



Access to justice for undertrial prisoners in India

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Abstract

Access to justice is a foundational principle of the rule of law and a fundamental human right enshrined in the Indian Constitution. However, for undertrial prisoners in India, this right often remains elusive. This article critically examines the structural and procedural barriers that hinder undertrial prisoners from availing timely and effective legal remedies. Despite constitutional guarantees under Articles 14, 21, and 39A, a significant proportion of India's prison population comprises undertrial detainees, many of whom are held for prolonged periods without conviction. The paper analyzes the inefficiencies in legal aid mechanisms, systemic delays in trial processes, socio-economic vulnerabilities, and the lack of awareness among prisoners regarding their legal rights. It also assesses the role of legal services authorities, judicial interventions, and recent reforms aimed at decongesting prisons and ensuring speedy trials. By ensuring equitable access to justice, the criminal justice system can move closer to upholding the ideals of fairness and human dignity. The article concludes with actionable recommendations to strengthen legal aid delivery and expedite judicial processes for undertrial prisoners in India.

Keywords: Undertrial prisoners, access to justice, legal aid, criminal justice system, judicial reform

Introduction

For many years, the Indian criminal justice system has neglected more than 0.2 million prisoners in detention and in many cases undertrials serve the maximum sentence for the crimes they have committed^[1]. The high number of undertrials is a paradox for an Indian legal system that runs on the principle an individual is presumed to be innocent till the time he is not convicted. The Supreme Court has often wondered whether there is hope for them under investigation when the judicial system has denied them a trial and kept them behind bars for years not because they are guilty, but because they were too poor to afford bail and the courts had no time to try them^[2].

All prisoners in prison have the right to a trial within a reasonable period of time, prolonged detention and delays in trials not only violate the rights and freedoms guaranteed to all citizens but also amount to the denial of human rights in court proceedings^[3]. As held in *Uday Mohanlal Acharya vs. State of Maharashtra*, pre-trial detainees are to be released on bail under Section 167 if their judicial custody exceeds 90% (60 days) of the indictment and no charge sheet filed by police^[4]. Prisoners are in precarious conditions and without legal representation, which means unjust detention. Undertrial prisoners are persons who stand before a court or tribunal and are held in judicial custody or in prison. Reading sections 428 and 436A of the Code of Criminal Procedure, 1973 and the 78th Report of the Law Commission, it becomes clear that a undertrial is a non-convicted person being held in a prison during the investigation, inquiry or trial of a crime they are accused of committing under the law^[5].

According to documents submitted in response to RTI requests, 1,544 of the 254 pre-trial detainees in prison are demonstrably entitled to release under the law. Amnesty India found that of these, only 1,286 cases were eligible for release. By including prisoners on the list who face the maximum sentence, even though they cannot be released under current law, Amnesty India shows a poor understanding of the law as a whole^[6].

In light of these findings, Amnesty India recommends, among other things, standardizing the remuneration of legal

aid lawyers across the country, employing them in separate reserves, and deploying police personnel to accompany court proceedings. A significant proportion of detainees rely on the Court and prison officers, the legal aid system and visits by lawyers to prison not only in the early stages of pre-trial detention and at the time of arrest and interrogation, but also to provide effective representation and advice to protect freedom and prevent unnecessary detention. The National Legal Services Authority (NALSA) rules require that the establishment of a legal aid clinic in every prison in India should be accompanied by regular visits from lawyers to ensure broad publicity for their services^[7].

The surge in Covid-19 cases has made the situation more distressful for the prisoners. The failure of authorities to reduce severe overcrowding in prisons left thousands of prisoners at the risk of infection and death. In India, hundreds of prisoners got infected and a number of them died too. Overcrowded jails are a violation of human rights of prisoners^[8]. Imprisonment does not spell farewell to fundamental rights^[9]. According to Article 14(3)(c) of the International Covenant on Civil and Political Rights, an accused has to be tried without undue delay. The state is bound to provide legal assistance to prisoners, ensure their safe and timely release and safeguard their rights to a fair and speedy trial^[10].

In this paper, the researcher make a modest effort to review the functioning of various legal aid clinics with the aim of providing free legal assistance to prisoners. In 2017, NALSA created a special programme for prisoners, digitalizing the data of prisoners in prisons in order to identify those who could receive legal aid, and the prison legal aid clinic was rebuilt to offer services to prisoners. The programme has been able to care for more than four million prisoners by early 2019^[11].

