



Laws Governing Prisoners' Rights in India

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ABSTRACT

The issue of prisoners' rights in India has garnered increasing attention in recent years, reflecting a growing recognition of the need to ensure humane treatment and protection of fundamental rights within the criminal justice system. The provisions ensuring humane treatment during detention and imprisonment are rooted in both legal and moral recognition of prisoners' rights. These fundamental human rights must be upheld through protections for life and liberty, safeguards against harm, access to fair trial procedures, healthcare, and legal representation. Even when incarcerated, individuals retain their legal status and remain entitled to basic human rights, as affirmed by national and international legal frameworks. Human rights belong inherently to individuals, not because they are granted by the state, but because they are intrinsic to human dignity. These rights are not diminished by one's criminal status. Recognizing and protecting these rights is a crucial component of justice-based societies and plays a key role in supporting prisoners' rehabilitation and reducing the risk of reoffending. In India, the protection of prisoners' rights is shaped by constitutional



guarantees, statutory provisions, judicial interpretations, and international human rights commitments. A deeper understanding of the significance and application of prisoners' rights can contribute meaningfully to broader human rights awareness in the country, especially within the context of its criminal justice system.

Introduction

The relationship between prisoners and human rights has long been inconsistent and contentious. Debates continue over whether individuals who commit crimes should retain any of their rights. While some believe that a person forfeits all entitlements upon breaking the law, others argue that certain fundamental rights remain inalienable even after conviction. These essential rights serve as safeguards against inhumane treatment and abuse. One particularly reprehensible practice is the use of torture, often inflicted on prisoners and undertrials to extract confessions.

Alarming, the use of torture has seen a disturbing rise globally. According to the renowned human rights organization Amnesty International, over 100 countries have, either explicitly or implicitly, permitted the use of torture. Torture is broadly defined as the deliberate infliction of severe physical, mental, or psychological pain to coerce a person into confessing or revealing information against their will.

In India, torture has become a routine practice in police custody, particularly targeting prisoners and undertrials. The police tasked with maintaining civil order, are frequently reported to employ coercive methods to extract information. Such practices, however, are in clear violation of both international human rights instruments and domestic legal standards. Numerous international conventions categorically prohibit torture and other forms of cruel, inhuman, or degrading treatment, emphasizing the obligation of states to uphold human dignity, regardless of a person's legal status. In India, prisoners' rights have developed significantly by case laws in which the Hon'ble Supreme Court gave liberal interpretation to the fundamental rights (eg. Article 21-Maneka Gandhi Case). Supreme Court has held that the laws should be tested on grounds of reasonableness and non-arbitrariness.

Who are Prisoners?

The word prisoner means any person who is kept under custody in jail or prison because he/she committed an act prohibited by law of the land. A prisoner also known as an inmate is anyone who against their will is deprived of liberty. Section 1 of the Prison Security Act 1992, defines the term prisoner. The

word prisoner means any person for the time being in a prison as a result of any requirement imposed by a court or otherwise that he be detained in legal custody. The 'Merriam-Webster dictionary' defined a prisoner as "a person who is deprived of his liberty and who is kept under involuntary restraint, confinement or custody." He is deprived of his liberty and some of his rights against his will. The right to liberty is being taken away by the process of law when such person commits a crime by forceful restraints and confinements¹.

However, the Prisons Act of 1894² under Section 3(2), classifies prisoners into two categories, Criminal and civil prisoners. Under Section 3(4), the act defines Civil Prisoner as any prisoner other than the criminal prisoner.

Prison System

Prison is a place where the criminal justice system put its entire hopes. The correctional mechanism, if fails will make the whole criminal procedure in vain. The doctrine behind punishment for a crime has been changed a lot by the evolution of new human rights jurisprudence. The concept of reformation has become the watchword for prison administration. Human rights jurisprudence advocates that no crime should be punished in a cruel, degrading or in an inhuman manner. On the contrary, it is held that any punishment that amounts to cruel, degrading or inhuman should be treated as an offence by itself. The term prison has been defined by the Prisons Act, 1894 in an exhaustive manner. Prison can be any place by virtue of a government order being used for the detention of prisoners. Thus even a jail will come under the definition of prison according to this definition. The modern idea about prison has been envisaged by judges through the decisions making process. Even the concept of open jails has been evolved by time. No longer can prisons be called as an institution delivering bad experiences. Krishna Iyer, J opined prison as:

"A reformatory philosophy, rehabilitative strategy, therapeutic prison treatment and enlivening of prisoner's personality through a technology of fostering the fullness of being such a creative art of social defence and correctional process activating fundamental guarantees of prisoner's rights is the hopeful note of national prison policy struck by the constitution and the court."

