

PANDEMIC AND PRISON SYSTEM: AN EXPLORATION OF PLIGHT OF PRISONERS

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ABSTRACT

This research work starts with the definition of prison and a brief history of the prison reform. Prison is a place where the offenders are kept due to the wrong they have done to society. The COVID-19 pandemic has aggravated the possibility of contamination of COVID-19 and deteriorated the mental well-being of inmates. Studies directed since the epidemic of COVID-19 have uncovered increased tension, feeling more restless because of stresses connecting with them or a friend or family member contracting coronavirus, and bothered side effects of existing psychological sickness pandemic have somehow or the other affected the prisoners and the prison reforms. Next, the research paper discusses various rights of the prisoners and how are they being violated during the pandemic for example The basic rights which every pre-trial, under trial, and convicted prisoner are guaranteed under various laws are being violated like the mulaqat system, communication with friends and education are being violated. The paper again tries to throw light on the facts of aftercare services, medical facilities and

meeting with family provided in jails during Pandemic. Further, some measures of how can these problems be tackled has been in this project.

Keywords- Prison System, Mulaqat System, Pandemic, Communication with Friends and Family, Overcrowding.

INTRODUCTION

Fyodor Dostoevsky a Russian Intellectual once said, “ A society’s degree of civilization can be judged by entering into its prison. “Actually, the quality of democracy of a country is reflected through its prison condition. Prisoners are the most neglected population in India the virus spread quickly in Indian prisons when the first wave hit in 2020. Indian prisons were always at a higher risk of becoming epicentres for the transmission of the COVID virus due to their congested environments and limited healthcare facilities. Taking notice of the situation, The Supreme Court taking note of the circumstances prisons on its own motion in March 2020 issued several significant orders, including the formation of high-powered committees (HPCs) at the state level, led by the chairperson of the State Legal Services Authority, to decide on categories of inmates who could be released on temporary bail and parole to reduce prison overcrowding. It also directed that Under Trial Review Committees, led by a district judge, meet once a week to identify undertrials who might be eligible for bail or a personal recognisance bond, based on criteria under a National Legal Services Authority standard operating procedure (SOP) (NALSA). The release of convicts was down 41.2 percent in 2020, while the release of pre-trial detainees was down 19.6 percent while it was predicted that more prisoners would be freed during the epidemic, there was actually a significant decrease. The India Justice Report 2020 (IJR), which was issued last month, provides an excellent study that might serve as the foundation for a long-term decongestion effort. According to the data, approximately 70% of all people incarcerated detainees are awaiting trial undertrial inmates made up more than half of the population in 35 states and territories in 23 states/UTs, the percentage of undertrial convicts has risen during the last five years. The term "prisoner" is defined under Section 1 of the Prison Security Act 1992 as "any individual held in custody in a jail or prison because he or she has committed an act banned by law." Due to specific restrictions in jail, prisoners' right to liberty is revoked. Forceful restraint or confinement can

take away this liberty. Because a person's conviction for a crime does not turn him into a non-person, he has some of the same rights as non-prisoners. The rights of inmates while incarcerated are addressed under prisoners' rights. In this Article We Researched on how prisoners were affected in this pandemic period, are they getting the right benefits from the government or not we Highlighted some of the Major issues along with some points by which the Prisoners can be benefited.

PANDEMIC AND PRISON

The term “prison” is defined under Section 3 sub-clause 1, which means “any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention prisoners, and includes all lands and buildings appurtenant thereto, but does not include – any place for the confinement of prisoners who are exclusively in the custody of the police; any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882 (10 of 1882); or any place which has been declared by the State Government, by general or special order, to be a subsidiary jail.”^{vi}

Prison System in the present structure has changed a lot compared to ancient and medieval times. During primeval times, detainment was pervasive yet they were utilized distinctly for the confinement of the offender till his preliminary or the judgment conveyed. It was accepted that detainment was the most straightforward method for discipline. The jail framework was not a customary method of discipline in antiquated India. As of now, there were no such reformatory regulations that were followed. Society’s regulation and harmony exclusively relied upon the theories of Manu.ⁱⁱ Overpopulation has been one of the serious matter of the prison system in India. One of the important reasons for congestion in detainment facilities is on the grounds that two-thirds of the prisoners are undertrials. Regarding a report by the National Crimes Record Bureau that the inhabitation pace of correctional facilities is 118.5% of the prison limit. It was seen that there were around 4,78,600 inmates in numerous prisons, however, the limit of the penitentiaries was only 4,03,700. Overpopulation prompts an unfortunate state of living.ⁱⁱⁱ It additionally prompts the transmission of numerous transmittable sicknesses. We realize that the entire world has been experiencing COVID-19 since a year ago.

In the present circumstance, congestion could prompt genuine transmissions among the inmates as well as the employees.

