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Prison Pandemonium: The Consequence of Prison Overcrowding on India's Justice System

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ABSTRACT

The critical challenge of prison overcrowding in India has substantial implications for India's justice system. Even though the Indian judiciary and policies devised by the state have made attempts to mitigate the issue, the problem intensified during the past few decades. The increase in overcrowding gets worse already challenging prison conditions and human rights violations, as well as undermining justice and rehabilitation in the justice system. This research paper discusses the implications of jail overcrowding, including the impact on the mental and physical wellbeing of prisoners, whether rehabilitation is even a viable program for prisoners in overcrowded conditions, and the implications of all the above on the workings of the justice system in India. Using case studies and quantitative data, along with expert insight, this paper provides dimensions on the problem of overcrowding and tailored suggestions to minimize the negative impact of overcrowding in Indian prisons.

KEYWORDS

Prison Overcrowding, Justice, Rehabilitation, wellbeing of prisoners.

INTRODUCTION

The issue of prison overcrowding is a serious dilemma, which governs how both domestic and international actors think about prisons, in some cases, for decades, and prisons have been plagued by overcrowding since the dawn of the 19th century. Prison overcrowding is conceptualized as a complex issue because of the layered complexities involved; on the one hand, criminal justice administrators are caught off guard by rapid, unexpected

declines in jail populations. On the other hand, policies to address decreases in prison overcrowding are often challenged in the face of a public wanting more security by their public servants or understanding new sentencing practices or parole decisions resulting from the jail population decline, with security being associated with long sentences, incapacitation, and harsh restrictions for parole. It is not simply a matter of numbers; prison overcrowding has serious implications for the administration of justice, respecting human rights, and a just and justifiable penal system. Overcrowding in prisons can occur because of a gradual and steady long-term increase in prisoners. In India it seems like a long-term problem without a possible remedy. Locating a long-term remedy returns to observational/infrastructural research and must also include accurate data being in the system on many different territories of the criminal justice and correctional systems; thus, we are getting into a research community response to our current problem. Furthermore, occupancy has a cascading effect on the entire justice structure. It limits prison management's ability to offer effective rehabilitation/service programs, possibly leading offenders with poor outcomes and increase the reduction in self-interest. This raises serious concern about blockage and fairness/equity of the judicial system and for justice delivery.

RESEARCH QUESTION

1. What are the most current statistics concerning prison overcrowding in India?
2. What are the significant factors contributing to the overcrowding situation in Indian prisons?
3. What initiatives have been taken by the Indian government to reduce prison overcrowding?
4. What rehabilitation and reform programs have been initiated in Indian prisons?
5. What were the reforms implemented in pre-independence and post-independent India?

METHODOLOGY

The paper has used a mixed-methodology design, which incorporates both quantitative and qualitative methods to analyze the statistics about prison population available with NCRB in India, while conducting qualitative interviews of the lawyers, prison officials, and undertrial prisoners. The research study further purports to review the case-law and governmental reports inclusive of international human rights standards to assess the ramifications that extremely overcrowded jails and prisons have on the criminal justice system of India.

LITERATURE REVIEW

The issue of prison overcrowding is not an India problem, but a worldwide problem, but the purpose of this research is to shed a light on the problem of overcrowding in India. In a study titled, “A Research Analysis on the Overcrowding of Prisons”¹ the author focused on the problem of undertrial prisoners and how filling them in prisons worsens the problem of overcrowding. In this study, the researchers focus on various factors of prison overcrowding, undertrial prisoners being one of them. Other factors such as inadequate infrastructure, delay in trial process, corruption, and lack of legal awareness are also major contributors to the issue.

Since the period of Britishers to till date when the British era criminal laws were repealed² in India, the problem of overcrowded prisons is still prevalent. The research article, “The Indian Prison and Apathy of Prisoners in 21st Century: A Reformatory Approach”³ highlights the problem of overcrowded prisons and supports the researchers’ point of this issue existing till date. The research also focuses on the impact of overcrowding on prisoners and the government. It results in issues like illness and disease among the prisoners and hygiene and sanitisation issues, and management and discipline issue for the prison management authorities. The study, “The Critical Case of Prison Overcrowding in India: Causes and Effects”⁴ mentions some of the impacts of overcrowding. The researchers examine these effects in detail further in the study.

