

Over population and the problem of classification of the prisoners for progressive treatment in Pakistan.

NCJRS
MAR 3 1981
ACQUISITIONS

NCJ# 75985

The prisons in Pakistan are over populated. Most of the institutions were built hundred years back and they are often unable to absorb the inflow of the law-offenders. The population ranges from 44,000 to 49,000 against the authorised accommodation for 30,000 prisoners in addition to the population of lock-ups in the sub-Division level. For example Central Jail Bahawalpur is shown as over-crowded by 400 prisoners. Central Jail Mianwali shows authorised accommodation for 500 prisoners only but there is a short fall in its accommodation for about 500 prisoners. In view of the extreme heat in summer in Mianwali, the existing barracks get very hot in summer because of low roofs and direct heat of the Sun. Central Jail Sahiwal needs extra accommodation for about 800 prisoners. Out of its 2339 prisoners, 1273 are under-trials. District Jail Gujranwala is also seriously over-drowded, as it is short of accommodation by about 500 prisoners, when its authorised capacity is only for 600 prisoners. Its capacity needs to be increased by building additional barracks. District Jail Faisalabad is very heavily over-crowded having shortage of accommodation for about 400 prisoners. The un-authorised population shows number 452. Therefore its capacity has to be raised by about 600 prisoners. This is a small Jail and it needs double-storeyed provision as far as is possible. District Jail Multan needs additional accommodation for about 500 prisoners. It is one of the oldest Jails and needs to be gradually converted into a pucca Jail. District Jail Sialkot shows over-population by about 200 prisoners. District Jail Sargodha has an over-population of about 450 prisoners as its population was 850 abainst its authorised capacity for 400. This is a small Jail and is surrounded by Civil Lines and official buildings and has hardly any space for expansion.

The under-trials confined here alone number about 600. Even they are in excess of Jail's capacity by 100 %. District Jail Muzaffargarh needs accommodation for an other 300 prisoners, its existing authorised accommodation being only for 75. District Jail, Campbellpur is short of accommodation for about 300 prisoners, but as it is a small Jail the over-population is seriously felt. District Jail Gujrat is very seriously over-populated because it had a population of 900 against its authorised capacity for 200.

The existing arrangements for the confinement of un-convicted criminals or under-trial prisoners are most un-satisfactory features of prison administration, which have serious adverse effects. The detention of under-trials in Central Jails as it exposes them to very serious danger of contamination.

Even amongst the under-trials, there is need for careful classification and separation of prisoners. As all the under-trials are locked up together at night in large association barracks, the danger of association between previous convicts and casual prisoners seriously exists. Therefore certain amount of classification of prisoners is necessary, and care is taken that previously convicted under-trials are not confined in association barracks along with the casual prisoners. Classification amongst under-trials is also necessary on the basis of age of the under-trials, and the nature of the crime alleged to have been committed. Minor crimes should not usually be confined along with prisoners, who are alleged to have committed serious or heinous offences. The offence charged in itself shows whether a prisoner is accused of an heinous or a less serious crime. It will greatly help the Superintendent of Jail if he could receive a copy of the challan along with the warrant of commitment in order to assist him in classifying prisoners on this basis. Exception may of course be made in cases where the accused belong to one family. Attempt should also be made

to have prisoners of homo-genious age in each barrack which will reduce the possibility of molestation of young adults by older prisoners. Opposite groups belonging to rival factions should never be confined in one association barrack. The proper division and segregation of under-trials can be assured by separation of association barracks by enclosure walls. Their barracks should be so sub-divided into separate enclosures, that the prisoners of one sub-division or barrack cannot communicate with those of another.

CONVICTS.

Convicts, as already stated, can broadly be categorised as first offenders, casual offenders including juveniles, and habituals. They are violators who having erred against the law of society, and have been tried and convicted by courts of law, some to short periods, and some to long terms; all to be released on stipulated dates. So long as offences against norms of conscience of society continue to be committed and until we achieve a Utopian State, prisons with massive forbidding walls and heavy iron gates will remain a social need. Laws have been enacted and punishments have been prescribed to serve as deterrents and to prevent the commission of offences by individuals and thus to protect society's existence and social order. Prisons are therefore necessary institutions as safeguards for an organised society. The object of punishment is to make the offender realise his guilt, to make him repent and to pay for his crime so that others will not follow his path. This is a rightful reaction of normal society which wants to be protected from criminals, in order to have security of life and property from law-violators, to be able to lead a peaceful existence. Therefore the twin object of providing punishment to prisoners is to prevent crime and to protect the society. The question, therefore, is how best these objects can be achieved. Is it by a more rigorous legal system or a more rigorous system of detention or a permanent

keeping in detention of all those who violate the laws of society? This we will deal with later.