Concept of Access to Justice

'Access to Justice' in its true sense refers to a person's right to get legal representation before the court of law. We have derived it from rule of law. It also includes ascertainment of the claim, legal aid and advice, access to court, judgement delivered, relief granted and so on and so forth. The concept

of access to justice has been expanded off lately both internationally and nationally. Several International documents had acknowledged access to justice as a basic human right^[12].

In India, a proposal has been made by the National Commission to review the working of Constitution (NCRWC) for amending the Part III of our Constitution by adding Article 30A as;

“30-A: Access to Courts and Tribunals and speedy justice

1. Everyone has a right to have any dispute that can be resolved by the application of law decided in a fair public hearing before an independent court or, where appropriate, another independent and impartial tribunal or forum.
2. The right to access to courts shall be deemed to include the right to reasonably speedy and effective justice in all matters before the courts, tribunals or other for a and the State shall take all reasonable steps to achieve the said object^[13]”

1. What is Justice?

Justice can be defined as something which is impartial, righteous, morally correct, just, fair and reasonable in the eyes of law. In modern view, Dicey’s rule of law can be referred as “justice according to law”, this presupposes that law and justice applies to all irrespective of any discrimination. It is the responsibility of every individual to be just and fair not only to him, but also towards the society as a whole. And if he violates the principles of justice then the state enforces sanction which is also called as punishment^[14]. The concept of justice can also be seen in Preamble of our Constitution as “it secures social, economic and political justice to its citizens.”

Justice is the ultimate purpose of law and society, and judges have been incorporating new models of justice into the law in the form of modern values and need-based rights like freedom, liberty, dignity, equality, and social justice, as described in the Constitution. As a result, the Constitution's foundation is access to justice for the people.

2. Theories of Justice

The Preamble seeks to provide all citizens with social, economic, and political justice. Though a precise definition of the term justice is difficult to come by, we can confer that justice is the quality of being equal and fair towards everyone. Social justice, in my opinion, requires that all members of society are treated equally, regardless of any discrimination, and that no one is discriminated against on these basis. In the very same way we can say that, economic justice has reference towards the equal availability of natural resources among the citizens and it implies that no one goes hungry unnecessarily. The concept of political justice is similar^[15]. Justice can be broadly classified into social, economic and political justice. There are different types of theories which are:-

2.1 Distributive Justice

It is a type of social justice that aims to ensure that social benefits and liabilities are distributed fairly among community members. The goal is to achieve a state of balance or equilibrium among the members of the society. This concept has been well recognized in different

provisions of our law of the land. Apart from these, Article 22 and 20 relating to preventive detention and protection against double jeopardy also seek to ensure justice to every citizen. By the introduction of writ jurisdiction and concept of Public Interest Litigation, an attempt has been made to secure the applicability of principles of social justice by removing injustice and ensuring social justice to all those who were deprived of the access to justice through the courts of law.

2.2 Restorative Justice

This is a modern approach which involves meetings between the victim, offender and mediators. In this process offender gets a chance to explain his conduct and apologize to the victim. On the other side, the victim can also explain the result and sufferings of the crime on his or her part and then the offender gets an opportunity to respond and restore justice to the victim. But, this concept is not followed in India because it lacks punitive element and rather can convert from a criminal to civil justice. This type of justice is also known as Corrective Justice. In a case of domestic violence, access to corrective justice, is critical for guaranteeing that victims of domestic violence a relief. They can call on the state to use its resources to protect their physical safety, secure their means of livelihood, and redress past violence^[16].

2.3 Processual Justice

There are two principles which symbolize the pillars on which the concept of justice is recognized. They are:-

1. No one can be a Judge in his own cause, (*nemo debet esse judex in propria cause*)
2. Hear the other side also, (*audi alteram partem*)

The content of these rules of Processual justice are embodied in our grundnorm.

2.4 Retributive Justice

Retributive Justice is a type of criminal justice that focuses on punishing rather than rehabilitating the offenders. It is a punishment philosophy that states that when an offender defies the law, justice demands that he or she suffer as a result. In the words of Salmond “revenge is the right of the injured person. The penalty of wrong doing is a debt which the offender owes to his victim, and when the punishment has been endured, the debt is paid, the liability extinguished, innocence is substituted for guilt. The object of true redress is to substitute justice for injustice, to compel the wrongdoer to restore to the injured person that which is his own^[17].”