Further, this research focuses on reasons rejection of bails, lodging of undertrial prisoners, and denial of parole as another factor of overcrowding of prisons. Dr. Shankar Surolia IPS (Retd.) in his work, “Status of Probation, Parole, Leave and Their Impact on Overcrowding of Prisons”⁵ mentions these factors and their

¹ KK Sinduja Shankar, “A research Analysis on the Overcrowding of Prisons,” *Indian Journal of Integrated Research in Law*, vol. 2, no. 1, OP Jindal Global University, ISSN 2583-0538.

² “New Criminal Laws in India Replace Colonial-Era IPC: Top Points,” *Business Standard*, 1 July 2024, https://www.business-standard.com/india-news/new-criminal-laws-in-india-replace-colonial-era-ipc-today-top-points-124070100217_1.html

³ Anmol Rattan, “The Indian Prison and Apathy of Prisoners in 21st Century: A Reformatory Approach” *ResearchGate*, July 2023, vol. 14 (2): 174, https://www.researchgate.net/publication/379152796_The_Indian_Prison_and_Apathy_of_Prisoners_in_21st_Century_A_Reformatory_Approach

⁴ Anushka Sharma, “The Critical Case of Prison Overcrowding in India: Causes and Effects,” *Indian Journal of Law and Legal Research*, vol. 4 no. 6, ISSN 2582-8878.

⁵ Bureau of Police Research and Development, *Report on Indian Prisons* (2016), <https://bprd.nic.in/uploads/pdf/201608040935426398846Report.pdf>.

contribution to the issue, but it lacks in detail. The researchers in this study focus on these legal factors in detail.

Lastly, the research study provides various suggestions and frameworks to minimize the problem of overcrowded prisons and eliminate the ill impacts it has on both the prisoners and the authority. While the study "Overcrowding in Indian Prisons- Finding Alternatives to Imprisonment"⁶ does not deal with the solutions in much detail, this study analyses the problem and provides various recommendations to reduce the issue of overcrowding of prisons.

As it was said by Nelson Mandela, *"It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."*⁷

ANALYSIS

An analysis of overcrowding of prisons

Overcrowding in prison is the most common problem faced by all criminal justice systems in the world. Prison overcrowding is caused mainly due to two reasons-

- A) Increased crime rates or
- B) Trial being delayed.

Overcrowding of prisons endangers the rights of the prisoners, including the right to have adequate standards of mental and physical health. Prison overcrowding also brings serious problems such as security problems, health and hygiene standards therefore violating the right to live.

Prison Overcrowding and Statistics in India

Overcrowding in prison is one of the most challenging problems faced by criminal justice system in India and hence hampering the rehabilitation process as due to overcrowding the segregation of hardened criminals from first time offenders or mild offenders becomes impossible.

In 2007, there were total 1140 prisons in the country having a

⁶ R Saxena, "Overcrowding in Indian Prisons- Finding Alternatives to Imprisonment," *UNAFEI Resource Material Series*, no. 12, Oct. 1976, pp 134-138. NCJ Number 41787.

⁷ Mandela, Nelson. *Long walk to Freedom: The Autobiography of Nelson Mandela*. Little, Brown and Company, 1994.

designated capacity of 2,33,543 prisoners.⁸ Whereas the total number of prisoners in these jails was 3,26,519 which showed 39.80% overcrowding of jails in India.⁹ There have been constant efforts from both the State and the central governments to address this problem. One of the main problems is that most of the individual prisoners spend a lot of time behind bars without being sentenced or acquitted.

As per the report published by the National Crime Record Bureau in 2008, there were 384753 prisoners in various jails in the country against its total maximum capacity of 297777 prisoners.¹⁰ Out of this the total number of under trail prisoners were 67%, the prisons in India were overcrowded to the extent of 129%.¹¹

The total population of prisoners in 2012 and 2013 was as follows:

Year	Total Convicts	Undertrials	Total
2012	1,27,789	2,54,857	3,82,646
2013	1,29,608	2,78,503	4,08,111

As per the statistics published by National Crime Record Bureau as on 31/12/2022, there were 573220 prisoners in various prisons of the country against its total authorised capacity of 436226 prisoners. Out of this the total number of under trail prisoners were 434302 which constitute 75.8% of the total prisons' population. The prisons in India are overcrowded to the extent of 131.4%.¹²

Steps Taken by the government to reduce overcrowding of prisons

Although the prisons are of the state government subject, the central government of India has been working towards reducing the overcrowding. Some of the measures taken are

⁸ Ministry of Home Affairs, Government of India. *Overcrowding in Prisons*. 9 May 2011, https://www.mha.gov.in/sites/default/files/2022-09/OvercrowdingPrison09052011%5B1%5D_0.pdf. Accessed 6 Sept. 2024.

