

A BRIEF ANALYSIS ABOUT COVID-19 AND RIGHTS OF PRISONERS

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ABSTRACT

Covid-19 was a great challenge for the entire world. Millions of people were affected by the Covid-19 pandemic either financially or medically. Everywhere there was a risk on each individual of getting infected. There were establishments of covid centers at many detention centers in the states and such centres also needed medical professionals to take care of the patients or inmates. It was also suggested to have a daily screening of the prisoners and periodic health checks. Prisoners were made aware of the infection, its implications and its impacts. Safety measures and the guidelines by the government were well explained. Various posters and videos were displayed and also awareness programs were conducted. Such measures were taken by the states to protect the prisoners from this virus. However, due to the unavailability of the facilities, it was not worth up to the expectations. It is very important to have permanent medical services to prevent such a tragedy in the future. In this pandemic, there was a need for more security and protection against the violation of human rights. Suspension of the inspection team led to more malpractice in the prison. No one was there to monitor the mechanism of the prisoners in the detention centres. "The spread of COVID-19 is largely aggravated by structural and systemic issues in the prison including hygiene, cleanliness, social distancing and exposure to common surfaces," the letter states. It further adds that just because women are lodged in some prisons, it doesn't mean that special considerations are made to accommodate them. However, it was even more difficult situation for the prisoners in the detention centers or the prisons. Life of the prisoners was equally at stake as the person outside the prison or maybe more. Some way or the other the prisoners were neglected during the Covid-19 pandemic.

KEYWORDS- COVID-19, HUMAN RIGHTS, VIOLATION, PRISONERS, FACILITIES, GOVERNMENT, MEDICAL SERVICES, VISITORS.

INTRODUCTION

Covid-19 was a great challenge for the entire world. Millions of people were affected by the Covid-19 pandemic either financially or medically. Everywhere there was a risk on each individual of getting infected. However, the most affected people were prisoners, as they stay in one common space that is prison.

The detention facilities which were provided were not always efficient. Poor nutrition, lack of hygiene and cleanliness facilities, most dangerous '**overcrowding**', inadequate medical facilities, etc were some of the factors affecting prisoners' health. Thus it can be concluded that the prisoner's life was at utmost risk and this has led to the worst form of violation of human rights during this pandemic.

It is not just India that has faced this pandemic situation but also the entire world. This article leads to the comparative study of the measures taken by India and the other countries for the rights of the prisoner in this tough period of the **Covid-19**.

MEASURES THAT WERE TAKEN IN THE PRISON

Various measures were taken by the government to protect the prisoners from being infected. But unfortunately, it was not always adequate.

Detention centres being a common overcrowded place, it was difficult to manage under this whole situation. Regardless of this, some basic following measures were taken by the detention centres. Such measures were undertaken as per the laws of the states.

DECONGESTION OF PRISON

As per the orders of the Supreme Court, prisons were released on emergency parole and on interim bail to decongest the prisons. This was done to reduce the population of the prison for **Covid-19**. But this measure was not effective due to delay in the processing of the court orders in decongestion of the prison.

ISOLATION OF NEW PRISONERS

New prisoners were isolated so that there is no transmission of infection from outside. However, due to a lack of sanitization and care facilities, it was difficult to maintain a healthy environment. As per the under trial prisoners though the positive inmates were staying separate, however, such separation was absent during the meals.

FORMATION OF NEW COVID-19 CARE CENTRES

There were establishments of covid centers at many detention centers in the states and such centres also needed medical professionals to take care of the patients or inmates. It was also suggested to have a daily screening of the prisoners and periodic health checks.

ESTABLISHMENT OF NEW PRISONS FOR INCREASING CAPACITY

On the orders of the Bombay High Court, it was suggested to build new prisons for the inmates to increase the capacity and to overcome the problem of excessive population. It was important to remove over crowdedness as it was one crucial solution to deal with this situation.

VACCINATION OF PRISONERS

Vaccines were also provided in the prisons for the prisoners so that they can receive their vaccination jab on time. But as per the reports till now many prisoners are yet to be vaccinated in many states moreover due to the unavailability of vaccines there might be further delay in the process of immunization.