2.5 Gandhian Theory of Justice

According to Mahatma Gandhi, Justice consists of battling injustice, tyranny, inequality, racialism, and other forms of injustice. Gandhi's philosophy of justice is fully expressed. Gandhiji believed in nonviolent opposition to injustice and unfair socio-political system as a form of passive resistance. He almost sacrificed his whole life struggling for the upliftment of the women and harijans. True justice, according to Gandhiji, is the use of the law to combat inequity and societal evils such as child marriage, Sati, women's servitude, and child labour. Satyagrah and Ahimsa, he believed, were powerful weapons for achieving justice^[18].

3. International Covenant relating to Accessibility of Justice

International Instrument, which was drafted in 1948, recognized certain rights, including the right to "access to justice," in the following way:

“Art.6: Everyone has the right to recognition everywhere as a person before the law.

Art.7: All are equal before the law and are entitled without any discrimination to equal protection of the law.

Art.8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental right granted him by the Constitution or by law.

Art.10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations, and of any criminal charge against him.

Art.21: (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country^[19].”

The first international document^[20] on the right to free legal aid, were overwhelmingly adopted by the General Assembly in December 2012. The UN Principles and Guidelines on the Right to Legal Aid in Criminal Justice Systems establish minimum requirements for the right to legal aid in criminal justice systems and offer practical advice on how to guarantee that efficient criminal legal aid services are available^[21].

4. Constitutional perspective of Access to Justice

Access to justice has been provided to citizens in “Article 39-A of Directive Principle of State Policy” which was added by 42nd Amendment, 1976 in our Constitution. This Article provides access to justice in terms of free legal aid service to every accused person who is incapable of consulting a private counsel. According to Article 21 of the Indian Constitution, this right of accessing free legal assistance is a part of our Constitution^[22].

As a result, the Constitution's text reveals its progressive nature by recognizing three key aspects that the modern discourse on access to justice identifies. The judicial system must, first and foremost, promote justice. Second, even the poor should have access to such a justice-driven judicial system, and legal assistance will ensure that those who cannot afford counsel will be provided by the state. Finally, that justice is holistic, encompassing social, economic, and political equity^[23].

4.1 Access to Justice and Article 39A

A source of rendering social justice to all is free legal aid. Article 39A allows the under-trial detainees in Indian jails to obtain free legal assistance. Free legal assistance, which includes legal advice, education, and representation, ensures that everyone has equal access to justice, regardless of financial hardship, social disadvantage, or other circumstances. Because a substantial population of consumers of justice (the heart of the judicial anatomy) in India is either poor, uninformed, illiterate, or backward, socioeconomic conditions necessitate highly driven and sensitized legal service programmes. As a result, the state has a responsibility to ensure that the legal system operates in a way that promotes justice on an equal footing. The

concept of Lok Adalat nicely encapsulates alternative conflict settlement. It has contributed to the development of essential legal technology and a crucial tool for the quick and easy resolution of conflicts. In both rural and urban locations, Lok Adalats deliver quick and affordable justice. They provide for the needs of society's weaker members. The Legal Services Authority Act of 1987 was enacted with the intent of establishing legal services authority to provide free and competent legal services to the poorer sectors of society, to organize Lok Adalats, and to ensure that the legal system's operations promoted justice on the basis of equal opportunity.

The establishment of the Legal Services Authority Act, 1987, which specifies that people in detention are entitled to legal aid services distributed by the National Legal Services Authority, as well as its state and district counterparts, supplements the duty imposed on the state by Article 39A. A prisoner may be eligible for legal assistance throughout the pre-litigation stage as well as at any level of the appeal process. In the opinion of Justice Bhagwati in *Hussainara Khatoon v. State of Bihar*^[24] held:-

“The procedure under which a person may be deprived of his life or liberty should be reasonable fair and just. Free legal services to the poor and the needy is an essential element of any 'reasonable fair and just' procedure. Article 39A also emphasizes that free legal service is an inalienable element of 'reasonable, fair and just' procedure for without it a person suffering from economic or other disabilities would be deprived of the opportunity for securing justice. The right to free legal service is therefore, clearly an essential ingredient of 'reasonable, fair and just' procedure for a person accused of, an offence and it must be held implicit in the guarantee of Art. 21. This is a constitutional right of every accused person who is unable to engage a lawyer and secure legal services, on account of reasons such as poverty, indigence or incommunicado situation and the State is under a mandate to provide a lawyer to an accused person if the circumstances of the case and the needs of justice so require, provided of course the accused person does not object to the provision of such lawyer.”