⁹ Ministry of Home Affairs, Government of India. *Overcrowding in Prisons*. 9 May 2011, https://www.mha.gov.in/sites/default/files/2022-09/OvercrowdingPrison09052011%5B1%5D_0.pdf. Accessed 6 Sept. 2024.

¹⁰ National Crime Record Bureau. *Prison Statistics in India 2008*. Government of India, 2008, ncrb.gov.in.

¹¹ National Crime Record Bureau. *Prison Statistics in India 2008*. Government of India, 2008, ncrb.gov.in.

¹² National Crime Record Bureau. *Prison Statistics in India 2022*. Government of India, 2022, ncrb.gov.in.

illustrated below:

- 1) Establishment of fast-track courts for faster and efficient disposal of long pending cases in the trail has been delayed in the session's courts. The government has approved the setting up of about 1562 fast track courts. These courts were created to deal with certain cases to expedite the trail process and dispose off the cases at the earliest.
- 2) Launch of National mission for justice delivery and Legal reforms- Under this scheme, the Hon'ble Chief justices of all the high courts were requested to reduce the number of under trail prisoners by two thirds.
- 3) Under Section 167 of the Crpc¹³ the maximum periods for completing the investigations and filing of the chargesheet for offences punishable with 10 years or with death is 90 days and for all other offences it is 60 days. If the investigation agency did not file, the chargesheet within the stipulated time limit then the accused is entitled to seek his release on bail.
- 4) The government has also ordered to create additional capacity of prisons through the scheme called Modernisation of Prisons. Under this scheme the government has provided funds of rupees 1800 crores to different states and Union territories for construction of new jails and modernisation of the old ones.'
- 5) On the other hand, the State Government are also bringing reforms in order the solve the problems. Some of them are illustrated below:
 - Holding of Lok Adalats- Regularly coordination meetings are held once a month between the district judges, superintendent of police, prosecution and superintendent of prisons where in the pending cases of under trails are discussed for speedy trail and disposal.
 - Formation of Under trail Review Committee in every district with the sessions judge of that district as the chairman and the superintendent of police and superintendent of prisons as members to review the cases of the under trails every three months which has been lodged since more than three months.
 - Regular visits of high court and district judges and District Legal Services Authority to the prisons to ensure

¹³ *The Code of Criminal Procedure, 1973.* § 167. Government of India, legislative.gov.in/sites/default/filesA1974-02.pdf.

proper administration and better living conditions for the prisoners.

How will the New Criminal law (BNSS, 2023)¹⁴ help solve the problem of overcrowding in India? -

The new criminal laws will help reduce overcrowding of jails as the *Bhartiya Nagrik Suraksha Sanhita*¹⁵, earlier referred to. As the criminal procedure code, has new provisions that has taken a lenient view for first time offenders and petty offenders.

According to the National Crime Records Bureau prison report, 2022: "Overcrowding refers to the situation in which more inmates are in a jail than the sanctioned strength. In recent years, it is one of the biggest problems faced by prison inmates. Overcrowding results in poor hygiene, lack of sleep etc. Keeping in view the human rights of the prisoners, it is essential that they are given reasonable space and facilities in jail."¹⁶

The report further released in December 2023 further states that "Among the states, Delhi has the highest overcrowding (184.5%), followed by Uttarakhand (183.3%), Uttar Pradesh (179.9%), Meghalaya (167.2%), Madhya Pradesh (164.4%), Maharashtra (161.4%), Sikkim (148.8%) and Chhattisgarh (144.6%)."¹⁷

The new Provisions under the BNSS are as follows:

- Plea Bargaining- To reduce the delay in the disposal of criminal trails and appeals and to alleviate the suffering of under trail prisoners, the concept of Plea Bargaining is introduced in Section 290¹⁸ of the BNSS.
- Bail provision for under trail- Section 479¹⁹ of the BNSS gives the maximum period an under-trail prisoner can undergo punishment, it says that for the offences for which the Punishment of death or life imprisonment, the maximum period of detention can be extending up to one half of the maximum period of imprisonment.

