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Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



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Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

INDIAN PRISONERS & SEARCH FOR EQUALITY

AUTHORED BY - ADITYA PRATAP SINGH¹

INTRODUCTION

Caste-based discrimination has been a social norm in India for a long time and unfortunately still lingers within institutions like prisons. It was in October 2024 when a significant judicial decision went down from the Indian Supreme Court regarding the issue of caste-based discrimination at its prisons, hinting at older prison manuals implicit in the work of caste-based hierarchies. It is a huge milestone in the fight against casteism in India's penal system.

In this regard, caste discrimination in the prison is also nothing very new; it simply reflects the deep hierarchies prevailing in Indian society. Traditionally, in India, prisons remain arranged along lines of caste, just like society at large. In most prisons in the country, even today, inmates are put into separate categories based on their caste identities. Segregation, in turn, is often reflected in day-to-day activities - housing, job assignments, and privileges such as food, healthcare, and visitation rights.

To that end, there are the Dalits, or "untouchables," ranked at the bottom rung of the caste ladder; it's them who usually suffer the worst. In most cases, they're even thought to be toilet cleaners or work in dirty environments, and prisoners from a higher caste care only about less humiliating jobs. It further strengthens vulnerable aspects within underprivileged communities, as they become an inferior class even in jails.²

As some point out, one-way casteism reflects itself in Indian prisons is through the colonial prison manuals still in practice. Older states have either implicitly or explicitly supported segregation and discrimination based on castes by segregating the prisoners according to castes and assigning them tasks according to these differences. For instance, classification for labour arrangement often takes cues from an inmate's caste, making lower-caste inmates perform demeaning tasks.

¹ 5th Year Student, Amity University, Noida, Uttar Pradesh

² (2024, July 20). *Supreme Court is right — caste discrimination in Indian prisons cannot be allowed to go on.* The Indian Express. <https://indianexpress.com/article/opinion/columns/caste-discrimination-india-prisons-supreme-court-9465256/>

Prison staff, who are also disproportionately representatives from the caste-stratified society, often continue these discriminatory practices consciously or unconsciously. Institutionalized discrimination still stigmatizes offenders because of their caste and dismisses dignity and fairness in practice.³

The Supreme Court of India took the historic decision against the prison manuals that speak to or permit caste-based discrimination. The case was brought before the apex court by organizations of human rights and social activists, who brought into the discussion the pitiful conditions of Dalit prisoners and the ingrained discrimination present in the prison system. The petitioners pleaded that this caste-based segregation and employment of prisoners violated the very basic rights of the prisoners, foremost among them being the rights as provided in Articles 14 (Right to Equality), Article 15 (Right Against Discrimination), Article 17 (Abolition of Untouchability), 21 (Right to Life and Personal Liberty) and Article 23 (Prohibition of Forced Labour) of the Indian Constitution.

SUKANYA SHANKA VS UNION OF INDIA

This landmark judgment of the Supreme Court of India in October 2024 is the outcome of the challenge to caste-based discrimination within the Indian prison system. One of the prominent human rights activists, Sukanya Shanta, along with other petitioners, argued this case against caste-based segregation and labour allocation being carried out in Indian prisons based on colonial-era prison manuals.⁴

Sukanya Shanta and a band of activists have been documenting human rights abuses in Indian prisons for a long period. Their research revealed that caste bias was prevalent in the prisons as the Dalit prisoners were involved in inappropriate and degrading tasks whereas the prisoners belonging to the higher castes were assigned less demeaning jobs. Such discriminatory practice not only violates the dignity of the human being but also offends the principles of equality and non-discrimination as contemplated under the constitution.

³ (2024, October 4). *Caste in jail*. The Hindu. <https://www.thehindu.com/opinion/editorial/caste-in-jail/article68718763.ece>

⁴ (n.d.). 'End Authoritarian Regimes of Pre-constitution Era': What SC Said When Ending Caste-Based Prison Work. <https://thewire.in/caste/supreme-court-sukanya-shantha-caste-based-work-supreme-court>

The petitioners went to the extent of arguing that several state prison manuals-most of which were drafted in colonial times many of which explicitly supported segregating prisoners based on caste and prescribed work along traditional lines of caste assignments, provided some very solid examples: for example, Dalits were made to clean latrines as a measure/ practice historically bound with the caste for "impure" labour. This petition claimed that such practices were violations of the fundamental rights given through Articles 14 (Right to Equality)⁵, 15 (Prohibition of Discrimination on Grounds of Religion, Race, Caste, etc.)⁶, Article 17 (Abolition of Untouchability)⁷, 21 (Right to Life and Personal Liberty)⁸ and Article 23 (Prohibition of Forced Labour)⁹ of the Indian Constitution.