4.2 Access to Justice and Right to Speedy Trial

The right to a prompt trial is enshrined in Article 21 of the constitution, which guarantees the right to life and personal liberty. When a person's fundamental rights are violated, he or she can submit a complaint with the Constitution's Apex Court under Article 32 or the High Court under Article 226. In *P Ramachandra Rao v. State of Karnataka*, the court established some rules and declared that to carry out the Right to a Speedy Trial, criminal courts must apply the authorities provided by Sections 309, 311, and 258 of the Code of Criminal Procedure.

Sec. 482 of Crpc talks about the jurisdiction of High Court and Art. 226 and 227 of the Constitution might be used to seek required remedy and directives. So, if we look at the article from top to bottom, we can see that the right to a speedy trial has been emphasized as a fundamental right under Art.21 to reconcile justice and fairness with many other compelling and essential interests. The Supreme Court has repeatedly underlined the aforementioned propositions in its decisions. The Apex Court's holding in *Kartar Singh v. State of Punjab*^[25] was that the principle of fast trial is a fundamental aspect of Article 21 of our Constitution. This right to a speedy trial begins with the arrest of the accused

and subsequent incarceration, and continues throughout the investigation, inquiry, trial, appeal, and revision stages in order to avoid prejudice induced by an inadmissible and unnecessary delay.

Rights of Undertrial Prisoners

All human beings, regardless of caste, religion, sex, race, or place of birth, have the same set of rights. The rules and regulations are well-defined. Pre-trial custody must be minimum and justifiable in each case before conviction, or the authorities will be in violation of their legal obligations. Individuals awaiting trial have had their fundamental rights violated as a result of their tasks. Theoretically Trials must start and finish quickly, and the defendant must be treated as a prisoner in custody whose trial is ongoing, to begin or is already underway must be given the option of bail as soon as possible. The sayings "justice delayed is justice denied" and "bail not jail" are frequently used as bulwarks for a fair trial, but the profile of the prison population proves them false ^[26].

1. Problems and Atrocities faced by Undertrials

There are various problems faced by undertrials which are listed below:-

1.1 Overcrowding

Overcrowding in Indian jails is not a new issue, and it is intertwined with all other aspects of incarceration. It stymies any attempt to humanize prison conditions, and its ramifications are just too evident and terrible to ignore. One of the reasons for Overcrowding is that delay in trials and that is because of low Judge Population Ratio. Despite this, the phenomenon has remained unsolved for over a century. The amount of congestion is depicted by this rate. The occurrence of undertrials is the primary cause of jail overcrowding. Overcrowding puts a strain on prison infrastructure, impedes correctional services, spreads contagious diseases, and causes a slew of issues for prison administration, including an increase in indiscipline and violence, as well as the diversion of prison staff to basic tasks like food distribution, security, and guarding. India has one of the lowest rates of imprisonment per one hundred thousand people in the world. Overcrowding in Indian jails is mostly due to a greater number of offenders awaiting trial, rather than a higher rate of imprisonment. According to an analysis of the jail population in Indian prisons during the last five years, the undertrial population accounts for almost 69 percent of the entire prison population ^[27].

1.2 Unsatisfactory Living Conditions

Overcrowding in Karnataka's jails has resulted in a number of serious issues, including a lack of hygiene. Even when the jails are not overcrowded, they are unable to provide adequate conditions since the existing prisons do not meet the appropriate structural criteria. Despite this, some institutions have been housing twice as many inmates as they should for years. No prison may claim to have enough water for everyday consumption as specified in the prison manual. While the Model Prison Manual calls for one toilet for every seven convicts, most newly built jails have only two toilets for a total of 60 inmates to use during the night. Even daytime bathrooms outside the barracks are insufficient in several prisons. Despite the fact that there is plenty of room, proper toilets have yet to be built. Drinking

water is exceedingly rare in most prisons, both from the ground and from the municipal supply. As a result, both inside and outside the barracks, the restrooms are filthy. In many prisons, convicts are unable to bathe for weeks, if not months. This is a blatant disregard for the rights of inmates who suffer at the hands of their guardians. Inmates locked up for 23 hours a day in these conditions due to a lack of staff to monitor them entails protracted lock-up hours, implying that cells and barracks stink of sweat. Unwashed and half-dry clothes are strewn about the barracks, with little access to fresh air or sunlight, exacerbating the condition.