The vast majority of these inmates hail from financially unfortunate foundations, with over 85% from Scheduled Caste, Scheduled Tribe, Other Backward Class, and Muslim people group. At the time COVID-19 pandemic struck in the year 2019, COVID-19 positive cases in penitentiaries turned into a reason for stress. In March 2020, the Supreme Court took suo motu notice of the circumstance in the detainment facilities and passed various remarkable orders, which prompted the constitution of powerful advisory groups at the state level, headed by the administrator of the State Legal Services Authority, to settle on classifications of inmates who could be delivered on transitory bail and parole to diminish congestion of penitentiaries. It likewise passed orders for the Under Trial Review Committees led by a district judge to meet consistently to distinguish undertrials who could be delivered on bail or distinctive recognizance bond, according to measures in a standard working methodology given by the National Legal Services Authority (NALSA).^{iv}

Section 13 of the Prisoners Act, 1894 characterizes the obligations of medical officers in the prison, to care for disinfection and sterility. In spite of this, Indian penitentiaries keep on being unhygienic and restoratively hazardous.^v In addition to other things, India experiences a deficiency of clinical officials in penitentiaries as well. In Karnataka's greatest penitentiary, the Parappana Agrahara prison, there were just two medical officials for around 4,400 detainees and no female medical officials for 126 female inmates.

The undertrials needed to confront a couple of issues that emerged in the virtual hearings like disarray about the date and season of becoming aware of bail applications, non-accessibility of case records, and other significant reports because of an absence of appropriate correspondence among the detainment facilities' specialists, legal officials, and promoters. The circumstance was more terrible in the region courts of the other tested States as they were just discarding bail applications documented before lockdown. In the event that any normal or break abandon critical grounds was required, the most likely choice accessible to the disputant was to move toward the High Court. Regardless of courts going on the web, the conventions of check and confirmation stayed unaltered, making issues for courts in discarding bail hearings.

Notwithstanding the best endeavours of courts, many bail hearings during the lockdown time frame were suspended because of the absence of check of papers, broken video joins during e-hearings, non-appearance of legal advisors, and withdrawal of cases. While ‘incredibly critical issues’ were heard through video connect, there were no characterized boundaries with regards to what established a ‘dire matter’ and no clearness about the courts’ working particularly area courts. It is dampening to see that the courts have not offered bail matters enough consideration in dubious occasions such as these. The High Courts have seen in a few cases that bail applications could not be treated as a ‘acute legal matter’ during the pandemic period. It is trusted that treacherous forswearing of bail, particularly in this exceptional period, is perhaps the grossest infringement of one's whole correct to individual freedom.^{vi}

Article 21 of the Constitution of India ensures individual freedom and, accordingly, restricts any uncaring, inhuman, or embarrassing treatment of anyone, whether a local or an outsider. Any break of this right is culpable under Article 14 of the Constitution, which ensures equity and equivalent security under the law. Moreover, the Prison Act of 1894 especially resolves the issue of inmate’s mistreatment. In the event that a detainee is exposed to manhandle, the prison organization is considered responsible. The Supreme Court passed orders for decongestion of correctional facilities, referring to a “remarkable ascent” in COVID-19 cases the nation over, and requested the quick arrival of all convicts who were conceded bond or parole last year considering the pestilence. As per a decision, authorities should not make routine detention in circumstances where the conceivable discipline is as long as seven years in penitentiary. It additionally taught the powerful councils to assess the arrival of new prisoners by executing the National Legal Services Authority’s standards regarding the matter. The court additionally expressed in the judgment that prison overpopulation is an issue that influences different countries, including India. The court expressed those endeavours ought to be taken to limit the spread of Covid-19 by testing the two convicts and restorative representatives consistently and making pressing treatment accessible to them.^{vii}

COVID-19 has thrown light on the insufficient medical services that detainees across India experience. An inability to address this wellbeing emergency layer is another casual discipline on the conventional one that courts distribute. It needs to stop. It tends to be seen that the top court has been making an honest effort to work on the condition. However, the impedance of government is turning into specific things challenging for the detainees to get by in a spot like

that. Experience additionally shows that monetary adaptability and independence in dynamic assist with staying away from superfluous regulatory postponements. Personalized penitentiary executives and cooperation with outside organizations can further develop food quality, disinfection, clinical offices, and detainees' way of behaving.

Lockdown during the pandemic has barely limited the individual's movement in the country from their homes yet has additionally confined the detainee's movement in their penitentiary. This was determined to forestall contamination, however, it transformed into an infringement of fundamental basic freedoms. The detainees were not permitted to go to their instructional meetings or to acquire data. They were additionally confined from associating with different detainees which antagonistically affected them and it felt liable to be tormented and at the very least any discipline for no great explanation. Phone calls were one of the simple choices to commune with the family, friends, and other relatives during the pandemic as there were limitations for actual gatherings. Nonetheless, there were numerous limitations given to the detainees like time limits or were not being permitted to convey consistently yet once in a couple of days. These substitutes were allocated following a couple of long stretches of lockdown because of which apprehension among the detainees was expanded.

