

HUMAN RIGHTS IN CAPTIVITY: AN EMPIRICAL STUDY IN GUWAHATI CENTRAL JAIL

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ABSTRACT

Prisoners are entitled to rights to some extent as normal human beings when they are in prison. These rights are provided by the Constitution of India, the Prison Act, 1894 etc. which have been upheld and protected by various judicial pronouncements from time to time. The prisoner does not cease to be a human being and, while lodged in jail, he continues to enjoy his rights guaranteed by the Constitution. Though he may be deprived of his liberty in accordance with the procedure established by law, the prisoner continues to enjoy the residues of the Fundamental Rights guaranteed by the Constitution. The concept of prison discipline has also undergone drastic changes in view of the adoption of reformatory principles in the modern administration of criminal justice system. This has resulted in the enforcement of discipline in a positive manner, not merely through punitive action, but one which is encouraged by various inducements. However, the custodial character of the prison deprives the prisoners of their rights and places them at the mercy of the prison officials. This still makes the prison a place where the wrong-doers are punished through its punitive actions and in that process the rights of the prisoners are crushed beyond recognition. The present work intends to understand the status of human rights in captivity.

Key words: Lifers, Incarceration, Judicial Pronouncements, Reformation, Punitive Actions, Human Rights, Captivity.

INTRODUCTION

Conviction for a crime does not reduce the person into a non-person. He is entitled to all the rights, which are generally available to a non-prisoner. However, he is not entitled for any absolute right, which is available to a non-prisoner citizen but subject to some legal restrictions. The Supreme Court of India held that prisoner is a human being and being a prisoner he does not cease to be a human being, natural person or legal person. His rights are not subject to the whim of the prison administration and therefore, the imposition of any major punishment within the prison system is conditional upon the absence of procedural safeguards. Judiciary intervenes whenever it is informed about the infringement of prisoner's rights. The rights of the prisoners are also prefixed and corroborated to the provisions of the Jail Manual. The application of these provisions depends on the will and efficiency of the prison officials.

The prison system, after the existence of so many years, still suffers from a serious role conflict – the conflict between custody and treatment is still un-resolved. The prevailing role conflict has created a paradoxical situation. The prison system is still proceeding on a rather uncertain course because its administration is necessarily a series of compromises. On the one hand, prisons are expected to punish; on the other, they are supposed to reform. They are expected to discipline rigorously, at the same time they teach self reliance. They are builds to be operated like vast impersonal machines. Yet they are expected to fit man to live normal community lives. This paradoxical situation often results in undermining the rights of the prisoners inside the prisons. The correctional philosophy calls for existence of rights for the prisoners. However, the ideas of retribution still holds sway in our prison system and that makes the prison a haunted place, where the rights of men are crushed beyond recognition.

OBJECTIVE OF THE STUDY

The present work intends to study the status of human rights in captivity. For the purpose of understanding this, data were collected from the prisoners with an objective to assess the extent of rights enjoyed by them. It attempts to understand the significance of various judicial pronouncements in the context of the rights enjoyed by the prisoners in captivity. It examines the provisions of the jail manual that corroborates the judicial pronouncements in order to accommodate the rights to the prisoners during incarceration. The work also intend to assess the jail system as punitive institution where punishment in various forms are accorded to the prisoners, which on their part, defeats the philosophy of reformation as well as the existence of rights in captivity.

METHODOLOGY

The research design was framed by locating the prisoners in the form of life convicts, who were convicted and sentenced to life imprisonment. The author selected 37 life convicts for study who were staying in Guwahati Central Jail in the state of Assam. In the process of collecting data, the author visited the prison where the convicts were formally interviewed. The author gathered data also from the prison record as well as involved into informal discussion with the convicts and prison officials. The secondary source of data included detailed study of the provisions of the jail manual that incorporates the rights of the prisoners as well as the conditions of infringement of the same in the light of the punishment awarded to the prisoners for committing prison offence.

