

Role Played By Indian Judiciary In Recognition, Promotion, And Protection Of Rights Of Prisoners In India

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Abstract:

The Indian judge is the Ombudsman against infringements of fundamental rights inherent in the constitution in addition to the only protective arms and constitution found worldwide. For the security of the civil rights of prisoners, legal consideration is essential in our culture. The Supreme Court of India (SCI) is truly a beacon of the rights against torture. The Hon'ble Supreme Court of India is the protector of the Constitution of India, and Article 21 of the Constitution of India is the guiding principle for the protection of the life and liberty of an individual. This paper examines the critical decisions taken by the Indian higher justice system on how the Indian judiciary has developed its values and new tactics in ensuring human rights for prisoners. It also discusses prisoners' human dignity, civil rights status, and Human Rights law.

Keywords: *Constitution, Human Rights, Supreme Court, prisoners.*

1. INTRODUCTION:

According to the Universal Declaration of Human Rights of the UN, human beings are entitled to fundamental rights. "Human Rights" are so simple to recognize and explain, but we are as well. Human rights are universal principles or standards established and protected by law concerning specific human actions. These are widely understood to be inalienable civil rights. They are present in every human being. The prisoners' rights were not recognized in India under British rule and during the struggle for freedom in India. Indian Freedom Movement initiated the process of identifying certain prisoner rights. The Indian Constitution grants citizens basic fundamental rights after independence. A man is an inmate but does not cease his integrity [1]. If a person commits a crime, that does not mean abandoning dignity and depriving those aspects of life that he defines. Any right may be imposed on a prisoner, even if he is in jail. Article 21 of the Constitution of India guarantees the right to life and individual freedom and prohibits inhumane or degrading treatment of a citizen, including a prisoner. Under Article 14 of the Constitution, all men are guaranteed equal protection of the law. The problem of prison brutality is addressed explicitly in the Prisons Act, 1894, and the code of criminal proceedings. All offenses committed against the detained are the responsibility of prison officials. The number of acts of torture in the prisons required legal intervention. Indeed, in the last ten years, India's Supreme Court has worked to protect prisoners' rights. The courts recently described custody and third-class practices as a severe infringement of human rights. In the hands of Indian prisoners, case law was dismissed [2]. Besides, the Supreme Court decided that persons remain in jail.

In this article, the Supreme Court of India humbly refers to previous rulings on prisoner rights. "Nobody may be treated humanely or degradingly and punishable with torture or cruelty, and none who is deprived of freedom shall be treated with humanity and respect for the integrity of the dignity of the human person," the International Covenant on Civil and

Political Rights says. For example, Article 44 requires the State to ensure equal conditions of play for its workers and social and cultural benefits. The army must revolutionize society at long last. All are illuminated, preserved, and honored. Indian society has gained immensely from the courts' open view of human rights. According to the Human Rights Protection Act of 1993, paragraph 2(d) provides 'for an individual guaranteed under the constitution of or under the International Pact the right to life, equality, equal status and dignity [2, 3 & 4].

There are century-old Indian prisons. In compliance with the Prisoners' Rights Act, there are only two issues. The text omitted many of the concepts of human rights and guidelines. Some countries have passed the prison administration to the State. The freedom to visit and to visit pre-trial and civil prisoners is also in doubt. Dr. Ambedkar will not refer to any other than this Document if he asks to name the most relevant Article of the Constitution. The House now recognizes the constitution's meaning. Therefore, future improvements in the Indian Constitution depend in significant part on its structure and course, and it is its responsibility not to ignore the present constitution's social, economic, and political circumstances. Joint attempts may be made to remedy a violation of constitutional law by a state [4].

1.1. Indian Human Rights Case Law:

Sunil Batra has been found to have constitutional status in India's current human rights law. The principles of human rights, the consequences of the universal declaration of human rights, and the constitutional obligations under the Indian constitution were well discussed in their application and implementation at Kesavananda Bharati. In Maneka Gandhi, the 'law procedure' meant fair and fair law rather than arbitrary or oppressive [5].