The COVID-19 pandemic has aggravated the possibility of contamination of COVID-19 and moreover deteriorated the mental well-being of inmates. Studies directed since the epidemic of COVID-19 have uncovered increased tension, feeling more restless because of stresses connecting with them or a friend or family member contracting coronavirus, and bothered side effects of existing psychological sickness. The mental well-being emergency is recognized as an equal pandemic, antagonistically affecting psychological well-being all around the world. The poor effect on detainees' mental well-being is unavoidable. Dangerous and unhygienic prison conditions, the pervasiveness of psychological instability, and detainees' ineptitudes to improve or control their environmental elements compound the effect of COVID-19 on detainees' mental wellness.^{viii} Besides, predominant shame connected with psychological sickness in the public arena and in the prison system forestalls acknowledgment of mental well-being issues. From the human rights point of view, all state legislatures should guarantee the security, well-being, welfare, and human nobility of those detained in prison or confinement focuses regardless of any highly sensitive situation. Considering COVID-19, the Supreme Court of India requested all states and association domains to decrease stuffing in detainment

facilities; notwithstanding, activity taken up to this point is inadequate to address the COVID-19 emergency and psychological well-being prosperity of detainees.

CLASSIFICATION OF PRISON IN INDIA

The place where persons are detained pending trial or are detained as punishment after the trial that is convicted is termed a prison. The purpose of prison system is mainly to confine a wrongdoer and reform him so that he doesn't commit that crime again. The definition of prison vary according to the different perspectives of different person in the society for a obedient person it is where bad persons are kept but for a criminal it is a danger for officer it is his place of work and for a poverty stricken person it is place where he can find shelter and food free of cost.^{ix}In India prison is classified into three levels they are as follows:

- Taluka level
- District level
- Central level(zonal/range level)

Some special jails are also designed such as special jails, open jails, schools, and women's jails.

Now the jails under the above-mentioned levels are briefly discussed below:

- Central jail- different states follow different criteria for dividing a central jail but the fact that in central jails the prisoners sentenced to more than 2 years of imprisonment can be detained is universal that all the states follow. The heinous offender is confined here in these kinds of jails and do some hard work to earn their daily wages. In total there are 145 central jails and Delhi has the highest number which is 16 followed by Madhya Pradesh at 11, Maharashtra, Punjab, Rajasthan, and Tamil Nadu each have 9 central jails, Karnataka has 8 central jails and Gujarat has 4 jails. Whereas Arunachal Pradesh, Meghalaya, Andaman, and the Nicobar Islands, Daman Diu, and Lakshadweep don't have a single jail.^x
- District jail- In India there are in total of 413 district jails Uttar Pradesh being the highest in number has in total of 61 jails. Whereas states and union territories like Daman & Diu, Delhi, Lakshadweep, Puducherry, goa, and Chandigarh reported having zero district jails as of 31st December 2020.^{xi} These kinds of jails prevail in areas where there are no central jails.

- Sub jails- These are also known as subdivisional jails and are situated at the subdivision level of the state. In India, there are in total of 565 sub jails out of which Tamil Nadu has the highest number of sub jails which is 96 whereas states like Goa, Haryana, Mizoram, etc have no sub jails. These kinds of jails are very well maintained.
- Open jails- These kinds of jails are designed with low punishment levels and have zero security. Convicted persons showing good conduct and fulfilling the conditions specified under prison rules are eligible for staying in open jails. They are allowed to earn for their livelihood for example they are allowed to engage themselves in agricultural activities and many more. There are in total 88 open jails in India and the first open jail was introduced in Kerala in the year 1962 by the then home minister of Kerala Mr. P.T.Chacko.^{xiii}
- Special jail- These jails are specially designed for the offenders convicted of offenses like habitual offenders, terrorism, being violent, and engaging in violent crimes. The security mechanism in these jails is very high.^{xiii} There are in total 43 special jails in India and Kerala has the highest which is 16.
- Women jails- these kinds of jails are exclusively designed for females with female staff members. These are established keeping in view the safety and security of the women prisoners. There are in total 29 women's jails in India. These jails are established at every central, district, and subdivisional level but it is not mandatory that all the female offenders have to stay in these women jails only the special ones needing care are placed here because these jails have limited places.^{xiv}
- Borstal school- It is a sort of child detention facility that is solely for the incarceration of adolescents or juveniles.^{xv} Borstal schools adhere to the constitutional plan outlined in Article 15(3), in which they serve as a specific provision for children to ensure their reformation and well-being. Borstal schools have shown remarkable success in the reformation of juvenile offenders in recent years—a borstal school in Chennai claimed less than 1% recidivism in the convicts it released in 2018.^{xvi} Borstal School is located in nine different states. These states are Himachal Pradesh, Jharkhand, Karnataka, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu, and Telangana.

