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HUMAN RIGHTS RESEARCH PAPER ON “A STUDY OF HUMAN RIGHT VIOLATIONS OF UNDERTRIAL PRISONERS IN INDIA



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INTRODUCTION

Human Rights are those inalienable rights that are inherent in nature, to every single individual in the world, from their birth till their death, irrespective of which country they are in¹. The Universal Declaration of Human Rights, 1948, has defined human rights as those rights that arise from the dignity of the human persons. These rights can never be taken away as they belong to a person as a consequence of their inherent humanity. They can, however, be restricted by a State if a person violates the law or threatens the national security². The Declaration of Human Rights Defenders which was adopted by the United Nations General Assembly on the 9th of December 1998, stated that it was the duty of the State to provide, protect and promote the Human Rights of its citizens³. Therefore, it can be said that human rights are legal rights, which are enforceable by the respective authorities at the instances of violations.

¹ Equality and Human Rights Commission, ‘What are Human Rights’ (Equality and Human Rights Commission, 19 June 2019) <https://www.equalityhumanrights.com/en/human-rights/what-are-human-rights> accessed 24 October 2019.

² Ibid.

³ Ritesh Kumar, ‘Human Rights of Prisoners: International & National Perspectives’ (Legal Desire, 1 March 2018) https://legaldesire.com/human-rights-prisoners-international-national-perspectives/#_ftn2 Accessed 24 October 2019.

An undertrial prisoner refers to a person who has to appear in a court of law because they have been accused of committing a crime⁴. They are, in principle, supposed to be in judicial custody, but for all practical purposes are kept in the same prisons like that of convicted prisoners in India. In other countries like the USA, there are separate institutions in place for undertrial prisoners. The Prison Statistics, 2016 help us comprehend the condition of undertrial prisoners in India. As of 2016, India had a total of 2, 93,000 undertrial prisoners who comprise two-thirds of the total population of prisoners in India. These statistics tell us that India has double the population of undertrials as compared to the convicted prisoners who account for 31 per cent of the total prison population⁵. This paper looks at the causes and the consequences of the increasing number of undertrial prisoners and the remedies that are required to safeguard their human rights.

HUMAN RIGHTS OF UNDERTRIALS

The standard minimum rules for the basic treatment of prisoners which has been adopted by the First United Nations Congress on the Prevention of crimes and the treatment of offenders is the first document which advocates the rights of prisoners at the international stage⁶. Rule 8 of the Standard minimum rules for the treatment of prisoners essentially deals with providing different institutions for the different categories of prisoners⁷. This implies that undertrials must be separated from convicted prisoners on account of legal reasoning for their detention and the necessity for punishment. Rule 84 states that people who have been imprisoned owing to a criminal charge against them, who have not been tried or sentenced yet, must be referred to as untried prisoners or undertrial prisoners⁸. These prisoners are innocent until proven guilty and hence there must be no prejudice towards the personal liberty of the undertrial prisoners. The rules give a special regime for the undertrial prisoners. Rule 86 states that the undertrial prisoners must be kept in a separate room, with the reservations of local customs⁹. Rule 88 states that the undertrial prisoners must be allowed to wear their clothing, if not, they must be

⁴ <https://dictionary.cambridge.org/dictionary/english/undertrial>

⁵ National Crime Records Bureau, Prison Statistics India–2016 available at <http://ncrb.gov.in/StatPublications/PSI/Prison2016/Executive%20Summary-2016.pdf>

⁶ Standard Minimum Rules for the Treatment of Prisoners, 1955, available at https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf

⁷ Rule 8, Standard Minimum Rules for the Treatment of Prisoners, 1955.

⁸ Rule 84, Standard Minimum Rules for the Treatment of Prisoners, 1955.

⁹ Rules 86, Standard Minimum Rules for the Treatment of Prisoners, 1955.

given different clothes than that of the convicted prisoner's¹⁰. Rule 92 of the Standard minimum rules give the under-trial prisoners the right to inform their family or their close ones immediately of his/her detention¹¹. Rule 93 gives the undertrial prisoners the right of accessing free legal aid, in cases where it is available and to receive visits from his lawyer , which will eventually aid his defence¹².

