

Prisoners' Rights, Principle and Practice: A Study of the Central Jails in Manipur, India.

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Abstract:

Background: Although there are various provisions and safeguards in the Constitution of India along with various verdicts and decrees passed by the Supreme Court with regard to the human rights of the prisoners, according to certain reports and previous literature published by various scholars and human rights organisations as well as a study carried out by the researcher, there is evidence on mistreatment of prisoners and violation of their fundamental rights. It is thus of great importance to study the functioning, awareness and violation of Prisoners' Rights in the Central Jails of Manipur.

Objectives: The study aims to analyse the functioning and awareness of Prisoners' Rights in the Central Jails of Manipur. It also aims to analyse the type of violations that take place.

Materials and Methods: The paper is based on a study conducted on the two Central Jails of Manipur, namely Manipur Central Jail, Imphal and Manipur Central Jail, Sajiwa of which 160 respondents were interviewed. The data was collected using a structured close ended interview schedule and non-participatory observation method.

Results: The study revealed that out of the 160 offenders, 63 are convicts, 66 are Under Trial Prisoners (UTP)- Non Extremist, 18 are Under Trial prisoners- Extremist and 13 are NSA Detenues. The ratio of male and female respondents is 5:1. It also indicates that a large percentage i.e. 75.63% of the respondents is not aware of the rights available for them. However, 68.13% of the total respondents are aware of the existence of the Jail Manual, although they haven't really seen or gone through it. 59.4% of the total respondents are not aware of the rules to apply various leaves. 60.7% of the total respondents do not have access to furlough. 65.7% of the total respondents are not aware of the wage scales. A remarkable percentage i.e. 80% of the total respondents is aware of the rules of visitation and communication and also gets visitation while 20% do not get any visitation for various reason, ranging from financial constraints, distance and in some cases, no communication at all. With regards to awareness and availing of free Legal Aids Services, 33.2% of the total respondents are aware and availing the service whereas 66.9% are not availing the service (some of which were not aware of the existence of such service). 76.25% of the total respondents haven't been bailed or applied for it because of various reasons, mainly because of financial constraints and the expectation of speedy trial. 65.625% of the total respondents find the prison system reformatory while 34.375% find it retributive in nature. A few case studies reveal the various types of violations that take place.

Conclusion: The level of awareness of Prisoners' Rights and the various aspects of it is quite low amongst the respondents. There is evidence of various violations of the rights based on the analysis of a few case studies.

Key Words: Human Rights, Prisons, Prisoners, Prisoners' Rights, Awareness and Violations.

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I. INTRODUCTION

"In our world prisoners are still laboratories of torture, warehouses in which human commodities are sadistically kept and where spectrums of inmates range from driftwood juveniles to heroic dissenters." (Iyer, 1980, p.144)

No man was born a criminal nor was he taught to be cruel and inhumane as a child. The various elements, agents as well as certain circumstances that exist in the society lead to the creation of criminals in the society. Every human being is prone to making mistakes at some point of his or her life. If one were to look at crimes in a very simple manner, they are mistakes with grave consequences. This paper is however not an attempt to justify or glorify the crimes that were committed by various criminals. It is an attempt to put across a point that even the criminals that committed horrible crimes are at the end of the day, just human beings who made terrible mistakes and thus, are facing extremely grave consequences. Every human being is entitled to equal rights and a dignified life due to the very fact that he or she is born a 'human'. Liberty of an individual constitutes the backbone of living a dignified life. To deny this right is to paralyze an individual's spirit to live a

normal life. A prisoner, (also known as an inmate or detainee) is a person who is deprived of liberty against his or her will. This can be by confinement, captivity, or by forcible restraint.