Thus, now all the dignity that human holds can also be availed inside the four walls of prison. The traditional definition and concept about the prison is unfit for the time.

¹ Anubhav Pandey, 'Human rights violation of prisoners in India', (Ipleaders, 20 April 2017) available at <https://blog.ipleaders.in/human-rights/> last visited on 23.06.2025.

² Section 3 of Prisoners Act of 1894.

Prisoner's Rights Under International Legal Regim:

On International levels, torture has always been condemned and has even supported the use or eradication of torture publicly. The use of torture has been prohibited under the customary international law as 'jus cogens', that has the highest standing in customary law and which supersedes all the treaties and customary laws that uses torture³. The prohibition of torture has been further discussed under these instruments:

- i. **Universal Declaration of Human Rights (UDHR):** After the atrocities of World War II, the UN general assembly while drafting this core international instrument inserted the provision for "Prohibiting the use of torture" under its 'Article 5⁴'. The article stated that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The inclusion of ban on torture in this core human rights instrument opened the ways of entering of this right in the extensive network of other international and human rights treaties.
- ii. **International Covenant on Civil and Political Rights (ICCPR):** The inclusion of the provision prohibiting torture in the UDHR made its space in this convention which was adopted by the United Nations in 1966. 'Article 7' of this Covenant states that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment⁵." The provision was identical to Article 5 of the UDHR. The Human Rights Committee in General comment No. 20 went on further to comment on article 7 of ICCPR and stated that the aim of this provision is to protect not only the person from physical abuse but also the dignity and mental integrity of the person. The convention was signed and ratified by 153 countries to prevent use of torture in their jurisdictions.
- iii. **Convention against Torture and Other Cruel, Inhuman or degrading treatment or Punishment (UNCAT):** The UN General assembly adopted this convention in 1984 with the aim of making the struggle against use of torture more effective in all countries. In total, 136 countries ratified the convention. India signed the convention in 1977 and is amongst few countries that have signed the convention but never ratified it.

Prisoner's Right Under Constitution of India And National Legislations:

A. Rights of The Prisoners in India Under The Constitution

³ Human Rights Watch, 'The Legal Prohibition Against Torture' (Human rights watch, 1 June 2004) available at <<https://www.hrw.org/news/2003/03/11/legal-prohibition-against-torture#laws>> last visited on 23.06.2025.

⁴ Article 5 of Universal Declaration of Human Rights (UDHR).

⁵ Article 7 of International Covenant on Civil and Political Rights 1966.



The Constitution of India safeguards the fundamental rights of all prisoners. The Hon'ble Supreme Court, in the case of *State of A.P. Vs. Challa Ramkrishna Reddy & Ors.* (2000) 5 SCC 712, affirmed that a prisoner, whether a convict or an undertrial, 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.

Articles 14, 19 and 21 of the Indian Constitution bestow fundamental rights on every Indian citizen and these rights extend to prisoners as well. The Hon'ble Supreme Court, in the case of *T.V. Vatheeswaran v. State of Tamil Nadu* (1983) 2 SCC 68, emphasised that fundamental rights under Articles 14, 19 and 21 of the Constitution are applicable to both prisoners and those who are not incarcerated.

Article 14 of the Constitution: Prisoners are entitled to basic human rights, including access to nutritious food, just like any other citizen. Article 14 of the Constitution guarantees equality before the law and the equal protection of the law, ensuring that all individuals should be treated equally.

Article 19 of the Constitution: Article 19 of the Constitution grants citizens several fundamental liberties, one of which is the freedom of speech and expression.

The right to assemble peaceably and without arms

i. The right to form associations or unions

ii. The right to move freely throughout the territory of India

iii. The right to reside and settle in any part of the territory of India

iv. The right to practice any profession or carry on any occupation, trade or business

However, prisoners can exercise only two of these freedoms:

i. The right to freedom of speech and expression (Article 19(1)(a))

ii. The right to become a member of an association (Article 19(1)(c)).

iii. These rights ensure that prisoners are not deprived of their basic freedoms and legal protections, even while serving their sentences.

