

# THE CONJUGAL RIGHTS OF WOMEN PRISONERS: A LEGAL PERSPECTIVE

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*“Every saint has a past and every sinner has a future.” ~ Oscar Wilde*

**Abstract:** Man has been bestowed with certain birth rights which are integral part of his very existence into society. The State has the responsibility to safeguard these birth rights and under Constitution of India these rights have been embedded as Fundamental Rights. The worthy framers of the Constitution did not intend to confine these Fundamental Rights in four walls of codified provisions. Judiciary widened the scope of these Fundamental Rights and added new dimensions to Article 21, Right to life. This Right to life includes right of the prisoners to live with dignity, self-respect and gave them a new hope of their rehabilitation. Further, Article 21 also includes Conjugal Rights as new version for reformation of prisoners. This interpretation under Right to Life has paved a way for persons behind the bars to reintegrate into normal social life after being released from the prison. It also addresses women prisoners who have been subjected to the law of the land but her Right of Enjoyment of her Right to Life and to Live in livable environment also includes the Conjugal Rights to save the family and the society.

**Key Words:** Conjugal Rights, Right to Procreate, artificial-insemination

## SOCIETY, FAMILY AND HUMAN RIGHTS

Man is by nature a social animal who cannot live in isolation. Man for his survival, livability, working is dependent on the society. Therefore, it is needless to say that society is the edifice for the dwelling place of human life. Human life and society always go hand in hand. The term society is derived from a Latin word “Societas” which is in fact derivative of noun ‘socius’, which means companionship ultimately turned out to be sociability.<sup>3</sup> It implies that man always lives in the company of others. Society is a group of people, which comprises of man and woman with their children form a unit called a family. Furthermore, there is a factor of likeness, same thoughts, same needs, same ideals, values, perspectives towards life lead to a social group. The well-being of an individual as well as society leads to the development of a welfare State. Democracy envisages

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<sup>3</sup> C. N. Shankar Rao.2012. *Sociology: Principles of Sociology with An Introduction to Sociological Thought*. S. Chand and Company Ltd., New Delhi.103.

the concept of human rights as one of the basic tenets for individuals' growth.<sup>4</sup> In the absence of these rights men would be enslaved and subjected to torture at the hands of the State. There are certain acts which are not in consonance with the spirit of a civilized society as they are prohibited by the State. Every person indulging into such acts is an offender and is liable to be subjected to the sanctions by the State. However, it is to be proved that he has committed the crime only then he can be subjected to incarceration. Crime committed by a member of the family casts a social stigma as a result of which the family is abandoned and labelled by the society. The State emphasizes on equal treatment to all so that no one is victimized and one's rights as a human being are preserved.

The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights enlist the canons of general application of these basic human rights which are universally applicable. These rights include Right to Equality, Right to Justice, Right to Privacy, Right to Life, Right of Self-determination, Right to Education, Right to Equal opportunity etc. The rights which is very fundamental to a family, where man and woman lives as husband and wife, are Conjugal Rights. The Indian Constitution in consonance with the spirit of the declaration also recognizes and protects these rights. The Universal Declaration of Human Rights as well as the Indian Constitution recognizes and protects these rights.

## **HUMAN RIGHTS AND RIGHTS OF PRISONERS**

The criminal is in conflict with the law as he has violated the norms of the society and indulged in the commission of an offence thereby transgressing into criminality. Criminal Justice System then intervenes to administer the rule of law. Crime is a reality and Criminal laws define the crime and punishment and punishment ensures law and order in the society. Incarceration or detaining the offender is an age-old phenomenon to prevent crime as well as to create deterrence among other mischievous role-players. Punishment is enforced by the competent institutions of the State as per the Constituted Legal Procedure. Due Process is the name of the game <sup>5</sup>. Crime breeds and multiplies within the society. Society and Criminal Justice System attends to reform the criminal by therapeutic treatment. However, a criminal is still a human being and cannot be deprived of his basic human Rights.

Mr. Justice Douglas opined that Prisoners are still 'persons' entitled to all constitutional rights unless their liberty has been constitutionally curtailed by procedure which satisfy all the requirements of due process.<sup>6</sup> Basic rights are not to be denied as their denial lead to the violation of the human dignity and personality. The reformation of the prisoners into a law-abiding citizen is only possible if they are treated as human beings.