CATEGORIES OF PRISONERS

The criminal justice system recognizes three kinds of prisoners they are as follows:

- Pre trial prisoners –These pre-trial prisoners are kept under the supervision of the state for a short period .they are generally those who have been detained for completing an investigation or interrogation into the matter for which an FIR has been lodged.
- Undertrial prisoners- These are the inmates kept under judicial custody pending trial. They cannot be deprived of their basic and human rights. Undertrial inmates are individuals who are facing a trial in any court and are being held in judicial custody in prison during that trial. In layman's terms, an undertrial prisoner is someone who has been arrested for a crime and is awaiting his or her appearance before a magistrate.^{xvii} According to the prison statistics report, 2020 in 2019, and 2020 around 332916 and 371848 undertrial prisoners were in custody.
- Convicted prisoners- A convicted prisoner is being held in prison because he or she has been convicted of an offense, regardless of whether or not a sentence of imprisonment or detention has been issued concerning the conviction. Any individual committed to the custody of prison in lack of payment of fine or giving security under any procedure under sections 107, 108, 109, and 110 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) is referred to as a convicted prisoner.^{xviii} According to the Prison statistics report of 2020 in 2029 and 2020 about 144567 and 112589 convicted persons are in jail respectively.

BRIEF HISTORY OF PRISON REFORMS

Prison reforms before independence comes down to TB Macaulay he originated the modern prison system. Following that, the Prison Discipline Committee was formed to investigate India's prison system. In 1838, the Committee issued a report proposing harsh treatment of detainees while dismissing humanitarian demands and improvements. This evolution must be viewed from the perspective of imperialistic foreign rule. During the same period, construction of the Central Prisons began in response to Macaulay's Minute and progressed quickly between 1836 and 1838). Prisons in India today are thus a legacy of the British since they continue to serve their approximately two-hundred-year-old duty.^{xix} In 1864, the 2nd panel of inquiry into

jail management and discipline offered identical recommendations as to the 1836 committee, but this commission also suggested improvements in prisoner lodging, diet, and medical care.

As a result, in 1957, the Government of India established the All India Jail Manual Committee to create a model jail manual. In 1960, the committee submitted its report. The ideas of Dr. Reckless on prison reform were likewise supported by the Eighth Conference of Inspector Generals of Prisons in 1957. The report made strident calls for the development of a unified strategy and cutting-edge procedures for “jail administration”, “probation”, “after-care”, “juvenile”, and “remand homes”, “certified and reformatory schools”, “borstals, and protective homes”, and the “repression of immoral traffic”, among other things. The report also proposed changes to the Prison Act of 1894 to establish a legal framework for the prison reforms.^{xx}

After the independence of India, there was a tremendous rise in the reform system in 1956 instead of punishment for transportation life imprisonment was granted. After the independence of India, the work on the reformation of jails speeded up. So in 1956, the punishment of transportation was substituted by imprisonment for life. The Pakawasha committee approved in 1949 to take prisoners' work in road construction and pay them for it. Dr. W.C. Reckless then issued a report on jail reform in 1951. (Technical Expert). Later, in 1957, the committee was created to prepare an All India Jail Manual based on Dr. W.C. Reckless' proposals.

ISSUES TO PRISON REFORM

Mulaqat system, a celebration of festivals with family, communication, and education are certain issues relating to prison reform. Which are explained in detail below:

- Mulaqat System-Although convicts are allowed to contact their close families at set intervals, the Mulaqat system, or family gatherings of prisoners in jail, should be taken seriously because it is an extraordinarily powerful yet underutilized method of reformation. The right of inmates to interact with and meet with friends, relatives, and legal counsel should not be curtailed beyond a certain point. The period of the mulaqat system is very short prisoners and their relatives have no privacy during the meeting they have to shout loud to make the other person hear their words.^{xxi} The prisoners have

a right to meet their legal representatives, family, and friends but this should not in any way be restricted though time constraints can be kept.

- Celebration of festivals and other ceremonies- Many penologists believe that prisoners should be given a chance of celebrating festivals as we know India's rich culture offers many festivities, so the prisoners should be allowed to celebrate them. It will make them feel connected to their motherland and in a way can stop them from committing further crime.
- Communication by post or mail- The existing laws governing the limits and surveillance of convicts' postal mail should be relaxed. This will instil faith and confidence among convicts in prison officials, as most of the time the prison authorities' main justification for such restrictions is that it is done in the sake of prison security.
- Education and skill training - It is clear that jail education in India is an entrenched inadequacy - it is scarcely prescribed and regulated in policy, and even less so in practice. Education can help them to reintegrate in to the society, perpetuating the incarceration cycle. The prohibition of education make them go back to the criminal world again government should try to invest educating convicts as a result they can be better human being.^{xxii}
- Spiritual pieces of training- The practice of yoga and exercise can help offenders in reforming themselves so that they don't commit that crime again and can help them in surviving in the mainstream society.

The Supreme Court, in the famous case of *Ramamurthy v. State of Karnataka* (1997) 2 SCC 642 gave its landmark decision. The case established major problems that should be taken into account before executing prison reforms in India they are as follows:

- A) Overpopulation in jails
- B) Delaying procedure of trial
- C) abuse and maltreatment
- D) failing to provide for proper food
- E) failing to look after the mental condition of the convicts

F) keeping convicts isolated

G) open prisons management^{xxiii}

More of these points is explained in further pages below.

