

SCC 627; Veena Sethi v. State of Bihar AIR 1983 SC 339; Rudul Sah v. State of Bihar AIR 1983 SC 1086; Bhim Singh v. State of Jammu and Kashmir (1985) 4 SCC 677 and Sant Bir v. State of Bihar AIR 1982 SC 1470, are instances where the Supreme Court has held that compensation can be awarded by constitutional courts for violation of fundamental right under Article 21 of the Constitution of India.

There is at present in our country no statutory or legal scheme for compensating those who are wrongfully incarcerated. They are left to their devices without any hope of reintegration into society or rehabilitation since the best years of their life have been spent behind bars.

There are certain provisions for the wrongfully incarcerated as per Section 436-A Cr.P.C permits release on personal bond of under trial prisoners who have completed up to one half of the maximum period of imprisonment for that offence. In any event, it is not an answer to the hardship undergone by

an innocent person who is declared as such after spending

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ICA Newsletter

INSTITUTE OF CORRECTIONAL ADMINISTRATION, CHANDIGARH

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Editorial

"Achieving gender equality and empowering women and girls is the unfinished business of our time, and the greatest human rights challenge in our world." UN Secretary-General, António Guterres.

Every year, 8th March is celebrated as International Women's Day. The theme for International Women's Day 2018 was 'Time is Now: Rural and urban activists transforming women's lives'. This year, the Day came on the heels of unprecedented global movement for women's rights, equality and justice. Global campaigns like # Me Too, brought the issue of Sexual harassment in public domain. Violence and discrimination against women has captured headlines and the public discourse is propelled by a rising determination for change. The Day is an opportunity to transform this momentum into action and to empower women in all settings. The Institute celebrated Women's day with women inmates in Model Jail, Chandigarh along with members of the CII (IWN) to bring the focus to one of the most vulnerable sections of society.

Women prisoners constitute a minority in the prison system and their issues have been quite neglected by the Prison Administration. To understand the importance of various challenges faced by women in detention and in access to justice the Parliamentary Committee on Empowerment of Women (2016-2017) looked at various aspects of Women in Detention. The second report was tabled in Parliament in December, 2017. It summed up its findings as -

"Women in prison have experienced victimization, unstable family life, school and work failure, substance abuse and mental health problems..... There is a general disregard to the gender specific needs of women, as well as denial of many services and opportunities accessible to male prisoners."

Its recommendations focus on improving the conditions of women in prisons, such as- Overcrowding of Jails and resolution through Jail Adalats, Custodial Rapes-Access to Justice through better surveillance in Jails and involvement of Civil Rights Activists, Skill Building Programme, Need to fill up shortage of women officials, Psychiatrists, counsellors, etc. leading to focussed care of women prisoners. The Committee also felt that there was a need to ensure gender sensitive prison management through Training. Further recommendations include Gender specific Health Care Needs, Role of NGOs, Impact assessment of Model Prison Manual and Modernisation of Jails.

The UN General Assembly in December 2010 adopted the United Nations Rules for the Treatment of Female Prisoners and Non-Custodial Measures for Women Offenders, known as the Bangkok Rules. The 70 Rules give guidance to policy makers, legislators, sentencing authorities, and prison staff to reduce unnecessary imprisonment of women, and to meet the specific needs of women who are imprisoned. These Rules form a part of the Model Prison Manual, 2016.

There are nearly 18000 women inmates in the country constituting 4% of the prison population. It needs to be remembered that the consequences of their incarceration includes enormous personal, economic and social costs. We need to make sustained efforts to reduce these costs.

