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## **A SOCIO-LEGAL STUDY OF PRISON SYSTEM AND ITS REFORMS IN INDIA**

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### **ABSTRACT**

India is the world's largest democracy in more than name. It has free elections, a multi-party parliamentary system, a diverse and outspoken free press, an independent judiciary and the country abounds with the non-governmental organizations that take pride in their independence and that helps to make up a lively civil society. Yet if the checks and balances of democracy are supposed to curb the government lawlessness, something has gone wrong in our country. At least, it seems from an examination that has been recently conducted on imprisonment and police detention in our country. In some major cities of the country that we visited, and probably elsewhere as well, anyone unlucky enough to be arrested faces a far greater likelihood of torture, or worse, at the hands of the police than in many of the countries entirely lacking in the protections for civil liberties available in India. Though we had some inkling in advance that we would find extensive police abuse of the detainees, we were not prepared for what we discovered about the prisons and jails to which detainees are sent after the police are done with them. They would be bad, if only because the life is hard for the most of the Indians outside the prisons. It stands to a reason, therefore, if incarceration is meant to punish then life inside the prisons should be worse. What took us by surprise, however, is the manner in which it is worse for the great majorities of prisoners and, more surprising, the fact that the imprisonment is somewhat less harsh than we had expected for some prisoners. Though prisons are supposed to be leveling institutions in which the variables that affect the conditions of confinement which are expected to be the criminal records of their prisoners and their behaviour in prison, other factors are there that may play a part in many countries.

**KEYWORDS:** incarceration, convicted, overcrowding, whipping, flogging, prison



## INTRODUCTION

The need for a systematic prison system and recognition of certain rights of prisoners come into focus during the last few decades. The Supreme Court and the High Courts have commented upon the deplorable conditions prevailing inside the prisons, resulting in violation of prisoner's rights. The problem of prison administration has been examined by numerous expert bodies set up by the Government of India. The most comprehensive examination was done by the All India Jail Reforms Committee of 1980-83, popularly known as the Mulla Committee. The National and State Human Rights Commission have also, in their annual reports, drawn attention to the appalling conditions in the prisons and urged governments to introduce reforms. Prisoner's rights have become an important item in the agenda for prison reforms. This is due essentially to the recognition of two important principles. *Firstly*, the prisoner "is no longer regarded as an object, a ward, or a 'slave of the state', who the law would leave at the prison entrance and who would condemn to 'civil death'. It is increasingly been recognized that a citizen does not cease to be citizen just because he has become a prisoner. The Supreme Court has made it clear in many judgments that except for the fact that the compulsion to live in a prison entails by its own force the deprivation of certain rights, like the right to move freely or to practice a profession of one's choice, a prisoner is otherwise entitled to the basic freedoms guarantee by the Constitution. *Secondly*, the convicted go to the prisons as punishment and not for punishment.<sup>1</sup> Post independence era witnessed formation of Model Jail Rules, enhanced vocational training, scope of jail visit, periodic supervision and introduction of wage system. On the whole, attempt to modify the prison culture by shifting from cruelty to humanism was clear. Change in the approach relating to objectives of punishment had also impact upon the method of treating the prisoners. Looking to the jails as social hospitals, criminals as patients, and punishments as process of purification and rehabilitation had also distinct impact upon prison reform mission. However, it is human right activism by the judiciary that gave a great spur to the cause of prison justice during the late

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<sup>1</sup> C.S. Chakravarthy, *Prisoners and Human Rights in India- An Analytical Study*, Indian Socio- Legal Journal, 41 (2015).



1970s and 1980s.<sup>2</sup> The government has set up working groups, committees and commissions to investigate the issue and offer solutions. The more important among them were the Justice Mulla Committee Report on Prison Reforms (1982-83) and the Justice Krishna Iyer Committee on Women Prisoners (1986-87). These reports have, by far, given the most comprehensive accounts of what ails our prisons, and suggested a slew of measures. The Draft National Policy on Prison Reforms and Correctional Administration, 2007, prepared by the Bureau of Police Research and Development (BPR&D) is also an important document on the topic.<sup>3</sup> All India Committee on Jail Reforms headed by Justice A.N. Mulla (1980-83) has studied the issue of prison reform in great detail.

