

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 3**

---

**2021**

© 2021 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of any suggestion or complaint, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Prisoner: Human behind the Bars- Highlight from the Pandemic

---

PRIYANGI MOHI<sup>1</sup>

## ABSTRACT

*The COVID-19 pandemic is one of the most difficult challenge faced by the global community in recent times. Indian prisons have been massively effected due to the widespread of the virus. Slow mechanism of judiciary, continued lack of foresight and other reasons have not only led to mass outbreak of the virus but also made complete mockery of the objective of social distancing. It is crucial to scrutinize the rights of the prisoners who are locked up in prisons and remand homes when country is facing deadly second wave of corona virus to which social distancing is only the answer at this very moment. The paper would deal with the legal framework and interpretation of laws through judicial decision for the health care, medical facilities in the detention centers and remand homes. The eligible prisoners have the right to get interim reliefs and parole for their safety and also for clearing congestion in the prisons.*

*The paper would scrutinize the rights available to prisoners during pandemic under municipal law, international law and rights that have been developed through judicial decisions. The paper would look at the condition of prisoners and how they have been intentionally ignored by the authorities. However Supreme Court came up with the guideline for the protection of prisoners but lower courts and prison authorities have failed to fulfil the objective in true sense which has resulted into massive outbreak of COVID-19 in prison and as consequence infections and death of the prisoners have increased. The main aim of the paper is to give an insight regarding prisoners that they are only humans behind bars and they should be treated in the same manner like rest of the population.*

**Keyword:** COVID-19, implementation, human, prison, prisoners, rights, safety.

## I. INTRODUCTION

The COVID-19 pandemic has given rise to several daunting challenges in most of the sectors including health care, human right, and prison management. The economy, health care system, MSME sector, geopolitical condition, laborers, migrant's situation are miserable, however, the authorities and government are trying to handle the situation in the best way possible.

---

<sup>1</sup> Author is a student at Nirma University, India.

Meanwhile, the judiciary has taken up suo moto cognizance of the risk pertaining to the jail facilities and prison because of the pandemic. Our country suffers from the problem of overcrowding, undermined facilities in the prisons which exposes the prisoners to the risk of contracting the virus because the norms of social distancing cannot be followed there.<sup>2</sup>

The rights of detainees and prisoners of the safe prison environment, speedy trials, and decongestions should be recognized to avoid COVID-19's contagion. The massive outbreak that our country has seen in 2020 and 2021 has a major effect on overcrowded prisons.<sup>3</sup> The government has implemented social distancing norms but they cannot be implemented in prisons or remand homes in the same manner when prisoners are living in the shared household or within closed borders and using the same bathroom. As per the statistics of World Prison Brief, India was ranked fourth in terms of the prison population.<sup>4</sup> According to the data released by National Crimes Record Bureau in 2018, the approximate number of prisoners in India was 450,000 which was exceeding the official prison capacity by 17 percent.<sup>5</sup> Prisons of Delhi and Uttar Pradesh have occupancy rates that is above 50 percent capacity.<sup>6</sup> It is very unfortunate to look at the estimates which clearly indicates that only 4 percent of overall jail spending was used for medical requirement and other health facilities in 2018.<sup>7</sup> Not only that there was a shortage of medical staff by 40 percent and the sanitation facilities in the prison are not unknown as also put forward by RK Saxena who is Inspector general of prison in the state of Rajasthan. And now the Pandemic has worsened the health and lifestyle of the prisoners. United Nation and the World Health Organization after looking at the pathetic situation of the prisoners advised the nations to reduce the strength of overcrowded jails.<sup>8</sup> The Hon'ble Supreme Court at the time of dealing with lack of facilities and health crisis in remand homes and prison has passed **In Re: Contagion of COVID-19 Virus In Prison**, to ensure that the prisoners can lead a dignified and healthy life.<sup>9</sup>

---

<sup>2</sup> Sukanya Shantha, *Maharashtra Prisoner Released On Parole Says Jails Unprepared To Handle Covid-19 Pandemic*, THE WIRE (Mar 30, 2020), <https://thewire.in/rights/maharashtra-prisons-covid-19-pandemic>.

<sup>3</sup> M. Z.M. Nomani & Faisal Sherwani, *Legal Control of Covid-19 Pandemic and National Lockdown in India*, 11(4) J. CARD. DIS. RESE., 32-35 (2020).