Article 21 of the Constitution: Article 21 of the Indian Constitution is a fundamental right that plays a pivotal role in protecting individual rights. It states that “no person shall be deprived of his life or personal liberty except according to the procedure established by law.” This article encompasses two fundamental aspects of rights:

i. Right to Life: Article 21 of the Indian Constitution ensures that no individual shall be deprived of their life or personal liberty except through a lawful and fair procedure of law. This protection safeguards



individuals from arbitrary or unjust state actions that may jeopardize the value of life. It not only encompasses the right to mere survival, but also affirms the entitlement to live with human dignity. Crucially, it places limits on the State's authority to revoke life unless it follows due, lawful, and just processes.

ii. Right to Personal Liberty: Article 21 also safeguards an individual's right to personal liberty. It ensures that a person's freedom and physical autonomy cannot be arbitrarily curtailed by the state or any other authority. This includes protection against unlawful arrest, detention or imprisonment. Personal liberty is a fundamental aspect of a person's freedom and dignity and Article 21 ensures its preservation.

B. Rights of Prisoners in India Under The Prisons Act, 1894

The Prisons Act of 1894 laid down the first legislative framework for prison administration in India, specifying safeguards to uphold the welfare and rights of both convicted individuals and those awaiting trial. Key rights and provisions include:

i. 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 emphasises that living conditions in every prison should uphold human dignity, covering aspects such as accommodation, hygiene, sanitation, food, clothing and medical facilities⁶.

ii. 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 prison⁷.

iii. Examination of Prisoners by Qualified Medical Officers:

i. 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 labour (if sentenced to rigorous imprisonment) and any relevant observations. These records are maintained in a book kept by the Jailer⁸.

ii. Female prisoners have the right to be examined by a lady matron, as per the special or general orders of the Medical Officer⁹.

⁶ Sec. 4

⁷ Sec. 7

⁸ Sub sec. (2) of Sec.24

⁹ Sub sec. (3) of Sec.24

iii. 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 unsafe¹⁰.

iv. Prisoners cannot be discharged from prison against their will until the Medical Officer deems such a discharge to be safe¹¹.

iv. 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. Undertrial prisoners should be kept separate from convicted criminal prisoners (convicts) Civil prisoners should be kept apart from criminal prisoners¹²

v. Maintenance of Prisoners from Private Sources: Civil prisoners and undertrial 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 General¹³.

vi. 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 day¹⁴.

vii. Supply of Clothing and Bedding to Civil Prisoners and Undertrials: Every civil prisoner and under-trial who cannot provide themselves with sufficient clothing and bedding shall receive necessary clothing and bedding from the Superintendent¹⁵.

viii. Employment of Criminal Prisoners: Prisoners sentenced to rigorous imprisonment may engage in manual labour 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

¹⁰ Sub sec. (2) of Sec.26.

¹¹ Sub sec. (3) of Sec.26

¹² Sec.27

¹³ Sec.31

¹⁴ Sec.29

¹⁵ Sub sec. (1) of Sec.33



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 Officer¹⁶.

ix. Care for Ill Prisoners: 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 prisoners¹⁷.

x. Provision of Hospitals: Each prison must have a hospital or an appropriate facility for the care of sick prisoners¹⁸.

xi. Visits for Civil and Undertrial Prisoners: Both convicts and undertrial prisoners have the right to meet with individuals they wish to communicate with while in prison, during proper times and under reasonable restrictions. Undertrial 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.¹⁹

C. Rights of The Prisoners Under The Bhartiya Nagarik Suraksha Sanhita, 2023

i. Right of the Prisoner to be Informed of Arrest and Bail: 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 arrest²⁰.

ii. Right of the Prisoner to Be Defended by a Lawyer: Section 340 and 341 of the BNSS 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 expense²¹.

iii. Right to Speedy Trial: Section 346 of the BNSS provides that in every inquiry or trial, the proceedings shall be held as expeditiously as possible²².

¹⁶ Sec. 35

¹⁷ Sec. 37

¹⁸ Sec. 39

¹⁹ Sec. 40

²⁰ Sec. 47

²¹ Sec. 340 and 341

²² Sec. 346

iv.Right to Medical Examination: Section 53 of the BNSS 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 lockups²³.

v.Right to Be Present Before the Magistrate Without Delay: It is the right of the prisoner to be physically produced before the court at the time of hearing their case without procedural delay²⁴.

vi.Right to Be Present During Trial: Section 308 of the BNSS provides that all evidence and statements must be recorded in the presence of the accused or their lawyer²⁵.

vii.Right to Be Released on Probation of Good Conduct on or After Admonition: 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 behaviour²⁶.

viii.Right to Be Released on Bail Even If the Prisoner Does Not Have Means: Section 478 of the BNSS 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 poor²⁷.

