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# **RISING NUMBER OF UNDERTRIALS IN INDIAN JAILS: A CALL FOR SPEEDY JUSTICE**

AUTHORED BY - SEJAL SARNA

The issue of overcrowded prisons in India has reached a critical point, with a significant portion of the inmate population comprising undertrials. These individuals, awaiting the conclusion of their trials, often languish behind bars for extended periods due to systemic inefficiencies and judicial delays. As of recent statistics, more than 70% of prisoners in India are undertrials, a stark indication of the urgency for reform. Addressing this situation requires multifaceted strategies aimed at ensuring speedy justice and alleviating the burden on the prison system.

The issue of increasing undertrial prisoners in India remains a significant challenge for the country's justice system. As of December 2022, India's prisons held 4,34,302 undertrial prisoners, representing a significant portion of the total prison population. The statistics reveal a troubling trend: despite various initiatives aimed at reducing the number of undertrials, the prison occupancy rate has reached 131%, indicating chronic overcrowding and systemic inefficiencies.

The National Crime Records Bureau (NCRB) data for 2023 highlights that 75.8% of prisoners in India are undertrials. This is a slight decrease from the previous year but still represents a substantial majority. Furthermore, the prison population increased by 19,186 from the previous year, showcasing a persistent issue of overcrowding. Uttar Pradesh, Bihar, and Maharashtra have the highest number of undertrials, with Bihar having the highest proportion of undertrials to the total number of prisoners at 89.1%.

## **Causes of the Increasing Number of Undertrials**

1. **Judicial Backlog:** One of the primary causes of the high number of undertrials is the substantial backlog of cases in the judicial system. Courts are overwhelmed with pending cases, resulting in prolonged trials and delays in delivering verdicts. The backlog is partly due to the sheer volume of cases entering the system every year and partly due to the inefficiencies within the judicial process. This delay in delivering justice often means that undertrials spend more time in jail than they might have if they were convicted.

2. **Inefficient Legal Processes:** The legal procedures in India are often cumbersome and protracted. Frequent adjournments, lack of coordination among legal entities, and procedural complexities contribute to the delays. The inefficiencies are exacerbated by outdated procedures and a lack of modernization in the court processes. For example, reliance on physical documents and traditional methods of case management can slow down proceedings significantly. This is further compounded by the manual handling of records, which can lead to errors and misplacement of important documents.
3. **Shortage of Judicial Personnel:** There is a significant shortage of judges and magistrates to handle the overwhelming number of cases. This scarcity slows down the trial process, leading to prolonged detention of undertrials. According to reports, there are numerous vacancies in the judiciary, which remain unfilled due to various administrative and bureaucratic hurdles. The judge-to-population ratio in India is also much lower compared to other countries, highlighting the need for urgent recruitment and deployment of judicial officers.
4. **Inadequate Legal Aid:** Many undertrials come from economically disadvantaged backgrounds and cannot afford quality legal representation. The state-provided legal aid system is often underfunded and understaffed, resulting in inadequate defence and longer pre-trial detention. Legal aid lawyers, despite their best efforts, are often overburdened with cases and lack the resources needed to provide effective representation. This results in a significant number of undertrials remaining in jail for extended periods. Moreover, there is a lack of awareness among undertrials about their right to free legal aid, leading to further delays in securing timely representation.
5. **Bail System Flaws:** The bail system in India is often not accessible to the poor. While bail should be a means to ensure that individuals do not suffer unduly before conviction, exorbitant bail amounts and stringent conditions often keep undertrials in custody. There is also a lack of uniformity in bail decisions, with some individuals receiving bail for serious offences while others remain in detention for minor infractions. The inability to meet bail conditions due to financial constraints results in a disproportionate impact on underprivileged sections of society.

6. **Police Practices and Investigation Delays:** Delays in police investigations and the filing of charge sheets contribute significantly to the problem. Often, the police take longer than the stipulated time to complete investigations, during which the accused remains in custody. Additionally, the quality of investigations can be poor, leading to weak cases that take longer to resolve. Corruption, lack of training, and resource constraints within the police force further exacerbate these issues, resulting in prolonged pre-trial detention for many undertrials.

## **Consequences of Prolonged Pre-Trial Detention**

The prolonged detention of undertrials has far-reaching consequences on both the individuals and the system:

1. **Human Rights Violations:** Long pre-trial detention violates the fundamental rights of individuals, subjecting them to conditions of incarceration without a fair trial. It contradicts the principle of 'innocent until proven guilty,' as undertrials, who are yet to be convicted, endure the same conditions as convicts. This can lead to mental and physical health issues and deteriorate their social and family lives. The psychological toll of indefinite detention without trial can be severe, leading to depression, anxiety, and other mental health disorders.
2. **Overcrowded Prisons:** The influx of undertrials exacerbates overcrowding in prisons, leading to deplorable living conditions, health issues, and increased stress on prison resources. Overcrowded prisons make it difficult to maintain hygiene and provide adequate medical care, leading to a higher incidence of diseases and mental health problems among inmates. This situation is further aggravated during pandemics, as social distancing becomes impossible, increasing the risk of disease transmission.
3. **Socio-Economic Impact:** Extended detention disrupts the social and economic lives of undertrials, affecting their families and communities, and often resulting in loss of employment and social stigma. Families of undertrials often face economic hardships due to the loss of the primary breadwinner, and the stigma associated with incarceration can have lasting social repercussions. Children of undertrials may drop out of school, and families may be forced into debt to make ends meet.

