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**OVER CROWDING OF PRISONS AND
NON-INSTITUTIONAL TREATMENT OF OFFENDERS**

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NON-INSTITUTIONAL TREATMENT OF OFFENDERS

Prisons are in their true essence, institutions which perform conflicting tasks of-

- a) punishment to those offending laws of the country; and
- b) providing for their rehabilitation during their stay in prisons.

This is an ideal perception of the jails as institutions reckoned by Gresham Sykes in his work "THE SOCIETY OF CAPTIVES."

In the matter of administration of jails, it has always been a mind-set of the law-enforcing agencies that physical discomfort is SINE QUA NON of imprisonment. Regard is seldom shown to the adequateness of accommodation space and other facilities for the prisoners. In fact, in most prisons in South Asia, there is acute problem of overcrowding and negation of institutional treatment required to be meted out to prisoners.

The situation in Pakistan in the matter of overcrowding of prisons is equally serious. This is borne out from in a comparative examination of figures, relating to capacity and population. The tabulation in this behalf as spelt out in the Prisons Reforms Report 1997 is set out as under:

JAILS: CAPACITY & POPULATION

	<u>No. of Jails</u>	<u>Capacity</u>	<u>Population</u>
Punjab	29	17,271	53,333
Sindh	16	8,305	15,438
NWFP	21	7,098	9,291
Baluchistan	10	1,427	2,465
N.Areas	3	125	268
Total	79	34,226	80,795

NOTE: Figures for different provinces were available on different dates - for Punjab on Oct.31, for Sindh and Northern Areas on June 30, for NWFP in December and for Baluchistan on March 31. Jails include 18 central prisons, 51 district and special jails, and nine sub jails.

	<u>Convicts</u>	<u>Undertrials</u>
Punjab	10,939	42,394
Sindh	2,120	13,318
NWFP	2,816	6,475
Balochi stan	1,015	1,450
N. Areas	15	253
Total	16,905	63,890

Thus, in Punjab under-trials exceeded the convicts by over 200%, in Sindh by over 599%,

in NWFP by around 150%, in Baluchistan by around 30%, and in Northern Areas by over 158%.

Women numbered 1,245 in the jails of Punjab, NWFP and Baluchistan for which figures were available.

	WOMEN CONVICTS	% OF TOTAL CONVICTS	UNDERTRIAL	% OF TOTAL UNDERTRIALS
Punjab	10	1%	897	2% approx.
NWFP	40	14%	169	2.6%
Baluchi stan	16	1.5%	13	Less than 1%

CONDEMNED PRISONERS:

The total number of prisoners under the sentence of death was 3,231. Their province-wise distribution was as follows:

	CONDEMNED	TOTAL CONVICTS	% OF CONDEMNED PRISONERS TO TOTAL
Punjab	3,067	10,939	28
Sindh	49	2,120	2.3
NWFP	61	2,816	2.1
Baluchistan	51	1,015	5
Northern Area	3	15	20

Needless to add, overcrowding in prisons is an international phenomenon. Pakistan is by no means an exception. The reasons, however, for the overcrowding with us could be different from many other countries. Needless to say, some factors might be common. Be that as it may, overcrowding of jails has attracted attention all over the world. It would not be wrong to say that as long as society emphasises imprisonment as a weapon against crime, it operates as a dominant factor on account of which jail population gets swelled imperceptibly.

It may be noted from the above-referred data that out of 22,140 persons convicted and admitted to prisons in Pakistan as on 31st December 1996, as many as 13,196 were those sentenced to less than six months. The sending of large number of offenders to jail to undergo short terms of imprisonment by way of punishment is the primary cause for overcrowding of jails in Pakistan. The remanding of prisoners to judicial custody pending trial and investigation is another major cause of overcrowding in jails. According to The Law Commission of Pakistan Prisons Reform Report 1998, there were 59,245 persons who had been remanded to judicial custody whereas authorised capacity happened to be only 27,000 people.

Most of the jails in Pakistan are those built to suit the population and crime rate, as it existed over 50 years ago. With the passage of time there has been a boom in population with no corresponding avenues for employment for the youth. The crime rate has gone up, largely on account of shifting of the population to the cities. Apart from raise in the crime rate, the slow and lethargic police investigation and delayed judicial process, is also attributed to the overcrowding in jails.

To counter the rise in crime rate, Government often makes special legislation to render difficult the granting of bail to the accused. Consequently, the trial process being slow, jail population starts augmenting. Of recent, the Government of Pakistan has adopted a policy that in petty offences, accused must be released on bail on their own bonds rather than sureties. Directions have been issued to Sessions Judges and Judicial Magistrates to visit jails and pass release orders on the spot on furnishing of personal bonds rather than subject to furnishing sureties. According to news report of November 12, 1999, over 2,000 prisoners were released from different jails in one day on furnishing personal bonds. This is very healthy policy and if implemented with commitment, much of the pressure on the jails can be reduced.

Removal of prison sentences for certain offences and replacing with alternative punishment would also reduce overcrowding of prisons. It has been noted with gross concern that a large number of people in jails are denied fair excess to Courts for their being not able to afford legal assistance. To meet this contingency, the Lahore High Court Bar Association has set up a Free Legal Aid Cell to provide assistance free of cost to the needy prisoners. The Inspector-General Prisons Punjab recently referred over 7000 cases and the Bar has already extended effective assistance and help in a large number of these cases. This venture of the Lahore High Court Bar, which is premier Bar Association in Pakistan, would clearly go a long way in reducing jail population.

We have already amended our Criminal Procedure Code by adding Section 382-B. As a consequence of this, the sentence awarded by the Courts to an accused gets reduced by the time spent by him in jail either during investigation or trial. If the sentencing system is further supplemented by regular system of parole, the pressure on jails could be further released. So far, in

Pakistan, we have not been able to establish non-institutional treatment of offenders. This is primarily because there is not enough emphasis in recognition of reformation to breakers of law. In our Criminal Procedure Code, a fair number of offences have been rendered as bailable. As a result, small time offenders do not have to be stuffed in prisons. This by itself is not enough to prevent overcrowding of prisons. However, if measures like probation and temporary release while serving sentence are introduced, same could be of considerable help not only in reducing pressure on the prisons but would also have healthy effects on the crime situation.

It may be of interest to note that in Islamic Penal System, it is not permissible to keep any married person away from his spouse for over four months. Only if this principle is implemented and rules are made and parameters are drawn out for implementation of Islamic policy of sentencing, it would have far-reaching effects in releasing pressure on the jails. According to the Holy Quran (5:146 Al-Quran):

"Who so repents and reforms, Allah accepts their repentance and reformation".

The idea of rehabilitation and correction is provided by all religions and social norms.