¹⁴ *Bharatiya Nagrik Suraksha Sanhita, 2023*. Government of India, 2023.

¹⁵ *Bharatiya Nagrik Suraksha Sanhita, 2023*. Government of India, 2023.

¹⁶ National Crime Record Bureau. *Prison Statistics in India 2022*. Government of India, 2022, ncrb.gov.in.

¹⁷ National Crime Records Bureau. *Prison Statistics in India 2023*. Government of India, Dec. 2023, ncrb.gov.in.

¹⁸ *Bharatiya Nagrik Suraksha Sanhita, 2023*. § 290, Government of India, 2023.

¹⁹ *Bharatiya Nagrik Suraksha Sanhita, 2023*. § 479, Government of India, 2023.

- Investigation delay and provision of bail- An under-trial prisoner is entitled to seek release on bail if the investigation is not completed within the given time frame, Section 187(3)²⁰ of the BNSS a magistrate may authorise the detention of a person for beyond 15 days provided that he is satisfied that there are adequate grounds for the same but cannot authorise his detention beyond, 90 days if the maximum sentence is death or life imprisonment and beyond 60 days for all other offences.
- Community service- For the first time a punishment like the community service has been introduced as a punishment which is given in the Section 4²¹ of the BNSS for petty offences which will not keep the accused behind bars and be released and thus will help stop the problem of overcrowding.
- The Supreme Court of India while dealing with a Public Interest Litigation has ruled that the first-time offenders in criminal cases can seek bail under the new BNSS provisions significantly reducing the period of imprisonment therefore helping the problem of overcrowding.
- The Central Government has stated in the Supreme Court that prisoners can claim the relief for crimes which have been registered before the enforcement of the BNSS too which will significantly reduce the Under-trial prisoners in the jail.

Comparative Analysis of Prison Reforms of countries around the world-

A) The French System

- The French system has a history of promoting pioneer rehabilitation but in recent times, the French prison system has issued longer imprisonments and punishments resulting in overcrowding of the prisons. From 1971-1973 there were prison riots which brought about major reforms that attempted to improve prison conditions. However, the government believed that the prison reforms must be much stricter on crimes. As a general trend until the 2000s the right-wing governments have imposed harsh penalties on crimes. This resulted in the construction of six new prisons to combat the problems of prison overcrowding.

²⁰ *Bharatiya Nagarik Suraksha Sanhita*, 2023. § 187 (3), Government of India, 2023.

²¹ *Bharatiya Nagarik Suraksha Sanhita*, 2023. § 4, Government of India, 2023.

- In recent years the French prison has come under severe criticism due to the prisoners committing suicides due to prison overcrowding. The prisoner suicide rate has been increasing from two suicides a year in the 1960s to hundred suicides a year in 2000s.

B) United Kingdom's Prison System.

- The overcrowding of prisons is a common problem in most of the developed countries, particularly the UK, it has one of the highest rates of imprisonment in Western Europe: 155 prisoners per 100,000 people. In 1992, 7251 prisoners occupied and slept in cells with another prisoner, despite the cells being only for a single person.²²
- Overcrowding has led to several problems for the UK such as the conflict with human rights agreements, particularly regarding the sanitation in prison facilities.
- Because of the prisons being old aged it has been a huge challenge for the UK to maintain a proper suitable living conditions for the prisoners.
- Other problems in the prisons of the UK have been understaffing, violence, riots and lack of medical attention.

C) United States of America.

With 2.37 million people, the United States has the largest prison population amongst both developed and developing countries. The US imprisons 750 people per 100,000, a statistic that surpasses repressive regimes such as China and Russia²³. In addition to the incarcerated population, almost five million people are on parole, supervision or probation. This American phenomenon is a development of the last forty years. The 1970's marked the turn away from rehabilitation. Lawmakers abandoned rehabilitation and encouraged mandatory prison sentences and the elimination of parole. Severe new sentences were developed for drug offences as the federal government initiated the War on Drugs. Consequently, US prisons are overcrowded and leave prisoners to suffer inhumane living conditions, as exemplified in the state of California. A more recent development in the American prison

²² "Prison Overcrowding in England and Wales." *Statista*, Statista Inc., 2024, <https://www.statista.com/statistics/314720/prison-overcrowding-england-and-wales/>. Accessed 6 Sept. 2024.