<sup>4</sup> *Highest To Lowest - Prison Population Total | World Prison Brief*, Prisonstudies.org, [https://www.prisonstudies.org/highest-to-lowest/prison-population-total?field\\_region\\_taxonomy\\_tid=All](https://www.prisonstudies.org/highest-to-lowest/prison-population-total?field_region_taxonomy_tid=All).

<sup>5</sup> Ministry of Home Affairs, National Crime Records Bureau, Indian Penal Code, *Prison Statistics in India 2018*, <https://ncrb.gov.in/sites/default/files/PSI-2018.pdf>.

<sup>6</sup> Sheikh Saaliq & Ashok Sharma, *Rise in Virus Cases in Crowded Indian Jails Prompts Concerns*, APNEWS (May 03, 2020), <https://apnews.com/article/e3ad3a6bfc22f8fd15c451b4145cd903>.

<sup>7</sup> Ministry of Home Affairs, *supra* note 05.

<sup>8</sup> Sejal Sahu, *Rising Coronavirus Threat In Prisons*, LAWLEX.ORG (May 04, 2020), <https://lawlex.org/lex-pedia/rising-coronavirus-threat-in-prisons/19390>.

<sup>9</sup> Prachi Pallavi, *Non-Release of Prisoners in Bihar on Interim Bail/Parole during the Pandemic: Violation of Article 21*, CRIMINAL LAW REVIEW (May 30, 2021), <https://crlreview.in/non-release-prisoners-bihar-interim-bail-parole-the-pandemic-violation-article-21/>.

## II. IN RE: CONTAGION OF COVID 19 VIRUS

In Re: Contagion of COVID 19 in prison was first heard by Supreme Court on 16<sup>th</sup> March 2020. It was an urgent move taken by the Hon'ble Court to prevent the deadly virus from spreading in already overcrowded prisons when medical facilities are poor. Supreme Court has directed to constitute High Powered Committee( HPC) in every state and Union territories that would comprise of one chairman of the state legal services committee, one principal secretary, director general of prison, who all would decide which class of persons would be released on interim bail or parole for the period.<sup>10</sup>

A report handed by CHRI in 2020 showed that the step led to a reduction in the prison population by 10.42 percent. However, prisons in 27 % of state and U.T are still overcrowded. Data showed that more than 18000 prisoners got exposed to the virus in which 17 died due to it.<sup>11</sup>

Again Supreme Court bench headed by Chief Justice NV Ramana has issued a guideline to further decongest prison in 2021. Supreme Court further held that police shall not arrest any person against the guidelines put forward in *Arnesh Kumar v. State of Bihar*, which laid down that arrest shall be exceptional when the punishment for the offenses was less than seven years of imprisonment. Furthermore, S.C instructed the high-powered committees to consider the guidelines followed by them in 2020 to release the prisoners.<sup>12</sup>

The prisoners would be released based on criteria, there is no single way to select prisoners for the release. One such criterion that India has followed is release criteria that are based on the offense committed by the prisoner. In India, Prisoners who are charged with non-violent crimes or for minor offenses shall be released and the violent ones are deemed to be unsafe and inappropriate for release, for instance, conviction under domestic violence.

The offended convicted on the ground of domestic violence would be a threat to the victims if such perpetrator is released. Criminalization for drug possession or use is another excluded criterion. Although there are thousands of prisoners convicted under drug charges that are contributing to the overcrowding of prisons. The exclusion of minor offenses under drug abuse like use and possession of drugs from serious that includes trafficking or production of drugs are not done. India takes into account the period of imprisonment left to be served by the prisoners under release eligibility. Indian states have placed a different restriction on the

---

<sup>10</sup> In Re: Contagion of COVID 19 Virus In Prisons, (2020) 5 SCC 313 (India).

<sup>11</sup> Amrita Paul, *A Crisis in the Making: From De-congestion to Re-Congestion in Prisons*, BAR & BENCH (Mar 15, 2021, 09:04 AM), <https://www.barandbench.com/columns/crisis-making-from-decongestion-to-recongestion-in-prisons>.

