

Bill No. 54 of 2022

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2022

By

SHRIMATI APARUPA PODDAR, M.P.

A

BILL

further to amend the Indian Penal Code, 1860.

BE it enacted in the Seventy-third year of the Republic of India as follows,—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2022.

Short title and commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

45 of 1860. 5 **2.** After section 72 of the Indian Penal Code, 1860 (hereinafter referred to as the Code), the following section shall be inserted, namely:—

Insertion of new section 72A.

“72A. No person convicted of any offence shall be kept in solitary confinement except for offence or duration of punishment as specified in section 73.”.

Solitary Confinement for certain offences.

Substitution
of new
section for
section 73.

3. For section 73 of the Code, the following section shall be substituted, namely:—

Solitary
confinement.

“73. Whenever any person is convicted of an offence—

(i) of direct or indirect involvement in any terrorist act or activities under the Unlawful Activities (Prevention) Act, 1967; or

37 of 1967.

(ii) for which under this Code or under any other law for the time being in force,

5

the Court sentences him to imprisonment for a term of not less than seven years, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for such portion or portions of the imprisonment to which he is sentenced, as may be specified in the sentence order.

Amendment
of section
74.

4. In section 74 of the Code, for the words “three months”, the words “ten years”, shall be substituted.

10

STATEMENT OF OBJECTS AND REASONS

Solitary Confinement is defined as confinement and imprisonment of human beings without human contact for long periods of time. As per the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), it is defined as “*solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days*”.

However, the practice of solitary confinement is inhumane, violative of international laws and conventions as well as directions of the Hon’ble Supreme Court of India. In the case of *Sunil Batra v. Delhi Administration* 1980 SCR (2) 557, the Hon’ble Supreme Court of India held the practice of solitary confinement under Section 30 of the Prisons Act, 1894 to be violative of the Constitution of India. The Hon’ble Supreme Court went a step ahead in the case of *Unni Krishnan v. State of Andhra Pradesh* 1993 SCR (1) 594 and held that right against solitary confinement is envisaged under the ambit of Article 21. Furthermore, in the recent observation of the Hon’ble Uttarakhand High Court, In the case of *State of Uttarakhand v. Mehtab, Sushil and Bhura*, held that the convict shall not be isolated till the death sentence has become final, conclusive and indefeasible which cannot be challenged or further annulled or voided by any procedure.

In the Death Penalty India Report, published under Project 39A of NLU Delhi, the majority of convicts belong to the deprived class either socially or economically. This makes them more vulnerable with regards to the ill effects of provisions like solitary confinement, as they don’t enjoy proper and adequate resources in order to avail the services of top legal professionals for safeguarding their rights. To make things worse, various national and international studies indicate that solitary confinement has psychological effects on the prisoner such as hallucination, hypersensitivity and anxiety.

Solitary confinement or separate confinement is a cause of concern for many making situations worse for both the convict and the family. India being a welfare state must adhere to the principles of human rights, international conventions as well as the moral and constitutional obligations.

The present Bill seeks to amend provisions of Indian Penal Code, 1860 for providing safeguards against the practice of solitary confinement.

Hence this Bill.

NEW DELHI;
16 January, 2022

APARUPA PODDAR

ANNEXURE

EXTRACT FROM THE INDIAN PENAL CODE, 1860

* * * *

Solitary
confinement.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

- a time not exceeding one month if the term of imprisonment shall not exceed six months;
- a time not exceeding two months if the term of imprisonment shall exceed six months and [shall not exceed one] year;
- a time not exceeding three months if the term of imprisonment shall exceed one year.

* * * *

Limit of
solitary
confinement.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

* * * *

LOK SABHA

A

BILL

further to amend the Indian Penal Code, 1860

(Shrimati Aparupa Poddar, M.P.)