LIFERS AND THEIR RIGHTS: SOME JUDICIAL PRONOUNCEMENTS

The life convicts, like other members of the society were human beings and do not differ from them in any respect. They were the victims of circumstances and are separated from the real world for a long period of time. The prisoner found himself in an alien world, which made him to subscribe to new rules and regulation that were often coercive in character. He underwent the process of subordination by surrendering himself as soon as his imprisonment started.

However, in the realm of criminal justice administration, the question arises — does a convict continue to have his fundamental rights? Should there be human rights of prisoners, or should they be written off as enemies of society? In the days when prisons were merely panel institutions, the right of the offenders seemed unimportant. Since the task of correction was not involved, prison acted purely as a penal institution where the rights and dignities of the offenders were crushed and destroyed beyond recognition. However, with the changing concept of punishment and the subsequent change in correctional philosophy, complete deprivation of prisoner's right has become unrealistic.

The correctional philosophy asserts that the convicted prisoner continues with some of his rights, even during imprisonment. The issue of prison condition and environment has emerged as one of the pre-dominant themes of correctional philosophy in independent India, raising questions concerning prisoner's right. In *Kunnikkal Narayan v. The State of Kerala*¹ case the full Bench of the Kerala High Court observed:

“..... detention no doubt, makes it impossible for the person detained, by the very nature of the act of detention, to exercise, the freedoms guaranteed by the sub-clause (b), (c), (d), (e) of the Art. 19(1) of the constitution This is not a direct curtailment of these freedoms but necessary and incidental consequences of the act of detention However, there is no such consequence, as far as the freedom under Art. 19(1) is concerned A person under detention can continue to give expression to his views, indulge in writing books, reading books and in learning subjects and generally in acquiring knowledge..... Such freedom of course can also be restricted in the interest of security of the state and public order envisaged by the Prison Act....”

In *Sunil Batra v. Delhi Administration*² the Supreme Court has observed relying on the American and English decisions that the scope of writ of habeas corpus is very wide and its circumference has become wider from time to time to achieve its objectives, i.e. the protection of individuals against erosion of the right to be free from wrongful restraint on their liberty. The court has started to examine the manner in which an inmate is

held or treated during the period of his sentence. This case is a symptom, a symbol and a signpost vis-à-vis human right in prison situations. Granting relief to the petitioner, Justice Krishna Iyer J. observed:

“Prisons are built with stones of law’, and so when human rights are hashed behind bars, constitutional justice impeaches such law. In this sense, courts which sign citizens in to prisons have an onerous duty to ensure that, during detention and subject to the constitution, freedom from torture belongs to the detenu.” {Sunil Batra (I) v. Delhi Adm. (1978) 4SCC 494}

The Supreme Court further lay down:

“..... Part III of the constitution does not part company with the prisoner at the prison gates and judicial oversight protects the prisoners shrunken fundamental rights if flouted, frowned upon or frozen by prison authority”

The Supreme Court banned the routine handcuffing of prisoners as “a constitutional mandate” and declared the distinction between classes of prisoners as obsolete. It was held that it is arbitrary and irrational to classify prisoners in to ‘B’ class and ordinary class. No one should be fettered in any form based on superior class differentia, as the law treats them equally.³

In *Kishore Singh Ravinder Dev v. State of Rajasthan* (1981) 1 SCC 503, it was held that neither the sections of the Prisons Act or the Rules framed there under can be read in absolutist expansionism. That would virtually mean that prisoners are not persons to be dealt with at the mercy of the prison echelons. “This country has no totalitarian territory even within the walled world we call prison. Article 14, 19 and 21 operate also within the prisons”, the Supreme Court observed.⁴ It further observed that the old rules and circulars and instruction issued under the Prisons Act should not be read incongruously with the constitution, specially Article 21 and interpretation put upon it by the Supreme Court. The Supreme Court directed all the state government in the country to convert the ruling of the Supreme Court bearing on prison administration into rules and instructions forthwith so that the violation of the prisoner’s freedom could be avoided and habeas corpus litigation might not proliferate (*Kishore Singh Ravinder Dev v. State of Rajasthan* (1981)). The Supreme Courts in the same decision warned that violation of Art. 21, as interpreted by the Supreme Court in its recent decisions, would be met with serious consequences

The Supreme Court in *Rakesh Kaushik v. B.L. Vig, Superintendent, Central Jail*,⁵ New Delhi laid down that the prisoner’s rights would be protected by the court by its writ jurisdiction plus contempt. The court further emphasized to make such writ jurisdiction viable, by giving free legal service to the prisoners. The court recommended that District Bar shall keep a Cell for the relief of the prisoners.

