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## Case Comment: Sunil Batra v Delhi Administration - A Case that changed the Dynamics of Solitary Confinement in India

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### INTRODUCTION

In India, there are various kinds of punishments given to the offender based on the degree of the offence committed among which *solitary confinement* is one of the most cruel, barbaric, rigorous and inhumane forms of punishment. It is also known as ‘the cooler’ or ‘administrative segregation’. This punishment includes complete isolation of the prisoner in a cell away from that of others who is kept under strict surveillance and there is a prison officer posted outside the cell all the time. India as a country no doubt believes in the reformation theory which aims to reform the prisoners and make them a better person when they are sent back to the society after completion of their sentence. Solitary Confinement isn’t a part of reformatory or rehabilitative theory but a part of a *preventive theory* of punishment due to its severity and intensity shown towards the prisoners. Being a highly populated country today, India surely needs such punishment to prevent future occurrences of crimes and yes, this is against human rights but still solitary confinement is prevalent, to protect society from cold-hearted and detached criminals.

Aristotle in one of his quotes says, '*Man is a Social Animal*'. Society is something that precedes man and a man who cannot live in a society or feels he is self-sufficient hence no need of a society is either a beast or a god<sup>1</sup>. So, prisoners who are kept in isolation face mental health issues such as anxiety, and depression, become impulsive and might start hallucinating or might even inflict harm on oneself. There are many international laws that prohibit solitary confinement altogether and one among them is *Article 5 of UDHR* (Universal Declaration of Human Rights) which promotes '*Freedom from Torture*'<sup>2</sup>. One such case, that changed the dynamics of solitary confinement in India, is *Sunil Batra v Delhi Administration*<sup>3</sup>.

### **FACTS OF THE CASE**

Sunil Batra, a convict who is under death sentence wrote a letter to one of the judges of the court concerning an inhumane activity practiced by the prison warder upon one of the inmates by name Prem Chand with the aim of obtaining money from the victim's family who used to visit him. This letter was converted into a case of Habeas Corpus proceedings by the court. To analyze the situation in the prison, the court hired Amicus Curiae by granting them the authority to scrutinize the case where they would interact with the inmate and other essential witnesses of this act while also looking into the documents. The main objective behind this measure was to provide the Amicus Curiae with an understanding of the workings of the prison. After visiting the prison and interviewing the witness a report was submitted to the court by the Amicus Curiae. This report revealed the clear liability on the part of the prison warder and not only him but as well as on the Superintendent of the prison, which unveiled that the prisoner had severe anal injuries due to the insertion of a rod into him. He was first taken to the prison hospital but due to continuous bleeding was shifted to Irvin Hospital.<sup>4</sup> The report also includes the explanation given by the prisoner for the occurred anal injuries and the intention of the warder to obtain money from him and the role played by the departmental officers in the concealment

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<sup>1</sup> Aristotle, *THE POLITICS: REISSUE OWC PB* (Oxford University Press 2009)

<sup>2</sup> Universal Declaration of Human Rights 1948, art 5

<sup>3</sup> *Sunil Batra v Delhi Administration* (1978) 4 SCC 409

<sup>4</sup> *Ibid*

of the crime by intimidating them with an explanation of the bleeding that it was self-inflicted or due to piles.

## ISSUES

1. Whether the jurisdiction of the Supreme Court extends to such an extent that it can entertain the petition by a convict who himself is on death sentence.
2. Whether the prisoners are entitled to rights under Articles 14, 19 & 21 of the Indian Constitution.
3. Whether section 30(2) as well as section 56 of the Prison Act 1894 violate the above-mentioned articles.
4. Whether the prison officers violated section 73 of the Indian Penal Code.

## ARGUMENTS FROM THE PARTIES

### **Petitioner's Side**

- The petitioner in this case contended that Section 30(2)<sup>5</sup> does not authorize the jail officers to keep a prisoner under death sentence despite the fact that their appeal is final or still pending in solitary confinement.
- The petitioner argued that his fundamental rights are restricted as a prisoner but not completely extinguished and hence cannot be ripped off from the protections under Article 21<sup>6</sup> as the mentioned term life in this article extends to more than just physical existence.
- The petitioner added that the above-mentioned section 30 violates Article 14<sup>7</sup> and there is discretionary power in the hands of the prison officers due to lack of proper guidelines concerning the treatment of the prisoners that leads to inequality among the prisoners.

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<sup>5</sup> Prison Act 1894, s 30(2)

<sup>6</sup> Constitution of India 1950, art 21

<sup>7</sup> Constitution of India 1950, art 14

## **Respondent's Side**

- The respondent in this case stated that the prison manual itself imposes restrictions on the fundamental rights of the prisoners when compared to that of free citizens.
- The respondent argued that the concept of solitary confinement was introduced with alternative aims among which one is to prevent the prisoners under a death sentence from inflicting harm on others or themselves or trying to escape from the execution.
- The respondent contended that section 30 (2)<sup>8</sup> of the Prison Act 1894, doesn't include solitary confinement to maintain discipline and hence it cannot be said that this section violates Article 14<sup>9</sup>.
- The respondent further cited Section 46 of the Prison Act<sup>10</sup> by justifying the actions of the warder saying that this section authorizes the superintendent to take necessary action against prisoners by imposing penalties after thorough inspection.