Dr. Upneet Lalli
Deputy Director ICA,
Chandigarh

**CALENDAR OF COURSES / WORKSHOPS FOR PRISON / POLICE OFFICERS
DURING THE PERIOD FROM JANUARY to APRIL, 2018**

JANUARY, 2018			
1	Course on 'Tendering Process'	Chd. Admn.	04 Jan., 2018
2	Course on 'Tendering Process'	Chd. Admn.	16 Jan., 201
3	Course on 'Public Procurement Process'	Chd. Admn.	19 Jan., 2018
FEBRUARY, 2018			
1	Course on 'Leadership Skills'	H.P. Police Officers	5th to 8th Feb. 2018
2	Course on "Capacity Building for Prisoners' Welfare"	Prison Officers	19th-22nd Feb., 2018
MARCH, 2018			
1	Course on 'Stress Management'	Prison Officers	5th-9th March, 2018
APRIL, 2018			
1	Course on 'Stress Management'	H.P. Police Officers	09-13 April, 2018
2	Two days Workshop on 'Departmental Inquiry & Disciplinary Proceedings'	Prison Officers	18-19 April, 2018

**Courses / Workshops organized by the Institute of Correctional Administration,
Chandigarh for the period from 01.01.2018 to 30.04.2018**

Sr. No.	Name of Courses / Workshops	Course for	Dates	No. of Officers
1	Course on 'Tendering Process'	Employees of Chd. Admn.	4th Jan., 2018	30
2	Course on 'Tendering Process'	Employees of Chd. Admn.	16th Jan., 2018	30
3	Course on 'Public Procurement Process'	Employees of Chd. Admn.	19th Jan., 2018	30
4	Course on 'Leadership Skills'	H.P. Police Officers	5th to 8th February 2018	16
5	Course on "Capacity Building for Prisoners' Welfare"	Prison Officers	19th to 22nd Feb., 201	17
6	Course on 'Stress Management'	Prison Officers	5th to 9th March, 2018	12
7	Course on 'Stress Management'	H.P. Police Officers	9th - 13th April, 2018	09
8	Workshop on 'Departmental Inquiry and Disciplinary Proceedings'	Prison Officers	18-19 April, 2018	21
			Total	165

Courses/Workshops Organised in the Institute from 01.01.2018 to 30.04.2018

Total police officers trained	: 25	Total courses / workshops for prison officers	: 03
Total prison officers trained	: 50	Total courses / workshops for police officers	: 02
Others officers trained	: 90	Programmes for Chandigarh Admn.	: 03
Total officers trained	: 165	Total courses organized	08

Activities in the Institute from January to April, 2018

Course on 'Tendering Process'

The Institute of Correctional Administration, Chandigarh organized two training programmes on 'Tendering Process' on 4th and 16th January, 2018 for the employees of the different Departments of Chandigarh Administration. In both these programmes, 60 officers were trained. The participants of these courses appreciated the contents of the course as well as the resource persons identified for these programmes.

Course on 'Public Procurement Process'

Another training programme on



'Public Procurement Process' for the employees of the Chandigarh Administration was also organized on 19th January, 2018 in which 30 officers participated. During this programme, the participants were made aware of the Definition of Stores, its acquisition and Purchase Principles; Financial Proprietaries and Income Tax; and

Time Management.

Course on 'Leadership Skills'

A course on 'Leadership Skills' for the police officers of Himachal Pradesh was organized for the police officers of Himachal Pradesh from 5-8 February, 2018 in which 16 police officers of the rank of Dy. Superintendent to Asstt. Supdt. of Police participated. This course

was planned to educate the participants in the techniques of attitudinal change and behaviour modification; acquaint them with the strategies of self-motivation and motivating subordinates; and initiate them in acquiring effective leadership for positive policing.



Prison Officers participating in the course on Capacity Building for Prisoners Welfare

Course on 'Capacity

Building for Prisoners Welfare'



A Theater Workshop during the training programme on Stress Management

participants with skills and strategies of stress coping and stress prevention.

Workshop on "Departmental Inquiry and Disciplinary Proceedings"

A two-days Workshop on 'Departmental Inquiry and Disciplinary Proceedings' was organized by the Institute of Correctional Administration, Chandigarh on 18th – 19th April,

2018 for the Prison Officers of different States. The Workshop was attended by the prison officers of middle and senior level. The objective of the Workshop was to make the participants aware of the different aspects of service matters related to disciplinary proceedings.