²³ Glaze, Lauren E. *Correctional Populations in the United States, 2009*. U.S. Department of Justice, Bureau of Justice Statistics, 2010, www.bjs.gov/content/pub/pdf/cpus09.pdf. Accessed 6 Sept. 2024.

system that has been brought to the attention of the Supreme Court is the use of solitary confinement, or isolating prisoners for as long as twenty-two hours a day.

D) South Africa

- The republic of South Africa has adopted a democratic government in 1994 after 50 years of Dictatorship. Under the dictatorship rule between 1948 and 1994 almost two million black South Africans were imprisoned for opposing the dictator.

Under this rule, black South Africans who committed crimes, such as being out after curfew in a white residential neighbourhood or traveling without permission passes, were subject to imprisonment. The penal system was used to oppress any form of political dissent, and, once in prison, inmates were subject to harsh treatment. Members of the African National Congress, the main political opposition to Dictatorship, were tortured and many killed (Mandela, 1994)²⁴. The prison system was also subject to segregation and racial favouritism by which white inmates and black inmates were kept in different facilities, and whites were given larger portions of food, better housing and medical attention (Dissel, 2002)²⁵. On the political agenda was reform of the South African prison system because Mandela witnessed first-hand the injustices of the penal system while having served twenty-six years in prison (Mandela, 1994)²⁶.

Analysis and Impact of the policies and reforms from the Colonization era

From the colonial era, overcrowding of prisons was a major concern. With the British colonisers filling up prisons, management became difficult, so they administered several reforms and policies to take the problem. They released a jail manual for effective management of prisons, including their classification, barracks, meals, and labour. Prior to the release of these manuals, all the prisons in India were mismanaged and not up to a standardized system. The manuals also dealt with the problem of overcrowding, providing that there should a specific

²⁴ Mandela, Nelson. *Long Walk to Freedom: The Autobiography of Nelson Mandela*. Little, Brown and Company, 1994.

²⁵ Dissel, Amanda. South Africa's Prison Conditions: The Inmates Talk. Centre for the Study of Violence and Reconciliation, 2002, www.csvr.org.za/publications/1713-south-africa-s-prison-conditions-the-inmates-talk. Accessed 6 Sept. 2024.

²⁶ Mandela, Nelson. *Long Walk to Freedom: The Autobiography of Nelson Mandela*. Little, Brown and Company, 1994.

number of prisoners in a cell, and they mentioned strict instructions to the staff to follow the code. Although, in text it seemed the problem was overcrowding was sorted, but in practice this was far from the reality as the prisons were still overfilled. The implementation of this manual fell short due to corruption, neglect, and lack of resources, so, the problem of overcrowding led to poor hygiene and inadequate facilities.

In the year 1894, the Indian Prisons Act²⁷ was enacted and it was an attempt to create a uniform code for management of prisons and treatment of prisoners. Section 4²⁸ of the Act dealt with accommodation and infrastructure of Indian prisons. It read that prison infrastructure should be built as such that it is adequate to house prisoners without overcrowding. Sections 27²⁹, 28³⁰, and 29³¹ dealt with segregation of prisoners. It separated prisoners in the category of males, females, adults, juvenile delinquents, undertrials and convicts. These measures would help to effectively manage the population which would in turn reduce the problem of overcrowding. Section 28³² separated criminal prisoners from civil prisoners. And Section 29³³ dealt with safety of female prisoners and their separation from male prisoners. These Sections would help in managing the prisoners more effectively than was done in that time.

Section 24³⁴ required all the prisons to appoint medical examiners to conduct regular health checkups of the prisoners. If they contacted any infection or disease due to overcrowding of barracks it could be diagnosed during the regular checkup. Sections 7³⁵, 13³⁶, and 14³⁷ required that regular health inspections should be done of the barracks to check the cells are not overcrowded and proper sanitation is maintained in the prisons.

Section 46³⁸ gave power to the IGP (Inspector General of Prisons) to transfer prisoners from one barrack to another, and even from one prison to another to tackle with the problem of overcrowding and de-congesting the needed prisons. Although, efforts were made by the administration, they could not reach the grassroot

²⁷ *The Prisons Act*, 1894, Act No. 9 of 1894, Government of India.

