

# THE RIGHTS OF PRISONERS AND THEIR ABBUSE IN INDIA: A CRITICAL ANALYSIS

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## Abstract

It is currently generally acknowledged that individuals predestined to detainment are in jail as discipline: that the discipline is loss of freedom, and they are not to be additionally rebuffed by vindictive conditions, discomfiture or fierceness. This article analyzes the deployment of this standard notwithstanding the substances of confinement. It draws on interviews with individuals held in Indian detainment facilities to distinguish key privileges of significance to detainees, and the rights which should be most meticulously secured. The article features the centrality of regard and the acknowledgment of human nobility, viewed as key for the exploration members, and investigates manners by which regard may be epitomized in the jail condition.

## KEY WORDS

Discipline, detainees, rebuffed, acknowledged.

## INTRODUCTION

A prison is considered as a place in which individuals are physically confined and are deprived of personal freedom to a certain extent. Prison is an integral part of the criminal justice system of any country. Prisons may be meant exclusively for adults, children, females, convicted prisoners, under trials etc. The objective of imprisonment may vary from country to country. It may be:

- a) Punitive
- b) Deterrence
- c) Reformative
- d) Rehabilitate, or
- e) Expiatory.

The primary purpose of imprisonment is to protect society against crime. Punitive methods of treatment of prisoners alone cannot achieve the goal of reformation of prisoners. Various human rights approaches and human rights legislation as well as judiciary have facilitated a change in the approaches of criminal justice system. The United Nations has also provided certain guidelines for the treatment of prisoners. The State is under legal obligation for protecting its subjects and for the compliance of which citizens are given certain basic privileges recognized by the Constitution of India and other legislations. However, the enhancement of rights of the prisoners raises a question as to what extent it is viable under Article 21 to incorporate within its ambit, the access to conjugal rights to the prisoners within the jail premises. Moreover, what about the rights of the victims upon whom they had committed the offence and to what extent the arena of rights of the prisoners can be enhanced in the garb of human rights so as not to violate the human rights of the victims who were the primary sufferers of the offence committed upon them.

Prisons have existed in most societies for many centuries. Usually they have been places where individuals were detained until they underwent some legal process. They might be waiting to go on trial, or for execution or exile, or until a ransom, a fine or a debt is paid. Occasionally, individuals who posed a particular threat to the local ruler or state might be deprived of their liberty for a long period. The use of imprisonment as a direct punishment of the court was introduced to Western Europe and North America in the 18th century. It has spread gradually to most countries, often as a result of colonial oppression. In some countries, the concept of imprisoning human beings does not fit easily with the local culture. Over the years there has been a lively debate, which is still going on, about the purposes of imprisonment. Some commentators argue that it should be used only to punish criminals. Others insist that its main purpose is to deter individuals who are in prison from committing further crimes after they are released, as well as to deter those who might be inclined to commit crime. Another perspective is that people are sent to prison to be reformed or rehabilitated. That is to say, during the time they are in prison they will come to realize that committing crime is wrong and will learn skills which will help them to lead a law-abiding life when they are released. Sometimes it is argued that personal rehabilitation comes about through work. In some instances, people may be sent to prison because the crime they have committed shows that they present a grave threat to public safety.

In practical terms, the purposes of imprisonment will be interpreted as a combination of some or all of these reasons. The relative importance of each one will vary according to the circumstances of individual prisoners. However, a more and more widely held opinion is that prison is an expensive last resort, which should be used only when it is clear to the court that a non-custodial sentence would not be appropriate.

The detention of individuals who are awaiting trial is a matter of special concern. Their situation is quite distinct from that of people who have been convicted of an offence. They have yet to be found guilty of any offence and are therefore innocent in the eyes of the law. The reality is that they are often held in the most restricted conditions, conditions that in some cases are an affront to human dignity.