According to Section I of the Prison Security Act 1992, the word "prisoner" means any person who is in the prison for the time being, as a result of any requirement imposed by a court or otherwise, that he or she be detained in legal custody. However, a person committing a crime or even facing imprisonment does not necessarily mean he or she ceases to be a human being and thus, can be mistreated or be deprived of a dignified life. Deprivation of liberty to the prisoners does not mean denouncement of all their fundamental rights. Any restrictions to these rights have to be justified as appropriate to the aims pursued by the restrictions. V.R. Krishna Iyer, in "Justice and Beyond" says, even prisoners have human rights because prison torture is not the last drug in the Justice Pharmacopoeia but a confession of failure to do justice to a living man. He argued that convicts are not by mere reason of the conviction denuded of all the fundamental rights which they otherwise possess. (Iyer, 1980, p.23) For a prisoner, all fundamental rights are an enforceable reality, though restricted by imprisonment.

Iyer (1980) said, "No man is born wicked, but he becomes so when society makes him sick. Society prepares the crime, the criminal commits it. Therefore, the cure for criminality is not to be sought in the genetic code of the delinquent or in treating him as a savage in the circus, to be ordered into desired behaviour by a whiplash. Nor is it right for some people to pretend, in an elitist self-righteous manner, that they are good, but the others, branded criminals by the legal system are irretrievable. If crime is a disease then the sentence must be hospitalization or out-patient perspective...Of course, society must strongly condemn crime through punishment, but brutal deterrence is fiendish folly... It frightens, never refines; it wounds, never heals. Progressive penology must gravitate towards the therapeutic processes which heal and humanize, restore and socialize, and reconcile criminal punishment with dignity of personhood." (p.75)

"Prison", as defined by various scholars, is not only a place for detention and punishment but also a centre for reformation and rehabilitation. However, it seems so that in the process of reforming the criminals, the custodians of the prisons are found to indulge in using torture and blackmail as a means to discipline the criminals. It somehow results in reflecting the rights as "privileges" rather than something that the prisoners are inherently entitled to.

The increasing awareness of the concept of human rights led to the realization that prisons are not isolated institutions, but a part of the society. Prisoners are human beings not "aliens", who are entitled to enjoy rights, no matter how restrictive they are. Also, with the changing concept of punishment in light of human rights, complete deprivation of human rights of the prisoners is quite unrealistic. Since the last few decades, there has been a shift from punishment to correction in the methods adopted to discipline the prisoners. Safeguarding of human rights of the prisoners, therefore, is required and thus, need to be focused and paid emphasis to. Accordingly, various democratic countries have taken initiatives to introduce reformatory measures to convert the criminals to law-abiding citizens. The US Supreme Court, by 1975, have whittled down the "hands-off" doctrine and sustained the indubitable proposition that constitutional rights did not desert convicts but dwindled in scope. (Gaur, 1989, p.75) Meanwhile, the Article I Code of Criminal Law of China is formulated in accordance with the policy of combining punishment with leniency in light of actual circumstances. Likewise, the Indian socio-legal system is based on non-violence, mutual respect and human dignity of the individual. Article 21 of the Constitution guarantees the right of "personal liberty" and thereby prohibits any inhuman, cruel or degrading treatment to any person whether he is a national or foreigner. Any violation of this attracts the provisions of Article 14 of the constitution which enshrines right to equality and equal protection of laws. The question of cruelty to prisoners is specifically dealt with by the Prisons Act, 1894. With reference to the case of Sunil Batra v. Delhi Administration, the Supreme Court observed:

"...Part III of the Constitution does not part company with the prisoner at the gates, judicial oversight protects the prisoner's shrunken fundamental rights, if flouted, frowned upon or frozen by the prison authorities."

Human Rights of the Prisoners' refer to the rights of the inmates while behind bars. Besides Article 21 i.e. "Right to a dignified life", the other rights provided for the prisoners in the Constitution of India are:

- Right to free legal aid
- Right to speedy trial
- Right to meet friends and consult lawyer
- Right to bail
- Right against solitary confinement, handcuffing and bar fetters and protection from torture
- Right to reasonable wages while in prison

Manipur is one of the states in the north-east India which has had a history of large-scale human rights violations due to the enactment of the Armed Forces Special Powers Act (AFSPA). It also has had a long struggle in fighting against the repression of women on various areas and standing up for gender equality. However, Manipur lags behind when it comes to the issue of acknowledging the importance of human rights of

prisoners. The scenario is such that most locals, prisoners and their families are in most cases not even aware of the extent or importance of all the rights the prisoners are entitled to, while behind bars. It is a belief amongst most communities that the prisoners deserve to be mistreated brutally or be punished "like they deserve", as they would put it. Based on a study conducted by the researcher in the Central Jails of Manipur as well as an analysis of various pre-existing news report, it is thus been made possible to find out the extent of violations of the rights of the prisoners as well as the level of awareness and functioning of the prisoners' rights in the Central Jails of Manipur.

