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The Undertrial Prisoners in India

ESHABI NADIM SAYYED¹ AND ANSARI HUMAIRA NISAR AHAMED²

ABSTRACT

The condition of undertrial prisoner in India is very harsh and difficult. They are often subject to physical, emotional and mental abuse by the other inmates. As per 'national crime records bureau' prisoners overcrowding in 2019, was the highest in the past `10 years. As per report given on 13 December 2022 out of "5 lakh 54 thousand prisoner" "4 lakh 27 thousand" of them 77% are 'undertrial prisoner'. according, to the latest prisoner statistics of India report 2021 most undertrial in India are Dalit, Adivasi and OBC community. According, to the latest available data provided by the 'national crime records bureau' about 68% out of 77% undertrial prisoners were either illiterate or school dropout about 20% are Muslim while about 73% were Dalits, Tribal or OBCs. As per report given by national crimes record bureau Data on 31.12.2021 Uttar Pradesh have one of the most undertrial prisoners in India, followed by Bihar, Maharashtra, Delhi so on. Because of slow legal proceedings the 'fundamental Rights' of person is violated.

Keywords: Undertrial, NCRB, NHRC, COVID-19, Criminal procedure code.

I. INTRODUCTION

As understood by layman an, 'undertrial' is a 'person' 'who is currently on trial or 'who is imprisoned, on remand whilst awaiting trial. As defined in the 'oxford dictionary' A 'person' who is on a trial in a court of law'. In the 78th report of the law commission, the definition of 'undertrial prisoner' also, includes a 'person who is in judicial custody' during investigation. 'Undertrial' are prisoner who have not yet been convicted of the charge for which they have been detained and are waiting to 'appear in court'. They cannot be called guilty because their crime has not been proven. a large number of 'undertrial prisoner' are poor who are unable to post bail for their release. Globally 'one in three' prisoners are undertrial in india 'three out of four' or about 77% of the trial prisoner population in 2021, were undertrial a rise of eight percentage points since 2019,

According, to 2021, NCRB data, `Indian prisoner population had 77% undertrial, while only 22% convicts with almost half of the undertrial in prison for more than `2 years. out of 5 lakh 54 thousand' prisoner, 4 lakh 27 thousand were awaiting trial out of which twenty-four thousand

¹ Author is a student at Thakur Ramnarayan College of Law, Mumbai University, Maharashtra, India.

² Author is a student at Thakur Ramnarayan College of Law, Mumbai University, Maharashtra, India.

thirty-three (24,033) undertrial were already in jail for 3 to 5 years. India currently has the 6th highest share of pre-trial detainees in the world according to data collected by the World Prisoner Brief.

The countries whose situation is 'worse than India' are Liechtenstein, San Marino, Haiti, Gabon and Bangladesh. This large share of the undertrial population is not a recent phenomenon but has persisted for decades. A law commission report from 1979, stated that the share of those in pre-trial detention was 57.6% as of January 01, 1975, and the commission lamented that "jail should primarily and meant for lodging convicts and for housing person under trial". The share of under-trial has been consistently expanding.³

NATIONAL CRIME RECORDS BUREAU REPORT 31.21.2021

STATES	CONVICTS IN JAILS	UNDERTRIALS_IN INDIA
Uttar Pradesh	26,956	90,606
Bihar	7,301	59,577
Maharashtra	4,861	31,752
Delhi	1,569	16,666
Madhya Pradesh	19,266	29,094
West Bengal	2,954	22,577
Haryana	5,880	18,237
Odisha	2,620	18,164
Punjab	6,581	19,510
Rajasthan	4,962	17,954
Jharkhand	5,006	16,249
Chhattisgarh	7,762	12,288
Tamil Nadu	4,531	11,706
Karnataka	3,763	11,689
Gujarat	4,626	11,599
Assam	2,459	7,620
Andhra Pradesh	2,104	5,831

³ Rahul Tripathi, *Majority Undertrials from Poorer Sections, Shows NCRB Data*, THE ECONOMIC TIMES, https://m.economictimes.com/news/india/majority-undertrials-from-poorer-sections-shows-ncrb-data/amp_article/93958200.cms (last visited Nov 19, 2023).