SUPREME COURT'S RULING

Supreme Court unequivocally condemned caste-based discrimination practised in Indian prisons. The court held that reliance on such outdated prison manuals supporting caste-based labour assignments was unconstitutional. Instead, it declared that the violation of the fundamental rights of the prisoners committed by the very same manifests in the authoritative documents in that it failed to revise it as per modern constitutional principles of equality and dignity.

This further elaborated that no prisoner should be assigned work based on his caste identity because this will proliferate the inequality of the society and will continue to marginalize the vulnerable communities. The Court directed the prison authorities in the whole nation to bring reforms such that all the prisoners are equal, with their caste identity being omitted.

The Sukanya Shanta v. Union of India case emerges as a significant event in the fight against casteism in India. Clearing cast-based discrimination and equality in prisons will be the monumental outcome of the judgment to be pronounced by the Supreme Court through sweeping prison reforms. Rights activists have welcomed the judgment as a vote of victory for

⁵ (2009, January 7). *Law & Justice2.pmd.*
https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

⁶ (2009, January 7). *Law & Justice2.pmd.*
https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

⁷ (2009, January 7). *Law & Justice2.pmd.*
https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

⁸ (2009, January 7). *Law & Justice2.pmd.*
https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

⁹ (2009, January 7). *Law & Justice2.pmd.*
https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

the sidelined communities, specifically Dalits, who have always undergone oppression in the different set-ups of society and even in various institutions.

DISCRIMINATORY PROVISIONS OF PRISON MANUALS

- Rule 267 of the Uttar Pradesh Jail Manual, 2022 Classification necessary in the case of every convict- The Superintendent shall see that every convicted prisoner has been classified as habitual or casual in accordance with the form of classification furnished by the convicting court.¹⁰
- Rule 269. In a jail where prisoners of more than one class are confined, the Superintendent shall make arrangements, as far as possible, for the complete segregation of different classes in separate circles, enclosures or barracks in accordance with the requirements of section 27 of the Prisons Act, 1894 and the rules contained in this chapter.¹¹
- Rule 270. Segregation of casual from habitual prisoners - Casual convicts shall as far as possible, be kept separate from habitual convicts.¹²
- Rule 271. There shall, as far as possible, be separate wards for non-professional and professional sub-categories of habitual prisoners. Prisoners belonging to the latter sub-category should be kept entirely separate from all other categories of prisoners.¹³
- Rule 289(g) of the Uttar Pradesh Jail Manual, 2022 provides: “A convict sentenced to simple imprisonment ... shall not be called upon to perform duties of a degrading or menial character unless he belongs to a class or community accustomed to perform such duties; but may be required to carry water for his own use provided he belongs to the class of society the members of which are accustomed to perform such duties in their own homes.”¹⁴
- Rule 158 begins with the words: “Remission to convicts on scavenging duty: Subject to good work and conduct in jail, convicts of the scavenger class working as scavengers in jails...”¹⁵

¹⁰ (n.d.). https://www.indiacode.nic.in/bitstream/123456789/20121/1/uttar_pradesh_jail_manual.pdf

¹¹ (n.d.). https://www.indiacode.nic.in/bitstream/123456789/20121/1/uttar_pradesh_jail_manual.pdf

¹² (n.d.). https://www.indiacode.nic.in/bitstream/123456789/20121/1/uttar_pradesh_jail_manual.pdf

¹³ (n.d.). https://www.indiacode.nic.in/bitstream/123456789/20121/1/uttar_pradesh_jail_manual.pdf

⁵ (n.d.). https://www.indiacode.nic.in/bitstream/123456789/20121/1/uttar_pradesh_jail_manual.pdf

¹⁵ (n.d.). https://www.indiacode.nic.in/bitstream/123456789/20121/1/uttar_pradesh_jail_manual.pdf