In 2015, these rules were revised and adopted by the United Nations General Assembly as the Nelson Mandela rules¹³. These rules were adopted owing to the changes in the criminal justice system from 1957 to 2015. Some of the fundamental changes made to the laws of undertrial prisoners were-

1. The prisons are obligated to report and conduct investigations concerning any instance of death or serious injury in the prison. The family of the concerned person must be notified of the incident¹⁴.
2. The ambit of legal aid services was expanded as per the 2012 UN Principles and Guidelines of Legal Aid. The undertrial prisoners have the right to hold in their possession the documents related to their legal proceedings¹⁵.
3. The prisons were given the task of identifying vulnerable prisoners, and to provide for their needs accordingly¹⁶.

HUMAN RIGHTS OF UNDERTRIALS IN INDIA

Undertrial prisoners in India are entitled to the same treatment as prescribed in the international standards, as India is a member of the United Nations General Assembly that adopted the Minimum Standard Rules for the treatment of prisoners. The rights of undertrial prisoners in the Indian Context has been provided under the Criminal Procedure Code, 1973 and the Indian Constitution.

¹⁰Rule 88, Standard Minimum Rules for the Treatment of Prisoners, 1955.

¹¹Rule 92, Standard Minimum Rules for the Treatment of Prisoners, 1955.

¹²Rule 93, Standard Minimum Rules for the Treatment of Prisoners, 1955.

¹³United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), (adopted on 17 December 2015 General Assembly resolution UN Doc A/70/175).

¹⁴ *ibid.*

¹⁵ *ibid.*

¹⁶ *ibid.*

The Constitution of India does not expressly talk about the rights of undertrial prisoners, but the Supreme Court in the case of *TV Vatheeswaran v State of Tamil Nadu*¹⁷, stated that the fundamental rights given under Part III of the Indian Constitution would apply to the prisoners as well owing to their personhood with special emphasis on Article 14, 19 and 21 being available to the undertrial prisoners. Article 14 of the Indian Constitution which pertains to equals being treated alike applies to the prisoners as well. It permits reasonable classification, a principle which must be applied by the prison authorities while treating the undertrial prisoners differently. Article 19 of the Indian Constitution provides six freedoms to the citizens of India, the undertrials cannot be deprived of these rights, owing to their arrest¹⁸. Some of these rights are not available to undertrials owing to their imprisonment or arrest, such as freedom to practice a profession of choice. The undertrial prisoners are entitled to the other rights which are not taken away as the result of arrest or confinement. The Supreme Court while explaining the rights under Article 21, stated that the right to life under Article 21 is not merely restricted to the physical existence of a person but also includes the right to live with basic human dignity, which can be deprived of a person only by a procedure established by law¹⁹.

The Criminal Procedure Code guarantees certain rights to the undertrial prisoners by stating the procedure to be followed while dealing with undertrial prisoners. According to the provisions of Section 167(2), (b) the undertrials cannot be detained by the magistrate unless he has been produced before him or if he is made to appear before the magistrate through video conferencing²⁰. Section 57 states that undertrial prisoners who are arrested without a warrant can be kept in police custody for a maximum period of twenty-four hours unless authorized by the Magistrate under Section 167²¹. In order to prevent detention for abysmal periods of time, Section 436A allows undertrial prisoners to be released on a personal bond with or without sureties, if he has undergone half of the maximum sentence of the charge against them, unless they are charged with death as punishment²².

The Indian Courts have continually emphasized on the significance of the protection of the rights of undertrial prisoners. The Supreme Court vehemently opposed custodial violence in the case of *DK Basu vs. State of West Bengal*²³, and gave out a list of guidelines to the police

¹⁷ *TV Vatheeswaran v State of Tamil Nadu*, AIR 1983 SC 361.

¹⁸ Article 19, The Constitution of India.

¹⁹ *People's Union of Democratic Rights v. Union of India*, AIR 1982 SC 1473.

²⁰ Section 167(2)(b), Criminal Procedure Code, 1973.

²¹ Section 57, Criminal Procedure Code, 1973.

²² Section 436 A, Criminal Procedure Code, 1973.