Kerala	3,763	4,892
Telangana	2,124	4,796
Uttarakhand	2,247	4,674
Jammu and Kashmir	184	4,531
Himachal Pradesh	852	2,024
Meghalaya	220	866
Chandigarh	179	718
Mizoram	474	640
Tripura	421	598
Manipur	94	513
Goa	70	481
Nagaland	130	326
Sikkim	132	302
Puducherry	85	209
DNH & Daman Diu	8	177
Arunachal Pradesh	130	121
Ladakh	4	16
Andaman Nicobar islands	109	158
Lakshadweep ⁴	0	5

II. PROBLEM FACE BY UNDERTRIALS PRISONERS IN INDIA

Jail is over crowded by the undertrial prisoners which causes many problems in jail with the prisoner these problems are need to be addressed the problem is as follows.

Criminal law of India is replica of colonial time. It is hostile to poor and the weaker section of society. the law still caters to and protects the rich and ignores the disadvantaged. Such biasness had resulted in rich people escaping from the law and jails often being filled with underprivileged sections of the society the hierarchy of court and appeal often appeal has created a situation where the poor are unable to reach the temple of justice due to the huge cost of access in other words can say that giving justice at a high price indirectly means denying

⁴ Prison Statistics India-2021 - NCRB https://ncrb.gov.in/sites/default/files/PSI-2021/PSI_2021_as_on_31-12-2021.pdf

justice the 'national crime records bureau' of the government of India, it report that thousand of undertrial had been imprisoned for a period of 5 years or more and in fact the developed status like punjab and delhi a large number of prisoners were undertrials. In Bihar 30.4% of jailed prisoners were not convicted and yet remained behind bars for years sometimes longer than they would served if found guilty.

If one studies the number of prisoners incarcerated for more than one but less than five years in various prison across India, the figures become even more worrying. In uttar pradesh and bihar alone the number of prisoners detained for a period of 2 to 5 years without being guilty of any crime was 7310. Some more worrying figures emerge when we examine the Central Jail (Tihar). In 1993, out of 7200 prisoners housed in the Central Jail complex (known as tihar jail) Only 900 were actually convicted of any crime. There were seven out of every eight prisoners in Tihar Jail who were not convicted of any crime, which is almost 90% of all prisoners. What is even more shocking is that out of 280 female prisoners, only 20 were convicted. Thus, 260 out of 280 prisoners were in jail, although the law considered them innocent. It is difficult to think of justifications for this tragic failure of our criminal justice system, but solutions can be found, and the first place one turns to is the criminal law in the country, particularly the 'Code of Criminal Procedure, which is the backbone of the criminal justice system in the country.⁵

'Justice delayed is justice denied' the criminal justice delivery system in India has seen over 0.2 million undertrials languish in prison for many years, in many cases exceeding the maximum sentence for the crime they committed. The poor continued to suffer in prisons due to a lack of coordination between the federal government, the judiciary, and state governments as well as the fact that they lacked assets to serve as bail bonds and no one to stand in for them. Prisons are often dangerous places for the people who are held in them. Gang violence is also endemic, and riots are common. The worst form of prison violence was seen in 'Khatri v. State of Bihar' where the police blinded 80 suspected criminals by piercing their eyes with needles and pouring acid on them. Most prisons face problems of overcrowding and lack of adequate space to keep prisoners in safe and healthy conditions. Most of the prisoners found in prisons come from socio-economically deprived sections of the society where disease, malnutrition and absence of medical services are prevalent. Infectious and communicable diseases spread quickly amongst such individuals when they are in unhygienic surroundings. According to a sample survey carried out by the "National Human Rights Commission of India" in early 1998,