1.3 Minimal Staff and Not Trained

One of the most serious problems in the state's jails is a lack of medical personnel. Doctors' assignment to prisons is once again low on their priority list, and doctors, like the vast majority of the general people, do not want to work in jails. In fact, being stationed in a specific area is more of a question of choice.

1.4 Lack of Legal Aid

Without free legal aid for the poorest members of society, access to justice for all is unthinkable. Article 39-A, the foundation of the legal assistance concept, was added into the Indian Constitution by the 42nd Amendment. The state is required by the article to promote justice on the basis of equal opportunity and to provide free legal aid to "ensure that possibilities for obtaining justice are not denied to any citizen due to economic or other disabilities." The reality is that there are hundreds of poor convicts without legal representation in every prison. They have no idea how their cases are progressing, and they aren't aware of their right to legal representation or assistance, nor are they told about it. When told that they are entitled to free legal assistance at the state's expense, they are perplexed.

2. International Norms

The First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955, adopted the United Nations Standard Minimum Rules for the Treatment of Prisoners, which was later endorsed by the Economic and Social Council through resolutions on August 30, 1955. It is divided into five sections and has 95 rules. Part one sets up rules that can be used in a variety of situations. It states that no one will be discriminated against for their race. Color, sex, language, religion, political or other beliefs, national or social origin, property, birth or other position are all factors to consider ^[28].

Simultaneously, there is a significant need to respect the prisoner's religious views and moral norms. Separation of different groups of inmates is taken into account in the Standard Rules. Men and women are to be held in different institutions, according to the law. Prisoners who are awaiting trial must be kept separate from those who have been convicted. Furthermore, there must be a clear distinction between those held under civil law and those detained for criminal acts ^[29].

In addition, the UN Standard Minimum Rules mandated that young and minor prisoners be housed apart from adult prisoners in jails. On the subject of prison offences and punishment, the Standard Minimum Rule establishes clear guidelines, stating that "no prisoner shall be punished unless he or she has been told of the charges leveled against him or

her and has been given a fair chance to defend himself.” It has been recommended that any cruel, inhuman, or degrading penalties, including incarceration in a dark cell, be fully outlawed as a manner of disciplinary action in the jail. While acknowledging the fundamental principles of punishment, the goal of punishment is to reform a person and ultimately make him a decent citizen. Rule 79-81 of the Standard Minimum Rules allows for social relations and after-care provisions in order to attain this purpose. “It states that from the start of a prisoner's sentence, consideration should be given to his future after release, and that he should be encouraged and assisted to maintain or establish relationships with people outside of the institution in order to promote his family's belt interactions and social rehabilitation.”

Apart from these, the international community takes a number of other measures to safeguard and enhance the rights of prisoners. In this framework, the United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948, and the Third Geneva Convention on the Treatment of Prisoners of War, which outlines the humanitarian protection of prisoners of war, was adopted in 1949. These are two important international projects aimed at protecting people's rights around the world, which have enriched and enhanced the rights of prisoners as a result.

3. Indian Norms

A society's keystone is a just, reasonable, and successful administration of justice, as well as crucial components of public trust. Section 436 of the Criminal Procedure Code of 1973 says that if an under trial individual imprisoned for minor offences remains in prison for more than a week after his bail order has been issued, he or she is assumed to be incapable of filling a bond and must be freed by the trial court. Section 304 of the Criminal Procedure Code of 1973 states that “if the accused is not represented by a pleader in a trial before the Court of Session and the court determines that the accused lacks sufficient means to hire a pleader, the court shall assign a pleader for his defence at the expense of the State and the section also empowers the State Government to extend the application period.”

3.1. 78TH Law Commission Report on Undertrials

The Janata Government, concerned about the rising number of undertrials, appointed the Law Commission (78th) to investigate the situation in depth and recommend reform measures and policy frameworks in 1977. The issue of the undertrials was then taken up by the Mulla Committee, which was established by the Indian government in 1980 to look into jail reforms. The Committee noted that “the majority of prison convicts belong to the economically backward groups, which might be attributed to their inability to provide for the bail bond” after taking note of the problem. It stated that legal aid workers were needed to assist such individuals in obtaining bail or personal recognizance^[30].

