Non-Criminal Lunatics in Prisons - Twilight of Human Rights in India

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As early as 1877 the Jail Conference, held in British Raj, unanimously resolved that non-criminal lunatics should not be housed in prisons. The 1920 Committee deplored the fact that this recommendation went unheeded for forty years and urged, in words whose cogency has not been affected by the passage of time, the abolition of confinement of lunatics in prisons. It observed:

"It seems wrong in principle that civil lunatics should be exposed to the indignity of committal to jail, a procedure to which relatives or friends, if not they themselves, might reasonably object. Nor is it a jail the right place for detention of mental cases. There is no trained staff to deal with them and no proper accommodation in which to keep them. When admitted, they have to be placed in an ordinary cell and left to the care of ordinary warders. In view of the importance of early treatment in cases of mental disease, we would strongly urge that arrangements for their reception in various local hospitals of the country should, as far as possible, be made.

I am handicapped by almost total lack of information concerning the practices of confining non-criminal lunatics to jails pending civil committal. The Model Prison Manual produced by a Specialists Committee in late sixties, being a model manual, just does not descend to provide any standards for treatment of such prisoners. If only deals with convicts or undertrials who
difficult, if not impossible in most cases, especially when their numbers keep growing. Non-criminal ‘lunatics’ often lose appetite, and health. They are normally persons who are in any case under-nourished (being object of ‘abject poverty’). They become prone to various ailments. Waiting for ‘ultimate’ treatment in hospitals, they become increasingly ‘dehumanized’ in jails (Guha, 1978:1881). The expedient of providing voluntary psychiatric care in some jails of Assam seems to have ameliorated the situation somewhat.

But the overall national picture is not bright at all for victims of psychiatric disorders—Whether labelled ‘criminally’ or ‘non-criminally insane’. According to available information, India had in 1972 only thirty-eight “mental hospitals” with a total bed capacity of 12,168. The actual admisions have been rising progressively since 1951: the estimate for 1972 was 24,342 (Statistical Abstract, 1975: 386).

Lest anyone be optimistic concerning planned expansion of psychiatric care facilities in India, we might recall the sobering statistics: the number of mental hospitals was 30 in 1951. The increase is of 7 hospitals in exactly twenty years.

As against this, the number of people treated in all public hospitals for psychiatric disorders shows a very high increase (see Statistical Abstract, 1975: 568-73). The Federation for the Welfare for the Mentally Handicapped has estimated on the eve of a National Day for mentally ‘handicapped’ that there are nearly twenty million such people in the country. Rehabilitative facilities of any kind existed only for one per cent of this vast group (The Times of India, December 8, 1978 p. 3, Col.5).

Given this state of affairs, the problems of mental health of the ‘non-criminal lunatics’ will continue to be a low priority aspect of national and regional mental health programmes. Much the same must be said about ‘criminal lunatics’ for which, even the new Criminal Procedure Code, 1973, does not mark much of a new departure (even in terms of nomenclature! Under Section 390, Magistrates have discretionary powers to release or confine in ‘safe custody’ any accused person who is of ‘unsound mind’ at the stage of inquiry or trial. The Magistrates have limited powers of committal to jail such persons of unsound mind: who should not be granted bail or who could not offer “sufficient security”. While no empirical studies are available on this aspect, some suspect that psychiatrically ill under-trials may form a not too insubstantial segment or the vast undertrial population. Prison Manuals provide for the additional category of convicts who become ‘insane’.

It is noteworthy that apart from a general reference to prisoners, who are “out of health in mind or body”, in Section 37 of the Prisons Act, 1894, there is nowhere in the Act any code of treatment of mentally ‘handicapped’ that there are nearly twenty million such people in the country. Rehabilitation facilities of any kind existed only for one per cent of this vast group (The Times of India, December 8, 1978 p. 3, Col.5).

All in all, the position remains that as regards non-criminal ‘lunatics’, the British Raj’s Jail Conference’s unanimous recommendation, made in 1877, remains, after a lapse of a century, unimplemented. During this century India has incidentally become independent and has even seen a second ‘resurrection’ of “democracy” and the “rule of law”. Yet, psychiatrically ill citizens of India, from poorer sections of society, remain incarcerated for indefinite periods without even being accused, let alone convicted, of any crime. Their plight continues to be the twilight of human rights in India.

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A retired jail official, C. C. Chakraborty (pseudonym: Joarasandho) has written in *The Prisoners*, a book which has won Sahitya Academy Award and has been translated into four Indian languages:

Every jail has one or more insane people in its custody. The provisions of the law concerning them are as complicated as their conduct is strange. They are placed in two categories. In every jail notices are to be seen beside cell doors: non-criminal lunatic. Such a notice means that the occupant has not committed any act that is classified as a crime. His only offence is his behavior. Such people have been sent because of their eccentric behavior. I have never been able to discover why this provision should not be applied to everybody, including you and me. *Who is not a non-criminal lunatic?* Of course it can be argued that everybody cannot be accommodated in jail. The police collect a few samples and send them in. *For them there is no salvation.* They sit in their cells until their minds are completely gone. Then they are sent to Ranchi. (1974: 132; emphasis added)

Seema Guha has pointed out that, though since 1962 'sick people have bypassed the jails and have been admitted directly to mental hospitals 'by and large, the very poor continue to enter hospital via jails'. In her study of Guwahati Jail, she has pointed to some heartrending facts which the bleeding civil libertarians of India ought to note. The circumstances are somewhat distinctive in that there is one mental hospital at Tezpur (which has recently celebrated its centenary) which caters to patients from Assam, Meghalaya, Manipur, Mizoram, Nagaland and Arunachal. The hospital (which has only one psychiatrist, three other doctors, two pharmacists, one therapist, seven staff nurses, and one hundred and thirty-seven keepers, has an authorised capacity of 1,000 patients, of whom 48% are "permanent" inmates since they have not responded to such "treatment" as is available for one whole year (32% patients have been inmates for ten years and more.) The following table highlights the state of affairs:

<table>
<thead>
<tr>
<th>Period</th>
<th>Number of Seats Available at Tezpur Hospital</th>
<th>Number of Jailed 'Lunatics' Awaiting Admission in the Hospital</th>
<th>Sexwise Classification:</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 1978</td>
<td>55</td>
<td>436</td>
<td>Males: 323 Females: 113</td>
</tr>
<tr>
<td>July 1978</td>
<td>65</td>
<td>467</td>
<td>Males: 354 Females: 113</td>
</tr>
<tr>
<td>August 1978</td>
<td>65</td>
<td>462</td>
<td>Males: 356 Females: 105</td>
</tr>
<tr>
<td>September 1978</td>
<td>80</td>
<td>456</td>
<td>Males: 351 Females: 105</td>
</tr>
</tbody>
</table>

We derive a 'score' of 265 seats in hospitals for four months against 1821 non-criminal lunatic needing psychiatric committal. How do the prison hospital establish any sensible priorities in committal process? Obviously, the seniority rule is handy—"People who have remained longest in the jail' get the first opportunity for hospitalization (barring exceptionally severe cases). Guha calculates that 'as a rule lunatics spend from 6–8 months in a prison before being transferred to a hospital' (Ib. 1981).

Non-criminal lunatics pose additional burdens on the already overworked and ill-paid prison administrators. As Joarasandho points out, there is a tendency for senior administrators to assign such matters to junior ones. ("Juniors seek to such things": p. 132). Administrators, whether senior or junior, cruel or benign, do not regard (understandably) non-criminal lunatics as their responsibility as they normally "fall within the purview of the Deputy Commissioners". Segregation of non-criminal lunatic prisoners is very