

UNDERTRIAL PRISONERS IN INDIA: A CONSTITUTIONAL AND SYSTEMIC ANALYSIS

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I. Abstract

Undertrial prisoners issue is one of the most topical problems of the criminal justice system in India. Regardless of the constitutional provisions that ensure the liberty of the individual and the presumption of innocence, a major percentage of the prison population is composed of people who have not even been found guilty of any crime. The extensive pre-trial detention period, which is commonly caused by procedural delays, financial disadvantage, and other constraining practices in setting bail, provides a cause of concern with both constitutional and human rights. This paper discusses whether or not undertrial prisoners are afforded any legal protection, weaknesses present in the system, and how this can be corrected by implementing changes that will result in compliance with the constitutional requirement.

II. Introduction

An undertrial prisoner is an individual who has not been convicted, but he is in judicial custody pending the investigation or trial process. The criminal justice system is based on the initial principle which states that all the accused individuals can be considered innocent before they are proved guilty in the court. Nonetheless, where the pre-conviction imprisonment lasts too long, there is a lack of differentiation between an accused person and a convicted criminal. Not only does long pre-trial imprisonment suppress individual freedom but it also destroys faith in the justice system. II. Constitutional Framework In the constitution of India, article 21 states that one shall not be deprived of any life or personal liberty without a due process that has been decided or laid down by law.¹ The Supreme Court has understood this provision to provide the right to fair and prompt trial in a comprehensive way.² The constitutional pledge of due process of the law and human dignity is contravened by

indefinite or unreasonable detention without any trial. It is also noted by the judicial pronouncements that procedural fairness is not a technicality, but rather a vital protection against arbitrary action of the state. III. Reasons behind Prolonged Undertrial Detention. There are a number of structural and procedural reasons, which explain the increasing number of undertrial prisoners in India: * Unwarranted and rampant arrests. * Failure of the accused individuals to pay bail because of financial difficulty. * Latitude in the investigation and charging sheet. * Court congestion and second adjournment. In most cases, people who commit minor or bailable crimes are left in prison as they do not have the economic capability to free themselves. This fact is unfairly distributed among marginalized groups. IV. Statutory Safeguards The Code of Criminal Procedure, 1973 (CrPC) includes mechanisms that are aimed at averting arbitrary detention. Section 436 requires bail in offenses, which are bailable, and Section 436A restricts the

maximum time that an undertrial prisoner can be held to one-half the maximum term of the alleged offense. The concept of bail is the rule and jail is the exception has been strengthened by judicial interpretation, but is, in most cases, undermined by uneven application in practice. V. Human Rights Implications There are long-lasting effects of pre-trial incarceration even outside the court. It often leads to loss of jobs, damaged reputation, mental trauma and suffering of family members who are dependent. To those eventually cleared, the time in prison is an uncompensable loss of freedom. The social stigma and the interruption in the economic system that was experienced in jail cannot be fully compensated even after exoneration. Reform Measures To curb the undertrial crisis, the system needs reform, which consists of: *

Bail principles are strictly

observed. *

Judicial review of status of detention periodically. Agreement Enhancing legal aids in accordance with Article 39A of the Constitution.

* The development of fast-track courts. *

Implementation of case management systems based on digital systems. *

Seeing to it that the arrests are in strict compliance with the statutory provisions. The protection against unneeded arrests has already been established by judicial guidelines, though a solid enforcement is necessary.

III. Conclusion

The high percentage of under trial convicts in the Indian prisons portrays a more serious structural deficiency in the criminal justice system. Freedom has to be the rule, and the imprisonment before the trial should be considered only as a strictly controlled exception. The delivery of justice in due time is not only an administrative goal, but a constitutional requirement. The criminal procedure has to be changed in a meaningful way that would be in line with the values of dignity, fairness, and equality that the Constitution grants.

Reference

1. INDIA CONST. art. 21.
2. Hussainara Khatoon v. State of Bihar, (1980) 1 SCC 81 (India).
3. Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (India).
4. India Code (1974) Code of Criminal Procedure, No. 2 of 1974, SS 436A.
5. State of Rajasthan v. Balchand, (1977) 4 SCC 308 (India).
6. INDIA CONST. art. 39A.
7. Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 (India).