²⁸ *The Prisons Act*, 1894, § 4.

²⁹ *The Prisons Act*, 1894, § 27.

³⁰ *The Prisons Act*, 1894, § 28.

³¹ *The Prisons Act*, 1894, § 29.

³² *The Prisons Act*, 1894, § 28.

³³ *The Prisons Act*, 1894, § 29.

³⁴ *The Prisons Act*, 1894, § 24.

³⁵ *The Prisons Act*, 1894, § 7.

³⁶ *The Prisons Act*, 1894, § 13.

³⁷ *The Prisons Act*, 1894, § 14.

³⁸ *The Prisons Act*, 1894, § 46.

levels due to bureaucratic inefficiency, lack of resources, and political priorities of the colonial government. The Act provided for humane prisons, but it was futile in implementation.

Another reform to tackle prison overcrowding was the introduction of the Indian Penal code (Amendment) Act, 1921³⁹, sections 437⁴⁰ and 438⁴¹ of which indirectly tried to tackle the problem of overcrowding of prisons. The former allowed for granting of bail to undertrial prisoners accused of non-bailable offences, which would in turn de-congest prisons with accused prisoners. The latter section provided for anticipatory bail, under which an individual could apply for bail before one was arrested which will avoid an individual going to jail altogether. Further, The Criminal Procedure Code (Amendment) Act, 1955⁴² under Section 436⁴³ if individuals charged with bailable offences to be released on bail which will reduce the number of prisoners in custody and reduce the problem of overcrowding. Section 436 A⁴⁴ of the Act solved the problem of overcrowding by releasing undertrial prisoners who were incarcerated for a period exceeding half of their maximum sentence.

After independence in 1947, the problem of overcrowding of prisons was still prevalent. Though, the Prisons Act of 1894 was still followed, it could not bring a significant change in the problem of overcrowding. So, in the year 1980, the Jail Reforms Committee was formed, headed by Justice A.N. Mulla. The committee's report⁴⁵ highlighted the problem of overcrowding of prisons was severe, due to factors like delays in trials, undertrial prisoners being lodged in jails and poor and inadequate facilities provided to prisoner. It recommended some reforms for tackling it, including building new and modern infrastructure of jails and adoption of a more rehabilitated approach of imprisonment.

Till date, the problem is still prevalent in many big prisons of India and efforts which have been made to tackle it are effective in theory, but lack in enforcement.

³⁹ *The Indian Penal Code (Amendment) Act, 1921*. Government of India, 1921.

⁴⁰ "The Indian Penal Code (Amendment) Act, 1921." *Government of India Act, 1921*, sec. 437.

⁴¹ "The Indian Penal Code (Amendment) Act, 1921." *Government of India Act, 1921*, sec. 438.

⁴² "The Criminal Procedure Code (Amendment) Act, 1955." *Government of India Act, 1955*.

⁴³ "The Criminal Procedure Code (Amendment) Act, 1955." *Government of India Act, 1955*, sec. 436.

⁴⁴ "The Criminal Procedure Code (Amendment) Act, 1955." *Government of India Act, 1955*, sec. 436A.

⁴⁵ Mulla, A. N. et al. *Report of the All India Committee on Jail Reforms, 1980-83*. Government of India, Ministry of Home Affairs, 1983.

CASE STUDIES

Overcrowding prisons are a violation of human rights⁴⁶ are the words of the Supreme Court of India.

A few landmark cases in which the courts showed concern regarding overcrowding of Indian prisons are as follows-

1. Hussainara Khatoon v. Home Secretary, State of Bihar, 1979⁴⁷.

The treatment of detainees awaiting trial has also been outlined by the Supreme Court in the Hussainara Khatoon case. According to the Supreme Court, the Indian Constitution's Article 21 guarantees "speedy trial" as a fundamental right. It also highlighted the provision of free legal aid to impoverished inmates who endured years in prison because they could not afford appropriate legal representation. The length of time the accused has lived in the community, his employment status, his family and relationships, his reputation, character, and mental state, his conviction history and court appearance history, the names of reliable community members who can attest to his dependability, the nature of the offence committed, and any other pertinent factors are among the additional requirements that the Supreme Court stressed must be met in order to stop the accused from leaving.

