses more than mere physical existence, including the “right to live with human dignity”.

### 2. “Francis Coralie v. Delhi Administration”<sup>12</sup>:

- Further broadened the concept by affirming that the expression “life” includes not only the physical aspect but also essential necessities such as adequate nutrition, clothing, shelter, education, freedom of expression, and the ability to interact with fellow human beings.

### 3. “Pandit Parmanand v. Union of India”<sup>13</sup>:

- Extended the understanding of "life" beyond the period of death, emphasizing that the right to life continues even after death.
- Stressed the incorporation of appropriate treatment for the deceased body and the privilege of a dignified burial, as exemplified in a case involving the delayed lowering of a body post-execution.

### 4. “State of Andhra Pradesh v. Challa Ramakrishna Reddy”<sup>14</sup>:

- Affirmed the fundamental nature of the right to life under Article 21, asserting that it is a basic human right guaranteed to every individual.

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<sup>11</sup> “Maneka Gandhi v. Union of India, AIR 1978 SC 597”

<sup>12</sup> “Francis Coralie v. Delhi Administration, AIR 1981 SC 746”

<sup>13</sup> “Pandit Parmanand v Union of India, (1995) 3 SCC 248”

<sup>14</sup> “State of Andhra Pradesh v. Challa Ramakrishna Reddy, AIR 2000 SC 2083”

- Emphasized that the State has no authority to violate this right, even for prisoners, as the inherent humanity of an individual is not extinguished upon incarceration.

### **“Right to health and medical treatment”**

The esteemed Supreme Court, through a succession of cases, has firmly established the "right to health care" as an important facet protected under Article 21. Indian Constitution integrates conditions warranting every individual the “right to the highest attainable standard of physical and mental health”, emphasizing the imperative of well-being for every individual. Article 21, in particular, imposes a significant responsibility on the State to safeguard an individual's life.

### **Case Laws**

#### **1. “Parmanand Katara v. Union of India”<sup>15</sup>:**

- Established that doctors at government hospitals have a duty to provide any necessary medical assistance to preserve life.
- Emphasized the professional duty of doctors to provide services with diligence and proficiency, highlighting that legal bodies cannot impede the discharge of duties within the medical profession.

#### **2. “Paschim Bengal Khet Mazdoor Samiti v. State of West Bengal”<sup>16</sup>:**

- Affirmed that government medical facilities should not reject patient treatment citing a shortage of available beds.
- Acknowledged this refusal as a violation of Article 21, emphasizing the "right to life" and imposing stringently that the State is bound to furnish essential medical aid to the detained.

#### **3. “Rasikbhai Ramsing Rana v. State of Gujarat” (Gujarat High Court)<sup>17</sup>:**

- Stated the “right to medical treatment” as a fundamental human right accessible to every

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<sup>15</sup> “Parmannd Katara v. Union o f India, AIR 1989 SC 2039”

<sup>16</sup> “Paschim Bengal Khet Mazdoor Samiti v. State of West Bengal, AIR 1996 SC 2426 : (1996) 4 SCC 37”

<sup>17</sup> “Rasikbhai Ramsing Rana v. State o f Gujarat, (DB) 1997 Cr LR (Guj) 442”



individual.

- Mandated that prison authorities guarantee adequate physical and mental health care for inmates afflicted with any ailment, highlighting the obligation to protect the basic human right to medical treatment.

### **“Right to speedy trials”**

The aphorism "justice delayed is justice denied" underscores the importance of swift legal proceedings. The “right to a speedy trial”, a universally acknowledged human right, ensures that individuals accused of crimes are either promptly punished or exonerated. Section 309 of the Code of Criminal Procedure explicitly incorporates this right, emphasizing the necessity for timely resolution to prevent the infringement of individual rights and the erosion of justice's essence through prolonged trials.