In a number of countries, the majority of people who are in prison are awaiting trial. The proportion sometimes is as high as 60 per cent. There are particular problems with the way pre-trial prisoners are treated and when the access that they have to lawyers and to their families is determined not by the prison authorities, but by another authority, such as the prosecutor.

The main human rights issue of under trials is delay in trial of cases. Right to speedy trial is a right to life and personal liberty of a prisoner guaranteed under Article 21 of the Constitution, which ensures just, fair and reasonable procedure. However, eighty per cent prisoners are under trials, and some of them are not released even after granting bail as they are unable to furnish surety bonds due to lack of money or verification of addresses, as some prisoners don't have houses. The speedy trial of offences is one of the basic objectives of the criminal justice delivery system. Once the cognizance of the accusation is taken by the court then the trial has to be conducted expeditiously so as to punish the guilty and to absolve the innocent. Everyone is presumed to be innocent until the guilty is proved. So, the quality or innocence of the accused has to be determined as quickly as possible. It is therefore, incumbent on the court to see that no guilty person escapes, it is still more its duty to see that justice is not delayed and the accused persons are not indefinitely harassed. It is pertinent to mention that delay in trial by itself constitutes denial of justice which is said to be justice delayed is justice denied. It is absolutely necessary that the persons accused of offences should be speedily tried so that in cases where the bail is refused, the accused persons have not to remain in jail longer than is absolutely necessary. The right to speedy trial has become a universally recognized human right.

Human rights are those rights that accrue to one because they are human beings. These rights are equal and inalienable to all human beings.<sup>1</sup> The United Nations Charter in its preamble sets out as one of the objectives of the community of nations 'to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small' the effect of which is to illustrate the weight attached to fundamental rights and dignity.<sup>2</sup> Since the coming into force of the Charter, states have been called upon to conclude international human rights instruments setting out these rights in detail,

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<sup>1</sup> Donnelly J 'Human Rights Democracy and Development'

<sup>2</sup> United Nations Charter Preamble

and by ratifying the conventions, states undertake to respect and ensure respect for these rights without discrimination.

The Universal Declaration on Human Rights adopted in 1948 together with the 1966 International Covenant on Economic Social and Cultural Rights and International Covenant on Civil and Political Rights constitutes the International Bill of Rights.

This instrument, the UN makes plain, 'continue to be a fundamental source of inspiration for national and international efforts to promote and protect human rights and fundamental freedoms'<sup>3</sup>

The ultimate goal of international human rights standards is that they are translated into the day to day lives of individuals, thus creating an appreciation and valuing of a human rights culture. The success or failure of any international human rights system should be evaluated in accordance with its impact on human rights practices on the domestic (country) level. The conceptual battle is over and the focus has shifted to the implementation of human rights.<sup>4</sup>

To achieve this goal there are various ingredients such as state adherence to human rights treaties; implementation of human rights obligations in domestic law; a domestic legal system that provides comprehensive substantive and procedural human rights laws; effective and accessible state institutions where individuals can obtain redress for human rights breaches, such as independent courts and national human rights institutions; a lively NGO community; and a population that has developed a strong human rights culture.<sup>5</sup>

These elements are complementary and it is their concerted efforts that effect on the whole, the level of the state's respect for human rights. National Human Rights Institutions (National Institutions, NHRIs) have evolved to bridge the gap between governmental and non-governmental action. The gap exists between the efforts a government makes to promote and protect human rights and the expectations of the non-governmental sector that is often limited in its ability to hold government accountable. In states where there are high levels of rights violations the existence of a national institution can at least 'create an official space for a human rights discourse' amongst all interested parties. These institutions are attractive because they are: autonomous national bodies, such as a human rights commission, that function independently of other governmental agencies to work for laws and practices concerning human rights to be effectively applied by the government.

<sup>3</sup> United Nations Fact Sheet No. 2

<sup>4</sup> Heyns C & Viljoen F 'The Impact of the United Nations Human Rights Treaties on the Domestic Level'.

