



A HEALTHY-PRISON WITH HEALTHY PRISONERS

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Health is a complete state of physical, mental and social stability and it is not only confined to absence of disease but also peace in mind. It is a dynamic condition which is a result of adaptation and adjustment according to the environment. Every individual has a right to stay healthy irrespective of his caste, gender, race etc. A good health is important to maintain for every individual for fulfilling their duties in minimal cost and earn maximum. A good health helps the student to study hard and perform well in the examination likewise the good health of the farmer is also important for getting the better cultivation. A wise man said that a sound mind only exist in a sound body.

An average person needs around 2400 calories in a day to maintain them but it is difficult for a poor person to attain that much of calories like that of a prisoner. Prisoners are the sufferers of ill health. Prisoners tend to have worst social, physical, mental health conditions in prison due to their lifestyles. Most of the prisoners don't have any medical contact before entering in to the prison and due to lack of this they start in taking of drugs etc.

Prisoners are also human beings like others and they have also the same rights regarding

their health even behind the bars. They do not lose their basic constitutional rights and these rights are provided to them by the Constitution Of India and The Prisoners Act 1894. In the case of **State of A.P. v. Challa Ramkrishna Reddy**¹, the Supreme Court held that being a prisoner does not ceases him to be a human being. He must not be deprived of his liberty and he shall enjoy the fundamental rights provided to every individual by the Constitution of India.

Are Articles 14, 19, 21 of Constitution Of India available to prisoners?

Article 14, 19, 21 of The Constitution of India are available to every individual whether in prison or not. Bar of the prison does not bind the constitutional as well as the fundamental rights of prisoners.

Article 14 of The Indian Constitution provides that every individual is equal in eyes of law and there shall be equal protection of law. Equal protection of law is a more positive concept implying equality of treatment in equal circumstances¹. The rule is that the like should be treated alike. This article is very useful guide and helps in determining the various categories of prisoners and their classifications with the object of reformation¹ and the classification must not be arbitrary, artificial or evasive.

Article 19 of The Indian Constitution guarantees to the citizens of India six fundamental freedoms like freedom of speech and expression, assembly, form associations, movement, reside and settle, profession trade etc. Amongst all these fundamental freedoms certain freedoms are provided to prisoners because of their nature. Article 19(1)(a) Freedom of speech



and expression and Article 19(1)(b) Freedom of assembly are available to the prisoners. Freedom of speech and expression means that every individual whether a freeman or a prisoner has a right to express his/her opinions by writing, printing, mouth or by any other source. In **M. Hasan v. Government of A.P.**,¹ the jail authorities refused the journalists to interview the prisoners and the court held that this denial leads to the violation of Freedom of speech and expression under Article (19)(a). It further added that every prisoner has a right to communicate or express their ideas and views but some reasonable restrictions should be applied upon them. If the prisoners are finding any health issue then they have a right to speak up in this regard, to raise their voice against their malnutrition. Freedom of Assembly guarantees to all citizens of India right to assemble peaceably and without arms and some reasonable restrictions can be imposed under Clause 3 of Article 19.

Article 21 of the Constitution describes that the personal liberty of every individual cannot be curtailed except in some cases which are established by law. It includes Right to Livelihood which means every person has a right to live his life in a way he wants. Right to health and medical assistance is included under Article 21 of the Constitution. Right to health i.e., right to live in a clean, hygienic and safe environment. Clean surroundings leads to a healthy body and a healthy mind. Prisoners are entitled to get the clean and prosperous environment in prison and a proper time to sleep. Right to die is not enshrined in Article 21. By Article 21 of the Indian Constitution it is clear that it is available not only for free

people but also to those people who are behind the prison. Following are the rights of prisoners which are provided under the Article 21 of the Constitution of India:-

- (1) Right of inmates of protective homes,
- (2) Right to free legal aid,¹
- (3) Right to speedy and fair trial,
- (4) Right against cruel and unusual punishment,
- (5) Right against custodial violence and death in police lock-ups or encounters,¹
- (6) Right to live with human dignity,¹

Prisoners Rights under The Prisons Act 1894

(1) Sanitary administration of prison – Prisoners has the right to get good sanitary conditions in the prison with a proper accommodation. Under Section 13 of the Prisons Act 1894, the medical officer must take the charge of the welfare of the prisoners and to report to superintendents in case of any problem.