The Indian Constitution guarantees complete freedom of expression, freedom of speech, assembly, detention, life and freedom protection, and the right to oppression. The right to be treated in a dignifying way and to decency, the right to bail, the right of employees to pay for detention, the rights of working workers to equal compensation and conditions of service, the rights to security, the right to education, and employment, the right to live and to be treated in a dignified and respectable manner. The Supreme Court of India is very serious about the issue of prison reform. The Supreme Court mandates the idea of reparation and improvement of the punishment to an appropriate standard of punishing the crime committed. This is the Indian judge's individual technique. The term "human rights" is a short word, but it is the foundation of our lives when it is put together. Human rights are universal laws or principles that define human conduct norms and are subject to law regularly. In general, these rights are accepted as "the inalienable right to live" as a form of human dignity [6].

The prisoners' rights were not known until the war of release in India, and the situation in India is worse. In defining prisoner rights, the Indian Liberation Movement played a key role. Such rights are given to the people in line with the Indian Constitution. Whatever it is complicated or complicated, we should not forget the importance of a man. A person who is an insult never ends being a human being and cannot remove the facets of human dignity in life. As an inmate, all rights may be enforced, including being incarcerated [7].

1.2. Human Rights in India

In ancient times, human rights in India were recognized as 'Manava Dharma,' well-known human values in Rig Veda, Manu Smriti, Artha-Sastra, etc. The concept of human rights is well known to us. The Indian Constitution on "Human Rights" emphasizes individual rights and the principles of government policy. Human rights are well known, and many of the fundamental principles in the world are consistent. There are highly interesting and reflective shifts in the 'human rights' system worldwide. It still lives, develops, evolves, and journeys. Whatever it is, it is so broad and civilized that it covers nearly everything in people's lives. The civilized world has a strong link with its policies. Simultaneously, it is difficult to ignore

the burdensome standing of subordinate judges closer to the public, even though the parties concerned had corrected claimants. Some constitutional remedies, the 'magistrate' or the 'judicial tribunals,' are granted national commissions and courses on Human Rights to use their authority to rule or exercise their rights [8].

Infringements regulations which are more experienced in various categories of prisoners, policemen, officers of the department, law enforcement, and the administrative rules in violations than in actual practice where the position of the "subtle judge" is significant are vulnerable sectors. In particular, it can be represented by the 'compensatory case law' in the field of prison sentences, mistreatment, torture and inhumane acts, prison officers, police, and breach of Article 21. I believe that a judge intentionally performing his duties can, according to legal criteria, truly perform wonders to protect human rights in compliance with the law parameters. The Constitutional Court can exercise some special powers. The "magistrate" who refers explicitly to human torture of a third rank must operate in four areas, and the "inquiry agencies" must declare that alleged criminals have human rights [6 & 7].

2. LITERATURE REVIEW:

Arun Ray, (2004). They only touched on essential areas because of the time constraints, and you should be careful not to remember your gratitude. Areas like non-substantial procedure, human rights precautions either direct or indirect; sectoral precedents; single-containment; manual detention; bar fetters; sub-trial; trafficking in children; trafficking in women; economic crimes; sexual crime.

Shashi Motilal and Bijayalaxmi Nanda, (2010). Finally, I need to emphasize that the law is cautious, in at least a few cases, to condemn 'judicial activism' or 'overriding powers' and that at the same time, it carefully revisits the competencies for the security and protection of 'humankind' and many 'master officers'.

Ahuja, Ram (1981). The study demonstrates misperceptions and attitudes towards males and women's identity, sexual and sex status through exclusion or marginalization of inconsistent persons, and subordination and control by women and girls. Through classification, debunking, and progress in the battle against stereotypes, courts can perform vital transformative functions to catalyzes the abrogation and ensure social justice of gender stereotypes.

Agarwal, H.O (2010). In recent years, the Supreme Court of India has used the public interest litigation strategy to enforce prisoners' rights. The courts have realized that they are people, and they do not have to become hardened criminals but reform them. They have to reform. The Indian Court of Auditors, when reading the above contribution, demonstrates the delicacy and liveliness of the protection of the human rights of detainees. It has launched new tools to protect prisoners' most valuable human rights and conceived new solutions by legal activism.

Sirohi: J.P.S.; (2004). If they can live with dignity, human rights are basic human rights. The rights of human beings are basic rights. Fundamental rights are civil rights. The Indian Constitution guarantees universal human rights as laid down in the articles of the constitution and fundamental freedoms and the safeguarding of individual dignity. The preamble relates to human rights.