<sup>5</sup> Reif L.C. 'Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection' (2000) 13 Harvard Human Rights Journal.

## PRISONERS

In an ordinary sense “Prisoner” means a person confined or kept in custody. As per the definition of the Oxford Dictionary Prisoner means “a person who is being kept in prison<sup>6</sup>”

### Kinds of Prisoners

As per Section 3 of the Prisons Act, 1894, Prisoners are classified into three groups. They are Criminal Prisoner, Convicted Criminal Prisoner and Civil Prisoner. “Criminal Prisoner” means any Prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction or by order of a Court - Martial. “Convicted Criminal Prisoner” means any Criminal Prisoner under sentence of a Court or Court - Martial and includes a person detained in prison under the provisions of Chapter VIII of the Criminal Procedure, 1882 (X of 1882) or under the Prisoner’s Act, 1871 (V of 1871). “Civil Prisoner” means any prisoner who is not a Criminal Prisoner. Prisoners may also be broadly classified according to the term of imprisonment, ailment, age, sex, political cause, cases of civil nature and cases of preventive arrest viz. Remand prisoner, Under - trial prisoner, Convicted prisoner, Short term prisoner, (Rigorous Imprisonment), Long term prisoner (Rigorous Imprisonment), Prisoner sentenced to Simple Imprisonment, Prisoner sentenced to life, Prisoner sentenced to death, Leper prisoner, Mentally ill prisoner, Juvenile in conflict with law, Adolescent offender, Adult prisoner, Male prisoner, Female prisoner, Political prisoner, Civil prisoner, Detenue.

### TREATMENT OF PRISONERS

Crime is an outcome of the diseased minds and jail must have an environment of hospital for treatment and care. One should bear in mind that “prisoner is a ward and not the slave of the State<sup>7</sup>”. The Prisoners are sent to prison “not for punishment but as punishment.” But

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<sup>6</sup> The Oxford English – English – Tamil dictionary, page 1109 ,Oxford University press 2009

<sup>7</sup> As quoted by of Dr. W.C.Wreckless in The Tamil Nadu Prison Reforms Commission, Vol.II Chapter XL, p.83.

unfortunately prisoners are treated as if they have been sent to prison not only “as punishment” but even “for punishment.” The process of treatment should begin right from the time of admission of the inmate in prison. A newly admitted inmate faces a number of problems of adjustment with new environment. Study of the individual inmate, initial classification of prisoners, their care and welfare, firm and positive discipline in prison constitute essential pre-requisite for planning balanced treatment programme.

The regimented routine of institutional life, the pattern and time of prison food and anxieties about health, family and domestic problems such as land, litigation etc., keep bothering him. He attempts to seek adjustment with inmate group and prison personnel and with the work allotted to him. If these urgent needs and problems are explored, identified and attended to by prison personnel sympathetically and with understanding, the inmate will have a lot of relief. This will also enable prison personnel to establish a rapport with the inmate and secure his co-operation in the effective implementation of treatment programme. Therefore treatment of offender in prison should be looked at from three angles; 1. the essential pre-requisite for carrying out appropriate treatment programme conducive to rehabilitate the offender 2. variety and contents of treatment programmes and 3. evolution of the effectiveness of treatment programme. Looked from these angles, the elements and components of treatment programme in prisons can be identified as follows:- A relaxed positive and constructive atmosphere in the institution, Good personnel – inmate relationship based on mutual trust and confidence, Study of the individual inmate; Initial classification, Care and welfare of inmate, Firm and positive discipline, Attending to the immediate and urgent needs and problems of inmates, Attending to the long term needs, Planning a balanced and diversified training and treatment programme consisting of diversified education, work, vocational training, recreational and cultural activities, etc.,. Helping the inmate to maintain continuity of his conduct with his family, community and outside world. A good system of incentives for self-discipline such as remission, leave, transfers to semi-open and open institutions and pre-mature release, individual guidance, counseling and case work, group activities, group guidance and group work, social implantation of proper habits, attitudes and approaches, preparation for social living, Psychotherapy, Supportive therapy, personal positive influence of institutional personnel, periodical review of progress, reclassification, review of sentence and pre-mature release, planning for release, pre-release preparation, after care and follow-up and community participation<sup>8</sup>