4. Current Scenario in India

In the present Covid-19 pandemic scenario, attempt has been made by the Supreme Court to release the prisoners on interim bail or parole. Every DSLA Despite the fact that laws exist to reduce unnecessary detention of convicts, they are not applied, resulting in a huge number of undertrials languishing in jails. The reason for this is that the undertrial

detainees are unaware of their rights. The State Legal Services Authority, the Jail Superintendent, or the trial court is not required by law to inform the accused of the law. Another factor is that the judge-to-population ratio is low. India has one of the lowest judge-to-population ratios in the world, at 15 per million people. In 2002, the Supreme Court directed that the number of members of the All India Association be increased.

More recently, the Supreme Court urged legal aid counsels to interact with the system in order to free undertrials in the Re-Inhuman Conditions in 1382 Prisons case, which was decided in 2016. The Court stated that qualified lawyers should be appointed by the State and District Legal Service Authorities for restricting "legal assistance for the poor" and changing to "poor legal aid." The NALSA establishes policies for ensuring that legal services are accessible and effective An SLSA is expected to adopt policies as recommended by NALSA in order to offer legal services and hold Lok Adalats in each state (alternative dispute redressal mechanisms). At the district and at taluk (sub-district) levels, legal services authorities are required to be established. Legal services committees exist in both the Supreme Court and the High Courts to provide legal aid to people from vulnerable groups. Despite this complex system for providing legal help, only a small percentage of those accused of crimes are represented by legal aid lawyers. When an accused person is arrested or taken before a magistrate, legal help is not always available. In a 2017 study, India's Law Commission stated that in practice, legal aid was only supplied after charge-sheets were filed. This approach restricts poor detainees' access to legal counsel during the important pre-charge stage because they cannot afford private lawyers.

Suggestions and Conclusion

If each and every authority come together to work on the improvement of the conditions of the undertrial prisoners situation can get far better than what is the situation today. In these pandemic times, these prisoners are released on bail or on parole, on the pretext of that when the situation will be stable they will be called back. In these times, the proceedings are taking place virtually, which is another drawback in India we have a concept of digital divide. Some have the resources and some might not. There is still backlog of cases in this scenario and no effective solution has been taken about it.

What need to be done is that undertrials need to know their rights and they needs to be informed about the same. They are living in a condition where there is no liberty. It is the responsibility of each and every authority of prisons to keep a check on them to know as most of the undertrials are poor and illiterate and they don't understand the law and are reluctant in performing their duties as a prisoner. Every State Government should enforce some legislation for the same. They shall be provided with quality food, hygienic atmosphere, sanitization, and sleep. This all can happen if an judicial officer visits jails often. And the prisons shall work on training the staff who can help in prisoners with their legal rights. Undertrial Review committee should have frequent meetings in order to talk about the release of those undertrial prisoners who have been convicted of minor offences or those whose had served half term of sentence, then those will be released by the court. Supreme court has ordered every state to appoint a high powered committee for

looking at the situation of undertrials in their state and empowered them to make laws if possible for controlling spread of this contagious disease in prisons.

What is required in present times is a practical approach which can help in the upliftment of these undertrials socially, mentally, and physically. A monthly visit by judicial authorities to prisons can be beneficial to the undertrials as keeping a note of their case status and giving them proper legal advice. Informing them about what all are their rights as a prisoner and what all they can ask for and what is the procedure. All convicted prisoners shall be kept in different rooms. Their legal cases shall be met and this is the responsibility of the prison staff.

A proper implementation of access to justice in Indian Criminal Justice System has a long way to go, because of various reasons such as corruption, ineffective law provisions, malpractices etc.,. The current scenario is such that death row prisoners would rather go for private representation in the trial courts by taking debts than opting for legal aid system. We don't need a pandemic to think about releasing Undertrials.

Suggestions

- In order to work for the rights of undertrials, the police and courts should work according to timeline of police inquiry as given in sec. 167 of the Crpc.
- No automatic extension of remands should be accepted without a valid and convenient reason the rights of undertrials as provided in Art. 21 cannot be declared secondary in respect of convenience of the authorities.
- It is the responsibility of the Prison officials to make arrangement for the accused to appear in person in court on the date of his hearing.
- It should be investigated whether it is possible to produce inmates in shifts at various phases of the inquiry and trial.
- Video conferencing between detention centre and the courts. All governments should encourage and test video conferencing between prisoners and courts, starting with the largest Central jails and then moving to District and Sub jails.

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