The United Nations, (1998). The Indian judiciary even loosened the rule of law on human rights, which paved the way for a public dispute. The public interest has brought various incidents of human rights violations to justice. Justice, among other things, has protected the rights of women, workers, children, and prisoners. Therefore, the judiciary is a savior so that every individual can live in a dignified way regarding human rights. Various international human rights instruments have been incorporated throughout the world, and a national effort is based on international instruments, such as the application of the Human Rights Act 1993.

In accordance with the law establishing the National Commission on Human Rights and the State Committee on Human Rights, provisions were made. The Human Rights District Court was formed so that justice for victims of human rights violations could be granted at all levels.

S.N. Chaudhary, (2005). It has been a commendable task to protect and provide the victims and their families with monetary relief since the establishment of the National Human Rights Commission. Although some amendments to the Act and subsequent suggestions to the Act were necessary if such changes were introduced, the Commission could reinforce its point of view and easily achieve its objectives.

Jain, M.P (2009). Various laws to safeguard prisoners' rights exist, but the judiciary has played a significant part in protecting the rights of prisoners by issuing certain decisions and guidelines. The courts also interpreted the various articles of the constitution in order to examine the rights of detainees. However, if we look at the reality on the ground, these actions are not implemented properly. Prisoners are still suffering or lacking in their rights. There are several reasons why stakeholders should not be dissuaded, and the provisions do not apply.

James Nickel et al. (2013). Concerning the various prisoners' rights, a liberal opinion has been taken, as discussed above, to demonstrate prisoners' rights for humanitarian reasons. These rights are to be given to the prisoners not for being criminals or inmates but for being humans.

P. Sukumar Nair, Human (2011). As for my research and the table presented here, this discusses different types of prison, as shown in the table. It shows clearly that the prisoners brought to the prison in India are relatively low because the percentage of crime has increased in society, and the judiciary has failed to decide this case. Consequently, I propose that the government work on this matter through the increase in prisons and the upgrading of prisons.

Singh, Saket, (1994). Article 21 of the Constitution ensures that every person has the right to life and dignity and prohibits the torture or treating persons with contempt, particularly as an act of terrorism. Article 14 of the Constitution encompasses all kinds of race, color, sex, language, faith, political or other opinions, national or social origin, land, birth or another status, or discrimination. The prison law (1894) and the Criminal Procedure Code both discuss a particular aspect of the treatment of prisoners: abuse rather than just violence.

Willem J.M. (2004). The paper's primary goal is to emphasize the critical Supreme Tribunal of India judges who have been charged with ruling on the role of prisoners in the Indian justice system, such as the practice of torture of prisoners, the amount of time served, and incarceration without conviction.

Lalwani, D.P. (2006). It is also unacceptable to say that someone has the right to be recognized in general as an individual by law or to claim to be subjected to torture, assault, humane treatment, or disability. Article 5 of the United Nations Universal Declaration of Human Rights, 1948 sets out the right of everyone to life, equality, and personal protection.

Burns H. Weston (2014). So, thus, it will be in large part up to the Supreme Court and what it has to say about it for future constitutional development to precede the notion that you can disregard the social, economic, and political patterns that form the prerequisite structure for one's duties is not entirely out of the question.

P. Sukumar Nair, (2011). The Supreme Court of India has played a crucial role in making significant human rights decisions in recent years. Article 21 of the Indian Constitution states that no one is denied their life or personal freedom unless they follow the guidelines set forth by statute. In India, the courts have been transparent and democratic, and they have effectively tackled human rights violations. Human rights are established and constructed in the courts, which has enabled individuals to enjoy both their lives and their freedoms.

2.1. Problem statements

The statute is known as the Old and Colonial Prison Law of the Slave State of 1894, also referred to as the "Blank Slate Bill," which aims to reinstate slavery and make "slaves of the state" prisoners. Not only do citizens' lives and civil rights hang in the balance, but also the government's mistreatment of prisoners. People who are incarcerated are persons to complicate matters further, and as such, they are entitled to all of their civil rights. Even if some measures on prisoner rights have failed to hold up in court, things are very different on the ground. On top of that, all of the above problems were not discussed. For example, criminal facilities such as prisons do not have sufficient bedding, proper medical care, nutritious food, enough clothing, and poor living conditions for inmates.