<sup>12</sup> *SC orders re-release of prisoners from jail amid Covid-19 surge*, SABRANG (May 08, 2021), <https://sabrangindia.in/article/sc-orders-re-release-prisoners-jail-amid-covid-19-surge>.

minimum period of imprisonment served which falls between three months to ten years of imprisonment. Eligibility for release is also included in the vulnerability and health of the prisoner. A vulnerability test is also applied before releasing which takes into account medical condition, poor health, or old age. As trends show how COVID-19 has deadly affected people with underlined chronic health issues.<sup>13</sup>

### III. OBLIGATION OF STATE TOWARDS THE PRISONERS

A prisoner is an individual who is destitute of liberty against his/ her will. He is confined in a prison by the legal authorities to undergo punishment for a crime that he/ she committed. Many rights are given to them because they are considered as a normal human being who is put behind the bars. For the wellbeing of prisoners at the time of pandemic some rights are available. Under **The Constitution of India, Article 19** six rights are given in which two of them that are right to speech and expression and freedom to become a member of any associated are provided to them.<sup>14</sup> **Article 14** of the Constitution of India plays a very useful guide based on which prison authorities decide upon prisoner's categories for release from the prison on parole or interim bail and also used for classification with the aim of reformation.<sup>15</sup> Major rights that the Constitution of India provides to the prisoners concerning the issue are the Right to a fair and speedy trial, the right to protective homes, right to live with human dignity.<sup>16</sup>

Under **Prisoners Act, 1894**, it was the first enactment where legislature drafted individual rights to prisoners which were proper accommodation and sanitation in the prison, there was certain provision concerning the physical and mental state of the prisoners, medical examination of the prisoners by doctors or qualified officers, provision for parole, temporary release and regarding the treatment of undertrials and civil prisoners were also mentioned. Moreover, **Section 7** of the act provides for safe custody and shelter to the prisoners.<sup>17</sup> In **Chapter VII of the Prison Manual, 2016**, health care of prisoners in detention centers and jails has been enunciated. The manual has provided guidelines to be followed at the time of epidemics where permanent sheds would be made for infected prisoner and overcrowding shall be avoided in shells or wards.<sup>18</sup>

---

<sup>13</sup> A global analysis of prisoner releases in response to COVID-19, DLAPIPER.COM (Dec. 2020), [www.dlapiper.com/~media/files/insights/publications/2021/03/dla-piper-prison-population-during-covid-19.pdf?la=en&hash=F5C1EBBA0D3D86BDDA58FAC87DB9EF3CAE3815DF](http://www.dlapiper.com/~media/files/insights/publications/2021/03/dla-piper-prison-population-during-covid-19.pdf?la=en&hash=F5C1EBBA0D3D86BDDA58FAC87DB9EF3CAE3815DF).

<sup>14</sup> INDIA CONST. art. 19.

<sup>15</sup> INDIA CONST. art. 14; NITAI ROY, CHOWDHURY, INDIAN PRISON LAWS AND CORRECTION OF PRISONERS 75 (Deep and Deep Publications, New Delhi, 2002).

<sup>16</sup> Upendra Baxi v State of Uttar Pradesh, (1983) 2 SCC 308 (India).

<sup>17</sup> The Prisons Act, 1894, No. 9, Acts of Parliament, 1894, § 7, (India).

<sup>18</sup> Ministry of Home Affairs, Bureau of Police Research and Development, *Model Prison Manual for the Superintendence and Management of Prisons in India*, (2003), <https://bprd.nic.in/WriteReadData/userfiles/file/5230647148-Model%20Prison%20Manual.pdf>.

Irrespective of all the rights given to the prisoners, the reality is somewhat different as revealed by National Crime Records Bureau prison statistics in 2018 that much unnatural death has resulted due to poor medical facilities in the prison. Even the directorate of Health Services had included provisions for making prison wards in civil hospitals which has since remained in papers only. The recommendation is given by Dr. S. Radhakrishnan Committee in 2017 that five different types of medical experts shall visit the jails weekly, but it remained a fiction. Even Bombay High Court came up with the case of the People's Union for Civil Liberty V. State of Maharashtra,<sup>19</sup> where guidelines similar to the recommendation put forward by Dr. S. Radhakrishnan were given.

India is obligated to follow ratified international laws. United Nations Human Rights Committee has remarked that the state has failed to take any positive steps towards protecting the prisoners and preventing the spread of COVID-19 in prisons which is a clear violation of **article 6** and **article 9** of ICCPR<sup>20</sup> that talks about the right to life and right to liberty respectively. India has already ratified ICCPR which makes the Indian Government obligated to take effective steps to prevent the spread of the coronavirus in prisons.<sup>21</sup>