²³ *D.K Basu v. State of West Bengal*, (1997)1 SCC 416.

authorities for the arrest, detention and interrogation of any person. These guidelines act as instrumentalities of rights for the undertrial prisoners. A person who has been arrested or detained by the concerned authorities has the right to have his family or close ones informed as soon as possible, of the arrest and the place of the arrest²⁴. The undertrial prisoner will have the right to request a physical examination at the time of his arrest, in which all the injuries of the person would be recorded. This should be followed up by a medical examination every forty-eight hours during detention, to ensure custodial violence does not occur²⁵. The Supreme Court ruled that free legal aid services being given to poor undertrials is an essential part of the notion “reasonable, fair and just procedure”. Under Article 39A of the Indian Constitution, the undertrial prisoners have the right to avail free legal aid services from the government, when the prisoner cannot obtain these services owing to poverty, indigence or incommunicado situation²⁶. The State must provide a fair and speedy trial for the undertrial, and the State cannot resort to financial or structural incapacity as a reason for not performing the duty²⁷.

Despite provisions and judicial pronouncements to protect the rights of undertrial prisoners, India has the third-highest number of undertrial prisoners in Asia. The undertrials account for almost two-thirds of the population of prisoners in India. The paper analyses four ways in which the human rights of undertrial prisoners are violated in India, namely-

1. Overcrowding of prisons
2. Delay in trial and faulty bail procedures.
3. Lack of free legal aid services.
4. Vexatious arrests

OVERCROWDING OF PRISONS

As per the Minimum Standard rules for the treatment of prisoners, undertrials are supposed to be put in different institutions. The National Crime Records Bureau in its report stated that the total population of prisons in India is close to 4,33,000 people. Out of this, 68 per cent of the population are undertrials²⁸. Thus, not only are the undertrial prisoners kept in the same prisons but they are almost double the population of the convicted prisoners in these prisons. The

²⁴ *ibid.*

²⁵ *ibid.*

²⁶ *Hussainara Khatoon & Ors vs Home Secretary, State of Bihar, 1979 AIR 1369.*

²⁷ *ibid.*

²⁸ National Crime Records Bureau, Prison Statistics India–2016.

percentage of Undertrials is even higher in states like Uttar Pradesh and Bihar. The outrageous number of undertrials can be attributed to prolonged detention of undertrial prisoners which in turn causes conviction of the undertrial prisoner even without a trial, thus violating his liberty and livelihood²⁹. This is the root cause of the overcrowding of prisons in India. The average occupancy rate of the prisons in India is a massive 114 per cent which goes up to 233 per cent in states like Chhattisgarh³⁰, which means that these prisons hold almost twice the capacity of prisoners.

Overcrowding of prisons increases the risk of diseases, adversely affects the hygienic conditions and in general increases the danger levels in the prisons. Supervision of prisoners becomes difficult when the prisons are overcrowded, thus the difference in the treatment that needs to be meted out to undertrial prisoners owing to them not being convicted is generally not followed. Overcrowding of prisons also implies the reduction in the resources at the disposal of the prison authorities. The resources do not match the population of the prisons and hence there is an unequal distribution of such resources amongst the various prisoners. For instance, a study done in the prisons of Haryana concluded that close to 700 female prisoners were put into 15 prisons as the rest of the jails did not have any separate female enclosures³¹. These female prisoners were deprived of several basic amenities like even sanitary pads in some of the jails³². The undertrial prisoners are subject to extremely harsh living conditions owing to the overcrowding. This acts as an additional burden on prisoners in India, there being no major difference in the imprisonment for trial as compared to the imprisonment on conviction, as ruled by the Supreme Court³³. The only time their plight is looked into is when the Supreme Court enquires into the said matter. Overcrowding of prisons also leads to rampant violence amongst other criminal activities in the prisons.

²⁹ Dr Bindu Nambiar, 'A Study of Undertrial Prisoners in India' INDIAN JOURNAL OF RESEARCH Volume : 2 | Issue : 9 | Sept 2013, https://www.worldwidejournals.com/paripex/fileview/September_2013_1379498460_46eac_39.pdf_39.pdf accessed 27 October 2019.

³⁰ Amnesty International, 'Justice Under Trial: A Study of Pre-Trial Detention in India' 2017 https://drive.google.com/file/d/10_YCJ8RARz-3Z44mdWBvDwBzuCHN65ID/view accessed 27 October 2019.

³¹ Gaurav Vivek Bhatnagar, 'Overcrowding, Inadequate Staff and Lack of Menstrual Products in Haryana Prisons: Study' (The Wire, 20 August 2019) <https://thewire.in/rights/overcrowding-inadequate-staff-and-lack-of-menstrual-products-in-haryana-prisons-study> accessed on 28 October 2019.

