



Banned Physical Movements; Not Their Rights

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Vulnerable Rights, Prisoners, Supreme Court, Human Rights

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ABSTRACT

Prison refers 'reformatory' but we ask ourselves is it the term used to right form in our nation, but in US used 'Correction Department' to make them a prisoner to person basis on their rights. Human rights universally recognize the realization of rights by all sections of people without any favoritism. However, many a times, due to a number of adverse social, economic, cultural aspects, which play a vital role in the realization of the rights, the vulnerable and deprived groups are often not in a position to exercise their rights freely. In this paper is departing to study the rights of Prisoner's, it's very emerging to discussed that, who has eliminated from common rights due to immaterial approaches.

INTRODUCTION

Human right is common to everyone, but certain groups in the society often encounter prejudiced treatment and need to special attention of avoid potential utilization. This group consists as 'Vulnerable Groups'. These groups are disadvantaged as compared to others mainly on account of their reduced access to justice, medical services and the underlying determinants of health such as safe and other basic needs. Governments have failed to guarantee people's rights in the execution level. In that cause, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) have guaranteed the rights to sustainable livelihood, social, political and economic development for all especially those deprived, further the Government of India acceded to the ICESCR in 1979. Yet to be subject, many of us including politicians argue that prisoners don't have or should not be allowed to enjoy their human rights, prisoners are human being and as such they retain their rights even when in prison. This means that every person, including a prisoner, has human rights, no matter who he is, where s/he lives or his/her class, race, sex, age, social status, etc. Also, human rights are said to be inalienable. In addition, they have a right to discretion regarding their health. Prison officials may only disclose health information, including the results of an HIV test, with the informed consent of the prisoner. If officials know about the HIV status of a prisoner, they may only tell someone else if the prisoner has given them permission to do so. The World Health Organization (WHO) recommends that any kind of marking or coding of a prisoner's file or cell to indicate HIV status should be forbidden.

RIGHTS TO PRISONER'S

The ultimate aim of human rights is protection of those vulnerable to violations of their fundamental human rights. There are particular groups who, for various reasons, are weak and vulnerable or have traditionally been victims of violations and consequently require special protection for the equal and effective enjoyment of their human rights. Often human rights instruments set out additional guarantees for persons belonging to these groups; the Committee on Economic, Social and Cultural Rights, for example, has repeatedly stressed that the ICESCR is a vehicle for the protection of vulnerable groups within society, requiring states to extend special protective measures to them and ensure some degree of priority consideration, even in the face of severe resource constraints.

The prisoners have been sentenced lose some of their rights, such as freedom of movement, but they keep other rights. Even though the Namibian Constitution provides for the suspension or non-enjoyment of certain human rights in specific circumstances, these do not include time spent in prison. The enjoyment of certain human rights may only be suspended when Namibia Constitution is in a state of national defense or when a state of emergency has been declared in the country. However, certain rights cannot be suspended under any circumstances. These rights include to human dignity, right to life, equality and from favoritism and right to be tortured cruelly or inhumanely. This means that a prisoner retains his human dignity in all circumstances. His/her right to human dignity is inviolable in all circumstances irrespective of the type of crime he/she committed. This is so, because he remains a human being after all. In addition to the above, Namibian and international law relating to the prisoners, provides that a prisoner, have the rights of receive meals (from state and family), clothing, bedding, soap, medicine, to receive visitors, receive and write letters (subject to censorship) and if a prisoner is female to be kept separate from male prisoner. Be afforded adequate facilities for the preparation and presentation of his defense his legal representative must be given adequate facilities to privately interview him, where the prisoner is unable to communicate with his legal representative in English, a suitable interpreter must be provided, No to have his documents or letters addressed to his lawyer censored. When charged for a prison offence, to be informed in writing of the nature and particulars of the charge against him or her, and be given a fair hearing. To be informed of the provisions of the Prisoners Act (No 17 of 1998) the applicable rules, orders and directives relating to the treatment and conduct of prisoners, this information must be made available to every prisoner immediately on admission to a prison, where the prisoner is illiterate the contents of those provisions must be orally explained to him, to be free from unreasonable searches at night.

RIGHTS OF DEATH ROW PRISONER'S

Recently, a historic decision by India's Supreme Court commuting the death sentences of 15 prisoners and setting out guidelines to safeguard the rights of prisoners on death row and their families is a positive step for human rights in the country. The Supreme Court commuted the death sentences of those prisoners on the grounds of delay in the disposal of their mercy petitions by the President ranging between five and 12 years. In its judgment, the Supreme Court ruled

that "undue, inordinate and unreasonable delay in execution of death sentence torture" and was a ground for commutation of sentence. Importantly, the Court ruled to be bad law a previous decision in the case of terrorist death in recent, which stated that prisoners convicted of terrorism-related offences could not appeal for commutation on grounds of inordinate delay. The Supreme Court will also pronounce its verdict on the plea of three convicts in the Prime Ministers' murder case, three prisoners, seeking commutation of their death sentence to life term on the grounds that disposal of their mercy petitions by the President had been inordinately delayed. Quoting extensively from international treaties and standards, the court stated that the execution of people suffering from mental illness would be unconstitutional. It ruled that mental illness would be a factor that warranted commutation of a death sentence. The Court also reiterated that solitary confinement of a prisoner on death row was unconstitutional. The Supreme Court also laid down guidelines on the treatment of people under sentence of death, in a move that could end the trend towards secrecy in executions in 2012 and 2013.

CONCLUSION

According to the study, rights to everyone even they are prisoners with some restrictions on the case of death row should receive legal aid, be informed about the rejection of their mercy petitions and in writing, have their mental and physical conditions regularly checked and are allowed to meet their family members before execution, which should not happen before two weeks from the communication of the rejection of the mercy petition. The government also never failure to punish who are involved that victims at right time at right persons. The death penalty is the ultimate, irreversible denial of human rights. While today's judgment is welcome, it does not do away with this cruel, inhuman and degrading punishment.

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