HYGIENE AND CLEANLINESS

Another important task was maintaining complete hygiene and cleanliness in the prisons. The prisoners were provided with separate soap, masks, etc. they were often advised to wash their hands and were also encouraged to not sleep facing each other.

AWARENESS PROGRAM

Prisoners were made aware of the infection, its implications and its impacts. Safety measures and the guidelines by the government were well explained. Various posters and videos were displayed and also awareness programs were conducted.

Such measures were taken by the states to protect the prisoners from this virus. However, due to the unavailability of the facilities, it was not worth up to the expectations. It is very important to have permanent medical services to prevent such a tragedy in the future.

HUMAN RIGHTS VIOLATIONS

The prisoners are though deprived of their basic right to liberty for the fact being they are the prisoners but cannot be restricted to practice their other human rights. As per the reports of **Amnesty International**, it was stated that the measures taken by the government are not sufficient for the prevention of the spread of the virus, and this in itself is a violation of human rights. Following were some challenges faced by the prisoners in this pandemic situation.

LACK OF MEDICINAL CARE

Several countries as well as states in India took initiative to establish medical centers for the daily screening of the prisoners and also were provided with technical equipment and other required medicines for the safety of the prisoners.

However, this was not followed in all the states. There was a lack of medical professionals for the daily screening of the prisoners. Vaccinations are yet to be completed in prisons.

Social distancing, sanitization, hygiene and cleanliness, timely availability of medicines, isolation of outsiders, special care for positive patients, etc. were not maintained upto the mark.

The most impacted by this were women in the prisons as there was a lack of sanitation and hygiene. No extra precautions were provided to the women for menstrual, pregnancy, etc.

VISITS SUSPENDED

As soon as the lockdown was declared, all the departments of the prisons had restricted physical meetings inside the prisons. Prisoners were unable to meet their families, lawyers, and other prisoners and this has affected the mental health of the prisoners. No adequate alternatives were even provided by the prison staff. Entire visits were suspended.

FAMILY VISITS

As the family physical meetings were suspended due to the pandemic, no communication was possible. Due to this prisoners were worried about the security and the protection and most important well being of the family. Such a lack of communication made it more difficult for the prisoners to deal with this situation.

Solutions such as video conferencing, callings, etc were provided but not proven to be fruitful. In states like Karnataka, there was a restriction on the time duration of calling such as a **maximum of 5 to 10 minutes, or like Jammu and Kashmir, it was once in 15 days.**

In some states, it was in operation from December 2020. This brought a gap in communication between the prisoners and their families.

LAWYERS VISIT

Lawyers' visits play an important role especially for those prisoners who were waiting for their trial or final sentence or parole long back. This suspension of lawyers visiting increased the level of anxiety among the prisoners.

In some states, though it was made possible to communicate with the lawyers through physical meetings or video conferences or calls, however, this process was very slow. The prisoners have lost hopes for their early better life and no contact with the lawyers was possible and delay in proceedings.

INSPECTION VISIT

In this pandemic, there was a need for more security and protection against the violation of human rights. Suspension of the inspection team led to more malpractice in the prison. No one was there to monitor the mechanism of the prisoners in the detention centres.

INVOLVEMENT OF NGOS AND OTHER ORGANIZATIONS

Several NGOs and different welfare organizations have provided their helping hands in this pandemic situation. Such NGOs and organizations have helped the prisoners with lots of essential services such as food, medicines, safety equipment, etc.

They have also initiated education and training services and organized cultural activities for the entertainment of the prisoners who are confined in the four walls.

They have also organized awareness programs in the prison to fight this pandemic situation. These organizations have also provided therapeutic services for bringing some positive energy among the prisoners.

They have used all the precautionary measures and alternatives such as video conferencing for the arrangements of such programs.

However, even after certain initiatives were taken by these NGOs and organizations there were some problems faced by the detention centres which completely relied upon them for their services.

During this period there was often delay in providing things in the prison. Sometimes it was even difficult to reach out to the problems of the prisoners.

WOMEN PRISONERS

The letter focuses on the condition of women in Delhi prisons. Prison no. 6 in Tihar, which is meant for women and has a capacity of 400 prisoners, had over 440 women prisoners jailed currently. Among them at least 40 have tested positive, and one dead.