<sup>4</sup> K. D. Gaur.1982. *Human Rights of Detainees and Prisoners: Suggestions for Prison Reform*. Cochin University Law Review: 6.393-415.

<sup>5</sup> *State of Gujrat v. Raghu* 2003 Cr.LR (GUJ)393:2003(1) GLR 205.

<sup>6</sup> *Charles wo/d*, (1974) 41 L. Ed. 2d. 936.

Mr. Justice Chandrachud has remarkable pointed out the prisoner's rights in custody while pronouncing a judgment<sup>7</sup>. He is of the opinion that if a person gets convicted, he has all the fundamental Rights all intact. Just because he has been convicted, he could not be refused to avail the same. He further added that when he stays behind bars, his Right to Move or Practice a profession is taken away by the State but still, he can acquire property, hold and dispose of it and his conviction does not affect his Property Rights. In the same way, his Right to Life or Personal Liberty shall not be curtailed by the conviction except the due process of law.<sup>8</sup>

In addition to this, **International Covenant on Economic, Social and Cultural Rights** provides that “....in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, recognizing that these rights derive from the inherent dignity of the human person ....”<sup>9</sup> **Basic Principles for the Treatment of Prisoners**<sup>10</sup> further provides under its **Article 1** that All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. Further adding **Article 10** that with the participation and help of the community and social institutions, and with due regard to the interests of victims, favorable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.

In Modern administration of the Criminal Justice System, the notion of prison discipline has undergone a significant transformation. The trend reflects a shift away from deterrence and toward reform and rehabilitative measures. The Jail Committee's proposals in 1919-20 resulted in the elimination of inhumane punishments for jail inmates. Furthermore, the All-India Jail Reform Committee, which served from 1980 to 1983, paved the way for motivational and reformatory techniques such as remission of punishment for good behavior, the establishment of facilities such as canteens, and the privilege of writing letters and allowing interviews with friends and relatives. The dawn of new era is now established as these measures are recognized by Judiciary as part of the basic rights of prisoners.

## WOMEN INDULGING INTO CRIME

Criminal is an offender regardless of the gender. Criminal Justice System identifies *mens rea* to determine the liability since criminal law is uniformly applicable. It does not classify on the basis of gender. Judiciary is also neutral by pronouncing the sentence as the focus is on the ingredients of the offence. For *mens rea* and the fixing of liability of an offender gender is immaterial. Moreover, The Indian Penal Code provides under Section 8, the definition of word 'Gender' as *the pronoun "he" and its derivatives are used of any person,*

<sup>7</sup> *Bhuvan Mohan Patnaik. v. State of Andhra Pradesh* A.I.R. 1974 S.C. 2092.

<sup>8</sup> *ibid.*

<sup>9</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27.

<sup>10</sup> Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990.

*whether male or female*, which clearly reflects the intention of the legislature being indiscriminate towards the gender of the offender. The Patriarchal notion of Indian society has been controlling and regulating the act and conduct of the members. Although the crimes were committed by both the genders but the crime committed by women was under the veil of Patriarchy. Further, since women usually remained in purdah, less no of crimes were reported in case of women perpetrators. The Industrial revolution and effective globalization shifted the focus from home to the workplace. With more women entering the workforce, the socio-economic gender gap decreased. Women actively participated in all spheres and women was not an exception. The crime committed by female delinquents alarmed the psychologists, sociologists and criminologists both internationally and nationally as it has affected the social edifice of Indian society.

Llewellyn pointed out law as robust and not as static.<sup>11</sup> Judiciary does not have a soft corner for woman if she is an offender but woman can also be an innocent victim where she in her self-defence has entered into criminality. The law weighs the situation on the basis of facts and evidenced to prove the guilt. Criminal Justice System takes into consideration woman responsibilities as a mother, wife, sister, employee and as a bread winner of the family.

Punishment proves to be fatal for her and her family. The environment of prison is not friendly for her as there is hardly any separate housing for recidivists women offenders and first-time offenders. The State should provide sufficient safeguards in order to check any harassment or abuse. It is more difficult when the woman is pregnant or she is a nursing mother. The prison environment is not suitable for the new-born and the separation of mother from her child may have devastating consequences. Notwithstanding the fact that she has committed crime and has been punished with the jail sentence, the reformatory measure could enable her to reintegrate into society.

