

AN ANALYSIS OF THE PLIGHT OF UNDER TRIAL PRISONERS

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Abstract:

The Criminal Justice System of our Country is plagued with many serious issues, which are all interconnected and have become so complex that it has become a herculean problem to find solution and then implement that solution to them. One such problem is, and a serious one at that, is the Under trial prisoners (hereinafter mentioned as UTPs). It is not unknown to the people that the Jails in our Country have been overflowing with the UTPs. These people who are kept in jail to wait for their trial, often spend as long as their actual punishment of the offence they are accused of and that also when our criminal justice system follows the principal that accused supposedly presumed to be innocent until he has been proved to be guilty beyond reasonable doubts. In this Article, we shall look at the plight of these UTPs and the possible suggestions that the society and the Government can implement so as to reduce this menace, after understanding as to why this problem as become what it is today.

Keywords:PLIGHT.

INTRODUCTION:

The Criminal Justice System of our Country is plagued with many serious issues, which are all interconnected and have become so complex that it has become a herculean problem to find solution and then implement that solution to them. One such problem is, and a serious one at that, is the Under trial prisoners (hereinafter mentioned as UTPs). It is not unknown to the people that the Jails in our Country have been overflowing with the UTPs. These people who are kept in jail to wait for their trial, often spend as long as their actual punishment of the offence they are accused of and that also when our criminal justice system follows the principal that accused supposedly presumed to be innocent until he has been proved to be guilty beyond reasonable doubts. According to the latest date by the NCRB, more than 2.7 lakh UTPs are awaiting trial. It seems as if the number of convicted prisoners has been surpassed by the UTPs. The question is, why this humongous amount of people, who are at the stage of being presumed as innocent are robbed of their Right to life and liberty? The answer in most cases is that they are too poor to produce a surety so that they can be bailed out. In most cases the order of bail is passed but it is only on the stage of producing a surety who can take the responsibility of bringing the accused in Court, the accused can come out of the bars. In this Article, we shall look at the plight of these UTPs and the possible suggestions that the society and the Government can implement so as to reduce this menace, after understanding as to why this problem as become what it is today.

UNDERSTANDING THE PROBLEM:

Before one ventures into the predicament of the people who have been stuffed in jails mercilessly and are awaiting their trials, it would be most opportune to understand the complexity of the problem. In my opinion, the first and foremost that would make the list, would be the sheer menace and outbreak of the population of this Country. The population of Country has led to the depletion of every kind of resources and that makes us a poor country. When a large number of population is poor, the people get into crime to avoid their poverty, for example theft, robbery etc, are crimes mostly done out poverty

rather than people who would get mental satisfaction out of it. This means that more people get into the criminal side and that leads to them getting caught. Then the vicious circle gets active and the poverty of the person does not get him a surety. No one can become a surety to this person and therefore, until he produces a surety, even when an order of bail has been passed for him, he cannot be let out of the jail. The only two options he has is, either to get bail or to wait for the trial and hope against all odds that the charge sheet is filed soon and the Court starts his trial soon too. But how often does that happen. The vicious circle becomes more active and the third point adds to it. Often police does not file charge sheet until sixty days or ninety days. Even if they have finished their investigation, they will wait for maximum period provided for filling chargesheet in cases of UTPs. It happens in very serious and rare cases that a bail order is not passed and that Court feels that the bail shall not be granted to the person. Another facet of the problem is that these people may have been put behind bars in false cases, which is supposedly also a common phenomenon for the police so that they can fill up the target that has to be achieved by them. Coming back to the points of understanding the complexity of the problem, the fourth place shall be given to the fact that the trial does not start after the filing of the charge sheet for years to come. The reason may be many, but the main reason that can be seen is that the numbers of judges are far less than the vast population this Country has. A study has shown that there are 14 judges per million people. How such small number of judges can be expected to deal with the amount of cases that they are actually dealing with? This is how the vicious circle keeps getting its food and water and goes on and on eating up the entire criminal justice system. The fifth point that adds to this monstrous circle is that implementation of the provisions that provide solutions to the problem of UTPs are not taken seriously by the system. The Supreme Court had directed to create an Undertrial Review Committee with the help of the National Legal Services Authority and State Authorities along with the Home Ministry. No doubt there have been some progress through such methods but there is a very long way to go, before some drastic success is achieved in this area. The last point that shall not be considered least is that the UTPs, who do not have a surety available to get them out of Jail, it is obvious that a good legal help or counselor would not be available to him. The lack of legal help really does not leave any choice with the UTPs, besides waiting it out in jail for trial.