### **PRISON AS PUNISHMENT**

Right from the beginning of the civilization, criminal law occupies a prime place among the agencies of social control and is regarded as a formidable weapon that society has forged to shield itself against anti-social behaviour.<sup>4</sup> The oldest penal institution in India is actually the 'Jail' which is also commonly called 'Prison' in many countries. Prisons, as a formal agency of control, have a unique role especially in a democratic society. As a vital agency of criminal justice administration they perform the twin role of incarcerating the convicts as well as providing custodial care for the under trials and detained. Thus contrary to common belief prison come into picture not only after trial and conviction but also right from the stage of investigation and the commitment of the accused of judicial remand or in the course of preventive detention. Such overbearing roles of prisons become almost a routine in cases of poor, ignorant and helpless accused that are not in a position to secure release on bail. They remain under trial for long periods and are subjected to varied forms of discrimination within prisons.<sup>5</sup>

Imprisonment as a mode of punishment started in the 16<sup>th</sup> century, but spread widely as the main punishment for crime only in the 19<sup>th</sup> century. By the end of the 20<sup>th</sup>

<sup>2</sup> P. ISHWARA BHATT, LAW AND SOCIAL TRANSFORMATION, 836 (1<sup>st</sup> ed., 2009).

<sup>3</sup> Vijay Raghwan, *Prison Reforms and Some Fundamentals*, THE HINDU, Sept, 26, 2008, at 10.

<sup>4</sup> K. JAISHANKAR, INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE, 327 (1<sup>st</sup> ed., 2009).

<sup>5</sup> K. JAISHANKAR, INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE, 327 (1<sup>st</sup> ed., 2009).



century imprisonment was part of the penal code of every country and those countries too small to maintain a prison system sent their prisoners to neighbouring states for incarceration. The process of replacing physical punishments with imprisonment continues even today as more countries remove the death penalty from their statute books and substitute life imprisonment as the punishment for the most serious crimes.<sup>6</sup>

**Basis Principles for the Treatment of Prisoners: Adopted and Proclaimed by General Assembly Resolution 45/111 of 14<sup>th</sup> December, 1990**

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.
2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.
4. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisons belong, whenever local conditions so require.
5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the optional protocol thereto, as well as such other rights as are set out in other United Nations Covenants.
6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.
7. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the

<sup>6</sup> P. ISHWARA BHATT, LAW AND SOCIAL TRANSFORMATION, 836 (1<sup>st</sup> ed., 2009).



country's labour market and permit them to contribute to their own financial support and to that of their families.

8. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.
9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.
10. With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoners into society under the best possible conditions.<sup>7</sup>

### **HUMAN RIGHTS AND CRIMINAL JUSTICE SYSTEM IN INDIA**

When one speaks of the criminal justice system one may need to look at the Covenant on Civil and Political Rights. Fortunately for us in India, the Universal Declaration of Human Rights was made in the context of history when our Constitution was being drafted and discussed. Most of its basic principles have therefore crept into the Constitution. If one looks into our Constitution the provisions in the Covenant on Civil and Political Rights are seen reflected in Part III (Fundamental Rights) of the Constitution and the Covenant on Economic, Social and Cultural Rights are reflected in Part IV (Directive Principles of State Policy).<sup>8</sup> The provisions in the Indian Penal Code, 1860 (IPC) and the Criminal Procedure Code, 1898 (old CrPC) are actually pre- Covenant. Still they reflect the basic principles of English Jurisprudence- fundamental principles of the common law, principles of legality, presumption of innocence, trial by independent tribunal, fair trial, principles against double jeopardy, etc. are seen incorporated in our status. From time to time our law has been undergoing changes initiated either by the legislature or by courts

<sup>7</sup> C.S. Chakravarthy, *Prisoners and Human Rights in India- An Analytical Study*, Indian Socio- Legal Journal, 32 (2015).