Therefore, emphasis must be on providing her with Conjugal Rights which from the very inception are embedded in the basic human rights i.e. Right of Privacy. As there is neither no bar from the Criminal Law upon the Conjugal Rights nor restriction from the Constitution of India, Conjugal Rights are also inalienable rights of a married couple which can be evoked through the Court of Law. In recent years, Judiciary acted as the guardian of these rights even in case of prisoners.<sup>12</sup>

## CONJUGAL RIGHTS

Conjugal Rights as 'it is the rights of the couples to have each other's society and have marital intercourse'.<sup>13</sup> A marital bond is based on obvious concepts such as both the spouses are under a necessary obligation to live together both physically and emotionally i.e., consensual consortium.<sup>14</sup> When one of the

<sup>11</sup>Karl N. Llewellyn. 1962. *Jurisprudence: Realism in Theory and Practice*. The University of Chicago Press. Chicago. 539.

<sup>12</sup> *Jasvir Singh v. State of Punjab*, CWP No.5429 of 2010 (O&M) Date of Decision: 29.05.2014

<sup>13</sup> B. M. Gandhi. 2003. *Hindu Law*. 2nd ed. Eastern Book Co. Ltd., Lucknow. 277-278.

<sup>14</sup> Sir Dinshah Fardunji Mulla.2010. *Mulla Principles of Hindu Law*. Satyajeet A. Desai eds., 21st ed. Lexis Nexis Butterworths Wadhwa, New Delhi.895



parties to the marriage withdraws itself from the company of other then these conjugal rights are violated by the party at fault. The aggrieved party then can apply to the court of law to restore the company of its spouse. This right of restoration is called the Restitution of the Conjugal Rights.

## CONJUGAL RIGHTS OF PRISONERS AND THEIR CONSTITUTIONAL PERSPECTIVE: RECENT JUDICIAL TRENDS

Conjugal Rights are protected by the Constitution of India under Article 21 which includes Right to Life as well as Right to Privacy. In *State of Andhra Pradesh vs. Challa Rama Krishna Reddy*<sup>15</sup>, Justice S. Saghir Ahmad held,

*“Right to life is one of the basic human rights. It is guaranteed to every person by Article 21 of the Constitution and not even the State has the authority to violate that Right. A prisoner be a convict or under-trial or detenue, does not cease to be a human being. Even when lodged in the jail, he continues to enjoy all Fundamental Rights including the Right to Life guaranteed to him under the Constitution. On being convicted of a crime and deprived of their liberty in accordance with the procedure established by law, prisoners still retain the residue of Constitutional Rights.”*<sup>16</sup>

In *Jasvir Singh v. State of Punjab*<sup>17</sup>, the Punjab and Haryana High Court acted consciously, since the Right of Procreation in this petition filed by the convict undergoing life sentence was in question. Initially, the Court rejected the prayers of the petitioners but subsequently relied on the plea that the Prisons Act, 1894 contains no provision for allowing conjugal visitation. Section 27 of the Act rather demands separate jails for male and female prisoners. The issues raised in the judgment and the argument put forward resulted in the issuance of guidelines to the State of Punjab for establishing a Jail Reform Committee. This Committee would formulate a scheme for creation of an environment for conjugal and family visits for the convicts. It categorises the convicts that who would be entitled to such visits, keeping in mind the beneficial nature and reformatory goals of such schemes. Further, the scope of Open Prisons would also be considered for the convicts and their families to keep the emotional ties intact. This was the landmark case in the wake of reformatory measures in Criminal Justice System and its effective administration.

The Madras High Court in the habeas corpus petition, *Mrs. Meharaj vs The State* on 19 January, 2018 also granted a convict namely Siddique Ali alias Sulthan in Central Prison, Palayamkottai, Tamil Nadu, leave for fifteen days infertility treatment of his wife ,Mrs. Meharaj, a procreational right, following the decision of above judgment. In another case, *P.Muthumari vs The Home Secretary (Prison)* on 26 November, 2018, the

<sup>15</sup> AIR 2000 SC 2083.

<sup>16</sup> *ibid.*

<sup>17</sup> CWP No.5429 of 2010 (O&M) Date of Decision: 29.05.2014

Madras High Court referring Meharaj case, granted a leave for two weeks to the husband (Perumal) of the petitioner for conjugal visitation to his home subject to the conditions while he was on leave.

