

The Bihar Chief Minister, Nitish Kumar's recent statement on the destiny of prisoners, is a matter of extensive concern for all those working on prisoners' rights. The Bihar Government has taken an unprecedented move, termed as the "Civil Consequences of Crime". The Chief Minister has been quoted in the media to have said, "Before committing a crime, a person now needs to keep in mind that not only would he be punished, but would also face other consequences later on and deprived of various facilities ..." Thus under the veil of deterrence, the civil liberties, economic, social and cultural rights of the person would be withdrawn from him.

<http://timesofindia.indiatimes.com/city/patna/Convicted-persons-cant-avail-of-several-facilities/articleshow/11504407.cms>

The government order passed would make convicts, in spite of having served their jail term, ineligible for government jobs, BPL cards, contracts, passport, holding offices in NGOs and licenses for arms, petrol pumps and gas agencies. So not only would the ex-convicts be subjected to societal discrimination and prejudices, but now also be the victims of economic discrimination by the government.

This order is a violation of all human rights provisions enshrined in international covenants and the Constitution.

Article 10(3) of the UNICCPR states, *"The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation."* The Convention clearly affirms that intention of the criminal policy of any state should be to reduce crime rather than eliminate criminals so that they can be rehabilitated in the society.

Further, Article 14 (7) of the UNICCPR states that *"No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country."*

Article 14 of the Indian Constitution states that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India, and Article 16 states that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

Major criminological studies have depicted economic and social deprivation to be the foremost reason for commission of crime. Thus in order to reduce crime, it is important not only to rehabilitate convicts post their jail term but also to ensure that such deprivation does not exist again so that there is no recidivism.

Across the globe, rehabilitation measures have been initiated within the prison system so that after the jail term, the convict gets his rightful place in the society to which he belongs. Moreover, reform measures in the form of open jails have been widely undertaken in different parts of the world, including India, so as to make even the period of sentence more conducive for rehabilitation. The recent government order thus becomes more reprehensible seen in this light.

When a person comes in conflict with law, our Criminal Justice System in order to "punish" the person, curtails his civil rights in accordance with legal provisions for a given period of time as specified in the sentencing. To further curtail the civil and other rights of a person post his jail term is subjecting a person to double punishment. Inherent in the order, is also the violation of the Right to Life with Dignity as guaranteed under Article 21 of our Constitution. Discriminating against an individual based on his past acts for which he has been duly penalised by the law, and preventing the person from enjoying his rightful place in society is violative of human dignity which every human being is entitled to.