

THE COVID-19 OUTBREAK LEAVES THE CRIMINAL JUSTICE SYSTEM PARALYSED

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"The coronavirus requires a challenging balance of rights: the rights of the defendant to a speedy trial and a trial by a jury of their peers against the rights of courtroom actors and jury members to their health"

- Theodore Wilson, University of Albany's School of Criminal Justice.

INTRODUCTION

The global outbreak of the virus has posed a serious challenge for Indian prisons which are already occupied over their capacity. Subsequent to the warning issued by the WHO² affirming that the prisons across the world have the potential to bring to a gigantic rise in the mortality rates due to this pandemic, multiple petitions were filed before the various High Courts of the country seeking a release of prisoners falling in certain categories. As per the 2018 Prison Statistics of India³, the prisons are crowded over and above the sanctioned capacity by 17.6%. The said figure is relevant as this makes the prisons a fecund area for the spread of the disease. Also, it serves as a wakeup call for long overdue prison reforms.

A GLANCE AT THE SC ORDER

The Supreme Court took all the issues under consideration, and by an order dated 23rd March 2020⁴ asserted that the hearings would be conducted by way of video-conferencing as a measure

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² Hannah Summers, 'Everyone will be contaminated': prisons face strict coronavirus controls, The Guardian, (March 23, 2020), <https://www.theguardian.com/global-development/2020/mar/23/everyone-will-be-contaminated-prisons-face-strict-coronavirus-controls>.

³ Ministry of Home Affairs, National Crime Records Bureau, Prison Statistic India, (2018).

⁴ Coronavirus impact: Supreme Court to conduct hearings via video conferencing from today, The Economic Times, (March 23, 2020), https://economictimes.indiatimes.com/news/politics-and-nation/sc-to-conduct-hearings-via-video-conferencing-from-today/articleshow/74764793.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst.

to restrict the human interface and further escalation and spread of the deadly virus. In addition to this, all the states and UTs were ordered to formulate committees¹ to deliberate upon the aspect of release of prisoners who have been jailed as undertrials for offences prescribing a maximum imprisonment for seven years and also those who have been jailed for up to 7 years on parole.

In furtherance of the said order, the various state governments have been active in the release of prisoners along with abiding by the guidelines provided. Maharashtra government has already released² 601 inmates were released from 37 prisons of Maharashtra in a matter of 3 days succeeding the SC order and other states are expected to follow suit.

CHALLENGES POSED BY RE-INTEGRATION OF PRISONERS IN THE SOCIETY

The challenge which is posed by the re-integration³ of a large number of prisoners in the society has not been dealt with the foresight that it should have. The struggle of prisoners does not end with their release. Various societal and legal barriers that exist in the society make it comparatively difficult for them to hold a position in the society and secure a consistent source of earning. This, in turn, leads to a situation where these inmates have to live a life of poverty and consequently suffer from mental health issues.

At the same time, the employers avoid employing such people to prevent any additional liability which the firm may incur as a consequence of their past background. This highlights the issue of a purposeful discrimination at the employer's end.

¹ *Coronavirus: SC directs states, UTs to set up panel to consider release of prisoners on parole*, The Economic Times, (March 24, 2020) https://economictimes.indiatimes.com/news/politics-and-nation/coronavirus-sc-directs-states-uts-to-set-up-panel-to-consider-release-of-prisoners-on-parole/articleshow/74771877.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

² *Coronavirus: Maharashtra releases 601 inmates from 37 jails in 3 days*, The Economic Times, (March 30, 2020), https://economictimes.indiatimes.com/news/politics-and-nation/coronavirus-maharashtra-releases-601-inmates-from-37-jails-in-3-days/articleshow/74887322.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

³ *The Challenges of Prisoner Re-Entry Into Society*, Social Work @Simmons University, (July 16, 2016), <https://socialwork.simmons.edu/blog/Prisoner-Reentry/>

Another important task is to offset the various devastating social effects¹ that come up when a prisoner is released into the society. The cost of this is not limited so as to being measured in economic terms but also extends to the compromised overall well-being of the society.

It is suggested by the 2015 Congressional Research Service Report² that, over a period of five years, on an average 76.6% of released prisoners return to the prison for one or the other reason. Mass incarceration is also deemed to be a contributing force³ or rather a worsening factor to the pre-existing social and economic neighborhoods of the society.

CONCLUSION

It is important to bring to notice the repercussion of the large-scale prisoner release on the society and the prisoners themselves. Systems need to be put into place to avoid a conflict between the two. Adopting measures like video-conferencing for the purpose of conducting trials do not seem to be a feasible idea considering the low levels of internet penetration in India. The release of these prisoners and the method adopted for conducting trial of the persons accused prima facie appears as a field day for these people to escape the clutches of law. The need of the hour appears to be a set of more stringent and effective guidelines to address the instant challenges created by the pandemic.

¹ *White supremacy and mass incarceration*, Al Jazeera, (January 22, 2013) <https://www.aljazeera.com/indepth/opinion/2013/01/201311782939161836.html>.

² Congressional Research Service, *Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism* (2015).

³ National Research Council. 2014. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/18613>.