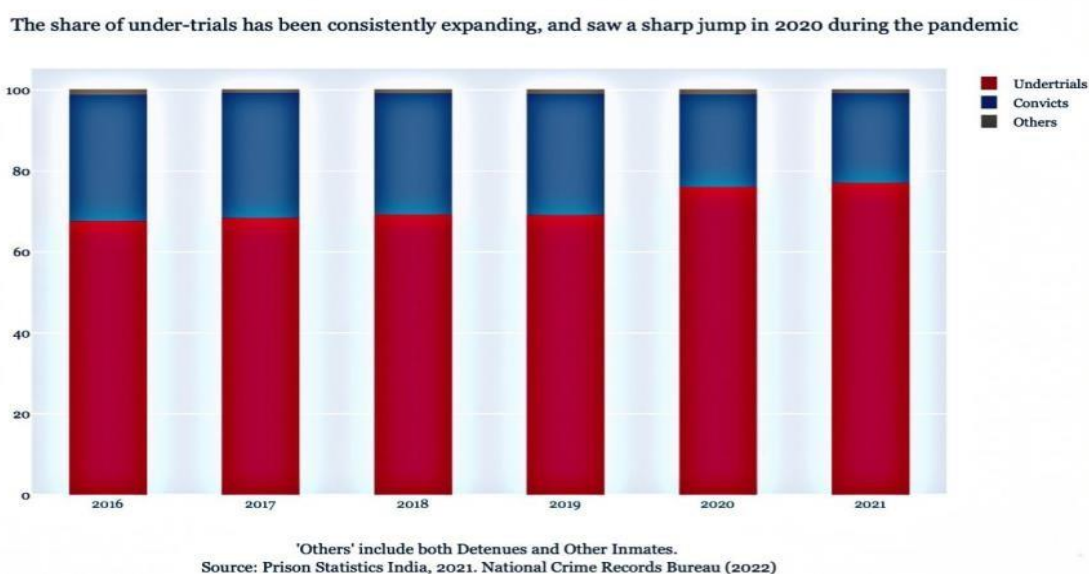
⁵ Ritwik Sneha, *The Problems of Undertrials*, LEGALSERVICESINDIA, <https://www.legalservicesindia.com/article/1280/The-Problems-of-Undertrials.html> (last visited Nov 19, 2023).

tuberculosis was the primary cause of 76% of deaths in Indian prisons. Its impact on prisoners' families: People in prison are unable to take care of their families. In the absence of the main breadwinner, families are at times pushed into poverty and children go astray.

Additionally, the social stigma they face creates conditions that push children towards crime and exploitation by others. this is a continuous cycle. Problems become serious when they relate to socio-economically marginalized and exploited sections of the society. The dominant class does not fail to take advantage of this situation and waste no time in exploiting the remaining members of the family to the fullest extent possible. This may take the form of rape or forced prostitution of the prisoner's wife or his daughters.

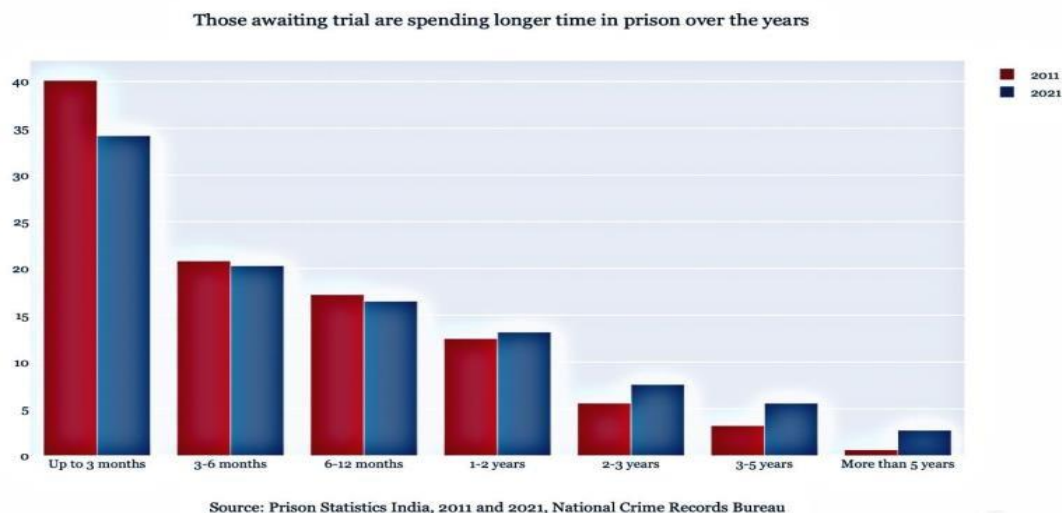
III. THE SLOW TURN OF THE WHEELS OF JUSTICE

This large share of the prison population in question is not a recent phenomenon but has persisted for decades. A Law Commission report of 1979 stated that the share of people held in pre-trial detention as of 01 January 1975 was 57.6%, and the Commission lamented that “prisons should be primarily for holding convicts, not that to keep the persons under trial.”