### **Case Laws**

#### **1. “AR Antulay v. RS Nayak” (Supreme Court)<sup>18</sup>:**

- Established exhaustive directives for individuals found guilty in criminal cases.
- Recognized the “right to a speedy trial” under Article 21, encompassing every phase right from investigation until re-trial.
- Emphasized that an accused cannot be denied this right simply because they did not demand it.
- Recognized that the assessment of trial duration should take into account factors such as the gravity of the crime, the quantity of accused individuals, witnesses, and the overall workload of the court.
- Determined that in pursuit of principles of fairness and equity, a violation of the “right to a speedy trial” warrants quashing the charges of conviction.

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<sup>18</sup> “AR Antulay v. RS Nayak, AIR 1984 SC 1630”

## 2. “Madheshwardhari Singh And Anr. v. State of Bihar” (Patna High Court)<sup>19</sup>:

- A time was foreseen by Justice S. S. Hasan when a delay of under ten years in dispensing justice would be deemed unjustifiable.
- Envisioned efforts to reduce this period to two years, emphasizing that true justice would be served on that day.
- Expressed hope that courts nationwide would be mindful of an indicted person's right to prompt disposal of their case, considering the hardships caused by delays beyond their control.

### “Right to legal aid”

A considerable segment of the imprisoned populace in the country includes undertrials and inmates awaiting the commencement of their trials. Ensuring access to courts and legal facilities for these individuals is imperative to uphold the principles of a free and fair trial, as mandated by Article 21 of the Constitution. The 42nd Amendment to the Constitution in 1976 introduced the provision for free legal aid as Article 39A within the Directive Principles of State Policy.

The interconnection of Articles 21 and 39-A, along with Article 142 and Section 304 of the Criminal Procedure Code (CrPC), was highlighted by a three-judge panel of the Supreme Court in the pivotal judgment of "Madhav Hayawadanrao Hoskot v. State Of Maharashtra." It was accentuated by the court that the government is under the obligation to provide legal aid and services to both convicted individuals and those accused of offenses.<sup>20</sup>

Justice Krishna Iyer categorically articulated, "Right to free legal aid is the State's duty and not Government's charity."

### “Right against inhuman treatment”

The Supreme Court of India has actively addressed the issue of harsh treatment endured by prisoners in various instances, directing state and prison authorities to curb and regulate such

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<sup>19</sup> “Madheshwardhari Singh And Anr. v. State of Bihar, AIR 1986 Patna 38”

<sup>20</sup> “MHHoskot v. State of Maharashtra, (1978) 3 SCC 544 : AIR 1978 SC 1548”

practices. Specifically, the utilization of disciplinary instruments like handcuffs, shackles, manacles, and straitjackets on prisoners has been barred by the court. However, it does acknowledge the permissibility of certain instruments of restraint under specific circumstances. These circumstances are outlined as follows:

1. **Precautionary Use During Transfer:** Instruments of restraint may be used as a precautionary measure during the transfer of prisoners to prevent escape. However, this is conditional, and removal of such restraints is imperative when presenting the prisoner before an governmental or legal authority.
2. **Medical Grounds Approval:** Permission for the use of restraints can be granted by the medical officer based on specific medical grounds.
3. **Self-Harm or Property Damage Prevention:** In situations where it proves challenging to stop a prisoner from causing harm to themselves or destroying property, the director may, upon consultation with the medical attendant and reporting to superior administrative authorities, grant authorization for the use of restraint instruments.

## Case Laws

### 1. “Sunil Gupta v. State of MP”<sup>21</sup>:

- ☐ The petitioners willingly turned themselves in, opting against seeking bail for the greater public welfare.
- ☐ Despite cooperation, they were handcuffed by the authorities, an act characterized as inhumane and a violation of Article 21 by the court.
- ☐ The government was instructed by the court to promptly and appropriately address the authorities for their unwarranted and arbitrary use of handcuffs.

### 2. “Kadra Pehadiya v. State of Bihar”<sup>22</sup>:

- ☐ The court expressed disapproval upon finding four detainees waiting for trial restrained

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<sup>21</sup> “Sunil Gupta v. State of MP, (1990) 3 SCC 119”

<sup>22</sup> “Kadra Pehadiya v. State of Bihar, AIR 1981 SC 939”

with leg irons.