2. In Re: Contagion of COVID- 19 in Prisons, 2020⁴⁸

During the COVID pandemic, the Supreme Court in the case held that it was essential to control the spread of COVID- 19 among prisoners, and already overcrowded prisons would not be of help in the situation. The three judge bench, consisting of Chief Justice, SA Bobde, Justice L. Nageswara Rao, and Justice Suryakant in their judgement instructed all the states and union territories to form a committee of the High Court judges to segregate prisoners who can be released on bail, and the ones who are eligible for parole. The Apex Court further instructed that

- a. All undertrial inmates must cease their immediate physical presence before the courts, and video conferencing must be used for all reasons.

⁴⁶ Overcrowding Prisons a Violation of Human Rights, Says Supreme Court, PTI, 1 Dec. 2021, 12:24 PM, The Hindu, <https://www.thehindu.com/news/national/overcrowded-prison-involves-violation-of-human-rights-says-worried-supreme-court/article61836654.ece>.

⁴⁷ *Hussainara Khatoon v. Home Secretary, State of Bihar*, (1980) 1 S.C.C. 81 (India).

⁴⁸ *In Re: Contagion of COVID-19 in Prisons*, (2020) 6 SCC 188 (India).

- b. Except in cases of decongestion to guarantee social distancing and medical attention for a sick prisoner, routine prisoner transfers should not be undertaken.
- c. Plans for preparedness and reaction particular to prisons will be created in collaboration with medical professionals.
- d. A state-level monitoring team will be established to make sure that the guidelines pertaining to prisons and remand houses are strictly followed

3. Re- Inhuman Conditions in 1382 prisons v. State of Assam, 2017⁴⁹.

The then-Chief Justice of India, R.C. Lahoti in this case dealt with four concerns of Indian prison system, namely unnatural deaths, gross inadequacy of staff, undertrained staff and the overcrowding of prisons. His Lordship noted that many prisons in the states of Assam, Chhattisgarh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Uttar Pradesh, and Delhi were working at more than 150% of their capacity. The judgement then emphasised on the effects of this overcrowding, such as difficulties in maintaining discipline, poor hygiene, inadequate sanitation and they will severely impact the health and overall well-being of prisoners. The court mandated that the under-trial review committee should examine the under-trial prisoners who can be eligible for release to curb the problem of overcrowding. And the Court further instructed the states and union territories to prepare a comprehensive plan of action to develop the prison infrastructure to solve this problem or come up with their solutions by 31st March, 2017 which gave them a 6 month time frame.

Lastly, the Court held that Article 21 of the Constitution gives right to life and dignity to all the citizens of India and prisoners should not be deprived of the same.

4. Satender Kumar Antil v. Central Bureau of Investigation, 2022⁵⁰

Justice MM Sundresh began his judgement by quoting John E. E. D. in "Essays on Freedom and Power" which read that, "Liberty is one of the most essential requirements of the modern man. It is said to be the delicate fruit of a mature civilization. It is the very quintessence of civilized existence and essential requirement of a

⁴⁹ *Re-Inhuman Conditions in 1382 prisons v. State of Assam*, (2017) 10 SCC 658 (India).

⁵⁰ *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51 (india).

modern man.” The Court focused on the issue of overcrowding of prisons and emphasised on the right to bail. It said that denying bail and excessive arrests lead to overcrowding of prisons. The Court held that a solution to this overcrowding is the use of summons and notices by courts, especially in cases punishable with imprisonment upto 7 years. The Supreme Court further directed the government to come up with solutions to decongest prisons with systematic reforms. Lastly, the court reiterated what was held in the Arnesh Kumar case⁵¹, which said that arrests should only be made by the police when they are necessary. This measure will also help to decongest the prisons.

5. Shri Ramamurthy v. State of Karnataka, 1996⁵²

The three judge bench of Justices Kuldeep Singh, B.L. Hansraj and S.B. Majumdar delivered the judgement in reply to a letter which was treated as a writ petition by the court. Further in the judgement, the report of NHRC⁵³ of the year 1994-1995 was mentioned which stated the plight of prisoners in Tihar jail due to overcrowding. The Court held that overcrowded prisons is a form of punishment beyond what was legally sanctioned, as paragraph 16 of the judgement read, “The Court held that overcrowded prisons is a form of punishment beyond what was legally sanctioned. The Court further laid down guidelines for the state to reduce the overcrowding by measures like releasing eligible convicts, alternative methods to imprisonment for minor offences, modernise the facilities and expedition of trial in the lower courts. The Court held that it is the responsibility of the state to reform prisons, holding that right to life and dignity of the prisoners is paramount.”

