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# **THE RIGHT TO LIFE IN PRISON: DIGNITY, HUMANITY, AND JUSTICE**

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## **Abstract**

*Right to life and personal liberty is the most fundamental of all the fundamental human rights. It is one of the most essential basic human rights in a democratic state. The right to life does not mean a mere physical existence or the right to live a lifeless life. The right to life includes the right to live with human dignity and all that goes along with it, namely, the basic necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings.*

**Keywords** - Constitution, Fundamental Rights, Right to Privacy, Prisoners Right, Legal Rights and *etc.*

## **Introduction**

The very pertinent question that crops up is- who is a prisoner? According to the Model Prison Manual of 2016, a prisoner is someone who is confined in a prison by the authority which a competent authority. Basically a prisoner is a human being who is held in jail or prison since they have committed an act which is prohibited by the lex loci of the land. In the Indian subcontinent the term prison and jail are used interchangeably and both the convicted individuals plus the ones who are awaiting trial are called prisoners.

The list of Rights of Prisoners in India under the Prisons Act, 1894 which is the first legal framework for regulating prisons in India are mentioned in the following- This act provides for provisions aimed at ensuring the welfare and protection of prisoners, including both convicts and under trials.

## **Section 4- Right to Adequate Accommodation**

Prisoners have the right to receive accommodation that complies with the standards set forth in the Prisons Act of 1894. The Model Prison Manual of 2016 also emphasizes that living conditions in every prison should uphold human dignity, covering aspects such as accommodation, hygiene, sanitation, food, clothing and medical facilities.

### **Under Section 7- Right to Shelter and Safe Custody for Excess Prisoners**

If any prison becomes overcrowded and it's impractical to transfer the excess number of prisoners to other facilities, temporary prisons should be arranged to provide shelter and safe custody. This is especially crucial during outbreaks of epidemic diseases within a prison.

### **Under Sections 24 and 26-Examination of Prisoners by Qualified Medical Officers**

Every prisoner is entitled to be examined by a qualified Medical Officer. The Medical Officer should record the prisoner's health status, any wounds or marks on their body, their fitness for specific labor (if sentenced to rigorous imprisonment) and any relevant observations. These records are maintained in a book kept by the Jailer (Section 24(2)).

- Female prisoners have the right to be examined by a lady matron, as per the special or general orders of the Medical Officer (Section 24(3)).
- Prisoners cannot be transferred from one prison to another unless the Medical Officer certifies that they are free from any illness that would make the transfer unsafe (Section 26(2)).
- Prisoners cannot be discharged from prison against their will until the Medical Officer deems such a discharge to be safe (Section 26(3)).

### **Section 27-Separation of Prisoners**

In a prison housing both female and male prisoners, females must be placed in separate buildings or distinct sections of the same building. This arrangement is designed to prevent them from seeing, conversing with or having any interaction with male prisoners. Prisons detaining male prisoners under the age of twenty-one should have measures in place to separate them entirely from other prisoners, particularly distinguishing those who have reached puberty from those who have not. Under trial prisoners should be kept separate from convicted criminal prisoners (convicts). Civil prisoners should be kept apart from criminal prisoners.

## **Section 31-Maintenance of Prisoners from Private Sources**

Civil prisoners and under trial criminal prisoners have the right to sustain themselves by purchasing or receiving food, clothing, bedding and other necessities from private sources during appropriate hours. This is subject to examination and rules approved by the Inspector General.

## **Under Section 29-Solitary Confinement**

Solitary confinement cells must be equipped to enable prisoners to communicate with a prison officer at any time. Prisoners in solitary confinement for more than twenty-four hours, whether as a punishment or otherwise, must be visited by the Medical Officer or Medical Subordinate at least once a day.

## **Section 33(1)**

Supply of Clothing and Bedding to Civil Prisoners and Under trials. Every civil prisoner and under-trial who cannot provide themselves with sufficient clothing and bedding shall receive necessary clothing and bedding from the Superintendent.

## **Section 35 - Employment of Criminal Prisoners**

Prisoners sentenced to rigorous imprisonment may engage in manual labor for more than nine hours in emergencies with written approval from the Superintendent. The Medical Officer should assess prisoners while they work, record their respective weights on each prisoner's history ticket and ensure they have adequate rest. If the Medical Officer believes a prisoner's health is deteriorating due to a specific job, that prisoner should be reassigned to a more suitable task as determined by the Medical Officer.

## **Section 37-Care for Ill Prisoner**

Prisoners who are unwell or show signs of physical or mental health issues and wish to consult the Medical Subordinate (doctor) must be promptly reported by the overseeing officer to the Jailer. The Jailer, without delay, shall inform the Medical Subordinate about prisoners in need of medical attention or who express a desire to see the doctor. They must also follow any written instructions provided by the Medical Officer or Medical Subordinate concerning changes in the discipline or treatment of such prisoners.

## Section 39-Provision of Hospitals

Each prison must have a hospital or an appropriate facility for the care of sick prisoners.

## Section 40-Visits for Civil and Under trial Prisoners

Both convicts and under trial prisoners have the right to meet with individuals they wish to communicate with while in prison, during proper times and under reasonable restrictions. Under trial prisoners may be allowed to meet their duly qualified legal advisors in private, without the presence of any other individuals, in the interests of justice.