<sup>8</sup> K.I. VIBHUT, *CRIMINAL JUSTICE A HUMAN RIGHTS PERSPECTIVE OF THE CRIMINAL JUSTICE PROCESS*, 99 (1<sup>st</sup> ed., 2004).



and incorporation and engraftment of various requirements in the process of interpretation.<sup>9</sup>

The protection of human rights through the criminal justice delivery system is an indispensable feature of any system governed by the rule of law. The protection of human rights have been acknowledged to varying extents across time, but since the Second World War, the universality of human rights has been recognized by the United Nations as inherent in the very nature of human beings – a reflection of their common humanity. Criminal law has always been a great source for the enlargement of human rights. In other words, many of our existing fundamental and inalienable rights, if studied carefully, would have their origins in situations and cases relating to criminal jurisprudence. Basic human rights, such as the presumption of innocence, the right to silence of the accused and the burden of proof of the prosecution are also the pillars on which a just criminal justice system stands. To this end, Lord Steyn states that,

“The basic premise is that in a democratic society government exists in order to protect and promote the interests of the people. To achieve this goal, the actions of government and its agencies must be constrained by law and citizens must be given enforceable and effective legal rights against the state. In the context of human rights this is the core meaning of the rule of law. In countries where this premise is accepted, human rights law has scope for developing. In countries where this premise is not accepted, human rights law must struggle on infertile ground.”<sup>10</sup>

## **PROBLEMS OF PRISONERS**

The Apex court and the High Courts have commented upon the deplorable conditions prevailing inside the prisons, resulting in violation of prisoner’s rights. The problem of prison administration has been examined by numerous expert bodies set up by the Government of India.<sup>11</sup> The Indian prison system, just like the other agencies of

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<sup>9</sup> K. JAISHANKAR, INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE, 100 (1<sup>st</sup> ed., 2009).

<sup>10</sup> Human Rights vis-à-vis Criminal Justice System, Justice J.K.Mathur Memorial Trust, (June 2, 2017), <http://jkmtrust.tripod.com/id5.html>

<sup>11</sup> C. S. Chakravarthy, *Prisoners and Human Rights in India- An Analytical Study*, Indian Socio- Legal Journal, 31, (2015).



the criminal justice administration, can be described to exist perpetually in a state of crisis. The reasons for such a state of affairs are:

*First*, antiquated and over- worked nature of prison institution;

*Secondly*, lack of proper training, skills and motivation of prison staff;

*Thirdly*, policy- level ideological conflicts brought about by the modern ideas of prisoners rights and egalitarianism; and

*Fourthly*, internationalisation of the prison system.<sup>12</sup>

Some of the notable problems of Indian prison system are:-

- a. **Overcrowding:** Overcrowding and large number of under trial prisoners are two nagging problems in our prisons. According to National Crime Records Bureau (NCRB) records, in 2013, the total number of prisoners was 4, 11, 992, of which a startling 2, 78,503 were under trial prisoners. Delay in providing justice, inadequate court infrastructure, and inaccessibility of a large number of prisoners to legal help accentuate the insensitivity of authorities and law enforcing agencies towards prisoners.<sup>13</sup> The main reason for prison overcrowding is that over seventy- sic percent inmates are under trials. The reality of overcrowding may be cause for many other prison problems such as greater risk of disease, higher noise levels, denial of conservancy facilities, difficulties in surveillance, consequent danger levels, etc.<sup>14</sup> The Supreme Court said on the problem of overcrowding “There is no doubt that the same does effect the health of prisoners....The same also very adversely affects hygiene conditions....There is yet another baneful effect of overcrowding. The same is that it does not permit the segregation among convicts. Those punished for serious offences and for minor. The result may be that hardened criminals spread their influence over others.....the problem of overcrowding is required to be tackled in right earnest for a better future.”<sup>15</sup> Tihar Central Jail is

<sup>12</sup> K. JAISHANKAR, INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE, 328 (1<sup>st</sup> ed., 2009).

<sup>13</sup> V. Kumar, *Don't Prisoners have Rights?*, The Hindu, March 22, 2015 at 12.

<sup>14</sup> K. JAISHANKAR, INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE, 332 (1<sup>st</sup> ed., 2009).

