

OTHERS

Major problems of prison system in India



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Despite the relatively low number of persons in prison as compared to many other countries in the world, there are some very common problems across the jails in India, and the situation is likely to be the same or worse in many developing countries. Overcrowding, prolonged detention of under-trial prisoners, unsatisfactory living conditions, lack of treatment Programs, and the allegations for the indifferent and even inhuman approaches of prison staff have repeatedly attracted the attention of the critics over the years. A few major problems of prison systems in India are discussed below.

Over Crowding

Congestion in jails, particularly among undertrials has been a source of concern. Law Enforcement Assistance Administration National Jail Census in 1970 had revealed that 52% of the jail inmates were awaiting trial. Obviously, if prison overcrowding is to be brought down then the under-trial population has to be reduced drastically. Of course, this cannot happen without the courts and the police works together. The three wings of the criminal justice system would have to act harmonically. Speedy trials are frustrated by a heavy court workload and complicated procedures, police's inability to produce the witnesses promptly, and a recalcitrant defense lawyer who was bent upon seeking adjournments, even if such tactics harm his/her client. Fast track courts have helped to a much extent, but it has not made any measurable differences to the problem of pendency. Increasing the number of courts could not bring about the desired difference as long as the current 'adjournments culture' continues (Raghavan 2004).

Corruption

Corruption by prison staff, and its less aggressive corollary, guard corruption, is common in prisons around the world. Given that the substantial power, for guards exercised over inmates, these problems are predictable, but the low salaries that guards are generally paid severely aggravate them. In exchange for contraband or special treatment, inmates supplement guards' salaries with bribes.

Unhealthy Living Conditions

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The overcrowding in the prisons leads to unsatisfactory living conditions. Although several jails have reformed outlined earlier have focused on issues like diet, clothing, and cleanliness, unsatisfactory living conditions continue in many prisons around the country. A special commission of inquiry, appointed after the 1995 death of a prominent businessman in India's high-security Tihar Central Jail, reported in 1997 that 10 000 inmates held in that institution endured serious health hazards, including overcrowding, "appalling" sanitary facilities and a shortage of medical staff.

"No one wants to go to prison however good the prison might be. To be deprived of the liberty and family life and friends and home surroundings is a terrible thing."

"To improve the prison conditions what does not mean that prison life should be made soft; it means that it should be made human and sensible for prisoners"

Staff Shortage and Inadequate Training

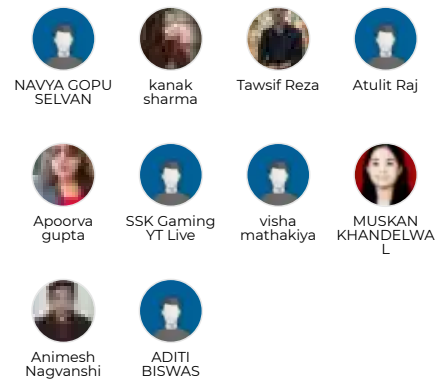
Prisons in India have a sanctioned strength of around 49030 prison staff at various ranks, of which, the present staff strength is around 40000. The ratio between the prison staff and the prisoners in the Indian prison is approximately 1:7. It means only one prison officer is available for 7 prisoners in India, while in the UK, 2 prison officers are available for every 3 prisoners.

Unequal treatments at prison

"Though the prisons may be supposed as the levelling institutions in the world where some different variables that could create/develop the vital effects on the conditions of confinement of the criminal records and their inmates and also their Behaviour in prison, other factors play an important part in many countries" (Neier et al 1991). This report provided by the Human Rights, watch specifically cites countries like India and Pakistan, where a "rigid" class system exists in the prisons. It states that under this system, special privileges are accorded to the minority of the prisoners who came from the upper and middle classes of their irrespective of the crimes they have committed or the way they comport themselves in prison.

Inadequate prison Program

Despite the problems of overcrowding, manpower shortage, and other administrative difficulties, innovative initiatives have been undertaken in some prisons. For example, the Art of Living is carrying out a SMART program in Tihar Jail. It includes two courses per month with follow up of the sessions every weekend. Two courses are annually conducted for prison staff. But these may be more by way of exceptions and experiments. A Srijan project is aimed at providing social rehabilitation there. Still, such programs are few and far from



Indian prisons. In India, many prisons have vocational training activities, but these are often outdated even. Hardly any of the prisons have well-planned prison programs providing daily structured activities, vocational training, pre-discharge guidance, and post-prison monitoring.

Poor Budget for Health and Care in Prison

In India, an average of US\$ 333 (INR 10 474) per inmate per year was spent by prison authorities during the year 2005, distributed under the heads of food, clothing, medical expenses, vocational & educational, welfare activities, and others (National Crime Records Bureau (NCRB) 2005). This is in contrast to the US, where the average annual operating cost per state inmate in 2001 was \$ 22,650 (the latter presumably also includes salaries of prison staff). The maximum expenditure is on food in Indian prisons. West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar, and Delhi reported relatively higher spending on medical expenses during that year, while Bihar, Karnataka, and West Bengal reported relatively higher spending on vocational and educational activities. Tamil Nadu, Orissa, and Chattisgarh reported that it is relatively higher spending on welfare activities regarding the prison.