The share of undertrials has been steadily increasing and saw a sharp jump in 2020 during the pandemic. While India's justice processes have long been notorious for slow disposal of cases, the COVID-19 pandemic has further slowed down judicial processes.⁶

⁶ Akshi Chawla, *The Burgeoning Share of Undertrial Prisoners in India's Jails*, THE WIRE, <https://thewire.in/rights/indian-jails-undertrial-prisoners> (last visited Nov 19, 2023).



Years are being spent in jail for those who are awaiting trial. People who are awaiting trial are being held in jail for extended periods of time, often for years, as a result of India's trial courts operating slowly. About 22% of undertrials spent a year or more behind bars in 2011, while 40.1% had been incarcerated for less than three months. As of 2021, 29.1% of undertrials were in jail for more than a year.

IV. TYPICAL PROBLEMS FACED BY UNDERTRIAL PRISONERS

‘Right to Speedy Trial’ – As recognized by the Supreme Court in ‘Hussainara Khatoon v. Home Secretary, Bihar’ it is violated due to long delay. These delays occur for all kinds of reasons,

- A. Grossly inadequate number of judges and prosecutors.
- B. Absence or delayed service of summons on witnesses.
- C. The presiding judge is going on leave.
- D. Due to lack of time and patience of the presiding judge, the remand is being extended mechanically. inadequacy of police personnel and vehicles hampers production of all prisoners on their due date.
- E. At times, the escorting policemen merely present the remand paper in court instead of producing the prisoner before the magistrate. Despite the strict requirement of the law in section 167(2)(b) of the ‘code of criminal procedure, 1973, this practice has been widely reported which states that- ‘No Magistrate shall authorize detention in any custody under this section unless the accused is produced before him.’⁷

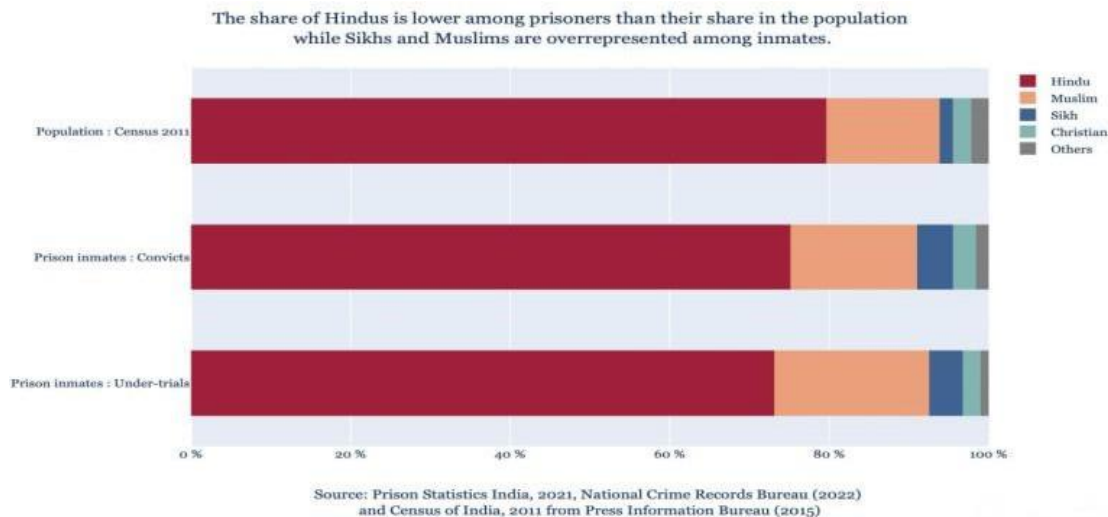
⁷ Ritwik Sneha, *supra* note 5.

Right to bail is denied even in genuine cases. The spirit of the Supreme Court's ruling in "Moti Ram & others vs. State of Madhya Pradesh" is routinely broken, even in situations when the prisoner was charged with a crime for which they are found to rot in jails because of outrageously high bail amounts. This was thoroughly examined by the Law Right Commission in its 78th report on undertrial congestion. It is also critical to note that the 1973 Code of Criminal Procedure's "436 to 450" provisions regarding the procedure of granting bail are unfair. This is due to the code's requirements that a person released on bail execute a personal bond and a bond of security for a predetermined sum of money. Because of this, those in need who cannot provide surety must endure imprisonment until the case is resolved.