Violators cannot be kept out of circulation permanently nor can rigorous and stringent detention in jails achieve the object of protecting society by eradicating crime and social evils. It may be that large jail terms may keep prisoners behind prison walls for long duration, and thus prevent them from commission of offences but even long term prisoners must come back to society one day, as their legal sentences expire. The real question is how and what has he come back as? Has he come back as a reformed individual or a confirmed criminal, or a man who has been dehumanised by brutal treatment and stringent conditions under which he was detained. A person reformed is one who has developed a changed in his mental outlook and developed a respect for society and innate hatred for crime, and a firm conviction that crime does not pay. If this radical change has been brought about he has been reformed and he will readily fit into society. What is important therefore is what has happened to him while he was inside the prison? If he has changed for the better he has been reformed and society is better protected than it otherwise would have been, but if he has not changed, and remains a confirmed criminal, he would go back to crime on release and lead a life of crime, which means that society is not protected and it will have to continue to bear the enormous cost of crime.

Recent research and experience of convicted prisoners has shown that it is not physical punishment nor brute force nor solitary confinement or hard labour, which corrects a man. What is required is to go deeper and touch the core of his mind, heart and spirit and to change his way of life, how is this to be achieved is dependent upon each individual, so different from the others, his background, his mental make-up and his reaction to various situations. He has to be understood as a "person" as a human being and to find

out what had gone wrong with him, his family, or his environment which led him into crime? Was he a victim of circumstances or of passion or rage or madness? By individualising him and building up his morale, we can hope to reform him.

Short term prisoners are usually those who have committed comparatively less serious crimes or are young and juveniles. In this category, we place prisoners sentenced to about two years rigorous imprisonment. They can further be divided into prisoners sentenced to six months or less and between six months and two years. Juveniles and young prisoners below the age of 21 must necessarily be segregated from older prisoners and confined in juvenile jails and Borstal Institutes.

The reformation of a prisoner is not a matter which can be effected overnight. It takes time. Therefore, reformation of short term prisoners is not an easy task. In fact to attempt reformation of short term prisoners would be a wasteful and futile effort. In cases of first offenders or petty offences, it is in the public interest to avoid imposition of short sentences and to either impose fines or to place the offenders on probation under section 4 of the Pakistan Probation of Offenders Ordinance, 1960. Until and unless it is absolutely necessary in the public interest to impose a short term sentence, fines should be imposed, or the offender be placed on probation as short term sentences serve no real or useful purposes, and are in fact likely to do more harm by raising the monster of contamination at the hands of habituals and confirmed criminals, so abundant in jails. Instead of reforming the individuals or furthering the interests of society, the courts by imposing short term sentences do more harm and tend to create an army of habitual offenders.

PRISONERS CLASSIFICATION OF CONVICTED PRISONERS.

Habitual and Casual.

The proper classification of convicts and the separation of one class from another is admittedly of utmost importance in Jail administration. The subject has been considered on many International Penitentiary Congresses the main question being whether classification should be directed towards isolation of the worst or of the best class of prisoner. At the Congress of 1905, it was decided that the classification of the worst type of criminal is the most important object and that this may be founded either on the prisoner's previous record or on his conduct in prison. The view was also propounded that the treatment of the worst class should be made more severe than that of the other classes. However, at the previous Congress of 1900 it had been agreed that though length of sentence is the only effective cure for recidivism, in countries which used the two methods of cellular and associated detention, certain distinctions in the way of classification, location, employment and gratuity between recidivist, and others might usefully be employed.

It was in 1881 as a result of the Kimberley Commission that a star class of prisoners in convict prisons, and later in local prisons, involving a classification of the best and not the worst prisoner was introduced. Though some consider that the selection of the worst does not include the classification of the best, there is little difference between the two systems namely the classification of the worst, and the selection of the best. The main thing is the separation of habitual criminals from others and this has been recognised and given effect to in England and other countries.

In England before the Criminal Justice Act 1948 the system of division of prisoners into divisions Nos. I, II and III was in force.

In India the question of classification of prisoners was first prominently brought out by the Jail Conference of 1877, but the Conference was not able to agree as to the definition of "habitual" to be adopted. The Government of India took up this question in January 1884 and after consulting the Local Governments issued orders in Resolution No.27-1804-14, dated 14.12.1886, defining a habitual offender and determining by what authority the habituals were to be so classed. These orders were enforced in all the Provinces from that day.

The Superintendent Jail should continue to have power to transfer a recalcitrant, misbehaving, offending or incorrigible prisoner to a special i.e. a habitual jail with the approval of the Director of Prisons.

The remaining convicts shall all be treated as casual convicts. They will need to be segregated according to sex, age, nature of offence committed and other relevant considerations.