These decisions reveal the fact that judiciary is playing an active role for safe-guarding the basic human rights guaranteed under Article 21 of the Constitution and this is the new dawn for reformative measures with respect to prisoners allowing their Conjugal Rights during incarceration and paved way to their harmonious rehabilitation into society as well. Therefore, the moot issues in this research paper are:

- Firstly, whether right to procreation in custody is existing within the framework of Constitution?
- Secondly, whether State is responsible for creating of facilities for incarcerated persons?
- Thirdly, whether 'Right to life' guaranteed under Article 21 of the Constitution also includes the Right of the convicts to have conjugal visits or artificial insemination?
- And lastly, whether this Right is to be given to all convicts undergoing life imprisonment?

The main focus in the research paper is on protecting the Conjugal Rights of women particularly bearing in mind the 'Right of Life' under Article 21 of the Constitution of India. The Constitution does not debar a woman in custody undergoing life imprisonment to be deprived of her basic rights. So, even her husband is behind the bars still Right to enjoy her conjugal life should not be deprived as this is against the spirit of justice. Right to Life includes Right to Liveable environment, Right to Procreation and Right to Conjugal well-being, furthermore, there is no law of crimes which denies these rights to any person. Providing the incarcerated person with his/her Conjugal Rights is a step towards restoring him/her in the civilization. As the crime is part and parcel of the society but there must be returning back to those who have been the victim of an unborn luck.

## CONJUGAL RIGHTS OF WOMEN: DIFFERENT PERSPECTIVES

Sometimes due to lack of resources and financial conditions, the woman is not able to get bail. She is confined to prison although she is innocent and her family suffers. The circumstances could lead her to hard criminal, waiting for her trial, rather sometimes delayed trails, or would never face trials. Here, their basic human rights are very much infringed by the State itself. There is an array of criminal procedure rules and regulations that justice is delayed. As the famous saying, 'justice delayed is justice denied', an innocent is compelled to stay in the jail. Visitation Rights can be soothing for her as it could prove to be the moral support for her and it is seen that prisoner who are continue in touch with the family, spouse, relatives are more likely to mix up in the society upon getting their liberty and their chances to become habitual offender are diminished. Canada, Germany, Russia, Spain, Belgium, Spain, Saudi Arabia, and Denmark are the Countries where conjugal visits have been allowed to prisoners. In exceptional cases, homosexual conjugal visits are also

permitted in the United States, Brazil, and Israel.

## PAROLE OR FURLOUGH

Parole or furlough is known as temporary leaves, home visits or temporary community release. This grant of parole or furlough to the prisoner gives the family some support and relief. Almost all the States in India have framed Jail Rules for release of persons on parole or furlough based on the Report of Jail Committee, 1980-83.

Parole is defined in Black's Law Dictionary<sup>18</sup>, as a conditional release of a prisoner, generally under supervision of a Parole Officer, who has served part of the term for which he was sentenced to prison. The Hon'ble Supreme Court<sup>19</sup> held that "Parole relates to executive action taken after the door has been closed on a convict. During parole period there is no suspension of sentence but sentence is actually continuing to run during that period also." The Hon'ble Court<sup>20</sup> held that "As a consequence of the introduction of parole into the penal system, all fixed-term sentences of imprisonment of above 18 months are subject to release on licence, that is, parole after a third of the period of sentence has been served. Parole is taken as an act of grace and not as a matter of right and the convict prisoner may be released on condition that he abides by the promise. It is a provisional release from confinement but is deemed to be a part of the imprisonment. Release on parole is a wing of the reformatory process and is expected to provide opportunity to the prisoner to transform himself into a useful citizen. Parole is thus a grant of partial liberty or lessening of restrictions to a convict prisoner, but release on parole does not change the status of the prisoner." Parole is a way, as we have seen, to give a prisoner a conjugal visit in turn a catalytic element for reforming the offender.

## PROBATION: GIFT OF GOOD CONDUCT BY STATE

Probation was first used in Massachusetts (England) in 1830, when a woman prisoner was charged with stealing from a house. She was released when her friend guaranteed for her in future. Probation, is a stipulated time period in which a person is tested. According to Cambridge Dictionary, "Probation means a period of time when a criminal must behave well and not commit any more crimes in order to avoid being sent to prison."<sup>21</sup> The person who is released on probation is convicted. The benefit of probation can be given to any person of any age but more considerable are persons below the age of 21 years and the women. The Code of Criminal Procedure, 1973 provides with the similar provision under Section 360, which provides that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence

<sup>18</sup> Black's Law Dictionary, 5<sup>th</sup> edn., p.1006.