Even at the High Court, level some judges are not following the guidelines laid down by the Supreme Court, on bail and granting of bail depends on the attitude of each judge. Standards cannot be held captive by the whims and fancy of one person. It is important to use authority responsibly. A large number of people, including women and children, are being held under Section 109 of the "Criminal Procedure Code," which stipulates that failure to provide the necessary security for good behavior will result in detention. The police usually pick them up "because the number of cases had to be brought up to the specified figure". The authorities refuse to release them without bail whereas the standing law on Section 110, says that you cannot ask for bail from such persons, only the history ticket is required. In the absence of a system, that takes a proactive role in providing legal services to prisoners their right to effective Legal Aid is also violated due to politicisation of legal aid schemes as many lawyers are hired on political consideration who get a fix salary without the pressure of disposing off cases at the earliest.

In such a situation, not only the undertrial prisoners are facing problems, but the victims are also not getting justice. They also suffer to get justice as we all know undertrial prisoners are Prisoners who have not yet been convicted of the charge for which they are detained and Waiting to appear in court. They cannot be called guilty because their crime has not been Proven. So, until undertrials not found guilty the victims do not get justice and they have to suffer and wait for justice, hence there is a need for speedy justice system in the 'Indian justice system.'

As of the end of 2021, men (95.8%) and those with little to no education made up the majority of those incarcerated. At the end of 2021, 25.2% of all prisoners were illiterate, and 40.2% had not completed more than class ten education. Additionally, the prison population is disproportionately made up of members of caste and minority religious communities.



Sikhs and Muslims are overrepresented among both types of inmates, despite the fact that the proportion of Hindus among convicts and undertrials is lower than that of the general population of Prisoners.⁸ And there is a gap in the religious composition of those under-trial vis-à-vis those who have been convicted. Muslims are the only religious group whose share is higher among undertrials than among convicts, while for other groups, the trend is the opposite. Fair trials, the global criminal watchdog, says that around the world, people from communities are often more likely to be suspected of criminal behavior, and are more likely to be jailed while awaiting trial and if convicted, they are likely to be punished more severely. Studies have also revealed bias in the criminal justice system in India. According to a Maharashtra study, there is a connection between the disproportionate number of Muslims incarcerated in the state and prejudice against members of the community within the "Criminal Justice System" (Raghavan and Nair, 2013).

V. WHAT ARE THE WAYS OUT?

The "National Judicial Data Grid" shows that currently, there are over 41 million cases in India's lower courts and slightly less than six million cases in the country's high courts. More than 63% of cases in lower courts and more than 77% of cases in high courts are pending for more than a year. Nearly a quarter (23.6%) of cases in lower courts are pending for more than 5 years, while thousands of cases have been going on for decades.

Navigating the 'legal system' can be specifically challenging for those from marginalized communities. Lack of awareness, legal ignorance and lack of access to the right legal aid and resources can mean that once jailed, they may remain in prison for longer periods of time, often for crimes they allegedly did not commit. Beyond punishment.

⁸ T. S. Venkatesan, *14.2% Muslims of India Occupy 30% of All Detenuess in Indian Prisons Reveals NCRB 2021 Data*, ORGANISER, <https://organiser.org/2022/09/20/94510/bharat/14-2-muslims-of-india-occupy-30-of-all-detenuess-in-indian-prisons-reveals-ncrb-2021-data/> (last visited Nov 19, 2023).

Due to such backlog and burden in our courts, the increasing number of ‘undertrial prisoners’ may continue to be a major challenge to our justice system for some time to come. Apart from speeding up the trial process, smooth-running bail procedures can help, a call has been made recently by none other than the supreme court of India.

WAYS TO MAKE OUR PRISON SYSTEM BETTER

As the modern world makes clear to all of us. Everyone is using technology and AI to do tasks more efficiently and intelligently, so why can't we apply this clever system to enhance our nation's jail system

Why can't we utilize AI and smart technology to enhance the criminal justice system? We ought to create an app for the jail and prison systems since it will make things better there and we can recognize this application by referring to it as "VICHARADHEEN KAIDI SEVA"(VS)

PURPOSE OF THIS APP

Prior to entering the jail for the first time, each prisoner must register using this "vicharadheen kaidi seva"(vs) app. This (VS)app ought to have two sections: one for prisoners awaiting trial and another for prisoners who have already been found guilty. The first section should contain three different kinds of lists, such as first, second, and third; Likewise, with regard to the second section.