Another law was accepted in San Francisco by the U.N Charter on 24<sup>th</sup> October 1945 where Basic principles were adopted concerning the welfare of prisoners. Some of them were that prisoners should be treated with dignity and should be valued as human beings, there shall not be any discrimination, provisions enshrined under UDHR, ICCPR, ICECR, and other optional protocols should be fulfilled and they should have access to health and medical services.<sup>22</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners also known as the Nelson Mandela Rules (2015) put forward that public health measures should be applied in the prison without any discrimination. **Article 12** of CESCR states that the highest standard of health should serve as the guiding principle in the outbreak of coronavirus.<sup>23</sup> WHO Interim Guidance Preparedness, Prevention, and Control of COVID-19 in Prisons and other places of detention, 2020 has provided an effective strategic mechanism to protect the prisoners who are considered to be more vulnerable than the general population. It states that the health care providers and other staff can bring a change by preventing the outbreak of the disease and

<sup>19</sup> People's Union for Civil Liberties & Anr. v State of Maharashtra & Ors., CDJ 2014 SC 831 (India).

<sup>20</sup> General Assembly resolution 2200A (XXI), *International Covenant on Civil and Political Rights* art. 6 & 9, (Mar. 23, 1976), <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>21</sup> Akash Anurag and Aniket Raj, *COVID19-IX: Rights of Prisoners During a Pandemic*, LAW SCHOOL POLICY REVIEW & KAUTILYA SOCIETY (Apr 25, 2020), <https://lawschoolpolicyreview.com/2020/04/25/covid19-ix-rights-of-prisoners-during-a-pandemic/>.

<sup>22</sup> Karandeep Singh Rekhi, *Prisoners: Human Behind The Bars*, LEGAL SERVICE INDIA, <http://www.legalserviceindia.com/legal/article-4933-prisoners-human-behind-the-bars.html>.

<sup>23</sup> General Assembly resolution 2200A (XXI), *International Covenant on Economic, Social and Cultural Rights* art. 12, ((Jan 03, 1976), <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

taking due consideration of the human rights of the prisoners.<sup>24</sup>

There are numerous rights given to the prisoners both in the municipal and international laws which India is obligated to follow but still, the reality is something different. And when the medical facilities are not enough even in day to day life under normal circumstances. It is unrealistic to expect that the resources and facilities would be sufficient at the time of medical emergency. The prisoners have the right to have appropriate medical facilities like the rest of the population under Article 14 and other rights available under the Prisoner's manual. A state cannot differentiate or ignore the valid needs of the prisoners who are after all human behind the bars.

#### IV. RIGHT OF PRISONERS IN PRESENT SCENARIO: JUDICIAL INTERPRETATION

The rights of prisoners have been recognized in India not only through the laws but the judiciary has also played a major role in interpreting laws to include the rights and welfare of prisoners. The prisoners have certain rights during pandemic which can protect them. To start with **the Right to health** which is not expressly mentioned as a fundamental right under Constitution but through the judgment of Supreme Court in Paschim Bangal khet Mazdoor Samity & others v. State of West Bengal & others,<sup>25</sup> held that health care facilities fall under Article 21 i.e. Right to life.

Now the right to health would also apply to prisoners as they are citizens of our country and Supreme court further in the case of Charles Sobhraj v. The Superintendent Central Jail, Tehar, New Delhi,<sup>26</sup> held that mere imprisonment would not take away the fundamental right of a person and all the fundamental rights that are provided to any individual would also be made available to prisoners with some restriction and court additionally stated by not providing proper health care facilities to prisoners, their fundamental right is violated.<sup>27</sup> Further in the case of, State of A.P v Challa Ramkrishana Reddy<sup>28</sup>, it was held that prisoners are entitled to all the fundamental rights unless and until their liberty is curtailed constitutionally. The Hon'ble Court stated that any prisoner whether under trial or a convict does not cease to be a human being and shall be treated like another set of population.

There is a right to parole or interim bail to prisoners who need them the most, As, in the case of Gudikanti Narsimhulu Ors v. Public Prosecutor,<sup>29</sup> Justice VR Krishna Iyer has expressed

<sup>24</sup> M..Z..M..Nomani & Zafar Hussain, *Health Care in Prisons and Detention Homes During COVID-19 Pandemic in India*, 8(1) EUR. J. MOL. CLIN. MED., 1488-1492 (2021).

<sup>25</sup> Paschim Bangal khet Mazdoor Samity & others v State of West Bengal & Ors., 1996 SCC (4) 37 (India).

<sup>26</sup> Charles Sobhraj v The Superintendent Central Jail, Tehar, New Delhi, 1978 AIR 1514 (India).

<sup>27</sup> Anurag, *supra* note 21.

