

A BRIEF STUDY ON MAJOR PROBLEMS OF PRISONS SYSTEM IN INDIA

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Abstract

A prison as a social system is the special subject of research for several reasons. First, a prison is a relatively isolated social system and may be analyzed much easier in the terms of the social system than other cases, especially a society as a whole is too complex system to research it directly. Second, the correctional institution is an example of the total institution which consists of two communities or subsystems: the inmates and the staffs. Third, this kind of institution is relatively separated and differs from the other organizations in degree of control mechanisms, but it also has the connections with outside environment. The Prisons Act excludes the police custody and the subsidiary jails from the meaning of the word prison. International human rights law also developed its own concepts for the term prison. According to them, the prison can be only a place for the treatment of convicted persons. Growth of this system has given birth to many problems which are directly related to mismanagements. These study throws light upon such problems which are current burning problems which Indian prison system is facing while reformations of such institutions.

Keywords: Prison system in India, corruption, Legal Aid

1.0 Introduction

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 programmes and the allegations for the indifferent and even inhuman approaches of prison staff have repeatedly attracted the attention of the critics over the years. Few major problems of prison systems in India are discussed below.

2.0 Over Crowding

Congestion in jails, particularly among under trials 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 trialⁱ. Obviously, if prison overcrowding is to be brought down then under-trial population has to be reduced drastically. Of course, this cannot be happened 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 the much extent, but it has not made any measurable differences to the problem of pendency. Increasing the number of courts could not bring about a desired difference as long as the current 'adjournments culture' continues (Raghavan 2004).ⁱⁱ

3.0 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. An unpublished Ph.D dissertation from Punjab University on "The

Functioning of Punjab Prisons: An appraisal in the context of correctional objectives” cites several instances of corruption in prison. Another article suggested that food services are the most common sources of corruption in the Punjab jails. Ninety five percent of prisoners felt dissatisfied and disgusted with the food servedⁱⁱⁱ.

4.0 Unhealthy Living Conditions

The overcrowding in the prisons leads itself to unsatisfactory living conditions. Although the 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.^{iv}

“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”^v.

5.0 Staff Shortage and Inadequate Training

Prisons in India have a sanctioned strength of around 49030 of prison staff at various ranks, of which, the present staff strength is around 40000. The ratio between the prison staffs and the prisoners in 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.^{vi}

6.0 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 upper and middle classes of their irrespective of the crimes they have committed or the way they comport themselves in prison^{vii}.

7.0 Inadequate prison programmes

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 programme 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 programmes are few and far in from Indian Prison. In India, many prisons having the vocational training activities, but these are often outdated even. Hardly any of the prisons have well planned prison programmes providing the daily structured activities, vocational training, pre-discharge guidance and post-prison monitoring.

8.0 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 of 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 in Bihar, Karnataka

and West Bengal reported relatively higher spending on vocational and educational activities. Tamil Nadu, Orissa and Chattisgarh reported as it is relatively higher spending on welfare activities regarding with the prison.^{viii}

9.0 Insufficient Legal Aid

In India, legal aid to those who cannot afford to retain the 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, those 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 time to time to speed up the trial processes, so that the population of under trials could be reduced to lower population in prison. Some of the suggestions provided by various committees were expeditious holding of trials, making it more possible for under trials to plead guilty at any stage of the trial, 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 a 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 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 having 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.

10.0 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 the corporal punishments and the routine uses of leg irons, fetters, shackles, and chains. In many prison systems in India, the unwarranted beatings are an integral part of the prison life.

Women prisoners in Indian Prison are particularly vulnerable for the custodial sexual abuse. The problem was widespread in 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 a 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 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.^{ix}

11.0 Custodial Rape

For women who are detained by the police, a particular danger is rape in custody. Many of the victims are migrant women who lack the established community connections that would make protests in their behalf effective.

The possibility for custodial rapes varies in India from state to state and jail to jail. Many cases remains unnoticed or unreported only few comes as 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 country like India chances of marriage are reduced drastically. Such crime statistics as are available in India 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.

12.0 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 o 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 makes 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.

13.0 Conclusion

According to the human rights law for the protection of imprisoned person, imprisoned person means a person deprived of the personal liberty as a result of his conviction on any offences and imprisonments means such condition of an imprisoned person. But the basic dignity of a arrested person or convicted person must be given proper respect. Protections of such dignities are mentioned in universal declaration of human rights as well as under article 21 of the Indian constitution. It is need of 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 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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