THE PURPOSE BEHIND THIS LIST'S IMPLEMENTATION

In the first list, those undertrials prisoner who are accused with extremely heinous crime will be registered same goes for the second section.

In the second list, those undertrials prisoner who are accused of fewer crime as compared to first list will be registered same goes for the second section

In the Third list, those undertrials prisoner who are accused of fewer crime as compare to second list will be registered same goes for the second section.

Under the first section of the app, which is dedicated to undertrial prisoners, we have divided the lists of undertrial prisoners according to their respective time periods for justice.

For instance, the maximum amount of time allowed for a judgment to be rendered is ten months for undertrial prisoners who are on the first list and are charged with heinous crimes.

For other lists, the same is applicable. The duration will vary depending on the offense; for instance, the maximum six months for the second list and the maximum three months for the third list would be the time frame for receiving a judgement.

THE OBJECTIVE OF THIS DURATION

For example, on July 1, 2023, A, an undertrial prisoner, was admitted to the jail. The maximum time frame for receiving a judgment in this application is three months. A is charged with theft and is included in the third list of the First Section. In three months, the court is now required to grant "A" a judgment, and in that time, the case must be settled.

The additional time period will begin immediately following the judgment time period, which is specified in the third list, if the court for some reason fails to grant "A" a judgment within this time frame.

Thus, "A" enters the jail on July 1, 2023, and the court grants him a three-month sentence. On December 1, 2023, the court rules that "A" was guilty of theft under Section 379 of the Indian Penal Code,⁹ and "A" is sentenced. However, the court did not provide the judgment to "A" within the allotted time frame, which was July 1 to October 1, 2023. As a result, the court granted "A" an extension of two months, which will be subtracted from the sentence.

For instance, "A" was given a three-year sentence; however, the extra two months that were required for the judgment were subtracted, so "A" will only receive a two-year and ten-month sentence.

3years – 2 months = 34 months.

Now, let's look at another example. The circumstances are the same, but in this case, the court took an extra two months to render a judgment after "judgment A" was found not guilty. The period of judgment is limited to three months, as stated in the third list of the first section, but since the court took an extra two months in this case, the court should compensate "A" for the extra two months.

Using this (VS)app, first come, first served policy will apply. If an undertrial prisoner is found guilty after the verdict under this app, they will automatically be moved to the second section, which is reserved for convicted prisoners. This app will shorten the time it takes to make a decision by applying pressure to the judge to rule more quickly. Because this app operates on a first-come, first-served basis, it will help reduce bias in the criminal justice system.

The app system can undoubtedly make the work easier, but all of these tasks—including reducing prisoner sentences if the hearing takes longer than expected or compensating prisoners who are found not guilty can also be completed without it. Other tasks include managing prisoner data, trial records, entry and exit dates, and much more. Naturally, maintaining all this

⁹ Code of Criminal Procedure, 1973 (Act 2 of 1974).

data in paper documents is not feasible, so the app can undoubtedly function more quickly in this situation.

From the date of entry to the date of departure or from the trial record to the conviction, the app can effortlessly keep track of every record. The idea behind this app is undoubtedly going to make work easier and more helpful. Not only will it record data about prisoners or undertrials, but it will also offer applications to advocates who are willing to provide "Legal Free Aid" to undertrials and to those undertrials who want "Free Legal Aid" or to advocate for themselves. All of this information will be centralized on one platform.

VI. CASE STUDY

HUSSAINARA KHATOON & ORS.

It is a landmark case decided on 9 March 1979, which provided a broad definition of Article 21 and stated that a speedy trial is a 'fundamental right of every citizen'. It is the most popular case which discusses the human rights of prisoners in India. The honorable Supreme Court ruled out that the state should guarantee 'free legal aid' and a speedy trial to administer justice.¹⁰

Background of the case

In 1979, an article was published in the Indian Express newspaper about undertrial prisoners lodged in Bihar jail. Few of these under-trial prisoners were serving prison terms for longer period, in fact, longer than their actual detention period. Advocate 'Pushpa Kapila Hingorani' was one of the readers of the article and filed the case as a public interest litigation (PIL) in the Supreme Court of India. This was the first case of Public Interest Litigation in India and advocate Pushpa Kapila Hingorani is called the 'Mother of Public Interest Litigation in India'.