4. **Reintegration Challenges:** The longer an undertrial stays in jail, the harder it becomes for them to reintegrate into society upon release. They may lose their jobs, homes, and social connections, making it challenging to rebuild their lives. This can increase the likelihood of recidivism, as individuals struggle to find lawful means to sustain themselves. The stigma of having been in jail can also prevent former undertrials from securing employment or housing, further hindering their reintegration.

### **Strategies for Addressing the Issue**

1. **Fast-Track Courts:** Establishing fast-track courts specifically for undertrial cases can significantly reduce the backlog. These courts can prioritize cases involving long-term undertrials to expedite justice. The success of fast-track courts in handling cases of sexual violence and corruption suggests that a similar approach could be effective for undertrial cases. Regular monitoring and evaluation of the performance of these courts can help identify and address any bottlenecks in the process.
2. **Judicial Reforms:** Comprehensive judicial reforms are essential to streamline court processes, reduce procedural delays, and improve case management. Implementing technology-driven solutions like e-courts can enhance efficiency. Digitization of court records, online filing of cases, and virtual hearings can speed up the judicial process and reduce delays. Additionally, adopting best practices from other judicial systems that have successfully reduced case backlogs can provide valuable insights for reforms in India.
3. **Increasing Judicial Workforce:** Appointing more judges and magistrates is crucial to handle the volume of cases effectively. Regular recruitment and training programs can ensure a well-equipped judicial workforce. Additionally, creating specialized positions within the judiciary to handle specific types of cases can improve efficiency. Setting up judicial academies to provide continuous training and development for judges can help them stay updated on legal advancements and best practices.
4. **Enhancing Legal Aid Services:** Strengthening the legal aid system by increasing funding, resources, and training for public defenders can ensure that undertrials receive adequate legal representation. Initiatives to raise awareness about legal aid services and streamline

the process of accessing these services can help more undertrials benefit from them. Collaborating with non-governmental organizations (NGOs) and legal aid clinics can also enhance the reach and effectiveness of legal aid services.

5. **Reforming Bail Practices:** Simplifying and humanising the bail process is vital. Introducing more flexible and affordable bail options, along with community-based monitoring systems, can reduce unnecessary pre-trial detention. Alternative measures like personal bonds, community service, and electronic monitoring can be explored to ensure that undertrials do not have to remain in custody unnecessarily. Educating judicial officers about the social and economic impacts of bail decisions can also promote more empathetic and balanced judgments.
6. **Alternative Dispute Resolution (ADR):** Promoting ADR mechanisms such as mediation and arbitration can resolve disputes outside the traditional court system, thereby reducing the caseload on courts. ADR can be particularly effective in civil and minor criminal cases, freeing up court resources to focus on more serious and complex cases. Training and accrediting mediators and arbitrators, along with raising public awareness about ADR options, can increase their usage and effectiveness.
7. **Periodic Review of Undertrial Cases:** Instituting regular review mechanisms to assess the status of undertrial cases can help identify and release individuals who have been unduly detained. Special committees comprising judicial officers, legal aid representatives, and civil society members can be formed to review the cases of long-term undertrials and recommend their release where appropriate. Regular audits of prison populations can also help identify systemic issues contributing to prolonged detention.
8. **Improving Police Investigations:** Enhancing the efficiency and effectiveness of police investigations is crucial. Providing better training and resources to the police force, along with stricter monitoring of investigation timelines, can help ensure the timely filing of charge sheets and reduce delays. Implementing accountability mechanisms to address corruption and misconduct within the police force can also improve the quality and speed of investigations.

9. **Community and Rehabilitation Programs:** Developing community-based rehabilitation programs can aid in the reintegration of undertrials upon their release. Such programs can provide vocational training, psychological support, and assistance in finding employment, reducing the likelihood of recidivism. Partnerships with NGOs, businesses, and government agencies can create a support network for former undertrials, helping them rebuild their lives and contribute positively to society.
10. **Policy and Legislative Changes:** Enacting policy and legislative changes to address systemic issues can have a long-term impact. For instance, revising the Criminal Procedure Code to expedite trials and reduce adjournments, and implementing guidelines for the humane treatment of undertrials can significantly improve the situation. Legislative changes that promote alternative sentencing, decriminalise minor offences, and introduce parole and probation options can also help reduce the number of undertrials.
11. **Public Awareness and Advocacy:** Increasing public awareness about the plight of undertrials and the importance of judicial reforms can generate support for necessary changes. Media campaigns, public discussions, and educational programs can highlight the human rights issues involved and build a consensus for action. Advocacy by civil society organisations can also play a crucial role in pushing for legislative and policy changes.
12. **International Collaboration and Learning:** Collaborating with international organizations and learning from the experiences of other countries can provide valuable insights and resources for addressing the issue of undertrials. Engaging with global human rights bodies, participating in international forums, and adopting best practices from successful models elsewhere can help India develop more effective strategies for speedy justice.