THE PLIGHT:

It is not unknown to anyone that the Jail is not a pleasant place to reside in. It is filled with criminals who have been convicted of the crime that they were alleged to have committed. Now the person who is only awaiting his trial and is placed in jail for the reason that he cannot produce a surety, then he is basically being placed in the jail which is otherwise meant for convicted prisoners. Again it is a known fact that in the jails, UTPs of Heinous offence and other simple offence stay at a same place, there is no such arrangement made by the administration that the UTPs accused of different category of offence shall be residing at different compounds or areas. As the result of this a person accused of simpler offence mix up with the person accused of heinous offence and the company of the certified criminals tampers with the attitude and thinking of the person accused of simpler offence.

Staying in the Jail without having had it proved that he had committed the offence or not, is an ordeal in itself, because the right of life and liberty of a person has been taken away. But the life of a prisoner is another world. There have been many instances where the Jail inmates have often indulged in sexual offences inside the Jail and such instances have been rising on an alarming rate. Ill-treatment of inmates by fellow prisoners is also not uncommon. Needless to mention that the infrastructure of the jail in our country is far below the decent standard that one should expect out of them. The food and hygiene of the jail are not a priority on anyone's agenda. It almost seems as if the administration does not want to invest in the upkeep and maintenance of jails because the prisoners are undergoing punishment and therefore, should not avail the decent standard of living. The jail is supposed to be an unhygienic and low standard place because it the prisoners do not deserve to be treated with dignity. But in all this, the 'presumed innocent until proven guilty' UTP suffers the most. More so, the biggest sufferers are the ones who have been framed in false cases which again are not uncommon. This small article is

not enough to state the mental and physical pain and agony these people have to go through and endure because of one fault of being a poverty ridden person who cannot afford a surety. The attack that such situations make on the reputation of a person, if he is acquitted or discharged by the Court and re enters the society is another facet of what a UTP has to endure. To rise above these things and to start a fresh in life from where one has left it, are things that are easier said the done. Ofcourse, the prisoners with heinous crimes and the ones who have not been granted bail and have been kept in jail for a reason shall be excluded from this discussion.

SUGGESTIONS:

Although a fresh outlook is required to change the situation from very bad to good, as it would help the overall development of the criminal justice system, but if we have to concentrate and focus upon the enormous problem at this point then the following four aspects need urgent frontal attack so as to curb the number of UTPs in jail immediately. They are:

- The system that exists regarding the financial aspect of bail in the Country has to be done away with. The Hon'ble Supreme Court has also directed to take personal bonds for cases where the accused is too poor to produce a surety or cash bail, in various landmark cases that this process of producing surety shall not be the only way for the accused to get out of jail. Specially the amount of people who are in jails for petty offences shall be taken into consideration and where the offence is not very grave, a lenient view of the matter regarding bail and surety shall be taken by the Courts in order to reduce the number of people who are UTPs. It shall be made a rarity that anyone be a UTP, which means only in absolutely grave offences shall a person be made to wait for his trial and not because he is poor.
- The UTPs shall be provided with good quality of legal help and this possible only if good lawyers will be made members of the legal aid. A law, to the effect that every lawyer has to take up one legal aid case in a year shall be made mandatory for the continuation of their license to practice. Some mandatory provision has to be made so that the good lawyers are able to help the needy as well. Lack of quality in the legal aid services has to be overcome by a mandatory provision so that the quality of this service can help the society at large by reducing the number of UTPs and in turn creating less frustrated people who would later turn to crime.
- The long duration of trials in our country is a very common phenomenon. This can be tackled if there are more judges to deal with the humongous amounts of pendency in Courts. The Judges need to focus on the effective matters rather than the ones that have no scope of progressing by identifying the matters that are worth their precious time and dispose the non progressive ones. The focus on UTPs has to be increased through administrative procedures so that the trial Courts can take notice of the status of the UTPs regularly and keep a check on them. There has been a lot of work done to reduce pendency in Courts through a lot of measures taken up by the Courts at various levels, but there is very long way to go which is not getting any easier. The Courts have to realise the importance of the rights of the accused and do the needful by opting for the personal bonds over the cash sureties so that the right to life and liberty of any person is not taken away from him due to trivial reasons.
- There shall be created a cadre of trained professionals who can work with the prisoners and their families so that the rehabilitation process of the accused or the UTP can be taken up once he is out of jail so that getting back to the society can be made easier for him.

CONCLUSION:

The Constitution of India has engraved in itself the right of every person that he shall not be deprived of his right to life and personal liberty until there is a solid reason behind it. Also that the accused shall be presumed to be innocent until proven guilty has been enshrined, and these rights have not been given as a mere show, they are the basic rights of a person which are innate in them and they shall not be violated in this manner. A UTP has his rights and he shall have them, and to ensure this is the duty of the criminal justice system, which can be done in the ways proposed above or any other way but steps shall be taken to overcome the problem of the Under Trial Prisoners, so that they can enjoy their rights like everyone else in the Country.

