

DE JURE NEXUS LAW JOURNAL

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HUMAN RIGHTS AND CRIMINAL JUSTICE SYSTEM IN INDIA

"The mere existence of some useful legislation cannot solve the problems of society as a whole unless judges interpret and enforce the law."

- Dr. AS Anand, former Chief Justice of India.

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Abstract

Human Rights are those rights that every human being possesses by virtue of his birth. In a country like India, we come across various instances in which the individual is threatened with the possibility of violation of his human rights in every walk of life. The Universal Declaration of Human Rights clearly states that respect for human rights and human dignity is "the foundation of freedom, peace, and justice in the world". However, in all areas of life, human rights are not violated by other individuals but also by social institutions established for the sole purpose of protecting the rights of all people. The extent to which human rights are valued and protected in the context of its criminal proceedings is an important measure of the civility of society. The criminal justice system consisting of the police, legislature, judiciary, and penitentiary institutions plays an important role in the enforcement of human rights and, consequently, the protection and protection of human rights for citizens of a country. Sometimes these pillars of the criminal justice system go against human rights principles such as violence in police and prison detention, illegal detention of innocents, internet shutdown, unrest in politics, etc. Despite the persistent intervention of the justice system to control these outrageous acts, such human rights violations are increasing day by day.

Keywords

Human rights, protection, justice system, criminal

Introduction

The Human Rights Protection Act 1993, the rights guaranteed in the constitution and protection under the Code of Criminal Procedure, the Indian Evidence Act and the Indian Penal Code must therefore be interpreted in harmony to achieve just justice and enable an orderly society where the criminal justice system is governed by the rule of law on which any quality democracy is based.

The efforts of the highest courts in the country to incorporate new content into the criminal justice system have also changed the paradigms of prison reform, judicial treatment and rehabilitation of victims. As a measure of progress in the protection of human rights, turn the page on the landmark Rudul Sah judgment against the state of Bihar ¹, in which the Supreme Court ruled that victims were entitled to an illegal detention or illegal to a compensation for violation of their fundamental rights under Part III of the Constitution.

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

¹ (1983) 4 SCC 141

of human rights has been recognised by the United Nations as inherent in the very nature of human beings – a reflection of their common humanity².

The main objective of criminal justice administration is to maintain and protect the rule of law, i.e. social control of the law, maintenance of order, expeditious trial, criminalization of offenders, rehabilitation of offenders, etc. crime through the justice system and comfort victims of crime. Paraphrasing Professor Guillermo O'Donnell: “[w]hat is needed ... is a truly democratic rule of law that ensures political rights, civil liberties, and mechanisms of accountability which in turn ... constrain potential abuses of state power ... [and protect] the equality and dignity of all citizens...”³.



The current criminal justice system is affected by various shortcomings and loopholes. The legal approach is time-consuming and often directed to the mind of the accused, i.e. a system that deals with the rights and interests of the offender and not the victim. The current criminal justice system has failed to provide prompt and swift justice to individuals and guarantee certainty of punishment to offenders. There is therefore a need to offer a renewed look at various aspects of the criminal justice system in the area of human justice and in the face of the growing challenges of criminal justice reform. According to Hon`ble Justice S.B. Sinha and Justice Dalveer Bhandari of the Supreme Court of India: “*Speedy trial is one of the facets of the fundamental right to life and liberty enshrined in Article 21 of the Constitution of India and the law must endure reasonable, just and fair procedure which has a creative connotation.*”

Various measures have been taken to accelerate the clearance of arrears. In particular, on the recommendation of the XI Finance Commission, the central government decided to establish 1,734 urgent courts to clarify pending cases in the districts, including substitute judges, evaluation of working days or annual vacations in the superior courts, the district courts and subordinates and streamlining of rules and regulations Procedures, etc. According to the report, the express court will give priority to clarifying the oldest cases in session and cases involving

² See, Human Rights Law and Practice [Lord Lester and David Pannick eds., Butterworths, 1999], p 1.

³ Guillermo O’Donnell, “Why The Rule Of Law Matters”, 15 (4) Journal of Democracy (October 2004), p 32.

trials in the dungeons. The expanded civil process would also have priority over the new processes.

We are also all obliged to educate others and ourselves about our human rights. Therefore, you should think that perhaps the time has come for human rights and environmental protection to be included in the school curriculum. Article 26 (2) of the Universal Declaration of Human Rights stipulates that “education must be oriented towards the full development of the human personality in order to strengthen respect for human rights and fundamental freedoms”.



Violation of human rights in the criminal justice system

Human rights are rights that each person has from birth. It is natural and inviolable. Human rights are basic rights that an individual has independent of other factors, through membership in the human family. In order to protect human rights and thus guarantee and secure the civil rights of the country's people, the criminal justice system, including the police, judicial and correctional agencies, has an important role to play.