PROBLEMS FACED BY PRISONERS DURING PANDEMIC

- Despite India's low prison population in comparison to many other nations, its jails have a number of serious issues, and the situation in many poor countries is likely to be similar or worse.
- Overcrowding, indefinite pre-trial detention, appalling housing conditions, a lack of rehabilitative programmes, and charges of apathetic, if not abusive, jail staff behaviour have all drawn criticism throughout the years.
- The following are some of India's most critical prison-related issues.

1. Over Crowding

Overcrowding in prisons has been a source of worry, especially for prisoners awaiting trial. According to the National Prison Census conducted by the Law Enforcement Assistance Administration in 1970, 52 percent of convicts were awaiting trial. Clearly, the number of people awaiting trial must be decreased dramatically if jail congestion is to be relieved.

2. Right to bail for prisoners during covid 19

The virus's spread has wreaked havoc on India's overcrowded prisons, which already lacked hygiene, sanitation, and medical treatment. According to the Crinoline tracking on State/UT Wise Prisons Response to COVID-19 Pandemic in India, a total of 19,724 convicts have tested positive since May 2020, with 22 fatalities. Bail is a form of security given by a defendant in exchange for their release from custody until the outcome of an investigation or trial in a criminal case. In a number of instances, the Supreme Court of India has emphasised the significance of bail, stating that when someone is detained, their right to personal liberty is violated. As a result, unless detention is absolutely necessary, courts should interpret the rules of the Code of Criminal Procedure 1973 related to arrest in a way that safeguards constitutionally guaranteed liberty.

3. Decongestion Of Prisons

Overcrowding increases the danger of sickness and has a negative impact on the sanitation and hygiene of prisons. To stop the spread of the illness and preserve the lives of the imprisoned, several governments throughout the world began releasing thousands of offenders. Around 10,000 inmates were freed in Afghanistan, while over 85,000 were released in Iran and over 30,000 were released in Indonesia.

The Supreme Court of India has ordered each state and union territory to organise a High-Powered Committee (HPC) by March 23, 2020, citing the enormous threat that overcrowding presents to prisoners' lives and health

4. Poor Budget in Healthcare of Prisons

According to the National Crime Records Bureau (NCRB), in 2005, Indian jail officials spent an average of US\$ 333 (INR 10 474) per offender year, with monies going into food, clothing, medical costs, vocational and educational programmes, welfare activities, and other goods.

5. Prisoners right violation

During the current COVID-19 epidemic, prisoners have been subjected to the worst sorts of human rights violations, ranging from a lack of medical treatment in detention centres to excessive overcrowding and isolation from the outside world.

DOCTRINAL STUDY

This research methodology is primarily doctrinal in nature. The research paper is both descriptive and analytical. News articles, case law, prison data, and legislation were used to conduct research. Both qualitative and quantitative data are included in our study. Data from both primary and secondary sources was gathered online and analysed thoroughly. It also investigates the grass root problem by reviewing interviews of former prisoners. We also analysed the view of different experts, human rights activists, lawyers regarding the difficulties faced by the prisoners during the pandemic. Reviewing the interviews of the former prisoners helped us a lot in gaining the actual ground reality of the prisons across India. By analysing Prison statistics, we got to know the actual figures like total inmates, occupancy rate, mortality rate, etc. we compared the data of prison statistics India of 2019 with 2020. We did the research

by analysing and gathering observations without intervening in the actual data. We did research on two case studies to analyse how prisons across India failed to provide the basic health facilities to the prisoners during the pandemic and how they were deprived of their basic fundamental rights and human rights. Doctrinal and analytical method are the most suitable methods for our research because we can gather as much information as we want. it ensures accuracy.

PLIGHT OF PRISONERS

Fyodor Dostoevsky a Russian Intellectual once said, “ A society’s degree of civilization can be judged by entering into its prison. “Actually, the quality of democracy of a country is reflected through its prison condition. By that touchstone, India needs to question itself. The general state of hygiene and nutrition are not good in Indian prisons. Overcrowding in prison has been a huge problem in India for years. In the COVID-19 pandemic, People who have been imprisoned have been subjected to the most heinous forms of human rights violations, ranging from a lack of medical care in detention centers to extreme overcrowding and isolation from the outside world. The pandemic revealed the systematic gap that we have in the criminal justice system and the prison system. We need to analyse every single thing in order to get a crystal clear picture of the Indian prison system.