## **JUDGEMENT**

The bench of the Apex Court in this case comprised 6 judges who delivered the judgment by ratifying its authority under Article 32<sup>11</sup> and Article 226<sup>12</sup> with reference to the cases relating to fundamental rights and the prisoners themselves can approach the court in case of breach of their rights. The court held that section 30(2) of the Prison Act does permit the prison authorities the capacity to subject the inmates to solitary confinement but not torture. This section was considered to be non-violative of articles 14<sup>13</sup> and 21<sup>14</sup> because confining prisoners might be necessary sometimes to prevent violence in the prison. But this case doesn't fall under the ambit of section 30(2) of the Prison Act as he hadn't exhausted his legal rights and the death sentence wasn't finalized therefore, Sunil Batra shouldn't be kept in this type of solitary confinement under section 30 (2). The court also highlighted that despite the prisoners being sentenced to

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<sup>8</sup> Prison Act 1894, s 30(2)

<sup>9</sup> Constitution of India 1950, art 14

<sup>10</sup> The Prison Act 1894, s 46

<sup>11</sup> Constitution of India 1950, art 32

<sup>12</sup> Constitution of India 1950, art 226

<sup>13</sup> Constitution of India 1950, art 14

<sup>14</sup> Constitution of India 1950, art 21

death should be still treated as human beings, as the prisoners are also entitled to liberty and the right to life under Article 21 and shouldn't be ripped off their rights<sup>15</sup>. The court recognized the power and the authority of the superintendent to take measures in order to maintain discipline under section 56 of the Prison Act but only when the court or any other government authority grants permission to do so and that this section does not violate articles 14 and 21. The court revealed its concern about the conditions of prison and highlighted that the Prison Manual was outdated<sup>16</sup> and the inhumane treatment faced by the prisoners was acting as a barrier in their rehabilitation because all this treatment would lead to mental instability and incapable to interact when brought back into the society.

## ANALYSIS

The Apex court is entitled to protect the rights of the people whether that person whose rights are infringed is a prisoner or a free citizen doesn't matter. The act done by the warder clearly shows that it is an inhumane and greedy activity which poses the question of the authorization of the prison officials and their treatment towards the prisoners. It also highlights the need for regular inspection by an outside authority other than prison officials to know and understand the circumstances of the prison. There is a need for solitary confinement to prevent others from committing a crime by setting an example to society through rigorous punishment of one person not only this but also prevents a convict from harming others or escaping from their death sentence. Prisoners under solitary confinement are allowed to come out of their cells once or twice a day depending upon their sentence. Every day a medical officer is appointed to check the mental health of the prisoner under solitary confinement. Due to its severe effects on the mental health of the prisoner, it is awarded only to the convicts under death sentence for a few days before their execution while proper and necessary care is taken of the prisoner. The practice of solitary confinement is indeed ancient. It is expensive as a separate cell with essential requirements should be built and it weakens the mental ability of a person by inducing stress. It completely destroys the hope of reformation of the offender. Due to a lack of proper

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<sup>15</sup> Smrithin Maturi, 'Sunil Batra vs. Delhi Administration (1978) AIR' (*Legal Vidhiya*, 8 April 2023) <<https://legalvidhiya.com/sunil-batra-vs-delhi-administration-1978-air-1975/>> accessed 20 December 2023

<sup>16</sup> *Sunil Batra v Delhi Administration* (1978) 4 SCC 409

notification or amendment in acts like the Prison Act, 1894 and IPC, solitary confinement is being misused by prison officials.

## CONCLUSION

As mentioned in the introduction, the case changes the dynamics of solitary confinement and provides answers with respect to solitary confinement being in violation of Article 21<sup>17</sup>. In 262<sup>nd</sup> Law Commission Report, 2015<sup>18</sup> says that solitary confinement should be removed completely due to its cruel nature violating human rights by torturing the prisoners mentally. It also has changed the discretionary power in the hands of the prison officials while stating that the court has the clear authority to place a prisoner under solitary confinement only when all the right to appeal of a person has been exhausted and only then after exhausting all his rights he can be sent to solitary confinement and until that, he shall remain in the normal cell with other inmates.

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<sup>17</sup> Constitution of India 1950, art 21

<sup>18</sup> Rajgopal Saikumar, 'Negotiating Constitutionalism and Democracy: The 262<sup>nd</sup> Report by Law Commission of India on Death Penalty' (2016) 12(1) Socio Legal Review