D. The Probation of Offenders Act, 1958

The Supreme Court observed about this Act in *Rattan Lal v. State of Punjab*²⁸ that the Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. In *Musa Khan v. State of Maharashtra*, the Supreme Court observed that this Act is a piece of social legislation which is meant to reform juvenile offenders with a view to prevent them from becoming hardened criminals by providing an educative and reformatory treatment to them by the government.

²³ Sec. 53

²⁴ Sec. 58 and 78

²⁵ Sec. 308

²⁶ Sec. 401

²⁷ Sec. 478

²⁸ AIR 1964, [1963] Supp. 2 S.C.R. 745.

Section 562 of the Code of Criminal Procedure, 1898 made a provision for the release of certain offenders on Probation. Spelling out the object of the release of offenders on probation, the Supreme Court in *Ramji Missar v. State of Bihar*, observed:

“The purpose of release of youthful offenders on probation is to stop their conversion into stubborn criminals as a result of their association with hardened criminal of mature age. Modern Criminal Jurisprudence recognizes that no one is born criminal & that a good many crimes are the result of socio-economic milieu. Although not much can be done for hardened criminals, yet a considerable emphasis has been laid on bringing about reform of juveniles who are not guilty of very serious offences by preventing their association with mature criminals.” Thus it is reformative technique of treatment & rehabilitation of offenders.

Judicial Observation and Guidelines Related to Prisoner Rights in India

i. Shri D.K. Basu, Ashok K. Johri vs State of West Bengal²⁹: The D.K Base case is a landmark case on the rights of prisoners in India. In this case, it was held by the court. This case vehemently laid down guidelines with respect to the rights of arrested persons. The main object behind the guidelines was to bring transparency and accountability. It held, “We, therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures”:

- i.**The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible, and clear identification and name tags with their designations. The particulars of all such police personnel who handle the interrogation of the arrestee must be recorded in a register.
- ii.**That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest such memo shall be attested by at least one witness. who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter-signed by the arrestee and shall contain the time and date of arrest.
- iii.**A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having an interest in his welfare being informed, as soon as practicable, that he has

²⁹ (1997) 6 SCC 642



been arrested and is being detained at the particular place unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

- iv.** The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.
- v.** The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon he is put under arrest or detained.
- vi.** An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.
- vii.** The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The “Inspection Memo” must be signed both by the arrestee and the police officer affecting the arrest and its copy provided to the arrestee.
- viii.** The arrestee should be subjected to a medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by the Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Tehsils and Districts as well.
- ix.** Copies of all the documents including the memo of arrest, referred to above, should be sent to the Magistrate for his record.
- x.** The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
- xi.** A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

ii. Satendar Kumar Antil vs. Central Bureau of Investigation³⁰: This case put emphasis on the report of the National Police Commission of India. It held, “The Third Report of the National Police Commission in India expressed its deep concern with custodial demoralising effect with custodial torture was creating on the society as a whole. It made some very useful suggestions. It suggested :

An arrest during the investigation of a cognizable case may be considered justified in one or other of the following circumstances :-

- i.** The case involves a grave offence like murder, dacoity, robbery, rape, etc., and it is necessary to arrest the accused and bring his movements under restraint to infuse confidence among the terror-stricken victims.
- ii.** The accused is likely to abscond and evade the processes of law.
- iii.** The accused is given to violent behaviour and is likely to commit further offences unless his movements are brought under restraint.
- iv.** The accused is a habitual offender and unless kept in custody he is likely to commit similar offences again. It would be desirable to insist through departmental instructions that a police officer making an arrest should also record in the case diary the reasons for making the arrest, thereby clarifying his conformity to the specified guidelines.”

iii. Joginder Kumar Vs. State³¹: “No arrest can be made because it is lawful for the police officer to do so. The existence of the power of arrest is one thing. The justification for the exercise of it is quite another...No. arrest should be made without a reasonable satisfaction reached after some investigation about the genuineness and bonafides of a complaint and a reasonable belief both as to the person’s complicity and even so as to the need to effect the arrest. Denying a person his liberty is a serious matter.”

iv. Neelabati Bahera Vs. State of Orissa³²: “It is axiomatic that convicts, prisoners or undertrials are not denuded of their fundamental rights under Article 21 and it is only such restrictions, as are permitted by law, which can be imposed on the enjoyment of the fundamental right by such persons. It is an obligation of the State to ensure that there is no infringement of the indefeasible rights of a citizen of life, except in accordance with law, while the citizen is in its custody. The precious right guaranteed by Article 21 of the constitution of India cannot be denied to convicts, undertrials or other prisoners in custody, except

³⁰ Civil Appeal No. 7598 of 2021

³¹ AIR 1994 (4) SCC, 260]