From the aforesaid resume of the various decisions of the Judiciary it is clear that the provisions of the Prison Act and the rules, circulars and instructions issued there-under should be read in the light of the relevant provisions of the constitution specially Art. 21 and the interpretation put upon it by the Supreme Court.

RIGHTS OF THE LIFERS: AN OVERVIEW

The prisoners sentenced to life imprisonment are also subjected to the same ruling of the Supreme Court. They also enjoy numerous rights, which are protected by the court. The important rights granted to the lifers can be categorized as below:

(a) Right of communication

Every prisoner has a right of communication with his relatives, as well as, friends. It includes right of being visited and right of mailing. These are very important rights, under the present penology, and a prisoner cannot be deprived of them without due process or procedure established under law. Thus, a life convict cannot be deprived of an opportunity to meet his visitors or to receive or to write letters to his relatives or friends.

The Supreme Court of India held that , the word personal liberty in Article 21 is of the widest amplitude and it includes the “right to socialize” with members of family and friends ,subject to Prison Regulations which must be reasonable and non-arbitrary. The person detained or arrested has a right to meet his family members, friends and legal advisers and the women prisoners are allowed to meet their children frequently (Francus Coralie v. Delhi Administration, AIR 1981 SC 746)

The Assam Jail Manual in Chapter XXV (Part III) has mentioned about numerous rules and regulations regarding interviews and communications with the prisoners, clause 460 of the Rules for Management of jails in Assam mentions the following:

“460. Superintendent’s permission for interviews required — (1) No convicted prisoner shall be allowed to have an interview or to receive or write a letter except with the permission of the Superintendent which shall be recorded in writing.

An entry should be made of every interview and letter with date on the convict’s history ticket.

(2) Applications for interviews with prisoners may be oral or in writing at the discretion of the Superintendent. If the prisoner is not entitled to an interview, the applicant shall be informed at once.”⁶

(b) **Right to Read and Write:**

The life convict like other prisoners has a right to read and write during incarceration. The mere imprisonment, in itself does not deprive a life convict from reading or writing or both. The Supreme Court of India has not only held that the prisoner has a right to read and write but has also upheld the right of prisoner to have his work published, if it does not violate prison discipline.⁷

(b) **Right against Prison contamination:**

Every prisoner has a right that due regard is paid to his health during incarceration. He has a right not to be housed in the prison, which is dirty and overcrowded by other prisoners. The Model Jail Manual (1970) in order to avoid the contamination of the different categories of prisoners, provide for their classification. The Assam Jail Manual, in Chapter XV (Part III) has mentioned about classification and separation of Prisoners. The said manual states that:

“Under Section 27 of the Prison Act, 1894, the following separation of prisoners is requisite, viz:-

- (1) Female prisoners shall be so separated as to prevent their seeing, conversing or holding any intercourse with male prisoners;
- (2) male prisoners under 21 years of age shall be separated from male prisoners above that age;
- (3) among male prisoners under 21 years of age, those who have arrived at the age of puberty shall be separated from those who have not attained puberty;
- (4) convicts shall be kept apart from non-convicts or under-trial prisoner; and,
- (5) Civil prisoner shall be kept apart from criminal prisoners.