International Women Day

8th March, 2018 was celebrated as International Women Day. Women prisoners have their own special needs which have been stressed upon in the U.N. Bangkok Rules for Women Prisoners. The members of the CII Indian Women Network - CII (IWN) along with Dr. Reetinder Kohli & Dr. Upneet Lalli, Dy. Director, ICA visited the Model Jail, Burail, Chandigarh on 8th March, 2018. Dr. Neeru Bali, CII



Sh. Dilbag Singh IPS, DG Prisons J & K with participants & resources persons in the training programme on Stress Management



Delegates of CII (IWN) alongwith Dr. Upneet Lalli and Dr. Reetinder Kohli on the eve of International Women Day at Model Jail Chandigarh

(IWN) addressed the women prisoners on the issues of health and hygiene.

Advisory Committee of the BPR&D

The Bureau of Police Research and Development (BPR&D), Government of India, MHA, New Delhi has constituted the Advisory Committee to advise on the issues related to Prisons and Correctional Administration. Dr. Upneet Lalli, Deputy Director, ICA has been made as one of the members of the Advisory Committee.

'Raj Bhawan : Best Practices and Role for New India Vision @ 2022'

A project on compilation of documents on Best Practices of Raj Bhawans titled as 'Raj Bhawan : Best Practices and Role for New India Vision @ 2022' entrusted by the Government of India,

Ministry of Home Affairs, New Delhi to the Institute was completed by Researchers of the Institute under the guidance of Dr. Upneet Lalli, Dy. Director, ICA.

Training Manual of Basic Course.

The Bureau of Police Research and Development, (Research and Correctional Administration Division), Government of India, Ministry of Home Affairs, New Delhi constituted a Committee in compliance of the Hon'ble Supreme Court's Direction for preparing appropriate training manuals for various categories of staff and officers in jails in which Dr. Upneet Lalli, Dy. Director, ICA has been made as one of its members. Training Manuals of Basic Course for Prison Officers / Warders has been prepared by the BPR&D.

Tribute :

With profound grief and sorrow, it

is informed that Sh. S.P. Bhardwaj, former Administrative Officer, ICA passed away in March, 2018. He remained associated with the Institute till September, 2010. He played a vital role in setting up of the Institute premises.

BEST PRISON PRACTICES

This issue covers good practices of Maldives and South Sudan prison for the vocational training of inmates. This best practice provides prisoners a forum to enhance their skills, to showcase their products and to earn while learn.

Three-stage programme for Vocational Training –Maldives Prison:

In the Maldives, the Vocational Training Unit offers a three-stage programme. During the first, prisoners with skills are trained to become trainers themselves, by a recognized institution such as a polytechnic. Second, the courses to be taught are certified by relevant institutions before the prisoners are trained. Third, once the prisoner has obtained a qualification, he or she would apply for a job within a prison industry. For the first three to six months, they would be a trainee and after this stage, they can be employed with a salary. This staged approach enables prisoners to both learn and earn.

Source: UNDP Maldives (2011): Prison Assessment and Proposed Rehabilitation and Reintegration of Offenders Report;

Vocational Training -South Sudan Juba Central Prison :

In South Sudan, a vocational training unit was established with the assistance of UNDP, providing four-month courses in carpentry,

masonry, electrics, welding, vehicle mechanics, agriculture, hair dressing and tailoring. The facility has been registered as a commercial company and is marketing its services and products to make the workshop self-sufficient. Furniture, beds, wooden and metal door frames, doors, windows, wooden cabinets, farming tools, clothing and handicrafts manufactured by the trainees were on display at the graduation of the first 200 prisoners in 2016.