2.2. Objectives

The objective of the Free Legal Aid Scheme is mainly to establish the concept of equality before the law as the basis of our legal system. The rights of the poor and needy are unrelated without freedom of law to fundamental rights and persons guaranteed by the respective constitutional or international human rights treaties. The Indian Constitution does not include a simple right to legal assistance. However, amid their poverty, the judges favored the helpless prisoners who cannot have their lawyers.

2.3. Hypothesis

H0: Increased access to justice for disadvantaged groups

H1: Promotion and addition of judicial initiatives

H2: To pursue personal satisfaction, personal autonomy, social influence, and social justice.

H3: What is the validity of solitary confinement?

H4: Is the victims' permission needed in narco-analysis/brain mapping?

H5: Are prison personnel orders issued by the judiciary?

3. INDIA'S JUDICIAL ATTITUDE ON PRISONERS' HUMAN RIGHTS::

In recognition of these inmates, the Indian Liberation Movement played a crucial role. The Indian Constitution provided the public with constitutional rights after independence. The right to personal rule and all cruel, barbarian, or degrading procedures shall be covered under Article 21 of the Constitution. In Article 21, the Supreme Court defined the Human Rights Case Law on the protection of citizens' dignity, "None, except in accordance with the law, shall be deprived of life or freedom." The authorized body may only issue an order of containment in compliance with the law procedure. The High Court of Indian Affairs recently ruled that the trials are not arbitrary or unreasonable. Francis Cora Lie Mullin c. also followed up on the court's finding that Article 21 prevents the deprivation of life and freedom. Governor, Delhi Union, and Other Territory. This should be airy, rational, and practical, not arbitrary and excellent. The Indian justice system was very vigorously and diligently[8 & 9].

3.1. Prisoners and the human rights

The Supreme Court of India takes a close look at the civil rights of prisoners. India's civil rights are guaranteed in the constitution. Our system of justice integrates a constructive approach and advocacy in response to human rights abuses. Courses also extend 'life and personal freedom' to balance equality, and the court has given limited meaning to fundamental rights. The court found the records to be mutually exclusive and not mutually exclusive. However, this view was subsequently found incorrect. The court found that the sentences were too long and had to be divided. Article 21 has a broad and comprehensive

right. It recognizes the fundamental liberties as well as the strategies for their deprivation [10].

In accordance with Part III of the Constitution, the Higher Court specified only some rights. Article 21 of the Constitution may contain any exercise of human rights. We are entitled to legal assistance, ordinary trial, an interview, a friend, family, or supporter. However, these rights are not explicitly laid down in the constitution. The human rights of prisoners are a vital component of PIL. The Supreme Court of India has extended Article 21 by protecting the fundamental rights of prisoners. The Supreme Court has given lives and freedom to individuals. The constitution stipulates that States have competence over correction, prisons, law, and order. In general, the states do not spend much on prisons. The Supreme Court has ordered prison authorities to look into their prisons in many decisions. The US Supreme Court banned various types of torture. The judge extends liberty and life.

In its interpretation of Article 21, the Supreme Court has demonstrated the true purpose and scope of Article 21. I am considering the most recent advantages granted to analphabets, unemployed and ignorant by the Supreme Court. The PIL complained about the majority of the rights of the prisoners. The judges conclude that inmates are actual persons and not offenders. No person should be tortured or dehumanized under Article 5 of the Universal Declaration of Human Rights. Human rights mean that everybody is seen before the law as individuals. All people without their rights must have humanity and integrity upheld. Human rights law in India protects and safeguards prisoners' integrity. In particular, the judges make judicial decisions. The judges are in charge [11, 12, and 13].

3.2. Who are Prisoners?

A prisoner is one who, as described in the 'Merriam-Webster dictionary,' has been deprived of his freedom and has been unwillingly detained in detention, confining and/or incarceration, which deprives him of freedom, liberty, and certain rights against his will, but is deprived of his freedom. In the case of a violent crime requiring constraints and limitations, the statute forbids rights.

The word "prisoner" is not specified in Indian law. Nevertheless, in compliance with Article 3(2) of the Act of 1894, there are two types of inmates: criminal and civil. The Act is described by section 3 as any other prisoner other than the Prisoner [13].

