



**FACULTY OF JURIDICAL SCIENCES**

**COURSE: BALLB**

**Semester-X**

**SUBJECT: PENOLOGY AND VICTIMLOGY**

**SUBJECT CODE: BAL-1001**

**NAME OF FACULTY- DR. SHIV KUMAR TRIPATHI**

## Lecture-24



## Judicial attitude

### A. Constitution:

The rights guaranteed in the part III of Indian Constitution are available to prisoners; because a prisoner is treated as a person in prison.[6] Article 14 contemplated that like should be treated alike, and also provided the concept of reasonable classification. This article provides the basis for prison authorities to determine various categories of prisoners and their classification with the object of reformation. Indian constitution guarantees six freedoms to citizens of India, among which certain freedom can't be enjoyed by the prisoners. They are #freedom of movement#, #freedom to residence and to settle# and #freedom of profession#. But other freedoms conferred in this article are enjoyed by the prisoners. Moreover, constitution provides various other provisions though cannot directly be called as prisoner's rights but may be relevant. Among them are Article 20(1), (2), and Article 21 and Article 22(4-7).

### B. Enactments And Rules:

#### 1. The Prisons Act, 1894:

This act is the first legislation regarding prison regulation in India. The following are some of the important provisions regarding prisoner's rights:

#Accommodation and sanitary conditions for prisoners.

#Provisions relating to mental and physical state of prisoners.

#Examination of prisoners by qualified medical officer.

#Separation of prisoners for male, female, criminal, civil, convicted and under trial prisoners.

#Provisions for treatment of under trials, civil prisoners, parole and temporary release of prisoners.

#### 2. The Prisoners Act, 1990:

#It is the duty of the government for the removal of any prisoner detained under any order or sentence of any court, which is of unsound mind to a lunatic asylum and other place where he will be given proper treatment.

#Any court which is a high court may in case in which it has recommended to government the granting of a free pardon to any prisoner, permit him to be at liberty on his own cognizance.

#### 3. The Transfer of Prisoners Act, 1950:

This act was enacted for the transfer of prisoners from one state to another for rehabilitation or vocational training and from over-populated jails to less congested jails within the state.

#### 4. The Prisoners (Attendance in Courts) ACT, 1955:

This Act contains provisions authorizing the removal of prisoners to a civil or criminal court for giving evidence or for answering to the charge of an offence.

C. Cases Decided By Supreme Court And High Court:

1. D.B.M. Patnaik v. State of Andhra Pradesh SC asserted that the mere detention does not deprive the convicts of all the fundamental rights enshrined in our constitution.

2. Hiralal Mallick v. State of Bihar

In 1977 the SC stressed for the rehabilitation of prisoners and reformation of prisons.

3. Sunil Batra v. Delhi Administration

The court held that the fact that a person is legally in prison does not prevent the use of Habeas Corpus to protect his other inherent rights.

4. Prem Shankar Shukla v. Delhi Administration

The court held that no person shall be hand-cuffed, fettered routinely for convince of the custodian's escort.

5. R.D. Upadhyay v. State of A.P and Ors.

The right to fair treatment and right of judicial remedy are pre-requisites of administration of prison justice.

6. Hussain Ara Khatun v. State of Bihar

Court adopted a dynamic and constructive role with regard prison reforms. Court apart from other things stressed on the improvements of the conditions of the prisons in India.