Source:

UNDP South Sudan (2016):

Some of the major recommendations of the Standing Committee on Empowerment of Women in Report on 'Women in Detention and Access to Justice' 2016- 2017 are briefly mentioned as under:-

The Parliament Committee on Empowerment of Women (2016-17) presented its Tenth Report on Women in Detention and Access to Justice. In order to gain firsthand knowledge on the subject, the Committee interacted with various jail authorities. The Committee took oral evidence of the Ministry of Home Affairs. The Committee also undertook study visit to Mumbai District Women Prison, Byculla in the wake of the reported death of a female convict prisoners and

rioting thereafter. The Committee undertook study visits to the Attakulangara Women's Prison and Poojappura Open Prison in Kerala, Women's Prison, Parappana Agrahara, Bengaluru, Women's Correctional Home, Alipore, Kolkata and District Prison at Andaman & Nicobar. Its recommendations pertain to the following issues:-

- Overcrowding of Jails and resolution through Jail adalats
- Custodial Rapes-Access to Justice through better surveillance in Jails and involvement of Civil Rights Activists
- Skill Building Programmes
- Need to fill up shortage of women officials, Psychiatrists, counsellors, welfare officers etc leading to focussed care of women prisoners
- Need to ensure gender sensitive prison management through Training
- Gender specific Health Care Needs
- Role of NGOs
- Impact assessment of Model Prison Manual
- Foreign Nationals: access to Justice
- Modernisation of Jails

High Court Judgment

**(2017) High Court of Delhi
(BEFORE DR. S. MURALIDHAR, J
AND I.S. MEHTA, J)
Date of decision: 30-11-2017
Babloo Chauhan @ Dabloo
... Petitioner
Vs.
State Govt. of NCT of Delhi
... Respondent
Writ Petition (Crl.) No. 157/2013**

DR. S. MURALIDHAR, J

Criminal Procedure Code, 1973 Section 389. Suspension of sentence pending the appeal; release of appellant on bail. Section 389(1) Suspension and Release on Bail (appeal already pending) Section 389 (3) Release on bail with Suspension (Becomes operational upon the convicted party expressing his intention to challenge the findings of the trial court) . Section 436-A Release on personal bond of under trial prisoners . Section 357 A to C- compensation to victims of crime.

The Constitution of India Article 21 - Convict to be released on bail as a right and Right for compensation for wrongful incarceration.

BRIEF FACTS

The Petitioner who has been convicted under section 302 IPC has approached this court for seeking Suspension of sentence

and release on bail. The present appeal was allowed by a detailed judgment dated 15th September 2016.

ORDER

The court highlighted three issues in this case (1) Fine and default sentences (2) Suspension of sentence (3) Remedies for wrongful incarceration. The first issue concerns 'the substantive law and procedure relating to the default in payment of fine.' The Court's attention is drawn to the decision of the Supreme Court in Palaniappa Gounder v.State of Tamil Nadu (1977) 2 SCC 634, where the Supreme Court has observed that "the sentence of fine must not be unduly excessive. The Court observed :-

1. The legal position is clear that an appellate Court can suspend or grant stay of order of conviction. But the person seeking stay of conviction should specifically draw the attention of the appellate Court to the consequences that may arise if the conviction is not stayed. Unless the attention of the Court is drawn to the specific consequences that would follow on account of the conviction, the person

convicted cannot obtain an order of stay of conviction. Further, grant of stay of conviction can be resorted to in rare cases depending upon the special facts of the case."

2. The issue concerns the existing law on suspension of sentence under Section 389 Cr.P.C. Prof. Bajpai has mentioned in this context the decisions in Kashmira Singh v. State of Punjab (1977) 4 SCC 291 and Sunil Kr. Sinha v. State of Bihar (2009) 16 SCC 370.
3. The issue concerns the possible legal remedies for victims of wrongful incarceration and malicious prosecution in India. The report of Prof. Bajpai refers to the practice that there are 32 states in the USA including District of Columbia (DC) which have enacted laws that provide monetary and non-monetary compensation to people wrongfully incarcerated. There are specific schemes in the UK and New Zealand in this regard. In India there is no exclusive legislation on the topic. The decisions in Khatri vs . State of Bihar (1981) 1