Overcrowding:

Prisoners are the most neglected population in India. Overcrowding in prison is a big issue even during the normal time but it is even a bigger issue during the pandemic. Prisons or the correctional institute are at the high risk during the pandemic and prisoners and prison staffs are more vulnerable to COVID-19. AS per the report of world prison brief, in the world prison population ranking India ranks fifth. For a very long time overcrowding has been a huge problem in Indian prisons. Most of the jails in India are running above their actual capacity. It is not just the problem of India, most of the countries around the globe are facing the same problem. According to the report of UN Office on Drugs and Crime (UNODC), as of May 2021, in 122 countries over 5.5 lakhs, prisoners had contracted covid-19 virus and reportedly over 4000 inmates from 47 countries lost their lives during the pandemic. In India according

to the report of PSI (Prison Statistic of India), 2020 No. of prisons is 1,306, and the actual capacity of the prisons is 4,14,033 but no. of the prisoners at the end of the year 2020 were 4,88,511.^{xxiv} So the overall occupancy rate was 118.0%, it is next to impossible to follow the Covid-19 norms like social distancing in the prisons of India. According to the PSI report as compared to 2019 there is an increase of 7% in the number of death in 2020.^{xxv} The total prison death reported was 1,887 out of which 1,642 were reported as natural deaths. It refers to aging and illness as natural deaths. The report does not even mention or specified the number of prisoners contaminate to covid-19. As compared to 2019 there was a rise of 5% death under the category of other illnesses, it may be related to covid-19 related deaths.^{xxvi} The report failed to provide the actual data. Data from media reports were collated by Commonwealth Human Rights Initiative (CHRI) it estimates that during the first wave about 18,157 prisoners and prison staff were infected, it also states that due to covid-19 about 17 people died.

Decongestion of prisons:

Many countries around the globe to put a check on the spreading of infection and to save the lives of the inmates started releasing thousands of prisoners. Each and every state and union territory of India is directed by the supreme court of India, on 23 March 2020, to form a High-Powered Committee (HPC). The clear intention was to control or rather avoid overcrowding in the prisons. Accordingly, all the state and union territory constituted a three-member High-Powered Committee which includes State Legal Services Authority, the Home Secretary, and the Director-General of Prisons in that particular State. The paramount objective of the HPCs was to determine which types of prisoners should be released on interim bail or parole. The committee took into account variables such as the nature of the offence, the severity of the offence, the number of years served in jail, and so on. The courts released a total of 68,264 inmates on temporary bail until December 14, 2020.^{xxvii}

We critically analyse the efficacy of the HPC's recommendation on decongestion of prison and the category considered by them to be released on interim bail or parole. The release of pre-trial detainees or under-trial convicts with a maximum term of less than 7 years is recommended by the HPCs of 26 states. Instead of adhering to the Supreme Court's recommendations, some states, such as Delhi, Mizoram, and Punjab, widened the criteria to release a larger number of prisoners. The criteria were: residents of the state, first-time

offenders, old age, undertrials for three months or more, and pregnant women. We discovered after a thorough investigation that the key criterion for the release of the detainees was the seriousness of the crime. The requirements for releasing convicts who were more susceptible to Covid-19 because of their age or pre-existing medical issues were not taken into account or recommended by most of the state HPCs except three states i.e. Delhi, Punjab, Mizoram. It was so disheartening. We found out that there were many cases in which prisoners with severe health issues were not released just because they did not fulfill the criteria or the requirement of the guideline.^{xxviii} So it is evident that recommendation is not for the safeguard of the prisoners. They just anyhow wanted to decongest the prison. While deciding the bail application even courts failed to consider the bail application on the ground of pre-existing medical conditions.

Human rights violation:

Some Under-trial prisoners were excluded from the consideration or guideline provided by the HPCs. Certain under-trials prisoners were denied to interim bail on the ground that they are a potential threat to the society, accused of offence against women, rioting, waging war, or accused under POSCO act, UAPA (Unlawful Activities Prevention Act). Further, irrespective of their offence background foreigners were denied the interim bail, they are excluded from consideration by HPCs of 13 states.^{xxix} So here the question arises does this is a violation of Articles 21 and 14 under the Indian Constitution. In the case of National Alliance for People's Movements v State of Maharashtra, criteria for inmates were challenged on the grounds that they were arbitrary and violated prisoners' fundamental rights (2020). The court ruled in this case that because of the Covid-19 problem, no prisoner can be released on temporary bond. Interim bail is not a statutory right, but rather a human right to protect prisoners' health during Covid-19, according to the court.^{xxx} Regarding the rights of inmates who are not covered by the guidelines, the court stated that under-trial detainees who are not covered by the guidelines can apply to the competent court for regular or interim bail. Despite the supreme court's judgement, trial courts used the categories listed in the HPCs guideline for determining on bail applications. They denied the bail application on the grounds that they are in conflict with HPCs' guidelines. The court here failed to appreciate that the HPCs guideline is likely to impact trial courts. The courts should have considered their bail applications on the merits, taking in mind the state's responsibility to protect all prisoners' health.