Subject to these requirements, under section 28 convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.”⁸

The Jail Manual has classified the convicts into A, B and C division convicts. Clause 209 of the Rules for management of jail in Assam states that — “All convicted prisoners shall be divided in to three divisions, viz, A, B and C.”⁹

Clause 210 of the Rules for Management of Jails in Assam states that “All convicts shall as far as requirements of labour and the cell accommodation of the jail will allow, be kept separate from each other both by day and by night.”¹⁰

To avoid further contamination of the prisoners, clause 219 of the aforesaid Rules makes provision for separation of habitual offenders. It states that, “Habitual convicts shall, as far as possible, be separated from others. A separate barrack or ward shall be set apart for habitual convicts, and by these means separation at meals, parades, etc., shall be generally effected.....”¹¹

(d) Right against the Prison Torture

Every life convict, like other convicts, has a right not to be subjected to third degree methods of punishment. He has a right not to be abused or beaten or injured by the prison staff¹² or fellow inmates. He cannot be kept in the solitary confinement or fetters or cross fetters without the process or procedure established under law. He cannot be subjected to unusual and cruel punishment. Moreover, the prisoner has a right not to be discriminated against his fellow inmates on the basis of caste, creed, religion, colour, race and region, etc.¹³

The Assam Jail Manual in page No. 255 of Part III deals with the subject of jail reforms wherein the following category of punishments for breach of jail discipline have been discontinued:

1. Penal Diets
2. Solitary confinements. However, cellular confinements may continue as a penal provision for serious breach of jail discipline.
3. Use of Gunny clothing.

Thus, the prisoners in Assam jails are protected from some forms of extreme methods of punishment.

(e) Right of being heard

The prisoner, who has been charged for committing the prison offence, has a right to be provided an opportunity of being heard before the infliction of the punishment. When the punishment awarded under the Prison Act, 1894 or for the violation of any jail Rule, is not based on proper evidence, then there is miscarriage of justice and punishment, which is liable to be quashed down. In fact, every such affliction or abridgement is an infraction of liberty or life in its wider sense and cannot be sustained unless Art. 21 of the Indian Constitution is satisfied. Such infraction will be taken as arbitrary, under Art. 14 if it is dependent on unguided discretion; unreasonable, under Art. 19 if it is irremediable and non-appealable and unfair, under Art. 21 if it violates natural justice.¹⁴

(f) Right of access to the Courts

Every prisoner has a right to move petition to the court of law for the protection of his constitutional rights, or for the redresses of grievances, which he has against the prison administration. He can approach the court through his representative. The convict may also send petition to the Government. The Jail authorities are bound to send the petitions directly to the court or government to which they are addressed. The Supreme Court deprecated the practice, followed by some Jail authorities, in not sending the petitions of the jail inmates directly to court, to which they were addressed and instead routing them through higher authorities. The court stressed that such petition must be sent without any delay.¹⁵

(g) Right to Participate in the Recreational Facilities

Every prisoner, including the life convicts, has a right to participate in the sports and other recreational facilities, which are organized in the institution. A convict ordinarily cannot be deprived of such rights, without the process or procedure established under law. Since under the modern penology, one of the important objectives of the punishment is rehabilitation of the prisoners, a life convict cannot be deprived of any privilege, which will contribute toward his re-socialisation.

(h) Right to Practice Religion

Every prisoner has a right to practice his own religion. The existing rules in the Assam Jail Manual provides for the freedom of religion, subject to the rule of prison discipline.¹⁶ All prisoners are permitted to read the religious books of the persuasion to which they belong. The Superintendent of the prison is obliged to grant facilities to prisoners of all religion for such daily devotions as are required by their religion and the prisoners themselves are desirous of performing. The Assam Jail Manual also contains provision for appointment of religious instructor in every jail. Thus, the Prisoner's right to practice religion is protected and enforced.

(i) Right to Health and Medical Treatment

Every prisoner has a right to free medical facility, which will be provided to him during imprisonment. Health service is one of the important services, which is performed in all penal institutions. The main objective of it is to restore and maintain physical and mental health of prisoners, and to keep up the general satisfaction and hygiene of the institution to a satisfactory standard. Part III (Chap. XXXVI) of Assam Jail Manual contains detail provisions regarding Medical treatment of sick prisoners. In the U.N. standard Minimum rules for the Treatment of Prisoners, there is emphasis on the prompt and affective medical service in Prison. It was adopted by the first United Nations Congress on the prevention of crime and the treatment of the offenders, held in Geneva in 1955, and approved by the Economic and Social Council through its resolution 663 C (XXIV) of 31st July 1957 and 2076 (LXII) of 13th May 1977.