Objectives:

1. To analyse the functioning and awareness of Prisoners' Rights in the Central Jails of Manipur.
2. To analyse the type of violations that take place.

II. METHODOLOGY

The study was carried out on the various categories of prisoners in the two Central Jails of Manipur, namely, Manipur Central Jail, Imphal and Manipur Central Jail, Sajiwa from August 2021 to September 2021. The study is based on a sample of 160 respondents using multi-stage sampling. Since, there are various categories of prisoners, Purposive Sampling was used to select the categories of prisoners to be interviewed. Under each category, Simple Random Sampling was utilized to select the prisoners. The methods adopted to collect data were a well-designed structured interview schedule and non-participatory observation method.

III. RESULTS AND DISCUSSIONS

Theoretically, there are many safeguards provided in the Constitution of India to ensure that the interests as well as the rights of the prisoners are protected. The ground reality however, is an entirely different story. There are various instances of violation of human rights of prisoners. More importantly, the status of prisoners falls under the vulnerable group. It is an extremely difficult task for the prisoners to get assimilated back into the society after serving their sentences in the prison for they are scorned at and pushed into the side-lines once they attain their freedom. Nobody actually wants to provide employment to a man or woman who has served in the prison, making it really difficult for them to live a dignified life. Furthermore, the lack of infrastructure and facilities to develop skills while in prison does not help with the matter. The prisons of the north-eastern India lag behind in terms of facilities as well as the spread of awareness of basic rights of the prisoners. In the scenario of Manipur regarding the implementation and functioning of the rights of the prisoners in the prisons, one of the major drawbacks lies in the fact that there is a high level of ignorance amongst the people. Most of the locals either do not know of the existence of such a right called the rights of the prisoners or if they do have the knowledge they do not understand the extent to which these rights could function.

The study made by the researcher was on 160 respondents of the two Manipur Central Jails, Imphal and Sajiwa. Out of the total respondents, 63 are convicts, 66 are Under Trial Prisoners (UTP)- Non Extremist, 18 are Under Trial prisoners- Extremist and 13 are NSA Detenues. The ratio of male and female respondents is 5:1. The evaluation and analysis has been made mainly on the following grounds-

1. Level of awareness of Prisoners' Rights
2. Awareness of the existence of a Jail Manual
3. Awareness of the rules to apply various leaves
4. Access to Furlough
5. Awareness of the wage scales
6. Visitation and Communication facilities
7. Awareness and availing of free Legal Aids Services
8. Awareness and accessibility of Bail
9. Opinion on the Prison System (Retributive or Reformative)

The findings are as follows-

A large percentage i.e. 75.63% of the respondents is not aware of the rights available for them. However, 68.13% of the total respondents are aware of the existence of the Jail Manual, although they haven't really seen or gone through it. 59.4% of the total respondents are not aware of the rules to apply various leaves. 60.7% of the total respondents do not have access to furlough. 65.7% of the total respondents are not aware of the wage scales. A remarkable percentage i.e. 80% of the total respondents is aware of the rules of visitation and communication and also gets visitation while 20% do not get any visitation for various reason, ranging from financial constraints, distance and in some cases, no communication at all. With regards to awareness and availing of free Legal Aids Services, 33.2% of the total respondents are aware and availing the service whereas 66.9% are not availing the service (some of which were not aware of the existence of such service). 76.25% of the total respondents haven't been bailed or applied for it because of various reasons, mainly because of

financial constraints and the expectation of speedy trial. 65.625% of the total respondents find the prison system reformative while 34.375% find it retributive in nature.