- Rule 694 of the West Bengal Jail Code provides: “Interference with genuine religious practices or caste prejudices of prisoners should be avoided.”¹⁶
- Rule 741 states: “Food shall be cooked and carried to the cells by prisoner-cooks of suitable caste, under the superintendence of a jail officer.”¹⁷
- Rule 793 provides: “The barber should belong to the A class. Sweepers should be chosen from the Mehtar or Hari caste, also from the Chandal or other castes, if by the custom of the district they perform similar work when free, or from any caste if the prisoner volunteers to do the work.”¹⁸
- Rule 1117 states: “Any prisoner in a jail who is of so high a caste that he cannot eat food cooked by the existing cooks shall be appointed a cook and be made to cook for the full complement of men.”¹⁹
- Rule 36 of the Madhya Pradesh Jail Manual, 1987 states: “While the latrine parade is being carried out, the Mehtars attached to each latrine shall be present, and shall call the attention of the convict overseer to any prisoner who does not cover up his dejecta with dry earth. “The Mehtars shall empty the contents of the small receptacle into large iron drums and replace the receptacles in the latrine after having cleaned them.”²⁰
- Rule 26.69 of the Himachal Pradesh Prison Manual, 2021 states, “If there are no females of suitable caste for conservancy work, paid-sweepers shall be taken into the enclosure in charge of a warder and under conditions laid down in Paragraph 214.”²¹
- Rule 440 Allowance for caste prejudice – Andhra Pradesh Prison Rules, 1979. The prison tasks including conservancy work shall be allotted at the discretion of the Superintendent with due regard to capacity of the prisoner, his education, intelligence and attitude and so far as may be practicable with due regard to his previous habits.²²

FUNDAMENTAL RIGHTS OF PRISONERS VIOLATED

Right to Equality (Article 14):

The Supreme Court considered the violation of Article 14 of the Indian Constitution defining Right to Equality. It is construed that under Article 14, equality before the law must be granted

¹⁶ (2016, August 12). <http://wbcorrectionalservices.gov.in/pdf/jcr.pdf>

¹⁷ (2016, August 12). <http://wbcorrectionalservices.gov.in/pdf/jcr.pdf>

¹⁸ (2016, August 12). <http://wbcorrectionalservices.gov.in/pdf/jcr.pdf>

¹⁹ (2016, August 12). <http://wbcorrectionalservices.gov.in/pdf/jcr.pdf>

²⁰ (n.d.). https://jail.mp.gov.in/sites/default/files/Part%201_2.pdf

²¹ (n.d.). <https://hpprisons.nic.in/Docs/2022/Prison%20Manual,%202021.pdf>

²² (2024, October 3). https://www.legalbites.in/pdf_upload/sukanya-shantha-v-union-of-india-2024-1367159.pdf

to every person because there happens to be no discrimination of caste as such between the persons. The Court acknowledged that the prison manuals violated the said principle since they brought rank-based differentiation treatment towards the prisoners, dividing them according to their castes. Such unequal distribution of labor and other privileges of the prison constituted unequal treatment in that prisoners who belonged to the lower castes did not receive equal opportunities and respect accorded to prisoners who hailed from higher castes.²³

It held that the word equal does not simply mean 'same to same', but also end the circumstances existing and perpetuating inequality. The prison administration was reaffirming caste orders by designating loathsome jobs for Dalits and better jobs for forward caste prisoners, thus depriving equal rehabilitating and dignity to the prisoners who are marginalized. This was a blatant breach of Article 14, which promises to uphold equality among all individuals and deliver justice, since the issue was one of unevenness.

Right to be Discrimination Free (Article 15):

The Supreme Court, when it interpreted Article 15, strongly opposed jail manuals as far as direct and indirect discrimination were concerned. The Court took note of the fact that these deeply embedded long-standing social hierarchies and caste-based inequalities were therefore present even within prison. Such policies nurtured both pernicious stereotypes as to the potential abilities of those of a lower caste but also practically limited access to the rehabilitation and reform that would be available to facilitate such reintegration.²⁴

Arbitrary task assignment along caste lines served to entrench the very inequities against which the Constitution was supposed to intervene. It declared that "steps should be taken actively by the government to redress these imbalances so that no prisoner is deprived of equal protection, nor suffers from caste-bias in the administration of the prison system".

²³ (2024, October 6). *Why did Supreme Court strike down discriminatory rules across state prison manuals?*. The Indian Express. <https://indianexpress.com/article/explained/explained-law/supreme-court-prison-manuals-rules-9606530/>

²⁴ (2024, October 6). *Why did Supreme Court strike down discriminatory rules across state prison manuals?*. The Indian Express. <https://indianexpress.com/article/explained/explained-law/supreme-court-prison-manuals-rules-9606530/>

Abolition of Untouchability (Article 17):

Abolition of Untouchability, or 'Untouchability' was prohibited by Article 17. The Court mentions one especially disturbing provision in the Uttar Pradesh prison manual, where it prohibited untouchability under Article 17. The operation of the rule allowed convicts from lower castes to do "degrading or menial" tasks, for the very reason that these communities had traditionally performed these kinds of tasks. This justification was outright rejected by the Supreme Court because this provision directly perpetuated the caste system and the inhuman practice of untouchability. Associating certain tasks with caste identities continued the notion that some occupations were inherently "degrading" and suited only for a select few castes.²⁵

It argued that this concept of burdening the people by their caste for jobs was violative of the very principle of equality and dignity for all as envisioned by the Constitution. Article 17 of the Constitution specifically prohibits all forms of untouchability, and the systems of occupation-based castes in prisons were unconstitutional. The judgment again reiterated that caste should not be the criterion for the type of work a prisoner is to do and all prisoners have an equal right to value-added labor based on caste.