³² *ibid.*

³³ *Thana Singh v Central Bureau of Narcotics*, (2013) 2 SCC 603.

DELAY IN TRIAL OF CASES AND FAULTY BAIL PROCEDURES

The Criminal Procedure Code, states that the maximum period for which a person can be held in judicial custody is 90 days, following which bail must be granted to the undertrial prisoner on application³⁴. In addition to this provision, Section 436A states that in cases where the person has been detained for a period that equals half of the maximum sentence that could be given for that crime, then that person can be released on a personal bond, with or without sureties³⁵. Despite provisions like these, a large number of undertrial prisoners are detained for periods exceeding the formal sentence that could be given as punishment for their crime.

In the *Hussainara Khatoon v State of Bihar* case, the Supreme Court laid stress on the need for fair and speedy trial and also stated that the State cannot cite reasons of incapacity to not provide speedy trial to the accused³⁶. The Court made the judgement in favour of the undertrial prisoners but failed to consider the logistical issues about the criminal justice system in India. A major reason for overstays in prison is the non-production of the undertrial in a court owing to the lack of escort forces. The Indian Government claims that the attendance percentage of the undertrials before the magistrate is 85 per cent, but the percentages of the attendance drop drastically in rural sub-jails and in the case of female undertrial prisoners³⁷. The most affected faction of the prisoners are the women prisoners owing to the shortage of female escort forces. The number of instances where the undertrial was not presented in court because of the lack of police escorts between September 2014 and February 2015 itself was a massive 82,000³⁸.

Amnesty International conducted a study by sending out RTI applications to various prisons regarding the eligibility of prisoners under Section 436 A³⁹. Only half of the prisons responded

³⁴ Section 167, Criminal Procedure Code, 1973.

³⁵ Section 436 A, Criminal Procedure Code, 1973.

³⁶ *Hussainara Khatoon & Ors vs Home Secretary, State of Bihar*, 1979 AIR 1369.

³⁷ K. Murali, 'Institutional Apathy towards Undertrial Prisoners' *Economic and Political Weekly*, Vol. 41, No. 37 (Sep. 16-22, 2006), pp. 3936-3938.

³⁸ Amnesty International (n28).

³⁹ *ibid.*

to their applications and their responses were inaccurate⁴⁰. In a prison in Madhya Pradesh, the prison felt that 409 prisoners were eligible for release whereas independent research by Amnesty found that only one prisoner was eligible for relief⁴¹. In totality out of the 1544 prisoners that the prisons had said were eligible for release, the eligibility of 1286 prisoners had been wrongly calculated⁴². The sheer incorrect determination by the prison authorities indicates that the prison officials are still unaware of the applicability of Section 436A, despite the guidelines of the Home Ministry.

The reason for the long overstay of the undertrial prisoners in certain cases is because they are unable to furnish the bail amount. Even though the Supreme Court has taken the view that in certain cases for the poor and needy undertrial prisoners they must be allowed to execute a bond on their surety for bail⁴³. Despite numerous measures being taken, a huge number of undertrials are still being denied bail solely based on being unable to furnish the bail amount. Almost 64 per cent of the total number of undertrial prisoners are detained for a period exceeding 6 months and almost 15 per cent are in jail for a period over one year⁴⁴.

LACK OF FREE LEGAL AID SERVICES

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A person accused of a criminal offence has a right to legal assistance under Article 39 A of the Constitution. The State is obligated to provide these services to undertrial prisoners regardless of economic or another incapacity. The Legal Services Act, 1987 was formulated to provide "free and competent legal services" to people from weaker sections of society. It gives the relevant authorities the authority to devise schemes and utilize funds to provide legal services to the poor and needy undertrial prisoners. The Supreme Court has stated that the right to free legal aid services is a part of the fair and reasonable trial, as every undertrial is entitled to legal representation.

The presence of the above mechanism has failed to provide legal aid services to the poor and needy undertrial prisoners. This can be attributed to two major reasons – 1. The meagre number

⁴⁰ *ibid.*

⁴¹ *ibid.*

⁴² *ibid.*

⁴³ *Moti Ram & Ors vs the State Of M.P.*, 1978 AIR 1594.

⁴⁴ National Crime Records Bureau, Prison Statistics India–2016.

of legal aid lawyers and the frequency with which they visit the prisons, and 2. The remuneration paid to these legal aid lawyers.