## Under The Indian Constitution

The golden triangle of Articles 14, 19 and 21 of the Indian Constitution confers fundamental rights on every Indian citizen and these rights extend to prisoners as well. The Supreme Court, in the case of **T.V. Vatheeswaran v. State of Tamil Nadu**<sup>1</sup>, emphasized that fundamental rights under Articles 14, 19 and 21 of the Constitution are applicable to both prisoners and those who are not incarcerated. **State of A.P. Vs. ChallaRamkrishna Reddy**<sup>2</sup>, affirmed that a prisoner, whether a convict or an under trial, does not lose their status as a human being and retains the fundamental rights guaranteed by the Constitution of India, including the right to life. In the case of **Upendra Baxi v. State of U.P.**<sup>3</sup>, the Supreme Court issued various directions to guarantee that inmates in the protective Home at Agra do not live in inhumane and degrading conditions. This upholds the right to live with dignity as enshrined in Article 21 of the Constitution. In **M.H. WadanraoHaskot vs. State of Maharashtra**<sup>4</sup>, the Supreme Court established that the right to legal aid is an integral part of a fair procedure.

Article 22(1) of the Indian Constitution ensures the right to be defended by a legal practitioner of one's choice. Article 39A of the Constitution further provides for legal aid to the poor and weaker sections of society, including accused persons. The presence of a lawyer at the stage of arrest can have a significant impact on how the accused is treated in police custody, reducing the likelihood of mistreatment, and coercion and ensuring the respect of the accused's rights.

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<sup>1</sup>T.V. Vatheeswaran v. State of Tamil Nadu (1983) 2 SCC 68

<sup>2</sup>State of A.P. Vs. ChallaRamkrishna Reddy &Ors. (2000) 5 SCC 712

<sup>3</sup>Upendra Baxi v. State of U.P., (1983) 2 SCC 308

<sup>4</sup>M.H. WadanraoHaskot Vs. State of Maharashtra, (1978) 3 SCC 544

In **Hussainara Khatoon v. State of Bihar**, 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 Apex Court held that a procedure that keeps a large number of people behind bars without trial for an extended period cannot be considered reasonable, just or fair and it does not conform to the requirements of Article 21.

## **Rights under The Cr.P.C**

Right of the Prisoner to Be Informed of Arrest and Bail under Section 50

- Every arrested person has the right to be informed of the grounds for their arrest and their right to seek bail.
- Police officers or other persons arresting someone without a warrant must immediately communicate to the arrested person the full particulars of the offence for which they are being arrested or the other grounds for the arrest.
- Right of the Prisoner to Be Defended by a Lawyer under Section 303 and Section 304

Section 303 of the Code of Criminal Procedure (CrPC) empowers prisoners to be defended by a lawyer of their choice. Section 304 of the CrPC provides that in certain cases, legal aid is to be provided at the state's expense.

Right to Speedy Trial under Section 309(1) and Section 309(1) of the CrPC provides that in every inquiry or trial, the proceedings shall be held as expeditiously as possible.

### **Right to Medical Examination under Section 54**

Section 54 of the CrPC provides for the examination of the body of an arrested person by a registered medical practitioner at the request of the arrested person in case of torture and maltreatment in lockups. Right to Be Present Before the Magistrate without Delay under Sections 57 and 76. It is the right of the prisoner to be physically produced before the court at the time of hearing their case without procedural delay.

### **Right to Be Present During Trial under Section 273**

Section 273 of the CrPC provides that all evidence and statements must be recorded in the presence of the accused or their lawyer.

## **Right to Be Released on Probation of Good Conduct on or After Admonition under Section 360.**

- The court may direct the release of the prisoner on probation after observing their good behaviour in certain cases.
- This includes cases where a person above 21 years of age is convicted of an offence punishable with a fine or imprisonment for up to 7 years or when any person under 21 years of age or any woman is convicted of an offence not punishable with death or life imprisonment and no previous conviction is proved against the offender.
- Such release is subject to the prisoner entering into a bond to appear and receive a sentence when called upon during a specified period, keeping the peace and maintaining good behaviour.

## **Right to Be Released on Bail Even If the Prisoner Does Not Have Means under Section 436 CrPC**

- Section 436 of the CrPC mandates the release of an indigent or poor person on bail without the requirement of surety.
- It allows the person to execute a bond to appear before the court without asking for any surety.
- The court shall consider any person unable to provide bail within seven days from the date of their arrest as indigent or poor.
- The principle is that bail, rather than jail, is the rule and depriving a person of liberty is the last resort.

According to the general assembly resolution 45/111 on basic principles for the treatment of prisoners, the following are the guidelines-

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.
2. There shall be no discrimination on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.
4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its

fundamental responsibilities for promoting the well-being and development of all members of society.

5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.
6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.
7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.
8. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.
9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.
10. With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.
11. The above Principles shall be applied impartially.

## **Conclusion**

Constitution of India established a democratic welfare State allowing equal opportunity to one & all, without discrimination of any kind, for personal growth and for contributing to the cause of nation. Therein, a key objective of the Constitution is to set up an infrastructure in jails so that the prisoners languishing therein are provided prompt and efficient legal aid and made aware of their rights including their valuable Right to Life and Liberty guaranteed under Article 21 of the Constitution of India, as well as the resources available to them to protect their rights.