³² AIR 1993 (2) SCC, 746]

according to procedure established by law. There is a great responsibility on the police or prison authorities to ensure that the citizen in its custody is not deprived of his right to life. His liberty is in the very nature of things circumscribed by the very fact of his confinement and therefore his interest in the limited liberty left to him is rather precious.”

v. Charles Shobraj v. Superintendent, Tihar Jail³³: “Except for the fact that the compulsion to live in a prison requires by its own force the lack of certain rights, like the right to move freely or to practice a profession of one’s choice, a prisoner is otherwise eligible to the basic freedoms guaranteed by the Constitution.”

vi. K. Gopalan v. Union of India³⁴: “The ambit of personal liberty by Article 21 of the Constitution is wide and complete. It includes both substantive rights to Personal Liberty and the procedure prescribed for their deprivation...Article 21 of the Constitution of India includes the concept of a speedy trial which is offered under the right to life.”

vii. Sheela Barse v. State of Maharashtra³⁵: “The legal assistance to a poor or accused, arrested and put in danger of his life or personal liberty, is a constitutional requirement not only by Article 39 A but also by Articles 14 and Article 21 of the Constitution of India.”

viii. Francis Coralie Mullin vs The Administrator, Union Territory of Delhi and Ors.³⁶: “The right of a detenu to consult a legal adviser of his choice for any purpose not necessarily limited to defence in a criminal proceeding but also for securing release from preventive detention of filing a writ petition or prosecuting any claim or proceeding, civil or criminal, is obviously included in the right to live with human dignity and is also part of personal liberty and the detenu cannot be deprived of this right nor can this right of the detenu be interfered with except in accordance with the reasonable, fair and just procedure established by a valid law. A prison regulation may, therefore, regulate the right of a detenu to have an interview with a legal adviser in a manner which is reasonable, fair and just but it cannot prescribe an arbitrary or unreasonable procedure for regulating such an interview and if it does so, it would be violative of Articles 14 and 21.” Narcotics and other such techniques are used on prisoners.

ix. Smt. Selvi and Ors. v. State of Karnataka and Anr³⁷: “In our considered opinion, the compulsory administration of the impugned techniques violates the ‘right against self-incrimination’. This is because

³³ AIR, 1978 S.C. 1514

³⁴ AIR 1950 SC 27

³⁵ AIR 1983 SC 378

³⁶ AIR 1981 SC 746

³⁷ Criminal Appeal 1267 of; 2004 2010(7) SCC 263

the underlying rationale of the said right is to ensure the reliability as well as voluntariness of statements that are admitted as evidence. This Court has recognised that the protective scope of Article 20(3) extends to the investigative stage in criminal cases and when read with Section 161(2) of the Code of Criminal Procedure, 1973 it protects accused persons, suspects as well as witnesses who are examined during an investigation. The test results cannot be admitted in evidence if they have been obtained through the use of compulsion. Article 20(3) protects an individual's choice between speaking and remaining silent, irrespective of whether the subsequent testimony proves to be inculpatory or exculpatory. Article 20(3) aims to prevent the forcible conveyance of personal knowledge that is relevant to the facts in the issue. The results obtained from each of the impugned tests bear a 'testimonial' character and they cannot be categorised as material evidence."

Conclusion

In conclusion, the protection and promotion of prisoners' rights in India are crucial for upholding human dignity, ensuring fair treatment, and fostering rehabilitation within the criminal justice system. While India has made significant strides in recognizing prisoners' rights through legislative frameworks and judicial pronouncements, significant challenges persist. Overcrowding, inadequate infrastructure, limited access to healthcare and legal aid, violence, abuse, and societal stigma are among the key challenges facing prisoners in India.

However, amidst these challenges, there are also promising initiatives and interventions aimed at reforming the prison system, promoting rehabilitation, and advancing prisoners' rights. Efforts such as legal aid clinics, healthcare improvements, rehabilitation programs, and advocacy for policy reforms demonstrate a commitment to addressing the systemic issues affecting prisoners' rights. Additionally, international collaborations and partnerships provide valuable support and expertise to enhance the effectiveness of reform efforts. Moving forward, sustained commitment and collaboration among government agencies, civil society organizations, international partners, and other stakeholders are essential to bring about meaningful change and ensure that prisoners are treated with dignity, respect, and humanity throughout their incarceration and beyond. By prioritizing prisoners' rights, implementing reforms, and upholding the principles of justice, fairness, and human rights, India can work towards creating a criminal justice system that not only punishes wrongdoing but also promotes rehabilitation, reintegration, and societal wellbeing.