(j) Right to Leave and Special Leave (Furlough and Parole)

All the prisoners have rights to apply for the temporary release from the prison on the specified grounds mentioned in the Jail Manual. Furlough and parole are State subjects and Jail Manuals of different States are so old and confusing that the meanings are not at all clear. The Punjab and Haryana High Court held that, person convicted by the Court Martial is also entitled to seek parole for specific purposes, such as death or serious illness of a close relation and for treatment of serious disease. (Sharad Keshav v State of Maharashtra, 1989 Cri LJ 681). The Assam Prison (Leave and Emergency Release) Rules 1968, determines the conditions of granting leave to the prisoners, thereby allowing them to visit home. Leave, under this rule means a concession of temporary release, which may be granted to a prisoner. The Superintendents of jails examine the case of each prisoner who is eligible for leave to find out whether he is fit to be released on leave or not. The Superintendent is authorised to consider the case of a prisoner on the ground of his conduct, work and progress achieved in various spheres, his attitudes towards family and community etc. [Rule 7 of Assam Prisons (Leave and Emergency Release) Rule, 1968]. The Superintendent may debar a prisoner from enjoying leave if his conduct is found unsatisfactory or if he is punished for prison offences [The Assam Prison (Leave and Emergency Release) Rules, 1968, Clause7].

The aforesaid account shows the rights of the prisoners, including the life convicts, in the light of numerous statutes and judicial pronouncements. However, the rights are of no utility unless these are exercised or enforced. The rights would simply remain on paper until the prisoners become aware of them. A country where the basic rights are not even known to most of the educated lot, it would be too much to expect the prisoners to know all their rights. This work sought to understand the level of awareness among the life convicts regarding the existence of their rights.

RIGHTS IN PRACTICE: THE LIFER'S RESPONSE

The response of the life convicts in the jail of Guwahati, regarding their rights as prisoners shows that only 10.8% of the total life convicts had fair knowledge about their rights. 32.4% had partial knowledge, whereas 56.5% had not been aware of any rights. However, there was hardly any difference between the knowledgeable and the ignorant convicts as the enforcement of the rights remained non-existent. The convicts who knew about their rights were not willing to enforce it, either through courts or other available means, as that would invite the wrath of prison officials. This would finally deprive them of other benefits usually granted to the prisoners like furlough, remission etc.

It was found during the course of the present study that prison visiting has been a problematic task both for the prisoners and the visitors. The prisoner has to fulfill many conditions to win this privilege. If he is involved in any prison offence or has displeased any prison officer, his chances of meeting his relatives or friends become more problematic. In some cases the prison officials were found to indulge in corrupt practices in matter of granting this right to the prisoners. Some visitors had to pay for meeting the prison inmates. Few inmates disclosed that they were to offer personal services to the jail official to remain in their good book, so that the visitors are allowed to meet them. The prisoners also informed the author that the visiting list does not consider the size of the inmate's family or the extent of their community support group. This limitation is negative as it tends to decrease the prisoner's chance for success upon release.

In matter of availing the right to visit home, it was found that among the eligible inmates, 62.1% had visited their home whereas 37.8% were yet to avail the right of furlough. It was also observed that the frequency of home visits varied from inmate to inmate. It was learnt that among those who visited home, for 30.4% of the life convicts, the home visit had become a regular affair i.e. one visit after the gap of one year or two years, whereas 69.5% visited home not on a regular basis.

The present study has found that the prisoners were imparted with vocational trainings in prison in order to help in early re-socialization of the prisoners after release. However, the study reveals that the vocational trainings in prison were not quite geared to the requirements of the prisoners. It reveals the absence of a proper system of individualization of labour. There was no instance where the prisoner was assigned work because he can learn something or that his previous occupation enters into the question or that he has chosen the work on his own accord.