The number of legal aid lawyers in some states is drastically low, for instance, the state of West Bengal, which has a total of 13 prisons, only has 27 registered legal aid lawyers, thereby placing a burden on these lawyers⁴⁵. On the other hand, states that have a significant number of legal aid lawyers, like Haryana which has 400 plus legal aid lawyers for 5 prisons, faces issues of a lower frequency of visits of lawyers⁴⁶. In Haryana, these lawyers visit the prisons less than once a month, at a frequency of 0.22 times a month⁴⁷. Thus, not only does the number of legal aid lawyers have to improve but even the frequency of visits must improve.

Another cause for inadequate legal aid services to undertrial prisoners is the pitiable remuneration paid to these legal aid lawyers. A legal aid lawyer in Andhra Pradesh earns a meagre 100 rupees per bail application made by him and the highest is 1500 rupees paid in Tripura per bail application⁴⁸. These numbers are significantly lesser than what a private lawyer making a bail application would receive. Moreover, the payments are often delayed and can be obtained only through convoluted government procedures. This lessens the incentive to work as a legal aid lawyer in the Indian legal profession, which is becoming extremely competitive and remunerative.

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VEXATIOUS ARRESTS

The last and the worst form of violation of human rights of undertrial prisoners is the practice of vexatious arrests made by policemen. The Indian undertrial population has a disproportionate number of Muslims, Adivasis and Dalits, as they comprise almost 55 per cent of the total undertrial population but make up only 39 per cent of the total population of the country⁴⁹. This is due to an amalgamation of the lack of legal aid service provided to them, faulty bail procedures and vexatious arrests made by the policemen.

A common practice followed by policemen in India, which is used as a money-making tactic, is to implicate people from poor and weaker sections of society in crimes which are committed

⁴⁵ Amnesty International (n28).

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ *ibid.*

by affluent people, who get away by bribing these policemen. A classic example of this is shown in the Tamil movie, 'The Interrogation', where the police arrest four Tamil persons in Hyderabad, for a crime they had not committed for a period over two years, solely because the police were under pressure to arrest the criminals. There was no evidence against these persons and yet they were arrested, because the theft that they had been accused of, was committed by Tamil speaking persons. These undertrials are then subject to various other forms of human rights violations so that the truth of the matter is buried.

CONCLUSION

A unique feature of the undertrial prisoners in India is that their population is double than that of the population of convicted prisoners. They account for 68 per cent of the total population of prisoners in India. These figures are drastically higher when compared to the USA, where only 21 per cent of the prison population are undertrial prisoners. The conditions of undertrial prisoners act as a mockery of the notion of "innocent until proven guilty" as given under Rule 84 of the Minimum Standard Rules for the Treatment of Prisoners⁵⁰ as these prisoners are arrested for periods longer than the maximum formal sentence that can be given for.

Almost 64 per cent of the undertrial prisoners are arrested for a period over one year and almost 20 per cent of the prisoners are arrested for more than one year⁵¹. The average time it takes for a court to decide a criminal case ranges from 2-3 years depending on the court, and on an average takes 25-35 hearings⁵². Based on this are those who are unable to furnish bail who may even end up spending almost 3 years in jail, which is the maximum sentence for certain crimes under the Indian Penal Code, 1860.

The legal and public policy responses to the undertrial problem in India are inadequate and a holistic approach to the problem of undertrials must be adopted because it is only the poor and marginalized sections of society that suffer significantly owing to the treatment meted out to undertrial prisoners. The human rights of those who can afford legal aid services and furnish bail are not infringed. It is those who cannot afford legal aid and furnish bail are rotting in jail for long periods even without conviction in the crime.

⁵⁰ Rule 84, Standard Minimum Rules for the Treatment of Prisoners, 1955.

⁵¹ Dr Sudhir Krishnaswamy, 'Freeing the Undertrial: Pre-trial detention in India' (Fair Trials, 6 October 2014)

<https://www.fairtrials.org/node/694> accessed 27 October 2019.

⁵² *ibid.*

If the overall objective of prisons is to reform the criminals and make them more "human" it is essential to ensure that they are not subjected to human right violations. We need to observe that with 33 prisoners per 1,00,000 in the Indian population has one of the lowest incarceration rates in the world⁵³, yet the conditions of the undertrials in the country are abject. If the Government is unable to protect the rights of these undertrials, then it portrays the attitude the State has towards the criminal justice system.