<sup>28</sup> State of Andhra Pradesh v Challa Ramkrishna Reddy & Ors., (2000) 5 SCC 712 (India).

<sup>29</sup> Gudikanti Narasimhuluand Ors. v Public Prosecutor, (1978) SCR (2) 371 (India).

the need to protect prisoner's rights in India, he extensively wrote that whenever bail is denied on any unjust ground, it would amount to a violation of liberty which is a fundamental right of a person. Furthermore, in the case of **Gurbaksh Singh Sibbia v. State of Punjab**,<sup>30</sup> Chief Justice Chandrachud mentioned that bail is important from the perspective of the constitution. He added that it is cruel and inhuman to object to bail with the sole objective to establish the accused's presence during the trial. Granting bail should be the rule and denying them should be an exception was opined by him. However, the court has the right to withhold bail application of accused convicted of any violent crime but at the same time court should be lenient who are under trials, not tried with severe offense or belong to old aged/ vulnerable group. By considering all the cases as presidents and conditions of deadly coronavirus, the situation of inmates should also be considered whose staying in prison would amount to a violation of the Right to Life.<sup>31</sup>

The right to health is being compromised which is the fundamental right of prisoners. The prisoners should be treated like humans and at least necessities should be provided to them. There have been many cases where parole or interim relief have not been granted without giving any justified ground which is also a violation of the fundamental right of liberty. Authorities and the public must start to talk about the rights of prisoners so that there is improvement in the living condition of prisoners and their basic birthrights are not snatched without any reasonable ground.

## V. UNSATISFACTORY IMPLEMENTATION

On March 1, 2021, the Supreme Court chose to sideline the risk as it stepped back from the measure that was undertaken in 2020 to decongest the prison. It tried to unwind the clock and recalled all the prisoners who were temporarily released as the court felt that the situation was 'improving'. COVID-19 Immunization Protocol for India undertaken by the government on 16<sup>th</sup> January 2021 has neither categorized prisoners as a vulnerable category in the first wave nor in the second wave. The prisoners in the custody are not recognized as a vulnerable category for getting vaccination irrespective of age despite living in a pathetic condition with a very poor medical facility. There was an absence of any direction to test and segregate the prisoners before admission in 2021 and the application of interim bail was refused by the courts which is enough to overturn all the positive steps taken by the courts in 2020.<sup>32</sup>

---

<sup>30</sup> Gurbaksh Singh Sibbia et al v State of Punjab, (1980) SCR (3) 383 (India).

<sup>31</sup> Jai Dehadrai, *In the time of Coronavirus, the Right to Bail is part of an Undertrial's Right to Life*, THE WIRE (Mar 26, 2020), <https://thewire.in/law/in-the-time-of-coronavirus-the-right-to-bail-is-part-of-an-undertrials-right-to-life>.

<sup>32</sup> Paul, *supra* note 11.



Policies and measures that were undertaken to prevent the spread of the virus in jails have reinforced biases against the prisoners. The authorities were more willing to release such prisoners who were convicted of an offense of a less serious nature. The High powered committees set up by Supreme Court had also issued guidelines to release such prisoners who were convicted for less serious offenses despite that trial court were hesitant in releasing prisoners falling under the eligible category. Most of the prisoners have been released who in the opinion of court were less risky from the point of view of their background and offense and not from the view of their health. The court is inclined towards keeping the prisoners although prison authorities are willing to let the eligible prisoners out. The paramount concern of the judicial authority was to deal with the situation without risking the law and order related to prison. The deeper analysis shows that health vulnerability of prisoners was not the primary concern as prisoners who were arrested for serious offense were not released despite their poor health or deadly medical conditions. Even in the situation where the prisoners were eligible to be released, the judiciary exercised due diligence criteria while confirming the bail application like under normal circumstances.<sup>33</sup>

Tata Institute of Social Sciences, Mumbai has made a field action project for understanding the process of decision-making by the trial courts while granting bail to the prisoners. It was found that many bail applications that were forwarded by the prison authorities to the courts were rejected or were pending. There were many reasons estimated behind this, some of them were that bail application was pending due to unavailability of the staffs in the courts as a result of the lockdown, absence of public prosecutor to take over the case, several bail application was rejected on the merits of the case or technical grounds. It was implied by looking at the reasons that the judiciary does not want to release prisoners as they were under fear that accused may abscond after release that would further add to the pile of pending cases. Despite such emergent situation where immediate steps were supposed to be taken for the safety of prisoners, the judiciary applied the benchmark like normal times and failed to consider overcrowding of prison, health, or vulnerable age of the prisoners.<sup>34</sup>

Dangerous parameters undertaken by the courts in place of the parameter of health and vulnerability can be understood by two cases filed before HPC for releasing the prisoners on humanitarian ground. One such case was of an under-trial prisoner who was eighty percent disable due to the disability, both of his hands were amputated. As a result, he needed a helper

---

<sup>33</sup> Vijay Raghavan, *Prisons and the pandemic: the panopticon plays out*, J. SOC. ECON. DEV. (2020).