<sup>8</sup> Report of the All India Committee on Jail Reforms (Mulla) 1980-83 Vol.1, Chapter 10, Treatment Programme p.124

## RIGHTS OF PRISONERS: CASE LAWS

Prisoners are basically human beings. They being, human beings are to be entitled to human rights and constitutional rights except those that are to be necessarily denied because of their condition of imprisonment. The State is under a Constitutional obligation to honour and to protect their rights, particularly their right to live with human dignity.

The accused, under- trials, suspects and convicts do not cease to be human beings just because they are so named. Hence their rights as human beings are to be protected and respected. The fundamental rights, which are available to the prisoners, are not defined in the Indian Constitution in particular. The Judiciary, however, through the process of Judicial Activism has expanded the scope of various freedoms guaranteed to individuals in relation to prisoners by expanding the horizons of article 21 of the Indian Constitution and)also taking into consideration the relevant provisions of International Covenants formulated for monitoring and supervising the prisoners.

### **A.K.Gopalan vs. State of Madras (1950)**

In the beginning, the Supreme Court was not responsive to the protection of the rights of the prisoner. It examined the issue immediately after the commencement of the Constitution. It expressed the view that the prisoners are non-persons and fundamental rights under the Constitution are not available to them by their being incarcerated. The Court declared that a person loses his right to personal liberty by way of detention under valid law enacted by a competent legislature and so long as he remains under such detention, he ceases to be entitled to enjoy his other fundamental rights.<sup>11</sup>

### **State of Maharashtra vs. Prabhakar Pandurang Sangzgiri (1966)**

The respondent was detained under the Defense of India Rules (1962). While under detention in jail, he wrote a book of scientific interest in Marathi called 'Anucha Antarangaat' (Inside the Atom), but was not allowed to publish it by the prison authorities.

The Bombay High Court issued a writ allowing Pandurang to publish the book. The State Government in an appeal to Supreme Court argued that freedom to publish was only a component part of speech and expression and the detenu ceased to be free in view of his detention, and hence he could not exercise his freedom to publish his book in view of an observation made in A.K.Gopalan case. Without going into the question regarding the relative positions of Articles 19 and 21, the Court observed that the view held in Gopalan case was

not the last word on the subject. The Court held the view that the right to 'Personal Liberty' under Article 21 included the right to write book and get it published and the refusal by the State Government to send the petitioner's manuscript for publication, infringes his personal liberty manifested under Article 21. The Court found that there was nothing in the Bombay Detention Order 1951, prohibiting a detainee from writing or publishing a book and when a detainee exercises his right, its denial without authority of law, would violate Article 21. Dismissing the appeal of the State, the court further held that the book being the one on the subject of scientific interest which would not otherwise be detrimental to public interest or safety as envisaged under the Defense of India Rules (1962).<sup>9</sup>

### **Charles Chopra vs. The State of Bihar (1978)**

In Charles Chopra's case the Supreme Court pointed out "prisoners retain all rights enjoyed by free citizens except those lost necessarily as an incident of confinement."<sup>10</sup>