- The court deemed such actions as severe breaches of prison policies and guidelines outlined in the Sunil Batra case.<sup>23</sup>
- The Superintendent was instructed to promptly eliminate leg irons from the petitioners.
- The court issued a directive that detainees, whether convicted or undertrial, should not be subjected to leg irons unless strictly in line with the principles articulated in the Sunil Batra case.<sup>24</sup>

### **“Right to have interview with friends, relatives and lawyers”**

Article 21's Right to Life and Personal Liberty goes beyond survival, including the “right to maintain connections with family and friends”. Article 22(1) assures arrested individuals the “right to consult and be defended by a legal practitioner of their choice”. This right, commencing at the time of detain, is also safeguarded by Section 304(1) of the Code of Criminal Procedure. The Supreme Court has consistently addressed the scope of prisoners' “rights to interact with family, friends, and legal counsel”, reaffirming its commitment to upholding constitutional principles from the outset of arrest.

### **Case Laws**

#### **1. “Dharambir vs. State of U.P.”<sup>25</sup>:**

- The state government was directed by the court to facilitate family visits for prisoners and, conversely, enable prisoners, under supervised conditions, to visit their families annually.

#### **2. “Hussainara Khatoon vs. Home Secretary, Bihar”<sup>26</sup>:**

- Supreme Court affirmed the constitutional right of accused individuals unable to afford

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<sup>23</sup> “Sunil Batra v. Delhi Administration, AIR 1980 SC 1579”

<sup>24</sup> “Sunil Batra v. Delhi Administration, AIR 1980 SC 1579”

<sup>25</sup> “Dharambir v. State of UP, AIR 1979 SC 1595”

<sup>26</sup> “Hussainara Khatoon vs. Home Secretary, Bihar, AIR 1979 SC 1360”

legal services to receive free legal assistance.

- It emphasized the state's constitutional duty to provide legal representation if essential for justice, stating that the absence of free legal services could vitiate the trial under Article 21.

### 3. “Sheela Barse vs. State of Maharashtra”<sup>27</sup>:

- The court acknowledged the necessity of prisoner interviews for accurate information collection.
- Emphasized the need for controlled and regulated access to interviews to balance information gathering with proper oversight.

## CONCLUSION

*“Society must strongly condemn crime through punishment, but brutal deterrence is fiendish folly and is a kind of crime by punishment. It frightens, never refines; it wounds never heals” - Krishna Iyer<sup>28</sup>*

An individual subjected to involuntary confinement, whether through detention, capture, or coercive restriction, is commonly referred to as a convict. Despite this deprivation of liberty, both the rights of the confined individual and the obligations of the penal system must be acknowledged. Remarkably, a convict retains the implementation of fundamental rights, even within the physical constraints of imprisonment.

The legal process, upon finding an individual guilty of a crime, may result in the deprivation of freedom, but it does not diminish the convict's possession of their basic rights. The constitutional duty of the “State” is unequivocal in formulating procedures and mechanisms that safeguard the residual fundamental rights of prisoners. In this context, the Supreme Court assumes the role of a guardian, issuing necessary directives to the state to uphold and safe”guard the rights, including the right to life and human dignity”, of individuals behind bars.

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<sup>27</sup> “Sheela Basre v. State of Maharashtra, AIR 1983 SC 378”

<sup>28</sup> V.R. Krishna iyer, “Justice in Prison: Remedial Jurisprudence and Versatile Criminology” in Rani Dhavan Shankardass (edi), Punishment and the Prison: Indian and International Perspectives; Sage Publications, New Delhi, 2000: p.58.

The active participation of society becomes imperative for the genuine welfare of prisoners. Recognizing the constitutional responsibility of the “State” to honor and protect the rights of those incarcerated, societal engagement becomes a critical component in ensuring the well-being and rights of individuals in confinement. It is through this collaborative effort that the true welfare of prisoners can be achieved, reinforcing the principles of justice, human rights, and dignity within the penal system.

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