Fact of the case

The present case was related to the rights of undertrial prisoners and their release on habeas corpus petitions. Advocate Kapila Hingorani had filed a writ petition of habeas corpus on behalf of the undertrial prisoners of Bihar. This has revealed the pitiful condition of a large number of people, including women and children, in the state of Bihar who are in custody and awaiting trial for many years. Many of these prisoners have been charged with petty offences and sentenced to several months in prison than usual. The petition states that undertrial prisoners who have committed petty offences are suffering in jail for more than 5-10 years, without trial. These people were poor and could not even afford to furnish bail. The petition was filed together by all the prisoners of the Bihar jail. It was filed before the 'Supreme Court'

¹⁰ 1979 AIR 1369, 1979 SCR (3) 532

on behalf of a woman offender, Hussainara Khatoon. She was detained and held in 'protective custody' for four years, even though the Indian government had issued direct orders to release prisoners who are detained under the Foreigners Act coming from Bangladesh, on bail.

Judgment of court

The Court ordered to discharge all the 'undertrial prisoners' whose names were there in the list submitted by Advocate Pushpa Kapila Hingorani. The Court also noted that long-term detention would be illegal and violated their 'fundamental rights under Article 21' as these prisoners are detained longer than what could have been awarded to them if they were tried and convicted.

Another order by this Hon'ble Court was to grant the undertrial prisoners charged with bailable offenses, free legal aid by the State, in the coming days of their trial before the Magistrates. This was intended so that even the poor under-trial prisoners could apply for bail and this can even make sure that the aim of speedy trial is achieved. In addition, the Supreme Court directed the State Government and High Court to furnish information about the locations of the courts of sessions and magistrates in the State of Bihar, as well as the total number of cases that remained unresolved in each court as of December 31, 1978. If a case has been pending for longer than six months, they must also provide an explanation for the reasons behind the delay in resolving it.¹¹

Case Conclusion

The "Hussainara Khatoon v. State of Bihar" case highlights a weakness in the nation's legal system. Despite the fact that our Constitution lists the right to a speedy trial as a "Fundamental Right," this case highlights the flagrant violation of that right, as undertrial prisoners were forced to endure lengthy periods of incarceration simply because the courts lacked the time to either clear them or give them the appropriate sentence. Some prisoners were not even guilty, yet they were not released and remained behind bars, violating basic human rights. In addition, the Indian bail system is unjust to the impoverished who cannot afford to attend court proceedings. A legal system cannot be considered fair and just if it is unable to guarantee justice to the nation's impoverished citizens. Since the case, almost 40,000 undertrial inmates have been freed, demonstrating that anyone who is dedicated to the welfare of the nation can accomplish great things. There is a need of more lawyers like Advocate Pushpa Kapila Hingorani so that the needy and poor can get support when they raise their voice and every citizen should be well aware of the rights provided to him under "the law because the law

¹¹Supreme Court of India <https://main.sci.gov.in/jonew/judis/4873>.

helps them those who are aware of their rights, not those who ignore them”

VII. SUGGESTION

- Convicted inmates should be housed apart from undertrial inmates in different facilities. In order to prevent first-time and minor offenders from becoming serious, experienced offenders, proper, scientific classification of undertrials is also necessary. Under no circumstances should these individuals be placed under the supervision of convicted prisoners. Institutions meant to house undertrial prisoners should be as close to the courts as possible. If any fundamental right of a prisoner is violated, then the state should give adequate compensation to the victim.

- The provisions of Section 167, of CrPC regarding time limit for police investigation in the case of accused undertrials should be strictly followed by both the police and the court. Automatic extension of remand has to be stopped which is given only for the convenience of officers. Mere convenience of officials cannot override the constitutional guarantee under Article 21.

- Video, conferencing between jails and courts should be ‘encouraged’ and tried to be implemented in all states starting from large central jails and then expanding to district and sub jails. Computerize the handling of criminal cases and with the help of National Informatics Center develop programs that will help in managing the pendency and delay of various types of cases. The High Courts should take active interest in helping the subordinate courts to expedite cases.