### **Sunil Batra vs. Delhi Administration (1978)**

#### **Sunil Batra (ii) vs. Delhi Administration (1980)**

In Sunil Batra cases, while interpreting Articles 14, 19 & 21, the Supreme Court has assured many substantive rights to the prisoner. The extended dimension given to article 21 has proved to be multi-dimensional. The right to life enshrined in Article 21 has been liberally interpreted as to mean something more than survival and mere animal existence. It, therefore, includes all those aspects of which that go to make a man's life meaningful, complete and worth living. This aspect of judicial pronouncement leads to emergence of prisoner's right. The significant areas of extension were the rights not to be handcuffed, put on bars and solitary confinement unless absolutely necessary. The right against custodial torture, right to speedy trial, right to counsel, proper condition of detainee, right to meet relatives, friends and lawyer, right to wages and even the right to compensation for violation of rights. Beginning with Sunil Batra case, the Court has armed itself and embraced the jurisdiction to attend the complaint of the prisoners where their rights either under the constitution or under the law are violated.<sup>11</sup>

<sup>9</sup> State of Maharashtra vs. Prabhakar Pandurang Sangzgiri AIR 1966 SC 424=1966 CrLJ 311

<sup>10</sup> W.P No. 4305 of 1978 delivered on 31st August 1978 – PRC Report Vol.II Chapter XXXVIII Rights of Prisoner p.73 para 38.2.

<sup>11</sup> Sunil Batra vs. Delhi administration (1978) 4 SCC 494 = AIR 1978 SWC 1675 = 1978 CrLJ 1741. Sunil bhatra(ii)V.Delhi Administration (1980) 3 SCC=A.I.R 1980 SC 1579=1980 CrLJ 109



### **Nilabati Behera vs. State of Orissa (1993)**

In Nilabati Behera vs. State of Orissa, the Supreme Court observed that “it is axiomatic that convict prisoners or under-trials are not denuded of 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 rights by such persons. It is an obligation of the state to ensure that there is no infringement of the indefeasible rights of a citizen to life, except in accordance with law while the citizen is in its custody.

This precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convict, under-trials or other prisoners in custody, except according to the procedure established by law<sup>12</sup>.

### **State of Andhra Pradesh vs. Challa Rama Krishna Reddy (2000)**

In the case of State of Andhra Pradesh vs. Challa Rama Krishna Reddy, the Supreme Court asserted that even a prisoner has fundamental rights including other human rights. In that case, the claimant and his father were lodged in jail. They requested the police to provide security to them apprehending danger to their life from their opponents. There was failure of police to provide adequate security in spite of being asked. When they were attacked by bomb in their jail cell, the father died and the claimant sustained serious injuries. The suit for compensation was dismissed by lower Court but the High Court awarded Rs.1,44,000 as compensation. In the instant case, while dismissing the appeal filed by the State Government, the Court reiterated;

"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 detenu, 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>13</sup>.

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<sup>12</sup> Nilabati Behera vs. State of Orissa (1993) 2 SCC 746 = AIR1993 SC 1960 = 1993 (2) SCJ 487.

<sup>13</sup> Challa Rama Krishna Reddy (2000) AIR 2000 SC2083=2000 (5) SCC 712=2000(4)Supreme741(2)

## Further developments in Prisoner's Rights

As an offshoot of the observations, comments, directions and pronouncements regarding the upholding of the rights of prisoners in relation to the rights guaranteed to an ordinary citizen under the Constitution in various land mark judgments by the Supreme Court on this subject, so many Commissions constituted succeeding the Supreme Court Judgments, adopted the rights of prisoners in their report for strict implementation in prisons. Efforts are also being made to amend the existing statutes connected with prison administration so as to incorporate the rights of prisoners and implement them mandatorily.

The National Human Rights Commission, State Human Rights Commission and Human Rights Court established under the Protection of Human Rights Act, 1993 also contributed much to the protection of Prisoners rights.

The Government of India granted financial assistance to all States under Five Year Plans and Matching Grant (at the rate of 50:50 ratio) under modernization of Prison Administration to improve the prison atmosphere and living condition in Prisons like additional accommodation, diet, clothing and bedding, hygiene and sanitation, health care, water supply, electrification, recreation facilities etc., The State Government by utilizing these funds took all possible efforts to improve Prison condition and extend all facilities to Prisoners to maintain human dignity.