However, prison brutality is contrary to human rights values. The Indian Constitution, made clear in many Supreme Court decisions, provides for the protection of human rights in accordance with international standards as in *Maneka Gandhi v. The Supreme Court of the Union of India* has ruled that no one should be arrested or exiled. According to Article 21, no one may be deprived of his life and personal liberty, except in accordance with the procedure prescribed by law. Since the Supreme Court's decision, a section 21 proceeding must be fair, just and reasonable, and cannot be arbitrary, unfair or unreasonable. In *Sunil Batra v. The Delhi Government*, the Supreme Court ruled that the continuation of the trial of the prisoners, who were presumed innocent, along with those convicted had violated the Article 19 reasonableness

test or the fairness of the case equal to Article 21. In *Sheela Barse v. The Supreme Court of the Union of India* stressed that children should not be kept in prison as it has a dehumanizing effect and harms children's growth and development. The court also ordered that at the first complaint or report of information about a child under the age of 16 on a crime punishable by imprisonment for up to 7 years, the investigation must be completed within 3 months and If the investigation is not completed within 3 months, the case against the child should be considered closed.

In a gruesome tale of police brutality, two men died in custody in the port town of Thoothukudi in the southern Indian state of Tamil Nadu. They will keep their mobile store open after 8pm. on June 19, despite restrictions imposed by the state as part of containment measures to limit the spread of COVID19. Police rounded up the father and son duo, Jeyaraj, 59, and the Benicks, 31, and dragged them to Sathankulam police station, where they were allegedly beaten, stripped and sodomized. This is a blatant violation of human rights that cannot happen in any civilized society. The arrests and the atrocities in no way, by any imagination, seem to equate to the alleged "crime" of keeping a store open overtime. In the face of the outcry, two deputy inspectors were suspended and an inspector appointed by the state government, and charged two police chiefs. Article 21 of the Constitution of India states: "No person shall be deprived of his life or personal liberty except according to a procedure established by law." This is the "procedural magna carta protective of life and liberty."

The number of deaths from incarceration has increased in recent years in India. The National Human Rights Commission (NHRC) recorded a staggering 1,674 deaths in detention cases during the 334 days (11 months) between April 2017 and February 2018, which means more than 5 deaths in custody every day. Unfortunately, most recorded deaths are suicides or deaths due to medical conditions. For example, of the 97 incarcerated deaths reported by Indian authorities in 2015, only six were listed as being tortured by police. In particular, during the COVID19 period, the police used excessive violence and indiscriminate use of cafes (clubs) against people suspected of violating state restrictions.

Human rights not only stand for individuals' rights rather they are a backbone for providing social justice in a country. India is a signatory to the Universal Declaration of Human Rights and thus, has adopted similar provisions and framework to protect human rights. The extent to which

the human rights are respected and protected within the context of its criminal proceedings is an important measure of society's civilization ⁴.

The Human Rights Commission Act of 1993 establishes the constitution of state and national human rights commissions to investigate allegations of human rights abuses and violations of human rights.



CONCLUSION

The development of the Supreme Court's legislation protecting human rights has sparked criticism from several factions, but these criticisms are not based on any empirical research. It is based on the principle that any safeguards afforded to a suspect or accused could harm the interests of society by encouraging crime and making it difficult to detect a crime. Unfortunately, in our country, there is little empirical or social legal research, especially in the critical field, since our counter-arguments to the law interpreted and developed by the courts are often not based on factual or sociological data that is based solely on entrenched attitudes and misconceptions.

Socio-legal research in various areas of criminal law is required to guide courts in their difficult process of formulating legislation that best serves the interests of society, without sacrifice the interests of the innocent. The organization of the National Human Rights Commission can contribute to this if, instead of being a lifeline in the face of international criticism of human rights conditions, it sincerely dedicates itself to the detection of violations. Human rights in crime control activities and commitment to reparation and remedial measures.

⁴ P.N. Bhagwati, "Human Rights in Criminal Justice System" in Noorjahan Bava, ed, Human Rights and Criminal Justice Administration in India, Uppal Publishing House New Delhi, 2000, p11.

Reconciliation lies in improving the national culture of rights, which in turn will also rebuild our image on the international stage. Thus, it can be concluded that, in order to protect the human rights and fundamental freedoms of the accused, we must form a perception of human rights in the minds of people; otherwise the concept of Human rights will take one step forward and two steps back. India's mission is to improve human rights by improving the law enforcement system in national criminal management and otherwise, without compromising social development and the unity of the land. The establishment of a National Human Rights Commission would make a difference if it were truly committed to recognizing human rights abuses in crime prevention activities, rather than becoming a lifesaver for situations international human rights and actively participate in remedial and remedial measures. Therefore, it can be argued that we can raise awareness of human rights to protect the human rights and fundamental freedoms of the accused. Second, if the law removes these accumulations, India's legal system could be considered the strongest legal structure on the planet. Likewise, until lost, a reasonable person's faith in the law can be restored.

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