- In order to visit the sub-jails under his jurisdiction at least once a month and assess the delays, the "District Magistrate" should form a committee with high-ranking representatives from the local police, judiciary, prosecution, district administration, and prison department. If there are any cases involving prisoners, take appropriate measures. police functions should be divided into investigation, and law and order duties and adequate power should be provided to complete investigations in time and avoid delays.

- Criminal courts should use their authority under Sections 309, 311, and 258 of the CrPC, as well as the jurisdiction of the 'High Court' under Section 482 of the CrPC in appropriate cases. Additionally, Articles 226 and 227 of the Indian Constitution may be used to request appropriate relief or appropriate directions to handle the cases without delay. All of these measures will help to ensure that the right to a speedy trial is implemented. In the case of undertrial prisoners, adjournment should not be granted unless ‘absolutely necessary’. Number

of judges and magistrates should be immediately increased in some reasonable proportion to the general population. There should be at least '107' judges per million Indian population. The courts have a fixed number of pending cases which are listed along with the normal cases that are heard. as a result, the judge is unable to complete hearing regular cases before moving on to the backlogged cases. as a result, hearings in the system often get "postponed" or delayed. Despite their knowledge of the workings of the legal system, attorneys may not always be ready to take on "backlogged" cases when they arise. This is related to that idea. so, they file for an adjournment, which is often granted in many courts. thus, a system where backlogged cases still exist has been created. Adjournments should therefore not be granted repeatedly. Decision-making delays and protracted, costly legal proceedings are in addition to corruption. Hence the portion of the Judiciary in the budget must be increased. More money should be allotted for its expenditure. There is a need to improve the judicial system in the lower courts to speed up the trials. According to experts, it is essential to maintain the courts, their properties, adequate facilities on court grounds and ongoing case hearings. Apart from these, it is also necessary to speed up civil and criminal hearings. It takes a lot of time for these cases to be heard and decisions to be taken. Decisions in criminal cases frequently have to be made when the offender is virtually through serving their sentence. Similar to criminal proceedings, civil cases are decided by the 2nd or 3rd generation. the morale and enthusiasm of judges at all levels should be boosted by providing adequate remuneration and favorable conditions of employment. Adequate administrative support may also be provided to the 'judge' and magistrates.¹²

VIII. CONCLUSION

The highest constitutional concern regarding the custody of undertrial prisoners is This is a violation of the principle that there should be no punishment in the first-place establishment of offense by process of law. Concept of one Is equivalent to a pre-conviction sentence for an undertrial He has been given the benefit of the doubt. Lack of Separation between undertrials and convicts, as both of them are lodged in jail in the same prison, and their liabilities are also the same Services rendered, which cast doubt on the entire system of justice. There is also demographic similarity between the 'victims' in question, that is, they are destitute, uneducated and backward Classes. This means that a lot of things can happen, even if unintentionally. Potentially unfair classification among undertrials.

Whenever there is a question of justice, the only thing that must be taken into account is the establishment of the act committed by the accused beyond a reasonable doubt. The

¹² Ritwik Sneha, *supra* note 5.

impoverished are inevitably the ones who become entrenched in the "justice system" that is accessible to prisoners awaiting trial. The inmates who are awaiting trial have their rights to equality and life clearly violated. Pre-trial custody must be minimal and situationally appropriate in each case before conviction; otherwise, the authorities will have violated their "duties" and the undertrial's "fundamental rights." The familiar adages 'Justice delayed is Justice denied' and 'Bail not jail' are often presented as hindrances. Of a fair trial, but profile analysis of the 'prison population' makes it skit the concept of keeping an undertrial as a 'prisoner' in itself may the question was raised because our justice system depends on the principle of 'innocent' Until proven guilty. How can someone be punished just on this basis Suspect that he has committed that "crime"? And if there is a person Has been declared innocent, the number of years he has spent in prison is not even Compensation is given by the government and cannot be determined in monetary terms However, the question of the hour is why is there so much the ratio of 'undertrial prisoners' in the country? Isn't this a worrying number? The number of 'undertrial prisoners' reflects the failure of both, 'Section 436A' of CrPC. And the criminal justice system, to successfully convict an accused Time There is a serious violation of the human rights of the undertrial Prisoner. This failure remains unresolved. Hence there is a need Significant improvement in testing and testing process in India. The ultimate objective is to restore confidence in the 'Indian justice system'.

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