(2) Separation of Prisoners – Prisoners should be kept separately. Male prisoners should be separated from female prisoners, civil and criminal prisoners should be kept separately like that of convicted and under trial prisoners under Section 27 of the Prisons Act 1894. Separation of different types of prisoners is necessary to provide them with safe custody and with security.

(3) Safe custody and shelter to prisoners – A proper and a suitable place is to be provided to the prisoners for their safe



custody. A reasonable care should be taken off for the prisoners.

(4) Time to time medical check-up – Prisoners are entitled to get a regular medical health check up so that they can be protected from the curable or incurable diseases. In every prison a medical officer is appointed to take care of the health of the prisoners and has the duty to submit the medical report of every prisoner to the superintendent.

(5) Remuneration – If a prisoner is providing any services behind the prison then he is entitled to get the reasonable wages and these reasonable wages should not be less than the minimum wages described by the state. There should not be any inequality of wages between the prisoners and the freeman in the society.

(6) Protection from torture – Prisoners has a right to be protected from torture by the police officer whether a male or female, sound mind or unsound mind, convicted or under trial prisoners. Section 25 and 26 of The Indian Evidence Act protects the arrested persons from any cruelty, torture etc. by the police officer.

(7) Right to get health-related education – If the prisoners are provided with a good health related education then it will be helpful to maintain a good environment in the prison. Improvement in prison health is required for the success of public health policies.

(8) Right of arrested persons to consult an advocate – Every prisoner irrespective of his caste, colour, gender has certain rights and these rights are expanding day by day. The

rights are not only confined to save prisoners from physical torture and maintaining good health but it also includes the right to consult an advocate to prevent them from mental torture.

Section 54 of Criminal Procedure Code 1973 states that the arrested person has a right to be examined by a medical officer and in absence of medical officer by a registered medical practitioner. It was held in D.J Vaghela v. Kantibhai Jethabhai,¹ that the arrested person must be informed that on getting tortured under police custody he has a right to be examined by the medical officer.

Duties of a Medical Officer regarding prisoners in The Prisons Act 1894

(a) Medical officer has a duty to maintain a good sanitary system in the prison and to check the health of the prisoners on the regular basis. (Section 13)

(b) If the mental health of the prisoners is affected by the treatment provided to them, then the medical officer should inform the same to the superintendent with observations. (Section 14)

(c) On the death of the prisoners, the medical officer has to maintain a report with certain particulars like the day and date of the death, the nature of disease, the labour engaged on that day etc. (Section 15)

(d) The names of the prisoners who are out of health or who desire to meet the medical subordinate are to be submitted to the jailor by the medical officer. (Section 37)

(e) The record of directions of medical officer should be maintained. (Section 38)



(f) If the prisoner is unfit to undergo any punishment, then the medical officer can record this in writing and he should state whether the prisoner is unfit or not and the prisoner will not be liable for any punishment under that state. (Section 50)

A vision to promote health care in the prisons

It is the duty of the medical officer or other authorities to take care the prisoners as they are also human beings and it should be kept in mind that the prisoners are not behind the bars, as punishment but, for punishment.

Prisoners are in a poor condition and are not physically, mentally, socially fit. So there must be the promotion of the healthcare issues in the prison so that the prisoners can prevent themselves from the curable or incurable diseases. There shall be an increase in the quality and the quantity of services offered to prisoners. They should not be treated as a burden because they are there to reform themselves. A specified policy framework should be maintained to be adhered to. The needs of the prisoners should be kept in mind and not all needs but certain basic needs must be fulfilled.

Education is the most important and essential element in transforming a person so that's why education should be provided to prisoners so that they can distinguish between right and wrong and it would be helpful to them. Awareness programs can be made to teach them about their health etc. The staff members i.e., jailor, superintendent, medical officer and others must take a step in promoting the health care issues. Prisoners who are unfit should be given support for more physical activity and

a proper diet to make them fit. Counselling of the prisoners can be done for the betterment of them because no one is bad, the bad is only their work in which they indulged themselves. State government shall provide training like carpentry, cooking, gardening, tailoring etc. and workshops and seminars shall be conducted for reformation of the prisoners and for educating them.