<sup>34</sup> Charul Shah, *Lower courts need to grant bails to reduce pendency in courts, avoid overcrowding in prisons, say, experts*, HINDUSTAN TIMES (Oct 25, 2020, 11:51 PM), <https://www.hindustantimes.com/mumbai-news/lower-courts-need-to-grant-bails-to-reduce-pendency-in-courts-avoid-overcrowding-in-prisons-say-experts/story-1KJk8vkDUvKcsrxgnhp2AJ.html>.

to perform all of his daily functions. HPC was requested to agree upon the bail application of such disabled person who cannot even manage to wear masks by himself. Another case was of a woman who was arrested on the ground of drug trafficking. The women were suffering from Hemoptysis and Hematemesis, a condition in which a person spits and vomits blood due to which she required constant medical care. But both the application were denied by the Bombay High Court on account of the seriousness of offenses that they were charged with without giving due consideration to their health, safety, and vulnerability to coronavirus.<sup>35</sup>

High Powered Committee and the judiciary have somewhat failed to fulfill the objective of IN RE: CONTAGION OF COVID 19 VIRUS. One such example of poor implementation can be given by the High Powered Committee of Bihar where the authority in one year has failed to determine the prisoners who are eligible for release on interim bail/ parole. The report of Bihar State Legal Services Authority highlights that not a single prisoner has been released by HPC and it has been conceded that bail applications are still pending before HPC. HPC of Bihar has failed to implement the order of the Hon'ble Supreme Court and intentionally ignored the right of prisoners to lead a dignified and healthy life which is guaranteed to them under Article 21 of the Indian Constitution.<sup>36</sup>

The pandemic gave an opportunity where policymakers to undergo a paradigm shift where prisoners could have been viewed as human beings having individual needs like others. Unfortunately, they are still treated as a category that needs to be watched over and segmented as if they pose risk to the wellbeing of society.

## VI. CONCLUSION

Coronavirus indeed continues to affect the whole of India, however, some groups are vulnerable of getting affected because of widespread of the virus. There is ongoing fear among prisoners which should be taken care of by the government. It could be addressed by starting with simple solutions like supplying masks and installing sanitizer or hand washing bottles at cell entrance, prison gate, or any such place of admission. By maintaining the sanitation of the living wards, washrooms and providing prisons with sufficient water facilities. The situation of prison needs to improve and be looked after not only at the time of crisis but generally on regular basis also.

Jail must be decongested by releasing some of the eligible prisoners or undertrials on parole or

---

<sup>35</sup> *Elgar Parishad: Interim bail plea of Varavara Rao and Shoma Sen rejected*, THE INDIAN EXPRESS (June 27, 2020, 02:35 AM), <https://indianexpress.com/article/india/elgar-parishad-interim-bail-plea-of-varavara-rao-and-shoma-sen-rejected-6478001/>

<sup>36</sup> Pallavi, *supra* note 9.

probation. As. Coronavirus is deadly for people with old age and people suffering from an underlined disease like diabetes and cardiovascular disease, so such prisoners should be released for their wellbeing. Decongestion is a requirement and falls under the matter concerning the right to health and life and the government has the responsibility to ensure a safe and protected environment for the prisoners.<sup>37</sup> COVID-19 requires the court to calibrate concerns regarding health hazards, the right of the prisoner and criminal justice system, and to manage them effectively to defeat the deadly virus.

\*\*\*\*\*

---

<sup>37</sup> Vijay Raghavan & Mohammed Tarique, *India's Jails Are Vastly Overcrowded. Here Are Some Ways to Protect Inmates from Covid-19*, SCROLL.IN (Apr 08, 2020, 06:30 AM), <https://scroll.in/article/958334/indias-jails-are-vastly-overcrowded-here-are-some-ways-to-protect-inmates-from-covid-19> 3E%20accessed%207%20May%202020.