3.3. Recognition of Prisoner' Right against Torture

Human beings are not non-human beings when they commit a crime. However, they have certain constitutional rights if you are found to be guilty of all their rights. The perpetrator is more accessible to regard than an animal as a human being. In foreign instruments, the laws on the welfare of prisoners are debated (UNCAT). In foreign countries and states, the interests of prisoners are abused. They are international treaty signatories. There is no special prisoner rights legislation in the Indian constitution, but the Supreme Indian court has always granted prisoners' rights. In 1983, the first rights were issued to inmates. In compliance with Articles 14, 19, and 21 of the Constitution, prisoners were given independence. Prison walls refuse to recognize human rights. To cover more personal matters, the Supreme Court has extended the right to life, autonomy, and property of Indians. Law-abiding citizens have the right to a fair trial, legal aid, and the protection of the State according to Article 21 of the Swiss Constitution. The first fundamental rights of prisoners would be easier to distinguish from the other rights [14].

4. RIGHT TO FREE LEGAL AID:

Free legal aid is aimed mainly at establishing the basis of the equal justice principle before the law of our legal system. In the absence of a Free Rule, equality for the poor and needy has little relation to the fundamental rights and people given under the respective Constitutions or International Human Rights Treaties. The Indian Constitution has no simple right to legal aid. However, amid their poverty, the judges expressed their favor to the vulnerable prisoners who cannot include lawyers of their choice. Articles 142 and 404 of the criminal procedure codes were referred to the Government by Articles 21 and 39-A in light of Articles 21 and 26. [13, 14 & 15].

4.1. Rights against handcuffing

Justice V. R. Krishna Iyer said manual exercises in Prem Shankar c were primitively inhumane and fundamentally unequal. The Supreme Court finds the use of fetts and handcuffs in prison to violate the concept of integrity in the human race, which is a part of Indian constitutional culture (Article 21). "It is torture, defile his dignity and vulgarization of society, torment our constitutional soul to tie a person to the hand and the foot, add steel arms to his limbs, and put him in court for hours," the Supreme Courts said [16].

4.2. Right to a speedy trial

The priorities of the criminal justice system are accurate and prompt hearings. If a charge is made, as much evidence as possible must be gathered in a short period. We think that people are innocent if they are not found guilty. Both criminals must quickly determine. No prisoner can be predicted without justice, and the court must ensure that justice is not delayed. The court "obstructs" itself as a refusal of justice, it must be said. If parole is denied, the accused should no longer than is appropriate to be arrested in prisons. Not promptly convict criminal defendants. In general, the right to prompt justice has become a constitutional right. Section 309 of the Code of Criminal Procedure was the primary tool for investigating and indicting a crime. There are no differences if all the specifics are observed. However, in her spirit, it is not. According to the Supreme Court, inmates are treated humanely, and the constitution protects their civil rights. The court held in the instantaneous case the right to prompt trials on all levels, including investigation, inquiry, prosecution, appeal, review, and retrial. Besides, the Supreme Court noted the delay in implementing decisions. In delivering the judgment that violated the Court's right under Article 21 of the Constitution, the High Court found an unexpected breach [17].

4.3. Relative and lawyers of right to have an interview with friends

4.3.1. Case analysis of union of India Vs. p. Dutta

Interviews of death sentences are a fundamental question of freedom of the press, the Supreme Court concluded. In the sense of the Right to Life and personal rights of Article 21, Mullin versus Union territories of Delhi 19, and the Supreme Court, the prisoners were found in Francis Cora Lie. The court held that COFEPOSA rules permitted only one interview of its family members for a month in which Article 14 and Article 21 were unlawful and unconstitutional 20. Following Articles 14 and 21 of the Constitution, the Supreme Court also guarantees this security. Prisoners' fundamental rights are the right to talk to legal counsel. Sections 14 and 21 of the Constitution contradict and are void. The COFEPOSA provisions are not relevant [17 & 18].

5. RIGHTS AGAINST INHUMAN TREATMENT:

The Supreme Court notified and ordered the government to guarantee prisoners' rights. The Supreme Court discovered the inhumane treatment. The constitution provides the Supreme

Court with the freedom to torture. *Kumar c. Condition of U.P.* was held by the court. A prisoners' interview is required; otherwise, accurate information cannot be collected. In *Jogindar Kumar v. U.P.*, the court held that the human rights horizon is on the rise and the legal services available for people with no income are available for the court, that the lawyer is required and that the State has a constitutional duty to provide legal services to such people [19, 20 & 21].