The prison department in Assam has undertaken several measures to provide educational and recreational services to the prison inmates. However, the present work found that the participation of the jail inmates in these prison sponsored programmes is not satisfactory. There was low participation of the inmates in these programmes. It was also found during the interaction with the prison officials that most of them were not aware of the prisoner's rights although they happen to be the custodian of their rights

PRISON OFFENCES AND PUNISHMENTS: AN ADDITIONAL THREAT TO THE RIGHTS OF THE LIFERS

If confinement is punishment, that alone is not enough to add miseries to the lives of the life convicts. The monotony of the jail life sometime is broken, not by their willful act of intelligence but by the offences committed by the lifers. The commitment of offences entails punishments which add more to their never ending list of miseries. The awards of arbitrary punishment also dilute the existence of rights in captivity. The present study intends to understand the nature of prison offences committed by the convicts and the punishments inflicted on them by the prison authority. The opinion of both the life convicts and the jail officials was taken into account in this respect. .

The prison officials in order to maintain prison discipline use various methods, which differ from prison to prison, even from prison officials to prison officials, depending upon their attitude towards the modern correctional techniques for the treatment of the prisoners. The rules defining the acts, which constitute willful disobedience to any regulation of the prison, are mentioned in the Jail Manual. The Assam Jail Manual has drawn a long list of such acts, which are declared to be prison offences when committed by a prisoner.¹⁷ some of the offences mentioned therein are as follows:

- Any assault or use of criminal force.
- Immoral or indecent or disorderly behavior.
- Willful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment.
- Willful damage to prison property.
- Receiving, possessing or transferring any prohibited article.
- Feigning illness.
- Conspiring to escape, or to assist in escaping.
- Showing disrespect to any jail officer or visitor.
- Refusing to eat the food prescribed by the prison diet scale.
- Willfully befouling the wells, latrines, washing or bathing place.
- Taking part in any attack upon any prisoner or officer of the prison.
- Willfully causing to him any illness, injury or disability.
- Holding any communication (in writing, by word of mouth or otherwise) with an outsider, with a prisoner of the opposite sex, civil or under trial prisoner or a prisoner of different class, in disobedience of the regulation of prison.
- Visiting the latrines or bathing platforms except at stated hours, or without permission of an officer of the prison, or resorting unnecessary to the night latrine, or omitting or refusing to employ dry earth in the manner directed by the prison regulation.
- The use of insulting or threatening language.
- Willful mismanagement of work by any prisoner sentenced to rigorous imprisonment.
- Quarrelling with any other prisoner.
- Omitting to assist in the maintenance of discipline by reporting any prison offence, or to give assistance to an officer of the prison when called on to do so.
- Leaving without permission of an officer of the prison gang to which he is attached, or the part of the prison in which he is confined..
- Tampering in any way prison locks, lamps, or lights or other property with which he has no concern.
- Committing a nuisance in any part of the prison.
- Manufacturing any article without the knowledge or permission of an officer of the prison.
- Talking when at file or at unlocking or at latrine, bathing or other parades or at any time when ordered by an officer of the prison to desist, and singing, loud laughing and loud talking at any time.
- Tampering with or defacing history tickets, records, or documents.

Commitments of any offence by a prisoner obviously entail punishment. The Superintendent of the jail is authorized to award the punishment enumerated in Section 46 of Act IX of 1894, including those prescribed by the State Govt. under Sec. 46, Clause (4), (6) and (7). The punishments are classified into minor and major categories. Some minor punishments are as follows¹⁸:

- Formal warning.

- Change of labour for a stated period to some more irksome or severe form.
- Forfeiture of remission earned, not exceeding 4 days.
- Forfeiture of class, grade, or prison privileges for a period not exceeding three months.
- Cellular confinement for not more than 7 days.
- Separate confinement for not more than 14 days.
- Imposition of handcuffs otherwise than by handcuffing a prisoner behind or to a staple.
- Imposition of link fetters for not more than 30 days.