### **Relevant Judicial Opinions**

Several case laws in India have addressed the issue of undertrials and the need for speedy justice. These judgments highlight the importance of timely trials and humane treatment of undertrials. Here are some notable case laws:

1. **Hussainara Khaton & Ors. v. Home Secretary, State of Bihar (1979):**

This landmark case brought to light the plight of undertrials languishing in Bihar's jails for years without trial. The Supreme Court held that the right to a speedy trial is a fundamental right under Article 21 of the Constitution of India. This case led to the release of thousands of undertrials and emphasized the need for legal aid to ensure speedy justice.

**2. Common Cause v. Union of India (1996):**

The Supreme Court directed the release of undertrials who had served half of the maximum sentence prescribed for their offences. The judgment emphasized that prolonged detention without trial is a violation of fundamental rights and mandated that undertrials should not be subjected to inordinate delays.

**3. Supreme Court Legal Aid Committee v. Union of India (1989):**

In this case, the Supreme Court laid down guidelines for the release of undertrials on personal bonds. The Court emphasized the need for a humane approach towards undertrials and directed the establishment of legal aid committees to ensure that undertrials receive timely and effective legal representation.

**4. Arnesh Kumar v. State of Bihar (2014):**

The Supreme Court issued guidelines to prevent unnecessary arrests and detention, especially in cases where the punishment is less than seven years of imprisonment. The Court stressed the importance of granting bail and avoiding prolonged pre-trial detention, thus indirectly addressing the issue of undertrial detention.

**5. Re-Inhuman Conditions in 1382 Prisons (2016):**

The Supreme Court, taking suo motu cognizance of the inhumane conditions in Indian prisons, directed the establishment of undertrial review committees in every district. These committees are tasked with reviewing the cases of undertrials and recommending their release if they meet certain criteria. The judgment aimed to reduce overcrowding and ensure the rights of undertrials.

**6. Moti Ram & Ors. v. State of Madhya Pradesh (1978):**

This case dealt with the issue of granting bail to poor undertrials. The Supreme Court emphasized the need for a more liberal approach towards bail and highlighted that poverty should not be a ground for prolonged detention. The judgment advocated for the use of

personal bonds in cases where the accused cannot afford to pay bail.

**7. Sunil Batra v. Delhi Administration (1980):**

The Supreme Court, in this case, addressed the issue of the rights of prisoners, including undertrials, and emphasized the need for humane treatment. The Court ruled against solitary confinement and torture of prisoners and underlined the importance of protecting the fundamental rights of all detainees, including undertrials.

**8. R.D. Upadhyay v. State of Andhra Pradesh & Ors. (2006):**

This case focused on the rights of children of women prisoners, including undertrials. The Supreme Court issued guidelines for the care and treatment of children living with their mothers in prison. The judgment highlighted the need for a compassionate approach towards undertrials and their families.

These case laws collectively underscore the importance of ensuring speedy trials, humane treatment, and the protection of fundamental rights for undertrials in India. The judiciary has consistently emphasized the need for reforms to address the systemic issues leading to prolonged pre-trial detention and overcrowded prisons.

## Conclusion

The rising number of undertrials in Indian jails underscores the need for urgent judicial and systemic reforms. By addressing the root causes of delays and inefficiencies, implementing strategic measures, and ensuring adequate legal support, the justice system can become more responsive and equitable. Speedy justice is not just a legal imperative but a moral one, essential for upholding the rights and dignity of all individuals.

Ensuring that undertrials are not unjustly detained for prolonged periods requires a concerted effort from all stakeholders, including the judiciary, government, police, and civil society. By working together to implement these strategies, India can make significant strides towards a more just and humane criminal justice system, where the principle of 'innocent until proven guilty' is upheld in practice as well as in theory.

The path to reform may be challenging, but the potential benefits—both for individual undertrials

and for society as a whole—are immense. Reducing the number of undertrials and ensuring speedy justice can lead to less crowded prisons, better living conditions for inmates, and a more efficient judicial system. Moreover, it can restore faith in the rule of law and the justice system, reinforcing the fundamental principles of democracy and human rights.

In conclusion, tackling the issue of undertrials requires a holistic approach that addresses the various systemic, procedural, and social factors contributing to the problem. With sustained commitment and collaborative efforts, India can move towards a future where justice is not only delivered but is delivered promptly and fairly for all.

