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Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



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INVESTIGATING THE LEGAL ORIENTATION TOWARDS PRISON OVERCROWDING - CONTEMPORARY BOTH NATIONAL AND INTERNATIONAL LEGAL ISSUES IN CRIMINAL LAW

AUTHOR - PALAK AGRAWAL, STUDENT AT MANIPAL UNIVERSITY JAIPUR OF LAW, JAIPUR

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ABSTRACT

There is a lot of pressure on lawmakers, judges, and parole boards to "do something about crime" as a result of growing public dread of crime. As a result, the jail population has dramatically increased, especially for individuals who were convicted of less serious offences. "Public order and property offenses". Inmates' medical conditions have been exacerbated by overcrowding, which has also increased their stress and inactivity. Most States look to alternative sanctions to lower the jail population because they cannot afford to build additional prisons to accommodate the overflow. The employment of alternative programmes includes halfway houses, community service projects, and reparations. These are less expensive and seem to be more conducive to rehabilitation than incarceration. Decriminalizing some offences is another option for the States. "private marijuana use, public drunkennes".

A sentencing guidelines panel that recommends consistent sentence ranges for a variety of offences and is connected to the State's jail capacity has also been formed in Minnesota. Other methods of population reduction include good time allowances, emergency release options, and parole regulations. To implement jail reform initiatives, states require strong leadership and popular backing. There are pictures, sample sentence and parole rules, additional footnotes, and a list of resources available.

KEYWORDS - Legal Aid , Genocide , Corruption , Proactivity , Sanitation

INTRODUCTION

The word "Prison" is being derived from the Latin word which means to "Seize". According to the Oxford Dictionary prison means "Prison means a place properly efficient and equipped for the reception of person who by legal process are committed to it for safe custody while pending of trial or punishment". Crime rate not only in India but in the whole world is being increased day-by-day which really leads to increase in the prison overcrowding. Poverty is also the main reason due to which crime is being increased but specially after COVID -19 the poverty level has been increased to certain level which leads to the increase in crime. Overcrowding in prison effects increase in pressure to the state because it leads to increase in the expenses of the state. As criminals are being imprisoned which leads to the formation of more groups in the prison or jail "Gangs". When they are released from the jail they try to commit the crime that harms the public too and they may even try to harm the person because of whom they were bound to go to jail. jail overcrowding is a societal issue that happens when a jurisdiction's capacity for convicts is exceeded by the demand for jail space. The problems brought on by jail overpopulation have been simmering for a long time. The states were tasked with resolving the jail overcrowding problem with a certain quantity of funding during the American War on



Drugs. Furthermore, if states follow federal regulations, such as mandatory minimum terms, the number of people in federal prisons might rise. In contrast, the Justice Department gives state and local law enforcement billions of money every year to make sure they adhere to the guidelines established by the federal government regarding American jails.

MAJOR PROBLEMS OF PRISON OVERCROWDING

Due to increase in number of prisoners there are many problems arising there are many factors which leads to arise in the number of problems in prisoners which are discussed below :-

A. CORRUPTION

In jails all across the world, there is a high incidence of staff corruption and its less severe counterpart, guard corruption. These issues are inevitable given the significant control guards have over convicts, but they are made worse by the poor pay that guards typically get. Inmates pay bribes to guards to supplement their pay in exchange for contraband or special treatment.

B. UNHEALTHY LIVING CONDITIONS

Unacceptable living conditions are a result of jail overpopulation. Unacceptable living circumstances persist in numerous prisons around the nation, despite the fact that the reforms in the jails mentioned earlier have concentrated on things like nutrition, clothes, and sanitation. 10 000 inmates held in India's high-security Tihar Central Jail were subjected to serious health risks, including overcrowding, "appalling" sanitary conditions, and a lack of medical staff, according to a special commission of inquiry's 1997 report, which was established after a prominent businessman died there in 1995.

No one wants to do time in prison, no matter how nice the facility is. It is dreadful to be denied of one's freedom, family, friends, and surroundings at home.

The goal of improving prison conditions is to make prison life more humane and

practical for inmates, not to make it easier for them.

C. UNEQUAL TREATMENT AT PRISON

Although prisons may be thought of as the levelling institutions in the world where various factors could create or develop the vital effects on the confinement conditions for those with criminal records and their inmates as well as their behaviour in prison, other factors play a significant role in many nations. This study from Human Rights Watch particularly names nations with "rigid" class systems in their jails, including Pakistan and India. It claims that, regardless of the crimes they have done or how they behave while incarcerated, a small proportion of convicts who are from the top and middle strata of their society are given preferential benefits under this system.

D. INADEQUATE PRISON PROGRAMS

Despite issues with overcrowding, a labour shortage, and other administrative challenges, some institutions have implemented creative ideas. For instance, Tihar Jail's SMART programme is being run by the Art of Living. There are two classes every month, and there are follow-up sessions every weekend. Every year, two courses are offered to prison personnel. However, this could be more the result of trials and exceptions. A initiative in Srijan aims to offer social rehabilitation there. However, there aren't many of these programmes in Indian jails. Many jails in India provide vocational training programs, however these are sometimes antiquated. Rarely do jails have well-thought-out prison programmes that include regularly scheduled activities, vocational training, pre-discharge counseling, and post-release supervision.