5.1. Bar fetters and right against solidity confinement

It was also firmly imprisoned by the Supreme Court. Furthermore, the courts of India have repeatedly degraded and dehumanized the prisoners in the north of India in enforcing solitary confinement; the courts have noted that the ongoing sustenance of a hindrance by day and by night has converted the Prisoner from a single individual to a single, inhumane punishment. It is only likely if the Prisoner is so violent that he is separated from the other prisoners in rare situations. Sunil Batra is under solitary confinement by the Supreme Court. It was vehemently refused by the Supreme Court to imprison barracks [22]. The court found that the continuous presence at night and daytime on the constraints of a detained person in animals had been decreased. The sanctions were so inhumane and abnormal that the use of bar-fetters to damp the severity of the solitary confinement and the constraints were contrary to the Indian constitution.

5.2. Right to interview friends, family members, and lawyer's

The horizon of human rights is growing. Furthermore, the rights of detainees are recognizable to protect individual detainees from physical harm or abuse and prevent mental torture. The sole subsistence basis cannot be covered by Article 21 of the rights to life and personal rights. This is more than a symbol of survival. It falls within the personal liberty, provided for in Article 21, of persons interviewed by family and friends. No convicted person shall be denied the right of consulting and enforcing his or her elected counsel in compliance with Article 22(1) of the Constitution. In addition, the adoption by Article 22(2) of the Constitution of Article 39(A) of the Directive on lawyer protection and the implementation of Article 304(1) of the Directive expanded the legal right in compliance with the provisions of the 1976 Act. The law allows the poor to wait for courts, whose lives and liberties are threatened not only by the Constitution, the Criminal Code, and international conventions and declarations but also by the law. [23]. The court held that the accused has the right to do so from the moment he was convicted, and the Prosecutor has the right to choose. The Supreme Court of India, in several cases, has found that prisoners have a right to question family members, friends, and lawyers. The State of the United Nations Court ordered the State Government to allow the family and friends to visit the prisoners on secure terms at least once a year. In *Hussainara Khatoon and Others vs. Home Secretary Bihar*, the Supreme Court ruled that the petitioner was entitled to a legal counsel who was exempt from providing legal services due to poverty and suffering or a non-communicator. In the absence of any free legal means, the trial itself may be vetoed as an infringement of Article 21. The arrests of tribunals and police were long overdue on the ground of so-called "justice paralysis" [24]. The court held that the "law-built procedure" to deprive a person of life or freedom is the "ruled procedure" (Article 21). The court determined that *Sheela Barse v. the State of Maharashtra* conducted interviews with the prisoners, as the correct details could otherwise not be gathered. The Court in *Jogindar Kumar v. U.P* concluded that criminality has risen due to the indiscriminate arrest of people charged with human rights abuses. The court has recognized the right to be consulted by all the parties. The Director of the Union of Delhi Territory agreed that, on the one hand, the Arrest Law seeks to bring privileges, freedoms, and responsibility of the individual into line

with those of the individuals of both sides and, on the other hand, to calculate and balance people's rights, freedoms and freedoms [24 & 25].

6. CONCLUSION:

Everyone is entitled to have their individual rights, either a person or a criminal. Human rights are seldom respected behind prison walls. Human rights reports from the Human Rights Commission and other NGOs, including Amnesty International, say that, despite opposition from politicians, torture remains unprotected in Indian prisons.

The Indian government fails to meet its responsibilities to ensure the safety of prisoners, including inmates. Every month, there are deaths in India as a result of police custody torture. The Indian Government has not ratified the United Nations Convention against Torture, despite a bill being tabled in the Indian Parliament to do so. The indigenous government cannot, but happily, delay, ratify the Convention.

To end torture in India, the Convention and the 'Torture Prevention Project Bill,' which was first drafted in 2010, must be ratified. Police law of 1861 and subsequent regulations need to be revised to guarantee people's right to self-control.

All parties have a right to be treated with respect as a result of their crimes. Around the same time, the court must consider the right of life and liberty, dignity, equality, including the right of marriage for the prisoner. If the Executive and legislative branches have failed to provide solutions, it is up to the judges to do so. The Executive and the legislature were explained and directed by the Apex Court.

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