The international human rights organization has urged governments to improve the timely collection and exchange of public health statistics, particularly for people in detention or custody. According to Amnesty International, "at a bare minimum, regularly updated data regarding infection, treatment, vaccinations, and mortality rates in jails should be no less openly available than public health and response statistics for any other community." They've also argued that states should not discriminate against convicts and should provide them with vaccinations. Amnesty International, along with the governments, has urged the United Nations agencies and the World Health Organization to increase their efforts to ensure that detainees' rights are not violated.^{xxx1}

We analyse some cases where gross human rights violations were seen. On 8th October 2020, Stan Swamy was arrested. The 84-year-old has Parkinson's disease and severe hearing loss, and has expressed frustration with his inability to eat properly and a body that is "slowly losing out." Swamy, a Jesuit priest and tribal rights campaigner was arrested and detained on accusations of having ties to Maoist militants involved in a plot to topple the Indian government. He was detained by India's National Investigation Agency (NIA), which investigates terrorism-related offenses, for his alleged role in a caste-based violence incident in Bhima Koregaon, near Pune, in 2018. Swamy's hands shook owing to Parkinson's disease, a devastating central nervous system ailment, and he was reportedly denied a straw and sipper that he needed to eat and drink. His medical condition was so bad but his interim bail on the same ground was repeatedly denied by the court.^{xxxii}

Another case of Hany Babu, a Delhi University professor known for his anti-caste agitation, is also a member of the BK-16 gang and has been in prison since 28th July 2020. The NIA has also accused him of being a co-conspirator to the violence in Pune. In early May, Babu's family reported that he had been denied medical treatment for an acute eye infection, which may pose a severe risk to his life if it travelled to his brain.

"He has little to no vision in his left eye owing to the swelling," his family claimed in a press release. "The swelling has extended to his cheek, ear, and forehead." "He's in excruciating agony and can't sleep or do his regular tasks."

Babu was unable to cleanse his eye because he did not have access to clean water, so he was forced to cover it with unclean rags, which aggravated his condition, according to his relatives.

Babu's lawyer, Payoshi Roy, said that he had been suffering from an eye infection for eight days without seeking medical help. She claimed she had sent numerous emails and phone calls to the jail superintendent. Until they went to court, nothing was done, according to the lawyer. "We've had to go to court several times simply to get basic medical testing done. The prison officials are ignorant of the medical condition of Hany Babu. At last, he was tested positive for covid-19 when the test was done and also infected with black fungus. It is very disheartening that prisoners have to wait for a very long time even for weeks to get the basic needs and basic medical facility. It is clearly a violation of human rights. Article 21 depicts about right to life and also Under the UN declaration of Human rights, the Right to life is a basic fundamental right which all humans are entitled to.^{xxxiii}

Mental health of the prisoners:

Mental health should be the most important topic of discussion in the Covid-19 era. According to reports, even in normal circumstances, convicts in jail have poor mental health. Covid-19 had a terrible effect on the inmates' mental health. Inmates' mental health has deteriorated as a result of the COVID-19 outbreak, which has raised their risk of infection. Since the outbreak of COVID-19, studies have indicated increased worry, increased anxiety due to concerns about themselves or a loved one catching coronavirus, and worsening symptoms of existing mental disorder. Restriction during the pandemic is the main cause of weak mental health in general. In prison, it is even worse, when there is a restriction upon restriction, it's like more of solitary confinement.

According to the most recent prison statistics India report, 7524 inmates were reported to be suffering from mental illness in the year 2020, and out of 1887 inmates who died in the same year, 10% (189) perished in an unnatural death, with suicide being the cause in 156 cases. Prisoners were not allowed to meet with their family members, group activity was banned inside the prison, these are some aggravating factors for the poor mental health.^{xxxiv} In the light of the escalating number of Covid cases in the national capital, 'physical mulaqat' in prisons across India were suspended, and convicts were only allowed 'e-mulaqat' with family members thrice a month for 15 minutes each. They were previously allowed eight 30-minute physical meetings per month.^{xxxv} The court suggested on Tuesday that the e-mulaqat be raised to four times each month so that convicts can use it once a week. Despite of the court order, there was

no proper arrangement for online meet with the family members across the prisons in India, and in a case where the meeting was arranged that too for a very limited time which is not enough.

2016 Rule 15.03 of the Model Prison Manual addresses convicts' mental health and offers procedures for seeking psychiatric assistance for those who require it. Similarly, Section 103(6) of the Mental Healthcare Act of 2017 requires each state and union territory to establish a mental health facility in at least one prison's medical wing.^{xxxvi} These provisions, however, are regularly violated. Prior to COVID, there were times when the provision was either ignored or the authorities were understaffed to deal with the enormous number of mentally ill inmates. In the event of a pandemic, strict adherence to these recommendations is essential. In the penitentiary, the rules must be obeyed to the letter. As a preliminary step, the state must identify those inmates who are suffering from mental illnesses. The next stage would be to use e-media to improve prisoner social engagement. The E-Mulaqat initiative, which allows convicts to connect to their relatives via video call in Punjab and Rajasthan jails, is an example of such an effort. The prison authority should conduct mental health awareness programme in the prison and personal counselling sessions should be introduced in the prison. In this way, we can reduce the mental health issue among the prisoners.