## Prisoner's Rights and International Covenants

The right of prisoners in International Law is found in a number of International Treaties and that too following the two World Wars. Due to the widespread denial of civil rights and liberties on the basis of racial, religious and political discrimination had a profound effect on the international law of prisoner's right. The systematic use of violence including wanton murder and ultimately genocide and use of slave labour, abuse and murder of prisoners of war, widespread deportation and confiscation of property forced a large scale changes that began to occur in all areas of international law including prisoners rights. At present, there are numerous international instruments which lay down codes by which prisoners should be dealt with. The following are the foremost among them.

1. Third Geneva Convention (came into force in 1924 significantly amended in 1949).
2. Charter of United Nations (1945).

3. Universal Declaration of Human Rights (1948).
4. United Nations Standard Minimum Rules for the Treatment of Prisoners (1955).
5. International Covenants on Civil and Political Rights (1966).
6. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984).
7. Basic principles for the Treatment of Prisoners (1990).
8. Basic principles on the use of Force and Fire Arms by Law Enforcement Officials (1990).

### **NEED OF THE PRESENT STUDY**

The theory of treatment of offenders has changed from penal to reformatory in the modern era. Due to this, the prisons of the old era have undergone tremendous change today which has led to transparency in the prison administration. The prison reforms in Indian prisons had its seed sown as soon as Lord Macaulay came to India in 1835. Following the study of the Prison Administration in India by the Dr. W.C. Wreckless Committee in the post independence period (1951-52), lot of improvements were made in Indian Prisons. The raising awareness among the common public and the nation on the need to protect the human rights of the prisoners led to the passing of several United Nations Instruments including the Universal Declaration of Human rights, 1948, United Nations Standard Minimum Rules for the Treatment of Prisoners, 1955, International Covenants on Civil and Political Rights 1966, Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishments, 1984 and Basic Principle for the Treatment of Prisoners, 1990. All such Instruments and Constitution of many of the Democratic Countries including the Constitution of India have recognized the human rights of the prisoners in principle. However, this does not mean that there is no violence at all. Cases of excesses by law enforcement agencies resulting in human rights violation come to light here and there now and then. The only relief is the higher judiciary, whenever such violations are brought to its notice, has intervened to set right such violations and ordered remedial measures. The Supreme Court of India, which is not only the supreme authority in the Judicial hierarchy, but also the guardian of the Constitution and the protector of the fundamental rights guaranteed under our Constitution, in exercise of its wide and varied Constitutional powers has time and again issued writs or orders to concerned authorities and those in-charge of and responsible for administration of criminal justice, giving direction and guidelines with a view of preventing the infringement

of any fundamental right, to which every citizen of the country including the accused/prisoner are equally entitled to. The Judicial Activism of the Apex Court has a great impact on the criminal administration and upholding the rights of prisoners in all respects. As an offshoot of the directions from the Apex Court so many Prison Reforms Commissions were formed both at the Central and State level which recommended so many suggestions to improve the prison condition and extend better treatment to prisoners. Under this circumstance, the researcher felt it necessary to study the rights of the prisoners in India.

## SCOPE OF THE STUDY

The study is basically a doctrinal research with a view to find out whether the rights of the prisoners are well protected or not. In this regard, various aspects like the comments, observations, and pronouncements of the judiciary in upholding the rights of the prisoners in relation to the rights guaranteed to the ordinary citizen under the Constitution, action taken at Central and State level in response to Judicial Activism so as to incorporate such rights in the Statutes and Prison Manuals, the contributions made by The National and State Human Rights Commission and Human Rights Courts constituted under The Protection of Human Rights Act, 1993 have been taken into account for the analysis. The present topic for the research study is "RIGHTS OF PRISONERS AND THEIR ABBUSE"- A Critical Study". Even though different kinds of Prisoners are confined in Prisons, the occupancy rate of Remand / Under-trials and Convicted.