<sup>19</sup> *State Of Haryana vs Nauratta Singh* 2000(3) SCC 514.

<sup>20</sup> *Smt. Poonam Lata vs M.L. Wadhawan* 1987 AIR 1383, 1987 SCR (2)1123.

<sup>21</sup> Cambridge Advanced Learner's Dictionary (New): Cambridge University Press 2003.

when called upon during such period.<sup>22</sup> There are many benefits for releasing an offender on probation like the released person itself tries to re-join the society amicably. Further, the expenditure on jails could be reduced. The prison management would be easy with less inmates as well as released persons contribute positively towards nation income.

## OPEN PRISONS

Open prison was first introduced in 1933 in England. This was an experiment and it showed that the prisoners' response was favourable towards reformation. Open jails, then, emerged as a major invention in the correctional treatment and recuperation of the prisoners. The open prison or wall less prison aims at correction of the prisoners in humane way that their dignity be maintained. They are free to work and get their wages too which they can share with their families. So, In India, the State of Uttar Pradesh took the lead to establish an open-air prison. Further Open camps were introduced in 1955 by the then Home Minister of Uttar Pradesh, Dr. Sampuranand. Special training was imparted to the prisoners in the Banaras District Jail, before leaving for this camp. The prisoners enjoyed greater freedom, lived in natural surroundings. The atmosphere of open camps was more conducive and congenial for rehabilitation in society after their release. The then President Dr. Rajendra Prasad visited this camp and was extremely pleased to remark-

“In the sole of an Indian even today social values are alive, even if that Indian is a prisoner.”

Further, the State of Rajasthan is well developed in case of open prison and set an example for open prison with family at Sanganer. There are similar prisons in Bharatpur, Udaipur and Alwar. These prisons act as a bridge between incarceration and ultimate social integration. Lalgola, open-air jail, Murshidabad, West Bengal is another example of open jails where family is allowed to stay with the prisoner. Here, the Conjugal Rights are well protected. This innovative mode could be adapted in other States also. Our main aim is to provide the prisoners specifically women prisoners with their Conjugal Rights, and in case of open prisons they can be provided by the State effortlessly, while in the contrary, as there is no statutory bar in criminal law or in the Constitution for infringement of Conjugal Rights, State itself violates the human rights of the prisoners.

<sup>22</sup> Section 360 – Order to release on probation of good conduct or after admonition

1) When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years, or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct and in the meantime to keep the peace and be of good behavior:

Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class forwarding the accused to or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by Sub-Section (2).



## RESTITUTION: REINTEGRATION INTO THE FAMILY

The remedial provision for restitution of Conjugal Rights exists under the Hindu Marriage Act, 1955 under Section 9 whereas under the Special Marriage Act, 1954 it is given under Section 22. The provision clearly emphasizes as follows: –

*‘When either of the spouses has, withdrawn from the society of the other without a reasonable reason, the aggrieved party may file a suit to the district court, for restitution of conjugal Rights. The court, on being satisfied with the petitioner’s arguments in the petition and after confirmation that there is no legal embargo on such claim can decree restitution of conjugal Rights.’*

The family of the woman released from prison is usually reluctant to take her back due to the social stigma attached to her. The continuation of Conjugal Rights results into strong family bonds and keep the family functional, rather than the family becoming dysfunctional due to prolonged isolation and lack of sexual contact.<sup>23</sup> Further, sexually transmitted diseases are also a danger to the incarcerated persons, due the homosexual activities. The conjugal visit will be helpful in putting a check on such cases. The cases of sexual harassment will be less. Moreover, being privacy given to the family members with imprisoned woman will lessen the stress between both the parties. As there is no bar under the marriage laws which inhibit such right, if her Conjugal Rights are violated, she can approach the court of law but the social thoughts and the views of the family are hard to change so this approach is quite harsh and could further suffocate the marital relationship. So, the approach should be amenable that the both parties sit together and discuss amicably the future of their marital relationship. Children can be alienated from the mother while she was behind the walls. Children, the future of the nation, their psychology would make them difficult to adjust in the society. The blame game will shadow them everywhere. So, the family reconciliation is the need of the hour as face to face, an emotional rendezvous would melt the hearts and woman would enjoy her family which is the ultimate goal to achieve i.e., providing her Conjugal Rights.