Insufficient Legal Aid

In India, legal aid to those who cannot afford to retain counsel which is only available at the time of trial and not when the detainee is brought to the remand court. Since the majority of prisoners, who are in lock up as well as those in prisons have not been tried, the absence of legal aid until the point of trial reduces greatly the value of the country's system of legal representation to the poor. The lawyers are not available at the point when many of them need such assistance.

The lack of good and efficient lawyers in the legal aid panels is also a concern. Several suggestions are made from time to time to speed up the trial processes so that the population of undertrials could be reduced to the lower population in prison. Some of the suggestions provided by various committees were expeditious holding of trials, making it more possible for undertrials to plead guilty at any stage of the trial, a system of plea bargaining. In a seminar, the tough efforts have been made at the Tihar Jail by the University of Delhi faculty and students of law in the field of legal aid were highlighted. This included imparting legal literacy to the prisoners, sensitizing the prison administration, taking up individual prisoners to provide legal aid, involving para-legal staff to work with prisoners, both convicts, and undertrials. The seminar had suggested for Lok Adalat involvement to be greater and that constant monitoring of prisons was necessary to identify inadequacies and shortcomings in the prison

administration. It finally suggested that there would be a need for law reform as essential to the entire system of legal aid.

A similar finding had been noted in the NIMHANS-National Commission for Women study in the Central Prison, Bangalore. In the Indian prison many of the women were illiterate, had never stepped out of their houses, had had no any financial resources and many had been arrested on petty charges. Most had no idea about legal procedures, such as, what is the process of trial, how to arrange for a defense lawyer, what laws exist to protect their children or property, etc.

Abuse of Prisoners

Physical abuse of prisoners by the guards is another chronic problem in the prisons of India. Some countries are still continuing to permit corporal punishments and the routine uses of leg irons, fetters, shackles, and chains. In many prison systems in India, unwarranted beatings are an integral part of prison life. Women prisoners in Indian prisons are particularly vulnerable to custodial sexual abuse. The problem was widespread all over the world especially in the United States, where male guards outnumbered women guards in many women's prisons. In some countries, Haiti being an exclusive example, female prisoners were even held together with male inmates, a situation that exposed them to rampant sexual abuse and violence. A book reviewing prison services in Punjab reported that to get food supplements, or blankets in the winter season, class c-prisoners must fan the convict officers, or massage their legs, or even perform sexual favors for them in the prison. The enslavement of other prisoners for the convict officers who effectively run the prisons is particularly severe for new comers (known as *amdani*). In prison, they are teased, harassed, abused, and even tortured as part of the process of breaking them in.

Custodial Rape

For women who are detained by the police, a particular danger is a rape in custody. Many of the victims are migrant women who lack the established community connections that would make protests on their behalf effective. The possibility for custodial rapes varies in India from state to state and jail to jail. Many cases remain unnoticed or unreported only a few come as a matter of chance. According to the PUDR, „chance circumstances“ brought these cases to light. Otherwise, they probably would have gone unreported. To a far greater extent than in Western countries, the victims of rape risk punishment themselves or ostracism if what happened to them becomes known. They may be rejected by their husbands and families and, in the case of unmarried girls, in countries like India chances of marriage are reduced drastically. Such crime statistics are available in India to make it seem that rape in custody is increasing. It is unlikely that the woman's shame would ever be known by anyone other than the victim and her rapists if she maintains silence, the fear of further retribution is

especially great when it is the police who are the rapists; the woman has little or no opportunity to raise a prompt outcry after the rape, and the almost certain result of a complaint is that the victim would suffer more while nothing would happen to her rapists.

Custodial Tortures /Deaths

The torture brutal physical treatment in custody by police official is another major Problem of jails in India. Third degree tortures within four walls of prison occur frequently and many times they remain unnoticed, such cases comes light when media or human rights commission gives any attention on it. The proper treatments of inmates mentioned in the prison acts and in various manuals along with the guidelines of the apex courts are neglected by the police staff and sometimes it lead to deaths of prisoner under the custody. These tortures make victim to suffer mentally and physically and sometimes it gets long time for them to recover from that trauma. The Reports of national human rights commission and state human right commission depicts growth of such incidents in last two decades. The real stigma behind these custodial treatments is that the police official picks up any person from any time from any place and keeps them for long durations without showing any sufficient reasons for arrest.

Conclusion

According to the human rights law for the protection of the imprisoned person, imprisoned person means a person deprived of personal liberty as a result of his conviction on any offenses, and imprisonments mean such condition of an imprisoned person. But the basic dignity of an arrested person or convicted person must be given proper respect. Protections of such dignities are mentioned in the universal declaration of human rights as well as under article 21 of the Indian constitution. It is need of the hour that provisions of security of prisoners mentioned in jail manuals must be followed strictly and also well-equipped and trained prison staff should be appointed to look for safety measures. Regular and timely inspection from judicial officers must be conducted. All the organs of police and administration must combine together so that effective social rehabilitation of inmates can be secured.

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