<sup>15</sup> Rama Murthy v State of Karnataka AIR 1997 SC 1739.



overcrowded with about 14,000 inmates lodged in its nine jails and district jail against their total capacity of 6,500. The under trial prisoners charged with petty crimes and languishing in jails for over six months due to delay in trial should be released.<sup>16</sup>

b. **Prison Backlog:** The Supreme Court's study of prison backlog shows that over two lakh pending trials across the country are more than five years old and 40,000 are over 10 years old. In the Supreme Court itself, 65,000 cases were found pending in end-2014. These numbers are a clear indication of the failure of the system to deliver justice. Last June, hearing a 24-year-old petition filed by D.K. Basu on prisoners' rights, Justice T.S. Thakur expressed anguish at the loss of human rights and liberty suffered by an undertrial prisoner. "No civilised country should torture its citizens", observed Justice Thankur. "The true character of a democracy is adherence to the due process of law." In January 2014, the then Law Minister Ravi Shankar Prasad announced that a directive would be sent to all States to release, on personal bond, undertrials who have completed 50 percent of the jail sentence they might have received if convicted. In September, 2014 the Supreme Court mobilised judicial officers across the country to visit every prison in their district over the next two months to identify and release such undertrials.<sup>17</sup> In its recent judgment the Supreme Court of India said, "Mercy jurisprudence is a part of the evolving standard of decency which is the hallmark of society".<sup>18</sup>

c. **Inadequate provisions for basic needs:** Absence of free choice about access to medicine and health care service, and exposure to the atmosphere of jail in addition to the loss of liberty is the ordinary hazards of prison life. But the hazard is more serious when the conditions in the jail are unsanitary and when prompt and appropriate treatment is not accorded to the inmates.<sup>19</sup> The

<sup>16</sup> Special Correspondent, *Free Under trials as Tihar Jail is overcrowded*, The HINDU, July 10, 2015, at 3.

<sup>17</sup> Krishandas Rajagopal, *When the Process becomes the Punishment*, The Hindu, Mar., 22, 2015, at 12.

<sup>18</sup> *Shatrughan Chauhan v Union of India*, (2014) 3 SCC 1

<sup>19</sup> K. JAISHANKAR, *INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE*, 841 (1<sup>st</sup> ed., 2009).





facts of *Veena Sethi* show gross violation of human rights because of continued detention of prisoners on ground of insanity for several years after medical dereliction of their sanity.<sup>20</sup> Overcrowding in Indian prisons is seen as the root problem that gives birth to number of other problems relating to health care, food, clothing and poor living conditions.

- d. **Torture and Ill- treatment:** As a custodial institution prisons have a basic responsibility for protecting the inmates from being subjected to any harm or suffering. But in actual practice the absolute dependence and powerlessness of the inmate makes him an ideal target for torture, ill-treatment and repression. Prison torture and repression emanates from three distinct sources, namely
- (i) Prison officials who recognise torture and repression as the best means of control, if not the most satisfying form of sadism,
  - (ii) 'convict officers' who are pressed, into prison services mostly on account of their past repressive experience and
  - (iii) 'Prison mafia' which is making its presence felt in most of the prisons as an extra- legal source of control.<sup>21</sup>

## CLASSIFICATION OF PRISONERS

Prisoners in Indian jails are classified into different classes not on the basis of their criminal record but according to their social, economic and educational background. This, in fact is a legacy of our colonial past which have not shed. A committee chaired by Justice Santosh Duggal was appointed on the orders of the Supreme Court in a civil writ petition in which the existing system of classification was challenged. The Committee, in its report, mentioned that the existing system of classification, based on criteria, like social status, education, habit, mode of living etc. was repugnant to the concept of equality propounded by Article 14 of the Constitution and should be abolished. The broad criteria for segregation of prisoners, according to the Committee, should include convicts, undertrials, age, nature of crime, previous history (whether habitual or casual), prison term, kind of sentences,

<sup>20</sup> *Veena Sethi v State of Bihar* (1982) 2 SCC 583.

<sup>21</sup> K. JAISHANKAR, INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE, 330 (1<sup>st</sup> ed., 2009).



nationality, civil prisoners, detenués, security requirements, disciplinary or administrative requirements, correctional educational or medical needs.<sup>22</sup>

## **LEGISLATIONS DEALING WITH PRISONS**

Prisons in India, and their administration, are a state subject covered by item 4 under the State List in the Seventh Schedule of the Constitution of India. The management and administration of prisons falls exclusively in the domain of the State governments, and is governed by the Prisons Act, 1894 and the Prison manuals of the respective state governments. Thus, states have the primary role, responsibility and authority to change the current prison laws, rules and regulations. The Central Government provides assistance to the states to improve security in prisons, for the repair and renovation of old prisons, medical facilities, development of borstal schools, facilities to women offenders, vocational training, modernization of prison industries, training to prison personnel, and for the creation of high security enclosures.<sup>23</sup>