Article 3 of the Human Rights Act 1998 protects the prisoners from torture, degrading treatment of the prisoners and inhuman behaviour and it is of very much importance. A treatment is considered as degrading when it causes physical, mental trauma. Degrading treatment, inhuman behaviour not only means an act of cruelty or misbehave but it also includes the omission of work like bad condition of premises of prison, poor medical facility etc. In Kudla v. Poland (2000), the person was charged with fraud or forgery charges and a psychiatric assessment was given to him due to which he undergone on a hunger strike and experience depression, the court held that the psychiatric assessment was reasonable and there is no violation of Article 3 of The Human Rights Act 1998.

The Prisons (Amendment) Bill, 2016

The provisions of The Prisons Act 1894 are very old and they are in need to be amended for the management of prisons in the present context. It is necessary to ensure humanitarianism, to ensure good health and a hygienic environment in the prison, to educate prisoners etc. So there are certain sections which are amended and some of these are related to hygiene and health care of prisoners. In Section 29, it is inserted that



the separate cell which is used for the isolation of a prisoner as a punishment must be maintained with proper care, hygiene, air and light.

Section 39A is added which puts a duty on the authorities of the prison to maintain hygiene in the prison and the authorities should employ the prisoners for maintaining the hygiene in the prison and in the absence of the prisoners temporary workers should be appointed for the same.

Section 58A is added which imposes a duty on the superintendent of prison or other authorities to inspect the premises of the prison and to submit a report on the same to the State government. Section 58B is added so that the authorities can make a check that no prisoners in the prison indulge in a fight with each other.

Supreme Court issues landmark guidelines on Prison Reforms

The bench said that the prisoners are also human beings and they have a right to be treated with dignity. In each district a Under Trial Review Committee is formed. The bench issued the following guidelines:

(a) Appropriate steps will be taken by the committee to release the prisoners who had completed their punishment or who are entitled to get release by the remission granted to them.

(b) There will be the implementation of Probation Offenders Act 1958 for giving chance to first time prisoners for reformation and to release the under trial prisoners at its earliest.

(c) Every person has a right to consult an advocate (Right to legal Aid) and an adequate number of lawyers are to be enrolled for under trial prisoners, poor etc.

(d) The Director General of Police or police in-charge of prisons should ensure the fully utilisation of funds for providing better living conditions to the prisoners.

(e) There will be a Management Information System in every prison for the effective management of prisons.

(f) The Ministry of Home Affairs will conduct an annual review of the implementation of the Model Prison Manual 2016 for which considerable efforts have been made not only by senior officers of the Ministry of Home Affairs but also persons from civil society. The Model Prison Manual 2016 should not be reduced to yet another document that might be reviewed only decades later, if at all. The annual review will also take into consideration the need, if any, of making changes therein.¹

(g) The Under trial Review Committee will make a regular visits in the jail to look after the living conditions of prisoners.

(h) The bench also suggested Ministry of Women and Child Development to look after the living conditions of children and women.

Conclusion

It can be noted that the prisoners are also entitled to enjoy the fundamental rights. Being a prisoner does not ceases their fundamental rights and these rights are available to them by the Constitution of India under article 14, 19, 21. There are



certain more provisions available to prisoners under The Prisons Act, 1894 which helps them in providing a good and a hygienic environment to live with a proper diet. Prisoners are also a legal person, a natural person and being a prisoner does not make them a non- person. Prisoners should receive healthcare equally like that of a general public. Prisoners should be provided with education or some kind of skilful training so that after release he can get opportunity to be employed, and in perfect sense this will be called the rehabilitation of inmates. The system of open prison is more effective for reformation a prisoner and a closed prison is suitable for the hardcore criminal. Certain healthcare standards should be maintained inside the prison to improve the public health. If a person commits a crime it does not mean he ceases to be human being. Prisons are only for reformation of a person and this reformation purpose fails when the fundamental rights are not provided to the prisoners. So we as a citizen of India must take steps to curb this problem and to ensure that there is no violation of fundamental rights and a good environment so that they can live with dignity, because, they are humans too.