Right to Life with Dignity (Article 21):

Article 21 about the right to life with dignity gives expression of how the caste system interlinks as a sensitive issue in affecting rehabilitation and reform of marginalized prisoners. The court held that the prison rules which segregated prisoners along lines of caste and made the marginalized prisoners do degrading work snatch away their innate dignity. Rehabilitation and reform are the integral parts of the corrections systems, and every prisoner deserves a chance to break free from his past life to rejoin society. The system however actively worked against their reformability by subjecting marginalized prisoners to the varieties of discrimination based on caste.²⁶

Prisons that encouraged caste discrimination undermined the right of life with dignity that also included surmounting historical disadvantages such as caste barriers and the possibility of even

²⁵ (2024, October 6). *Why did Supreme Court strike down discriminatory rules across state prison manuals?*. The Indian Express. <https://indianexpress.com/article/explained/explained-law/supreme-court-prison-manuals-rules-9606530/>

²⁶ (2024, October 6). *Why did Supreme Court strike down discriminatory rules across state prison manuals?*. The Indian Express. <https://indianexpress.com/article/explained/explained-law/supreme-court-prison-manuals-rules-9606530/>

being treated as an equal citizen within the prison system. The court held that by promoting casteism in the prisons, they denied the same scope of rehabilitation and re-affirmation of dignity to the underprivileged prisoners. The judgment urged reforms in prisons where every prisoner's self-respect was supposed to be preserved and fair prospect of rehabilitation sans casteist stigma.

Prohibition of Forced Labour and Unorganized Work (Article 23):

Article 23 of the Constitution of India specifically prohibits all forms of bonded labour or forced labour including casteist jobs as a mode of exploitation of the depressed groups. Under the above constitutional provision, the Supreme Court held that a practice involving the assignment of tasks deemed "impure" or "degrading," such as cleaning toilets and sweeping floors, to prisoners from lower castes amounts to an offence involving forced labor. The Court held that once caste is used to command people into performing degrading labor, it becomes exploitative labor if the jobs designated as inelegant or unworthy by the collective society are imposed upon those forced.²⁷

It is not just physical compulsion but any other form of compulsion or socio-economic compulsion that strips away the dignity of a human. The court felt that this was forced labor since it did not give the prisoners a choice and emphasized oppressive mechanisms that the Constitution attempted to dissolve. Judgment The judgment resulted in work assignments within prison boundaries to be approved for all without any form of discrimination. No prisoner be assigned humiliating work, merely because of a caste background, and this judgment claimed a reaffirmation of the prohibition of compulsory labor calling for an end to caste exploitation in prisons.

CONCLUSION

Sukanya Shanta v. Union of India judgment is a landmark in the way caste discrimination in India's prisons is dealt with. The directives of the Court, lengthy and far-reaching dismantled the unflinching practices of millennia but remain a strong precedent to set in broader prison reforms in the country. It reaffirms a constitutional commitment towards equality, dignity, and

²⁷ (2024, October 6). *Why did Supreme Court strike down discriminatory rules across state prison manuals?*. The Indian Express. <https://indianexpress.com/article/explained/explained-law/supreme-court-prison-manuals-rules-9606530/>

justice-all the more potently for marginalized communities who have been victims of exclusionary practices based on caste, both within and outside the prison walls.

Declaring Provisions Impugned Unconstitutional:

Among the significant developments flowing out of the judgment is the declaration that certain provisions of state prison manuals that had institutionalized caste-based discrimination and exclusion, are unconstitutional. Such provisions violate fundamental rights guaranteed under articles 14, 15, 17, 21 and 23 of the Constitution. In short, Articles 14, 15, 17, 21, and 23 together guarantee equality, prohibit untouchability and discrimination, and protect against forced labour towards promoting life with dignity. Upholding all of these rights under the Constitution, the court then proceeded to dismantle policies that segregated prisoners by caste, assigned degrading tasks based on caste, and perpetuated stereotypes that historically marginalized communities were only fit for menial work.²⁸

The judgment also directed all the states and union territories to revise their jail manuals and rules according to this judgment within three months. This, therefore, clearly sets the timeline for action such that reforms are undertaken without delay- well-heeded is the call that galvanizes urgency towards arresting the caste-based inequalities wrought in India's prisons.