### **Legal Framework**

- Constitution of India, 1950
- Indian Penal Code, 1860
- Prison's Act, 1894
- Prisoner's Act, 1900
- Identification of Prisoner's Act, 1920
- Transfer of Prisoner's Act, 1950.
- Prisoner's (Attendance in Courts) Act, 1955
- Probation of Offenders Act, 1958
- Mental Health Act, 1987
- Protection of Human Rights Act, 1993
- Juvenile Justice (Care and Protection of Children) Act, 2000
- Model Prison Manual for Superintendence and Management of Prisons in India, 2003

<sup>22</sup> P. ISHWARA BHATT, LAW AND SOCIAL TRANSFORMATION, 836 (1<sup>st</sup> ed., 2009).

<sup>23</sup> Shaik Ali, *Prisons in India: An Overview*, Indian Journal of Applied Research (July, 15, 2017) [http://www.theglobaljournals.com/ijar/file.php?val=December 2014 1417447136\\_160.pdf#page=1&zoom=auto,0.764](http://www.theglobaljournals.com/ijar/file.php?val=December 2014 1417447136_160.pdf#page=1&zoom=auto,0.764)



- Repatriation of Prisoners Act, 2003
- Model Prison Manual, 2003<sup>24</sup>

### **Some Landmark Judgments on the rights of Prisoners**

- (1) The right to life of a person is more than mere animal existence, or vegetable subsistence. Therefore, the worth of the human person and dignity and divinity of every individual inform Articles 19 and 21 of the constitution even in a prison setting. There must be some correlation between deprivation of freedom and the legitimate functions of a correctional system.<sup>25</sup>
- (2) Strongly denouncing routine handcuffing of prisoners, the Supreme Court stated that to manacle a man is more than to mortify him; it is to dehumanize him; and therefore to violate his very personhood. Supreme Court directed that handcuffs are not be used unless absolutely necessary.<sup>26</sup>
- (3) Prisoners' rights shall be protected by the court by its writ jurisdiction and contempt power. Free legal services to the prisoners shall be promoted by professional organizations recognized by the court.<sup>27</sup>
- (4) A prison rule may regulate the right of a detainee to have interview with a legal adviser in a manner which is reasonable, fair and just. However, it cannot prescribe an arbitrary or unreasonable procedure for regulating such an interview as that would be violative of Articles 14 and 21 of the constitution.<sup>28</sup>
- (5) The Court considered two main aspects of the criminal justice delivery system in India, namely, service of a copy of the judgment to the prisoner in time to file an appeal and the provision of free legal services to a prisoner.<sup>29</sup>
- (6) Remarking on the undue delay in commencement of trials, the Court stated that speedy trial was the essence of criminal justice and thus delay in trial by

<sup>24</sup> P. ISHWARA BHATT, LAW AND SOCIAL TRANSFORMATION, 836 (1<sup>st</sup> ed., 2009).

<sup>25</sup> Charles Sobhraj v Superintendent, Central Jail, Tihar, New Delhi, AIR 1978 SC 1514.

<sup>26</sup> Prem Shankar Shukla v Delhi Administration, AIR 1980 SC 1535.

<sup>27</sup> Sunil Batra (II) v Delhi Administration, AIR 1980 SC 1579.

<sup>28</sup> Francis Mullin v Union Territory of Delhi and others, AIR 1981 SC 746a.

<sup>29</sup> MH Haskot v State of Maharashtra, (1978) 3 SSC 544.



itself constitutes denial of justice. A reasonably expeditious trial is an integral and essential part of the fundamental right to life and liberty.<sup>30</sup>