Prisoners is the highest. Under this circumstance, it is considered that it will be more appropriate to analyze their rights alone in the proposed study. Hence, the researcher has concentrated in analyzing the rights of prisoners in prisons Remand / Under-trials and Convicted Prisoners

## OBJECTIVES OF THE STUDY

1. To analyze whether the Constitutional rights of an ordinary citizen which are extended to the prisoners are full- fledged in all aspects, except those that are to be necessarily denied because of the condition of imprisonment.
2. To analyze the necessity of incorporating the rights guaranteed to ordinary citizens under the Constitution which are extended to the prisoners, in the existing relevant statutes, laws, rules, and regulations regarding the management of prisons and treatment and supervision of prisoners.

3. To analyze whether there is any gap between the theory and practice in implementing the Rights of Prisoners in the day-to-day administration of Prisons.
4. To analyze whether it is considered as a mercy or reluctance or denial on the part of the prison authorities in extending the rights to the prisoners.
5. To analyze whether there is sufficient funds in establishing the rights of prisoners in prisons in such matters where the financial commitment arises.
6. To suggest measures and recommendation for the better implementation of the rights of prisoner.

## **HYPOTHESIS**

Taking into account, the above said objectives, the following hypothesis is formulated:

The emergence of Prisoners Rights in India is an offshoot of the Judicial Activism / pronouncement / Judgement by extending the Constitutional Rights multi dimensionally. So, many Prison Reforms Commissions and Human Rights Commissions reiterated the Judiciary's pronouncements on the Prisoners' Rights. Even then, it is considered that there is lacuna in its actual implementation. In order to test the above said hypotheses, the following points are raised and analyzed in detail in the proposed study:

- The spirit of the Judiciary in establishing the Rights of the Prisoners is taken up in the right sense and full vigour and followed in Prison management and treatment of Prisoners.
- The attempts are made to seek amendment in the existing statutes, Manuals and other Laws connected with Prison Administration in order to shower the rights mandatorily.
- The steps have been taken by the Prison Authorities to make the Prisoners aware of their rights and duties.
- The attitude of the Prison Authorities towards the implementation of the rights of Prisoners in Prisons is conducive and humane.
- . The assistance extended by the Centre to the State Governments to improve the Prison atmosphere and living condition of prisoners in Prisons with an ultimate aim of protecting the dignity of prisoners as a human beings is sufficient and properly utilized and that whether improvement is achieved as desired.

## RESEARCH METHODOLOGY

The study is a doctrinal research based on Primary and Secondary sources employing the Historical Method, Comparative Method, Statistical and Analytical Method.

## CONCLUSION:

Life is not merely animal existence. The souls behind the bars cannot be denied the same. 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 he a convict, does not cease to be a human being. They also have all the rights which a free man has but under some restrictions. Just being in prison doesn't deprive them from their fundamental rights. Even when lodged in the jail, he continues to enjoy all his Fundamental Rights. On being convicted of crime and deprived of their liberty in accordance with the procedure established by law, prisoners still retain the residue of constitutional rights.

Supreme Court has gone a long way fighting for their rights. However the fact remains that it is the police and the prison authorities who need to be trained and oriented so that they take prisoner's rights seriously.

Thus we see that there is no doubt that it is the democratic legitimacy which characterizes our era. Liberty and freedom are the elements of prisoner's human right and democracy. In so far as developing countries are concerned it has to be observed that must believe in democracy and human rights of prisoners.

## SOURCES USED

- The Statutes, Laws and Rules relating to the Prison Administration and treatment of Prisoners like:
- Constitution of India
- Indian Penal Code
- Criminal Procedure Code
- Evidence Act
- Prisons Act Prisoners Act
- Immoral Traffic (Prevention) Act
- Borstal Schools Act

- Juvenile Justice Act
- Probation of Offenders Act
- Model Prison Manual (Central)