Therefore, it can be said that the Right to Procreation in custody is existing. The fundamental Rights are open ended and these cannot be kept in water tight compartments as intended by the framers of the Constitution. Therefore, the Right to Procreate falls within the ambit of Article 21 of our Constitution read with the Universal Declaration of Human Rights. Secondly, State is all in all responsible for providing its citizens their basic human rights. As there is no inherent conflict between the Right to Procreate and Incarceration, keeping into consideration the reasonable restrictions, the Procreation Right ought to be granted by the State. Thirdly, the Right to Life guaranteed under Article 21 of the Constitution also includes the Right of the convicts to have Conjugal visits or artificial insemination. As this is the State which could provide this right so it must be regulated by the procedure established by law. Lastly, all convicts are entitled to the Right to Procreation during incarceration unless they are specifically excepted. But this right is not absolute right and it must be checked against the yardsticks of the reasonable retractions as well as the interest of the State.

<sup>23</sup> *P.Muthumari vs The Home Secretary (Prison)* on 26 November, 2018.

## CONCLUSION AND SUGGESTIONS

Thus, there is a need for sensitising the society, the investigating and enforcement agency to treat the offenders in such a way that they can be rehabilitated, reformed and reintegrated into the hold of the society. Law does not advocate for breaking of marriages at the same time it cannot permit crime to multiply in the garb of protecting conjugal Rights of prisoners. State should make sincere effort to strike a balance between penalizing the offender and protecting his Right to Enjoyment of Conjugal Rights as an integral part of Right to Life under Article 21.

In our Country, the concept of Conjugal Rights of the prisoners is in its initial stage and when it is about women prisoners, it is not even started. The Conjugal visits as well as the Right to Reproduce are the rights which are implicit in the Right of Life and Privacy which is bestowed under Article 21 of the Constitution of India. Though it is obligatory for the State to preserve and protect such rights, prisoner is still criminal who has been convicted for the act he has done. The jails should not be the place of luxury and must stick to the objective of the incarceration i.e., deterrence as well as reformation. Therefore, there must be checks and balances need to be taken care between the basic human rights and the aim of punishment to offender. Some of the suggestions are:

- A study should be undertaken to see how effective conjugal visitations, as well as parole or furlough and whether there is any change in behaviour of in-mates.
- For the women prisoners, proper facility of sanitation, maternity health centres should be provided.
- The rights of conjugal visitation or procreate are not absolute, therefore State must consider the interest of other citizens and its welfare while drafting any policies regarding these rights of prisoners.
- When the States shall come up with the conjugal visitation facilities or procreational right, State must concern that this right is not an absolute right and is subject to the penological interests of the State.
- The provision of Conjugal visits in jails is a cumbersome task which need a thorough research of the State resources, type of offenders as well as the beneficial nature of this provision in reformation of offenders.
- In 2015, The High Court of Punjab and Haryana, directed the State of Punjab to constitute a Jails Reforms Committee for drafting a policy regarding conjugal and family visits in prisons.
- More and more States should come up with the establishment of Open jails. Open jail would prove to be an efficient tool in the hands of the State to inculcate in the minds of the prisoners the love and affection for their family which would ultimately reform the offender and crime could be controlled as there would be less chances for the released prisoners to commit the crime again. He/she would be able to reintegrate in the society easily.
- Counselling of family members must be done to adequately receive the woman after release.
- NGOs and voluntary organisation should be designated in by the State in each of its district to help with re-integration of released prisoners.

- It should be the duty of the State while she is being allocated her jail that if she is having a child, she should be provided with the caretaking of her child.
- Female counsellors/psychologists should be appointed in jails for women prisoners for their emotional wellbeing.
- Pregnant women and nursing mothers in jail should be given the extra care they require according to their circumstances. Women in jail should be transported to outside hospitals to give birth whenever possible.
- As God created mother because he could not be everywhere, woman being mother is full of love and affection and if she has committed a crime, there could be those circumstances which compelled her to be a criminal and with the tools of Conjugal visits as well as open prison setups, she can easily reintegrate into her family.
- As part of correctional services, women convicts should be given vocational training in various trades so that they can live a respectable life after their release from prison. When the woman has respectable ways of earnings, her family would also embrace her and she would get her Conjugal Rights when accepted by her husband as well as if situation persists could be able to procreate.

***“A nation should not be judged by how it treats its highest citizens, but its lowest ones.”***

**~Nelson Mandela**