It is alarming that there are situations in which even the prisoners do not know about how extensive their rights are, nor are they aware of the channel through which they should approach in case of violations of their rights. Furthermore, the infrastructure of the prisons need attention (the infrastructure of one of the Central Jail is practically crumbling) and so far, there has been no initiative taken by the state government to work on the area. There have been certain efforts made by a few NGOs and activists to shed light on the violations of prisoners' rights, which however, were not paid much heed to by the concerned authorities such as the Manipur Human Rights Commission (MHRC) and the Government of Manipur.

The MHRC was practically not operational until 30th August 2018 due to the unavailability of eligible members and Chairman, owing to which there is no channel through which address of grievances is not entirely possible. The MHRC was revived after a gap of eight years since the last time it was functional. The recently revived MHRC, led by the acting chairman, Khaidem Mani visited the jails to inspect the jails and to interact with the inmates to hear their grievances. The inspection resulted in evidence that the jails were holding more inmates than the capacity (the capacity is 800, whereas the number of inmates has crossed 900) causing certain inconveniences. The reason for the inconvenience could be because there were too many under-trial prisoners, as the acting chairman said that there are few inmates who have been undergoing trial for three years. It points to the violation of the right to speedy trial. According to Khaidem Mani, some parts of the jail building are not in good condition and he would be submitting an official recommendation to the concerned authorities to repair the damages. There also are no records or reports on the role played by the state government, MHRC, NGOs and various human rights activists in ensuring that there are no violations of prisoners' rights in the prisons of Manipur.

An important observation made by the researcher while conducting the field study was how the undertrial prisoners were made to put up in the same prison where the convicts were, making it impossible to maintain the morale of the undertrial prisoners. Moreover, it made the prisons crowded, owing to which there was confusion amongst the authorities on how to rehabilitate all of the prisoners in the same manner.

Case Studies

Certain case studies conducted by the researcher highlight the instances where there seemed to be violation of the human rights of the prisoners

Case I

The respondent in this case is a convict at Sajiwa Central Jail, Imphal. He was a member of the Manipur Police Force. The reason for his life imprisonment was that he committed a cold-blooded murder of his superior under the influence of intoxicants. On enquired about any issues faced by the inmate, he narrated how he repents over the crime he committed and that he had already served thirty years as a model inmate. He further talked about how he had applied for a parole years ago and was not accepted by the Parole Board under the condition that they would re-evaluate his case and reformation a few years later. However, the Parole Board has not been coming together to discuss his case in spite of many requests put forward by the convict on the recommendation of the Warden on the grounds of good behaviour. Meanwhile, his lawyer had not been visiting him or informing him of the developments of the case.

In an attempt to get to the root of the case, the researcher visited the home of the prisoner. The prisoner's spouse, herself is also a member of the Manipur Security Force. Upon enquiring his wife about the lack of developments in his case, she responded that the case was forwarded to the Supreme Court by the High Court and that she could afford neither the case application fees nor the lawyer's. She mentioned how the absence of the prisoner no longer affect either her children or her anymore, as they have learnt to manage things on their own.

This case has enabled the researcher to understand the intricate workings as well as the complexities of the functioning of prison administration. While on one hand, it highlights how there seems to be a contradiction in the theory that prisons are meant to rehabilitate and reform prisoners. The case highlights how imprisonment is used as a form of punishment and to cause stress and strain in the lives of the prisoners. On the other hand, it also projects the lack of responsibility and reckless behaviour of the lawyer appointed. Lastly, it highlights the humanitarian perspective of how the families of the prisoners are affected and how they deal with the absence of the prisoners in their lives.

Case II

The respondent in this case is an inmate at the Imphal Central Jail. She was a housewife before she was imprisoned. The reason for her imprisonment was that she was caught smuggling a packet of drugs (which she apparently was unaware of, then). This case is unique as the prisoner was five months pregnant when she was

imprisoned. She narrated how one of her family members took advantage of her pregnant state and made her deliver the packet to an assigned location where she was frisked and thus, caught. Her term of imprisonment was for seven years.