- (7) Expressing serious concern about the safety and security of women in police lock-up, the Supreme Court directed that a woman judge should be appointed to carry out surprise visits to police stations to see that all legal safeguards are being enforced. Female suspects must be kept in separate lock-ups under the supervision of female constables. Interrogation of females must be carried out in the presence of female police officers.<sup>31</sup>
- (8) The Apex Court issued guidelines to Central Government, State Governments and Union Territories regarding pregnant women prisoners and children of women prisoners recognizing their rights. A child shall not be treated as an under-trial/convict while in jail with his mother. Such a child is entitled to food, shelter, medical care, clothing, education and recreational facilities as a matter of right. The courts dealing with cases of women prisoners whose children are in prison with their mothers are directed to give priority to such cases and decide their cases expeditiously. The courts dealing with cases of women prisoners whose children are in prison with their mothers are directed to give priority to such cases and decide their cases expeditiously.<sup>32</sup>
- (9) Prisoner's right to sociability, although limited, has human right dimension. From a total segregation to a breathing atmosphere of social relations the development that occurred is worth noting. In *Rama Murthy, Hansaria J.*, observed, "While in jail, communication with outside world gets snapped with a result that the inmate does not know what is happening even to his near and dear ones. This causes additional trauma. A liberalized view relating to communication with kith and kin specially is desirable."<sup>33</sup>

## CONCLUSION

Reforms of prisons to meet the requirements of changed social perceptions about human rights and modernization is another point that establishes potentiality of

<sup>30</sup> Hussinara Khatoon v Home Secretary, Bihar, AIR 1979 SC 1360.

<sup>31</sup> Sheela Bharse v State of Maharashtra, AIR 1983 SC 378.

<sup>32</sup> RD Upadhyay v State of A.P. and ors, AIR 2006 SC 1946.S

<sup>33</sup> Rama Murthy v State of Karnataka (1997) 2 SCC 642



human rights jurisprudence in framing and implementing the social transformation agenda. It is with the refinement of civilization that finer ideas about prison reforms emerge. Some of the noble principles about humane treatment of prisoners, as reflected in the ancient Indian jurisprudence, can be looked into to know the ancient values in the subject. Kautliya prescribed that a *bandhanagara* (Jail) shall be constructed in the capital providing separate accommodation for men and women, and it should be well- guarded. Prisoners were to be employed in useful works like weaving and cultivation; and remission of sentences of imprisonment in special occasions or on consideration of good work, conducts and payment of fine was to be practiced.<sup>34</sup> After independence in the light of Constitutional norms and International Instruments reformatory philosophy has become part of prison administration and penal system. The purpose of prison is, as the American Convention on Human Rights says, the ‘reform and social readaptation’ of the prisoners. Prison should not be places of forced labour; they should not be holding centers or warehouses. They should be run in such a way that the human capacities of those held in them are recognized, capacities to learn, to improve, to help others, to grow in understanding. Prisons should also be places where justice reigns. The noted jurist, Lord Woolf, now Chief Justice of England, said that ‘the system of justice which has put a person in prison cannot end at the prison doors. It must accompany the prisoner into the prison.....’<sup>35</sup> The National Human Rights Commission (NHRC) has made some key recommendation for prison reform. These include replacing the 1894 Prison Act with a new one, amending prison manuals keeping human rights in mind, reducing overcrowding; one of the biggest problems in most prisons, shifting foreign nationals to detention centers from prisons after their sentence is completed, till they are deported to their respective countries.<sup>36</sup> In sum, there is a need for creating human rights ethos within the penal system making the prison system more transparent and accountable to the democratic values. Though the concept of human rights has been an integral part of our social

<sup>34</sup> K. JAISHANKAR, INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE, 835 (1<sup>st</sup> ed., 2009).

<sup>35</sup> K.I. VIBHUT, CRIMINAL JUSTICE A HUMAN RIGHTS PERSPECTIVE OF THE CRIMINAL JUSTICE PROCESS, 294 (1<sup>st</sup> ed., 2004).

<sup>36</sup> K. JAISHANKAR, INTERNATIONAL PERSPECTIVES ON CRIME AND JUSTICE, 332 (1<sup>st</sup> ed., 2009).



values, traditions and ethos, the contemporary changes in socio- cultural and economic life have made it imperative to have a fresh look at human rights. The institution of criminal justice and penal system has evolved not only to protect human rights of those endangered by anti social elements but also to restore the human dignity of those who have gone out of the prescribed social order. The Apex Court of our country has fully established that a person who violates law does not become non- person and he continue to be entitled to all human rights within the limitation of legal provisions.<sup>37</sup> This human right approach will definitely be helpful in prison reforms and to make inmates more civilized and productive for the society.

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<sup>37</sup> K.I. VIBHUT, CRIMINAL JUSTICE A HUMAN RIGHTS PERSPECTIVE OF THE CRIMINAL JUSTICE PROCESS, 150 (1<sup>st</sup> ed., 2004).