Revising the Model Prison Manual and Act:

The Court asked the Union government to explicitly address the issue of caste-based discrimination by amending the Model Prison Manual 2016 and Model Prisons and Correctional Services Act 2023. Since these are the models under which prison administration in India would come, the changes that would be made to these would cascade to the prison reforms in the respective states. It is advocating a systemic reformation of how caste bias lines the system in consonance with progressive ideals contemplated in the Indian Constitution.

The Model Prison Manual and Act are the most vital tools in streamlining the administration of prisons across the country by standardising the structure of prisons across states. By integrating the guidelines of the Court, caste will not be brought into play in terms of the treatment, job allotment, or rehabilitation of a prisoner. This policy eliminates overt forms of

²⁸ <https://cjp.org.in/caste-based-prison-work-is-authoritarian-colonial-said-sc-striking-down-discriminatory-state-prison-manuals/>

caste discrimination and targets the structures and subtle biases that have crept their way into the prison system over the years.²⁹

Court Order to Take Out Caste from Jail Registers:

The most significant order by the court is removing the "caste" column from undertrial as well as convict registers in jails. The inclusion of caste-based figures within jail records became a very sharp tool for centuries to enforce institutionalized discrimination within the jail system. Thus, the Court seeks to eliminate caste as a group in the jail registry, thereby nullifying any impact of caste prejudice in the treatment of those inmates. It is a vital stride towards the establishment of egalitarianism under which people are treated and judged based on their actions, conducts, and reformative needs rather than the caste to which they belong.

The order is also in consonance with the larger objective of eradicating the casteist mindset from public organisations. The judgment thereby held that imprisonment does not take away the right to equality and dignity for prisoners, and no one can be discriminated against on the grounds of caste.³⁰

Suo-Motu Monitoring of Discrimination Inside Prisons:

In a proactive measure, the Court had taken suo-motu cognizance of discrimination inside prisons on the grounds of caste, gender, and disability. Listing the case as *In Re: Discrimination Inside Prisons in India* and fixing follow-up or regular orders underscores the intent of the Court to actively monitor its judgment's implementation. This keeps both the state and union governments on their toes and maintains pressure on them to comply with the directions issued by the Court. The entire system of compliance reports prepared and starting from the District Legal Services Authorities (DLSAs), Boards of Visitors, and leading up to the National Legal Services Authority (NALSA), emphasizes that reforms are not words on paper but something practised on the ground.

This very system of continued observation and reporting also enables the establishment of a feedback loop that would identify ongoing discriminatory practices and offer real-time

²⁹ (n.d.). *Just a moment...* <https://theleaflet.in/explained-the-supreme-court-judgment-on-casteist-prison-manuals-and-rules/>

³⁰ ³⁰ (2024, October 3). https://www.legalbites.in/pdf_upload/sukanya-shantha-v-union-of-india-2024-1367159.pdf

solutions for their erasure. The system of multiple legal bodies involved and regular inspections would help create mechanisms to track the prison's reforms and ensure that marginalized prisoners are no longer in the hands of casteist discrimination.³¹

Rehabilitation of Marginalized Prisoners:

The very basis of this judgment is the conviction that prisons should be institutions of reform and should not serve as instruments to preserve social hierarchies. The judgment specifically underlines the fact that prisoners, particularly those from marginalized communities, must be granted equal opportunities for rehabilitation. Caste should not determine a prisoner's work, treatment, or reformative prospects. The Court clarified that rehabilitation was a right, and all prisoners, irrespective of caste, were entitled to equal access to all kinds of educational, vocational, and reformative programs.

The decree requires a change in the attitude of prison administration from one looking at oppressed inmates as inherently inferior to one that recognizes their worth and, therefore, capacity for individual change and reform. That is a giant step toward creating an equal and humanly dignified atmosphere in prisons compatible with the Constitution.

The judgment in *Sukanya Shanta v. Union of India* has cast them into an essential scrutiny under the scanner of the constitution, in a manner to leave no stone unturned upon the statute of those hierarchies within Indian prisons that have always been testified by the prejudices of caste. The judgments deal not only with the direct problems of discrimination based on caste in prisons but also enforce broader reforms within the criminal justice system as a whole and empower the promise of justice to all from the constitution.³²

³¹ (2024, October 3). https://www.legalbites.in/pdf_upload/sukanya-shantha-v-union-of-india-2024-1367159.pdf

³² (n.d.). 'End Authoritarian Regimes of Pre-constitution Era': What SC Said When Ending Caste-Based Prison Work. <https://thewire.in/caste/supreme-court-sukanya-shantha-caste-based-work-supreme-court>