The following punishments¹⁹ are considered as major punishments:

- Forfeiture of remission earned, exceeding 4 but not exceeding 12 days.
- Forfeiture of remission earned, in excess of 12 days.
- Forfeiture of class, grade or prison privileges for a period not exceeding 3 months.
- Permanent reduction from a higher to a lower class or grade.
- Cellular confinement for a period exceeding 7 days.
- Separate confinement for a period exceeding 14 days.
- Link fetters, if imposed for more than 30 days.
- Bar fetters.
- Handcuffing behind or to a staple.
- Any combination of minor punishments admissible under Sec. 47 of the Act.

An offence is a minor offence when it is dealt with by a minor punishment, and a serious offence when dealt with by a major punishment.²⁰ However, much depends on the discretion of the jail Superintendent who decides the type of punishment to be awarded to an offender. Some forms of punishment, in practice, amounts to inflicting physical torture to the prisoners. Cellular confinement means confinement in cell so as to entirely seclude the prisoner from communication with other prisoners. He has to eat his meal alone inside the cell and bath in his cell yard. Fetters or Bar-fetters/Cross-bar fetters means to keep the prisoner in iron bars, whereby his movement within the prison is further restricted.

According to the estimation, from the prison officials regarding the types of offences mostly committed by the life convicts in their prisons, it is seen that majority of the prison offences were of minor types. Major offences were rarely committed by the life convicts, as well as, by other convicts. However, the jail officials stated that the major offences were dealt with by inflicting major punishments. A large majority of the prison officials were of the opinion that the major forms of punishment, although seems inhumane, should continue to ensure prison discipline. Only a microscopic minority among the officials expressed their faith in democratic method in order to maintain the discipline.

The life convicts, on their part, expressed opinion that contradicts the views of prison officials. They considered the punishment accorded to them as arbitrary exercise of authority. In fact, most of them were not fully aware of all the acts that constitute prison offences. It was found that out of the 37 life convicts, 16 had to face punishment of different sorts at some point of their detention. Out of the convicts so punished, only four (4) had to face major form of punishment.

The practice of awarding major punishment, although effective in ensuring prison discipline, is torturous in nature. It inflicts both physical and mental torture on the prisoner. The Supreme Court of India, in various

judgements²¹ has emphasized that the treatment of the prisoners must be humane and purposeful. The court has further decried the inhumane methods, which are used in the prisons under the banner of discipline and security.

In *Sunil Batra v. Delhi Administration*,²² a bar fetter was shown to the Supreme Court and its use was also demonstrated. Justice Desai observed:

“..... The bar fetter to a very considerable extent curtail, if not wholly deprive locomotion, which is one of the facets of personal liberty..... Keeping a prisoner in fetters day and night reduces the prisoner from a human being to an animal, and that this treatment is cruel and unusual that the use of bar fetters anathema to the spirit of the constitution..... The treatment of a human being, which offends human dignity, imposes avoidable torture and reduces the man to the level of a beast would certainly be arbitrary and can be questioned under Art. 14.....”

CONCLUSION

The above account reveals the true nature of a penal institution, which adds more to the woes of the prisoners. The retention of primitive forms of punishment makes the prison a dreaded place where the remnant of ancient barbarism could still be traced in some form or other. . The very fact of the non-enforcement of the prisoner’s rights showed that the life of the lifers within the prison lacked rightful existence. In fact, their life inside the prison is dictated by the prison officials. Under such circumstances, it becomes imperative, on the part of the lifers and other prisoners, to educate themselves in the spirit of the rights granted to them by the constitution and other statutes. Both the government and the non-governmental organization (NGO) can play significant role in this respect. Unless the prisoners are made aware of their rights, the whole scheme of prison reform would remain a farce.

The deprivation of basic human rights to the prisoners is a cause of concern for the lifers. This also shows that the prevalence of primitive cruelty, which haunts the prison cell, is not a myth but a reality. And the prisoners are the silent victims of torture in the silent zone called prison. If the prison really wants to play a correctional role, it must ameliorate the living condition of the prisoners. The outcome of this would not only benefit the prisoners, but also make for a more peaceful prison.

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