Aftercare services in India

The word "aftercare" refers to programmes and services meant to finish the social or physical rehabilitation of individuals or groups who have begun and progressed to a specified stage at a facility. A period of stage and therapy in an institution, such as a reformatory, accredited school, borstal, or prison, is known as aftercare.^{xxxvii} Aftercare refers to the care of prisoners after their release from correctional institutions so that they do not commit the same crime again it is very important for both prisoners and society, and it aims at social and occupational reintegration of the prisoners they should be made self-sufficient, honest, and fit to live a free and independent life through these aftercare services. Aftercare services are a facility for a person or group of people who have been identified as being in special need due to a social, physical, or mental handicap they are designed to complete an individual's rehabilitation process and prevent him or her from regressing into a life of dependency or custodial care. Aftercare services are divided into two categories: voluntary and compulsory Voluntary services are those that an ex-inmate or destitute can take or reject on his or her own volition.

Philanthropic organisations in India have been doing after-care services for a long time that, despite doing some outstanding work, had all of the restrictions that such private organizations in this nation tend to have the Indian Jail Conference of 1877 examined the issue of assisting ex-convicts for the first time, but took no concrete steps to put it into action.^{xxxviii} In 1894, a Discharged Prisoners Aid Society was established as a non-official organization in the United States of America similar groups were formed in Bengal in 1907 and Bombay in 1914, but both failed to survive due to a lack of government sponsorship and public sympathy. After-care is the procedure that leads a released person from the transition from institutional imprisonment to adequate citizenship, relocation, and eventually community-based rehabilitation training, treatment, and post-release assistance is continuing processes, as a result, after-care services should be an integral part of correctional work.

Health issues

The prison population is disproportionately made up people with untreated chronic illness and poor health ailments, as well as members of society's most marginalized groups this is a community that is underserved, and its health problems are routinely overlooked. They contain diseases that are impacted by the environment in which they were born as well as the jail in which they are held. 29 convicts (9.6%) and 15 (5%) of the participants had acute upper respiratory tract infections, and 15 people (5%) had a lower respiratory tract infection. Ascariasis was found in 54 detainees (18%). 26 (8.7%) of the inmates suffered from musculoskeletal and connective tissue illnesses. Rural individuals, unmarried people, illiterates, and people from lower socioeconomic status were determined to have a higher probability of committing the offence that resulted in a life sentence in 252 (84 percent) of the inmates. The 2019 pandemic of coronavirus illness (COVID-19) has a large global impact, exacerbating mental health concerns while also compromising mental health service delivery in general, putting people's mental health at risk.^{xxxix} Prisoners are an especially vulnerable group, suffering from a variety of mental health disorders. COVID-19 testing is limited and inconsistent, and there have been worries regarding mental health and a COVID-19 outbreak in jails. The Prisoners Act of 1894 has provisions for the health and treatment of inmates in jails and hospitals in sections 37-39. The health care of inmates in jails and detention center's is discussed in Chapter VII of the 2016 Prison Manual. According to 2018 jail statistics from the National Crime Records Bureau, unnatural deaths are primarily due to poor medical care.

Every public hospital is required by the Directorate of Health Services to include a jail ward however; these wards are rarely used on the ground. In 2017, a team of five medical professionals, comprising a gynecologist, a general practitioner, a dermatologist, a psychiatrist, or a social worker mental training, and one pediatrician, should visit prisons once a week for two hours, according to the Dr. S. Radhakrishnan Committee.^{x1}

CONCLUSION

The exceedingly bleak outlook for the coronavirus has renewed the urgent need for legislative reform. The epidemic has not only raised awareness of the need to reduce jail overcrowding, but it has also taught a number of lessons about strengthening convicts' right to bail and right to life, both of which may be infringed upon implemented long after the crisis has gone. Prison improvements, including as periodic decongestion and proper healthcare facilities, should be aggressively pursued. We further believe that once the epidemic is finished, the HPCs established to decongest jails should not be disbanded. These committees may consider recommending regular or temporary bail for some criminals on a case-by-case basis, depending on more equitable standards developed in light of the article's basic right to health. Uniformity in the rules of all HPCs should be enforced, regardless of the state, and these standards should be compatible with the essential constitutional objectives.

In view of worries regarding future e recommend that virtual courts, which were constructed as an emergency response to the first wave of COVID-19, be used in the future to address the uncertainty surrounding lockdowns and the resulting confusion surrounding lockdowns, be maintained. District courts must modernise under the supervision of their respective High Courts by implementing effective mechanisms for online filing, online case listing, online publishing of their cause list, and video conferencing and teleconferencing hearings. Detention centres, prisons, and police stations, in addition to the courts, should be equipped with technology that allows prisoners, accused individuals, and attorneys to participate in online bail hearings. For this system to operate, It calls for improved infrastructure in district courts and jails, as well as precise protocols for the High Courts' online management of subordinate courts, as well as trained judicial personnel and continual surveillance by the High Courts.

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