RECOMMENDATIONS

The first and foremost recommendation in this paper is directed towards the prison authorities. They must follow the rule of providing separate premises for undertrial prisoners by making novel institutions which would be exclusively for undertrial prisoners. This would prevent the overcrowding of prisons. If the government has logistical reasons for not creating separate institutions, like security, then the government must explore redesigning the existing prisons in a way as to have separate buildings/enclosures for undertrial prisoners.

The prison authorities must take an active role in filling the vacant positions of the staff as requested by the Supreme Court. The increase in staff would help segregate the undertrial prisoners from the convicts⁵⁴. The prison authorities must keep an electronic database containing the details of the prisoners and their trials. This would aid the prison authorities in monitoring, which undertrial needs to be produced in court, if the undertrial has been acquitted by the court or even if he is eligible to be released under Section 436A of the Criminal Procedure Code, 1973. The jail authorities must get notifications regarding the undertrial prisoners. The electronic data will help keep an accurate account of the number of prisoners in the jail and hence can be used to also prevent the overcrowding of jails, by transferring the additional prisoners to other jails.

One of the major causes for the unprecedented delay of trial of undertrial prisoners is owing to the lack of police escorts to produce the undertrial prisoners before the magistrate. This issue

⁵³ Devyani Mohan, 'Indians least criminal among world's major economies: Report' (Times of India, 27 March 2018) <https://timesofindia.indiatimes.com/india/indians-least-criminal-among-worlds-major-economies/articleshow/63440920.cms> accessed on 28 October 2019.

⁵⁴ PTI, "Overcrowding prisons a violation of human rights says Supreme Court" (The Hindu, 13 May 2018) <https://www.thehindu.com/news/national/overcrowded-prison-involves-violation-of-human-rights-says-worried-supreme-court/article23871465.ece> accessed 28 October 2019.

can be resolved by primarily setting up State-wise cells of police officers whose main duty would be to produce these undertrial prisoners in court. These police squads must also have an adequate representation of female police forces to ensure speedy trial. With the advent of technology, in states having a lesser police force, video conferencing facility to make the undertrial appear must be used effectively.

The rigid bail procedures in our country must be modified to ensure people who are accused of petty crimes and poor people can obtain bail on a personal bond. The trial courts must not unnecessarily permit delay and adjournments in the case, as in certain cases, a lengthy trial implies long periods of detention or arrest in prisons. Most undertrial prisoners in India are unaware of their rights, the procedures to be followed and their right to legal aid. The prison authorities must conduct awareness programs for the undertrial prisoners.

The States must increase the number of legal aid lawyers in every state to lower the burden on the existing legal aid lawyers. Next of, the governments must ensure that the legal aid lawyers get a pay raise, as the payments they receive for their legal services are inadequate to the services they provide. The Government must also ensure that the payments for the legal services are made timely to the lawyers. Every state must have an organized legal aid services institution. These institutions should remain in contact with the prison authorities, and the authorities must inform the institution of the number of undertrial prisoners they have and how many of them would be in need of legal aid services. The institution would coordinate accordingly and send the lawyers for their assistance.

The policemen are increasing, making the term 'cognizable offences' a synonym for the police's power to arrest, owing to the increased number of vexatious arrests in the country. Thus, the directions given by the Supreme Court in the DK Basu case⁵⁵, regarding arrest, must be strictly followed by the policemen, which would reduce the instances of vexatious arrests. Another recommendation that this paper makes towards reducing the number of vexatious arrests, is to follow the rule established by the Supreme Court of India, in the case of Rudul Shah v. State of Bihar⁵⁶. The Court ruled that the petitioner who was an undertrial prisoner could be compensated by the State for the unjust and wrongful confinement, as he had been acquitted in the case. The confinement is a violation of the personal liberty of a person under Article 21⁵⁷. This judgement must be actualized so that the undertrial victims are provided with

⁵⁵ D.K Basu v. State of West Bengal, (1997)1 SCC 416.

⁵⁶ Rudul Sah v. the State of Bihar, (1983) 4 SCC 141.

⁵⁷ *ibid.*

certain compensation for their quandaries. It will also act as a deterrent for the policemen trying to wrongfully detain the undertrial prisoners.