On enquired if she faced any difficulties during her pregnancy, she narrated certain instances where she felt her rights were violated. One such instance was during her early days of imprisonment where it so happened that certain inmates had gotten into a fight and the warden in order to find out the reason, made all the inmates stand for three hours in the scorching heat. The respondent who was pregnant then was not excused from this punishment and was made to stand along with the rest of the inmates. Another instance was the lack of medical attention provided to her during her pregnancy. The doctors assigned to the prison arrived at their own convenience, the supplements and the medicines provided to the respondent was done so at the convenient timings of the jail authorities. Furthermore, she was not given regular medical check-ups. The last instance was after the delivery of her baby, where her baby was sent off from her only a few months after the birth. On enquired the reason for not keeping the baby longer, she responded that the jail authorities had advised her to do so and that she had no idea she could keep her baby with her for a longer period.

This case highlighted the various instances where the rights of this prisoner might have been violated on certain accounts. It also highlights the lack of awareness the prisoners have regarding their rights. Most importantly, it provides the lack of responsibility held by the jail authorities when it comes to situations as the one at hand.

Case III

This is just an observation made by the researcher during the visit. The information thereafter, was provided by the cell mates of a particular inmate at the Imphal Central Jail. Hence, a consideration should be made that the information was collected indirectly. While visiting the jail, the researcher observed that while all the other inmates were roaming around freely and performing other chores, one inmate was handcuffed to the bed in her cell. When asked the reason, the inmate failed to respond. The jailor then responded that she has not been disciplined and have been mischievous. On enquiring further to her cell mates, they revealed that the inmate in question had some psychological issues and that she reacts violently when the jail authorities ask or make her do something. She reacts in this manner especially during her menstruation or a few days prior. She had not however, reacted violently to her cell mates in the past. The cell mates further revealed that the jail authorities would then punish her by beating her or by handcuffing her to her bed.

The researcher aims to highlight that handcuffing a prisoner is against the right of a prisoner as provided by the Constitution of India. Furthermore, if in case the inmate really was psychologically unstable, why was she not providing medical attention and not kept in a separate cell? Prisons are meant for reformation and rehabilitation and but this case, it points to as a tool for punishment.

IV. CONCLUSION

Amongst all the sections of society, prisoners constitute the most vulnerable group who face massive violation of human rights. With the increasing importance of human rights across the globe, the importance of prisoners' rights has garnered attention. The study is significant to understand the legal-institutional framework of prisoners' rights and the implementation of the rights in the prisons of Manipur. It enables to analyse the intricate workings of the prisons as well as the functioning, awareness, implementation and violation of prisoners' rights in the central jails of Manipur. This paper highlights the various instances where the researcher felt that there were violations of the rights of the prisoners.

Certain recommendations made by the researcher are as follows-

Firstly, there should be functional sub-jails to hold the under-trial detainees, so as to avoid congestion of prisons. Secondly, the infrastructure of the Imphal Central Jail should be renovated and the facilities provided within be improved. The prisoners at Imphal Central Jail should be provided regular awareness camps on the various rights available for them. They should be furnished with the Jail Manual in the Prison library. The felons as well as UTPs at the Central Jails of Manipur included some of the most skilled craftsmen. They make extremely sturdy *morahs* of different sizes, bags and baskets made of plastics, decorative key rings in the shape of prawns from the threads of plastic sack bags- *khajing*, as they call it. They are resourceful if guided, groomed and given proper support. They should be also provided with wages on time so that they can use that money to do something. The state government of Manipur, as it is, need to do better with reforming the prisons to work as an actual correctional facility by upgrading the facilities, infrastructure, provision of books and skill developing courses, which they could use to earn their livelihood. They should also take up the responsibility to ensure a path for the prisoners to join back into the society and live a dignified life with confidence and without any discrimination. The local population should be made aware of the existence of the human rights of the prisoners and be sensitized on the matter at hand, which can be achieved only with transparency and an open mind. Most

importantly though, the term “Jails” need to be rectified to “Correctional Facility”. That would do away with most of the stigma attached to prisons and prisoners.

Afterall, prisons are centre for rehabilitation and reformation not just detention and punishment.

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