**Easing Overcrowding in Prisons**

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Recently, Punjab Prisons Department very proudly launched a mobile app to register prisoners’ complaints. The effectiveness of this app remains to be seen, but the leading cause of the grave grievances, i.e. overcrowding, is too huge to be dealt with by the department alone. What happens when a scruffy and sordid place is crammed with humans is anybody’s imagination (read, nightmare)!

According to the figures collected by this writer some time ago, in Punjab alone, around 51000 prisoners lived in structures with a capacity of about 37000. On a further bifurcation of data, around 32,300 were found under trial whereas only 17,799 were convicts. This simple data meant that under-trial or awaiting trial prisoners were double the population of the convicts. The international average of under-trial or awaiting trial convicts is one-third. A large number of citizens committed to prisons without conviction is another indicator of a rotten criminal justice system. Shall we assume that these easy-to-understand numbers hide from the eyes of the superior bosses of the criminal justice system? Has anyone ever given serious thought to these crammed prisons? Any debate on the usefulness of keeping convicts of all hues and shades in a prison or only those convicted of a heinous crime? Shall imprisonment be for the full term of a sentence when alternatives to imprisonment are available and applied in the civilized world?

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In our system, describing prisons as reformatories and rehabilitation centres are mere fancy phrases. The Prison Rules though have been amended and modified several times but the prototype remained the colonial era Prison Rules. At that time the primary purpose of the prisons was retribution and deterrence brought about by making an example of the offenders. Protecting society from the offender was considered sufficient without much serious effort for his rehabilitation. In the prisons stuffed beyond capacity, the prison administration only focuses on “discipline” (a term very narrowly defined in the prisons’ culture), to keep prisoners away from brewing any “mischief”. The fear of disciplinary action against the administration due to a prisoner makes even the most well-meaning among the former resort to the use of wide penal powers on each perceived violation. Overcrowded prisons are not only harder to manage but also make the prisoners compete for the scarce resources thus, on one hand, making way for the corrupt practices of the prison staff and on the other exposing these hapless creatures to bullying by their fellow inmates. It is a no-brainer that the overcrowded prisons make the reformation and rehabilitation of the prisoners almost impossible. The scanty resources, human and financial, are spent on maintaining the prisoners, including the large numbers of under-trial ones. When the under-trial prisoners are acquitted, the resources so spent prove to be squandered which could have been utilized for the training and wellbeing of other inmates.

Provincial home departments are usually so bogged down with routine tasks that probation and parole and also remissions are put on the back burner, which are genuine means to reduce overcrowding and also collecting tangible evidence for a reduction in recidivism.

Despite a substantial case law spelling out the conditions for arrest and also for the denial of bail, the LEA’s arbitrary and whimsical use of powers and the subordinate judiciary’s disconnect with the principles set out by the superior judiciary is adding to this humanitarian issue. Now add to it the wretched prisoners languishing in jails on judicial remand or pre-trial detention, without being charged with an offence, and you get a horrible scenario. This last category of prisoners is legally required to be produced in the court at least fortnightly so that judicial oversight can be maintained over the abuse of process. But the production of such detainees only ticks a box. The presiding judge asks the court prosecutor about the status of challan, as a matter of procedure, and the prosecutor states any number of days required to complete the process, again as a matter of procedure. After a fortnight the whole dialogue is repeated mechanically, and another box is ticked. Fortunately, or unfortunately, to reduce the mindless under-trial and the pretrial detentions, just a sufficiently sensitized judiciary (who is willing to apply mind on each case) is required, and no additional resources.

Only a strong political will can tackle overcrowding in prisons. Half-hearted measures do not go beyond improving the diet menus of the prisoners and the whitewashing of the prison walls besides sometimes very graciously adding a prison building to the development portfolio.

A significant number of political leaders in Pakistan have been directly exposed to the conditions of prisons but due to the absence of public support or even worse the public demand and belief in the questionable retribution and deterrence theories make them shy away from any meaningful reform. Both media and civil society should play their part in making progressive prison reforms a public demand. We need to have serious legislative discussions by our parliamentarians and sufficient sensitization by our judiciary for setting people free who are caught in the mills of (in)justice.

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