**Mandela Rules**

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July 18 is dedicated to the memory of Nelson Mandela, who, despite spending the best part of his life in prison, emerged as a leader that worked for the reconciliation between the marginalised majority and the politically prevailing group. Instead of spewing hatred and hostility, he talked of peace. The minimum standards for the treatment of prisoners adopted by the UN in 1955 were named after Nelson Mandela in 1995 as a most befitting tribute.

Pakistan, too, has ratified the Mandela Rules like so many other international instruments of human rights but the implementation remains just as weak as all others. The blame, however, cannot be laid on the door of the government alone. Among other reasons, the lack of awareness of the general public regarding prisoners’ rights as well as general apathy and insensitivity towards them due to the ages-old stigma attached to imprisonment top the list. There is a prevailing assumption that imprisonment serves as deterrence against re-offending, a notion challenged by the researchers. Similarly, rigorous imprisonment can deter a potential repeat offender or the humiliation leads to rehabilitation belies all reason.

Taking away liberty is in itself so much of a punishment that it does not require any further retribution. The prisoner’s family also suffers, rather undergoes, unwarranted punishment. Not only is a prisoner rendered unable to earn livelihood and thus, his family is left to fend for itself in the absence of social safety nets but also the social, emotional and financial losses last lifetimes. Moreover, the effects of parental imprisonment on children are well-documented. Let us not forget that globally, prisons draw the largest part of their populations from the poor and the illiterate who live on the fringes of society. These marginalised people are unable to defend themselves in costly legal battles. Grave human rights violations are rampant in the prisons and ironically, even the prison’s system militates against these largely poor and illiterate inmates, as very succinctly called “criminalisation of poverty” by activists.

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Political reasons for this sorry state of affairs are as much important as the social reasons and both are largely intertwined. Prison reforms do not find a way to the manifestoes of political parties. Public views such reforms as going soft on crime. It is not very uncommon to demand public hangings for atrocious crimes– something that is not only absent in the statute books but also deemed a violation of constitutional rights. Such a social climate, where people demand disproportionate punishments for crimes, makes it very hard even for the well-meaning public policy-makers to undertake prison reforms. Very unfortunately, putting political rivals in prisons on flimsy and questionable grounds is similarly common. Even worse, a narrative is built around such captivities regarding how these political prisoners are being fed and kept by the state. This kind of representation of prison life has further eroded public support for the prisoners’ rights. Admittedly, prison reforms remain a slow yet costly item and governments prefer to adopt programs with more visible and quick results.

Legislature, judiciary and executive, all three, shall be on board for prison reforms. Overcrowding in the prisons shall make the top agenda item as congested prions automatically lead to grave human rights violations. Until some extensive prison reforms are undertaken, home departments shall also consider the restoration of probations. Imprisonment for minor offences needs to be reviewed by the legislature and a special committee may be constituted for the purpose as it would require debate and deliberation of a number of statutes. The proposed committee shall review punishments for criminal offences on the touchstones of reasonableness and proportionality. Incarceration shall strictly be for the transgressions classified as a felony and there could be fines or community service for those categorised as a misdemeanour (presently, there is no distinction between felony and misdemeanour in our criminal laws). A person, who cannot be adequately proved as a threat to society, like a sexual predator or a violent criminal, shall not be incarcerated while under trial. Similarly, the judiciary shall, at least, follow the case law set by itself regarding grounds for refusal of bail until amendments in CrPC are made.

Mandela Rules are the most important legacy of Nelson Mandela. These are the minimum standards to check torture and degrading treatment of the prisoners (and both are an integral part of the prison experience in our country).

Since prisons are the provincial subject and whatever reform is made by the respective provincial legislatures, it should be on the yardstick of Rule 1, “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.”

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