E. LACK OF LEGAL AID

Legal assistance is only offered at the trial and not while the detainee is brought to the remand court in India for those who cannot afford to hire an attorney. The usefulness of the nation's legal representation system to



the poor is significantly diminished by the absence of legal aid until the moment of trial because the bulk of inmates, both those in lockup and those in prisons, have not been tried. When many of them want such help, the attorneys are not available.

Another issue with the legal assistance panels is the dearth of competent and effective attorneys. It is occasionally suggested to expedite the trial procedures in order to minimise the number of people awaiting trial and lessen the jail population. The quick holding of trials, making it easier for defendants to plead guilty at any point in the trial, and a system of plea bargaining were some of the recommendations made by several committees. The University of Delhi teachers and law students' tireless work in the area of legal help at the Tihar Jail were emphasised at a lecture. This included teaching the inmates legal literacy, educating the prison personnel, focusing on specific prisoners to give legal help, and enlisting paralegal staff to deal with prisoners, both those who had been convicted and those who were awaiting trial. In order to spot inefficiencies and flaws in the jail administration, the seminar had recommended that Lok Adalat be more involved and that prisons be constantly monitored. Finally, it made the suggestion that legal change would be necessary and crucial to the operation of the overall legal assistance system.

IMPACT OF COVID -19 TO PRISONERS DUE TO OVERCROWDING

The adoption of measures that grant those convicted of significant human rights breaches, crimes against humanity, genocide, or war crimes de jure or de facto impunity is forbidden by current international law. Amnesties, pardons, immunity from prosecution, and advantages in the execution of punishments are all illegal and have no legal standing. Likewise, only situations of terminal disease with an impending cure are eligible for humanitarian pardons. Prison overcrowding is never

acceptable and violates many international obligations, including the protection of the right to physical and mental integrity. At the same time, States have a general obligation to ensure the enjoyment of rights by all individuals under their jurisdiction, including their prison populations.

As stated by various United Nations Special Procedures and the United Nations High Commissioner for Human Rights, States have a greater responsibility to prevent violations of the rights of people who are deprived of their liberty in the context of a pandemic like COVID-19, where the risk of contagion endangers the health and life of the population. States must also avoid overcrowding and ensure hygienic conditions in prisons and other detention facilities.

The reasonable and required actions to combat COVID-19 and overpopulation shouldn't, however, result in the de facto or actual impunity of those found guilty in various areas of the world of grave human rights abuses, crimes against humanity, genocide, or war crimes. When compared to other people who have been deprived of their liberty, these individuals typically benefit from detention conditions that are established for security reasons to avoid mass contact (for example, through detention in special establishments and/or in individual, two, or three person cells).

In the current health emergency, it is advised that if the issue of potential prison overcrowding of those detained for grave human rights violations, crimes against humanity, genocide, or war crimes persists after general measures have been put in place to prevent it: Transferring such inmates to a different jail institution with secure and healthy confinement conditions If this is difficult, set up a temporary home arrest with the necessary controls; after the emergency situation has passed, the individual must report back to jail to complete the remainder of their sentence. Persons guilty of genocide, crimes against humanity, or war crimes are never eligible for amnesties,



pardons, exemptions from criminal responsibility, or advantages in the execution of a sentence.

SOLUTION TO THE OVERCROWDING IN PRISON

One of several answers to the issue of jail overpopulation is to construct new prisons. The government could be able to address the issue, albeit in a limited fashion, if it were to increase the number of jail beds and available space. Having additional jails requires the government to not only buy more property to construct more prisons, but also to turn vacant area into prisons.

A different proposal is to think about reconstructing the jails as towering structures. Governments may be able to maximise the amount of land available by doing this while also easing overcrowding inside the jails. Changes to the "truth-in-sentencing" statute are another solution to the issue of prison overpopulation. According to this rule, all convicted offenders must complete at least 85% of their jail terms before being allowed to leave custody. According to the law, no prisoner may be freed on any reasons before completing at least 85% of their sentence.

The inference is that because inmates stay in jail for extended periods of time, the prison population keeps growing. However, if the legislation could be amended to mandate that inmates complete at least 65% of their sentences in jail before being released, then more inmates, particularly those who commit minor offenses. There would be more room in the jails for incoming detainees if prisoners were freed before serving out their sentences. Approximately 54,000 of the inmates housed in federal prisons in the US are not US citizens, according to research. The same holds true for several developed and emerging nations. What that implies is that keeping inmates who are not US citizens incurs enormous expenditures for the US, for example.

CONCLUSION

Similar to terrorism and the current economic downturn, jail overpopulation is a worldwide issue that affects all countries, regardless of their financial standing. The issue is frequently brought on by the legal systems' lack of proactivity. As a result, they only act when a problem arises, and most of the time, their interventions focus on controlling the issue rather than trying to completely eradicate it. Prison overcrowding has detrimental consequences on prisoners' and prison staff's health as well as increased violence and inadequate sanitation. One of the numerous solutions to the issue of jail overpopulation is to construct more prisons.

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