The Court also made reference to Chapter 20 of the Report of All India Committee on Jail Reforms (held by Justice A.N. Mulla)⁵⁴ to bring the focus of the state on the issue of prison overcrowding. The Court further laid down guidelines for the state to reduce the overcrowding by measures like releasing eligible convicts, alternative methods to imprisonment for minor offences, modernise the facilities and expedition of trial in the lower courts. The Court held that it is the responsibility of the state to reform prisons, holding that right to life and dignity of the prisoners is paramount.

⁵¹ *Arnesh Kumar v. State of Bihar*, (2014) 8 S.C.C. 273 (India).

⁵² *Ramamurthy v. State of Karnataka*, (1997) 2 S.C.C. 642 (India).

⁵³ *National Human Rights Commission*.

⁵⁴ *All India Committee on Jail Reforms, Report*, vol. I, ch. 20 (1983) (A.N. Mulla, Chair).

6. State of Andhra Pradesh v. Challa Ramakrishna Reddy⁵⁵

In this 2000 case, the Supreme Court held that Article 21 guarantees right to life to every citizen of India and the state has no authority to violate this law. Right to life even extends to prisons and a prisoner does not become a lifeless being in prison, therefore, Article 21 protects a prisoner's right to life, and they cannot be subjected to inhuman treatment just because they are lodged in prison.

SUGGESTIONS

1. Prison overcrowding is a multidimensional problem in India, demanding an equal response on the legal, policy, and infrastructural fronts. First, it is accelerating the pace of the judicial process that could help reduce many undertrial prisoners. Fast-track courts and more judges could help clear the huge backlog of pending cases and ensure justice on time.
2. Strengthening of legal aid services. Inclusion of more numbers of panel lawyers with the State Legal Services Authority and District Legal Services Committees will ensure that sufficient legal assistance is provided to undertrial prisoners. It would facilitate early release of those who are in custody for want of furnishing bail bonds. Furthermore, it can also be done by encouraging other alternative dispute resolution mechanisms such as meditation and arbitration.
3. Reform in the bail laws. The existing system of bail discriminates against the poor as they cannot afford the bailing amounts. Thus, the adoption of a just system of bail, such as personal recognizance bonds, will see to it that detention of persons with minimal flight risk or one who may not pose a danger to society is avoided. Furthermore, other forms of punishment should be adopted instead of imprisonment, such as decriminalization of non-violent offenses and promoting community service or probation.
4. Building and expanding prisons is another important element in trying to solve the problem of overcrowding. These are however, supposed to go hand in hand with the improvement of living conditions within the prison.
5. Since crime is usually a symptom of a problem, root causes of crimes such as poverty, lack of education, and unemployment can be dealt with for a long-term effect on the reduction in the population inside the prisons.

⁵⁵ *State of Andhra Pradesh v. Challa Ramakrishna Reddy*, (2000) AIR 2000 SUPREME COURT 2083 (India).

6. Regular monitoring and evaluation of prison conditions independently would ensure accountability and transparency. A national database on prison statistics can be set up for helping in the formulation and implementation of policies.

CONCLUSION

Overcrowding of prisons is one of the most critical problems besetting the Indian justice system, seriously eroding both its effectiveness and equity. Despite judicial orders and policy measures in this regard to amend the problem, the situation continues to deteriorate with time. Jail overcrowding is a clear violation of basic human rights. It results in intolerable living conditions, heightened violence, and restricted access to health and rehabilitative services. The very large proportion of undertrial prisoners, a majority of whom are detained merely because they cannot afford bail, indicates this systemic inequity and the urgency for reform. Overcrowding inhibits not just rehabilitation among inmates themselves but also really slims down the resources of the criminal justice system, with all its consequences of less effectiveness in the maintenance of public safety and order. The sentences given should be non-custodial for minor offenses, and more rehabilitation programs must be invested in for ex-inmates to readjust to life outside of prison. These steps will ensure that India moves to have a more humane and efficient justice system, sensitive to the rights and dignity of all human beings.

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