"The spread of **COVID-19** is largely aggravated by structural and systemic issues in the prison including hygiene, cleanliness, social distancing and exposure to common surfaces," the letter states. It further adds that just because women are lodged in some prisons, it doesn't mean that special considerations are made to accommodate them.

Dr. Pratiksha Baxi, one of the signatories of the letter, has argued in one of the academic papers, '**Gendering the Pandemic in the Prison**', that: "Women inmates in male defined prisons governed by male rules of incarceration experience specific forms of discrimination, deprivation and violence."

The shared sanitation and hygienic facilities in women's prisons, especially washrooms with inadequate facilities to manage menstrual needs poses a greater risk of exposure to the COVID-19 virus in female-only prisons," the domain experts have stated in the letter.

RESTRICTION ON TEMPORARY BAIL FROM PRISON

As soon as the lockdown was declared by the **Hon'ble PM of India on 23rd March 2020**, the **Supreme Court announced** the release of prisoners either on parole or interim bail for the management of the population of prison and also to decongest the prison.

However, this measure was not conducive to its purpose. This was due to the limited functioning of the courts and delay in the process of decongestion of the prison.

During the lockdown, the use of criminal justice machinery increased and this resulted in several arrests.

According to the reports, **27% of the prisons in 19** states and union territories remained overcrowded. Hence it was observed that the number of inmates released was almost equal to the number of new inmates. Thus there was no change in the gathering of the prisoners and the prisons remained overcrowded.

This was observed in the state of Madhya Pradesh. Immediately after lockdown, almost **7000 prisoners** were released and in the subsequent months, it was observed that nearly 6500 **new** under trial inmates were brought into the prison. This concludes that the measure of decongestion of prison was not successful up to its expectation.

RESTRICTION ON MOVEMENT OF PRISONERS INSIDE THE PRISON

Lockdown has not just restricted the movement of the people in the country from their homes but has also restricted the movement of the prisoners within their prison.

This was done with the intention of preventing infection but it turned into a violation of basic human rights. The prisoners were not allowed to attend their training sessions or to gain information.

They were also restricted from socializing with the other prisoners which adversely impacted them and it felt likely to be torture and not less than any punishment for no reason.

TECHNICAL ARRANGEMENTS

Various alternatives were planned by the government for the prisoners so that they can contact or communicate with their families and lawyers. Such alternatives were as follows.

PHONE CALLS

This was one of the easy alternatives to communicate with the family and other people during the pandemic as there were restrictions for physical meetings.

However, there were many restrictions provided to the prisoners such as time limitations or were not being allowed to communicate everyday but once in a few days. These alternatives were provided after a few months of lockdown due to which anxiety among the prisoners was increased.

VIDEO CONFERENCING

Video conferencing was another alternative set up for the meeting of the prisoners. Prisoners were allowed to talk to their family members face to face to know their well-being and were also used for the communication between lawyers and prisoners for discussing the status of their case.

However, there were also challenges in this alternative as this needs access to the internet and there were network issues in the prison. Lots of technical equipment was required to set up this which was hold-up for a long time in the use of this video conferencing.

PRECAUTIONARY MEASURES FOR VISITORS

Various precautions were taken for the visitors so that there is no impact from the outsiders to inmates. Such precautionary elements were as follows:

- Screening of the visitors is to check whether they are not convicted of any kind of illness before visiting a prison.
- Maximum 2 visitors per prisoner.
- Social distancing among the prisoners and visitors.
- No entry without sanitization and mask.
- Washing hands before and after meetings.

CONCLUSION

This period of Covid-19 is quite challenging for each and every person on the earth. Many people lost their loved ones due to this infection.

However, it was even more difficult situation for the prisoners in the detention centers or the prisons. Life of the prisoners was equally at stake as the person outside the prison or maybe more. Some way or the other the prisoners were neglected during the Covid-19 pandemic.

It is very important to note that the right to health care facilities is also a fundamental right under **Article 21 of the Constitution's right to life** though expressly not provided. The government needs to reform prisoners' policies and take necessary action against the violation of laws.

Inspection visitors should have regular and strict checks on the mechanism of the prison and use of alternative measures, their accessibility, and availability. Healthy, hygiene and clean food and environment needs to be maintained in the prisons.

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