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Tihar Project: Some Early Reflection (August)
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Suicide and the Law in India
Tihar Project: Some Early Reflections

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They sat on the lawns and we started talking to them one by one. All of a sudden I saw everybody around us rising. For a split second I was puzzled! Then I realized that the famous song “Aai Malik Tere Bande Hum” from “Do Ankhon Barah Hath” was being played on the public address system. “It is their evening prayer!” I realized. And I was impressed! not by their discipline but by their devotion.

The inmates--whom we were talking to--had gathered in response to our announcement calling those under-trials who had been in the prison for more than 4 years. And as student members of Tihar project, we were sitting at the “chakker” of Jail No.4 which is a central point in the Jail, close to the library and the public address system.

The Tihar Project--as the Tihar Jail Legal Service Programme is nic-named--was conceived and initiated in collaboration with “Prayas”--a Bombay based social service organisation. Prayas wanted us to help them in their project relating to women prisoners lodged in Tihar Jail. Our teacher had hesitantly asked some students to volunteer. The response was resounding! And so we expanded our scope from women cell to all the jails of Tihar. A successful beginning indeed.

On the first visit we had a very inspiring audience with the then I.G. (Prisons) Dr (Mrs) Kiran Bedi. True to her attitude she said--“Hangama kar dijae”. But publicity was not what we were looking for. Important to us was that our intervention could get justice to some. And this needed committed perseverance rather than publicity.

At the outset we were advised to use the words inmates instead of prisoners. This small piece of advice was a welcome prologue to the sight of “ashramization” of jails we were to be exposed to. We were shown the “Vipasana” ward, where inmates are taught meditation. One wonders who needs this most. The innocent under-trials--victims of the police excesses--or the police itself. The inmates or the apathetic jail system. Vipasha for the inmates. Why? To purge the criminality out? But is really an under-trial a criminal? He might well be innocent. He is justified to ridicule the instructions on peace of mind when 24 hours a day he is bothered about procuring the bread for his poor family; to beat death out of starvation. But we must take the words of Dr. Kiran Bedi if she says, may be they need it. Then the question arises, is spiritual upliftment not need of every person in today’s world?

At this initial stage of familiarization we went around the prison and met the inmates. This positioned us better to appreciate the needs of the inmates and at the same time tested our commitment to continue in face of the odds.

Somewhere through this familiarization I learnt that convicts serving sentences wore white uniforms--Kurta Pyjama and Keds. Only then I was able to grasp the enormity of the problem—or shall I say tragedy—that had taken us there. The white-uniformed were comparatively so few that they virtually had to be spotted. Apart from the high walls and the security posts one could easily mistake the jails for any common locality in the evening. So many are the undertrials. And most are condemned, to be there, only by their poverty. Chetina Bisht was in the prison because she had a bail order of Rs 10,000/-. Her offence--cheating to the extent of Rs 100! Another inmate awaits release on bail because he cannot furnish a Rs 10,000/- bond for a theft of Rs 52/- he is charged with. A friend innocently
asked—"if he stole Rs 52/- where from could he get Rs 10,000/- bond." "He must steal again!"—was a cynical answer he got.

After four days of this familiarization and pilot survey we identified our target beneficiaries--those detained in the prison--both as undertrial and convicts--for petty offences. Equally disturbing was the plight of those who were booked under the NDPS Act and TADA (now repealed); but for now we have had to put these cases aside.

Two categories of aid were identified. One, strictly legal, and, second, para-legal. The former involved moving bail petitions on behalf of inmates identified as beneficiaries. Or at times getting their bail conditions relaxed. We were able to make some success in this direction.

There was a mason from Bihar. He worked at Shimla where his brother was a contractor. On one of his trips home he was drugged and looted. In a semi-conscious state he was arrested and booked under Section 109 CrPC. This is a preventive provision empowering the magistrates to take action against lurking strangers. This helpless person was unable to inform his brother in Shimla about his detention in Delhi to procure his release. He requested us to do the same. We contacted his brother through a letter and now he is no more in the prison. This was the kind of aid envisaged in the para-legal work.

But many were not lucky enough to have such an understanding family. In few cases we had to persuade family members to reown the disowned. And this was really tough!

Many a times we had to convince the inmate to inform the family. The fear of taboo looming large on their psyche had to be dispelled, here our persuasive skills were tested often we succeeded.

A young lady was involved in a petty case of cheating (of an amount of Rs. 100/-). Her bail was ordered at Rs. 10,000/- surety. The complainant was an auto-rickshaw driver staying at Suraj Kund (Haryana). We visited him 4 times to try and hammer out a compromise. We couldn't make the complainant withdraw due to his fear of subsequent police harassment. We realised that trial of compoundable offences has another area of para-legal work. Chetina Bisht case was followed up in the court and the Hon'ble High Court reduced the bail amount to Rs. 2,000/-. And since surety was a problem the order dispensed with the surety and a cash deposit of Rs. 2,000/- saw Chetina released on bail.

One of our important para-legal work area concerned convincing the possible sureties that they would be held liable only financially if the accused defaulted. For most people don't come forward to give sureties only out of the fear that in an event of the default of the accused they would be jailed.

Another successful case of our project is that of Prem Devi. Much was written about the case by the press (Indian Express ....). Prem Devi's husband died of burn injuries and she was charged with for murdering him. Actually, his Lungi had caught fire while he was cooking food. Nobody believed Prem Devi and she was in jail for quite sometime. There was nobody to support her statement as her children were minor and were not present at the time of the accident. Prem Devi did not have the required surety for her bail. One of us went to the hospital and were able to get the recorded statement given by the deceased husband to a doctor that his lungi had caught fire. This fact--a dying declaration--was nowhere mentioned in the police charge-sheet. Then we moved the courts and got a liberal bail order of Rs. 5000/-. Even this was difficult for Prem Devi to manage. And Sabia, one of our volunteers had to really try hard to find a willing surety. But finally Prem Devi was reunited with her children.

Few students like Sabia, Taran, Ajay, Sikander, etc., have stood apart. They personal-
Iy appeared before the magistrates. And in most occasions the responses from the magistrates varied from encouraging to inspiring. In all cases we were given a very sympathetic hearing.

The road to success was full of thorns. We did face problems. First of all, the inmates looked at us disbelievingly. There have been many occasions when social service organisations have come, gathered information, gave false hopes and then disappeared. Though the new inmates were forthcoming the old inmates dismissed us as one of the sundry groups which brought them no relief. They saw us as “the researchers” who have come to collect their datas, listen to their miseries and problems and then disappear.

The new inmates were afraid. They would nag you to inform their relations or to get them released. They almost broke down. This gave us a good opportunity to establish trust. We contacted the families of many and wrote letters. We gained some credibility with our regular visits, constant para-legal work and dozens of bails. We are now a trusted lot.

Our second problem was that we looked young! Too young to handle these cases we sought to pursue. This point was vigorously raised by the DIG Prisons at the initial stages. And an apt reply came from our teacher Prof. Pande—“They don’t look young, they are young. And if all the older lot were doing their jobs properly these students might as well not have been here. Their inexperience should not count much; it is their enthusiasm and determination that should.” So we decided to and were guided and allowed to proceed with the work we had planned.

There are operational problems too. The message that we are really working must have gone down. For the number of inmates responding to our announcements is more than we can cope with. On each of our visits we unwillingly have to send many inmates disappointed which left us uncomfortable. So one of the methods we conceived was targeting. We requested the jail authorities to give us a list of all the undertrials with their offences and FIR numbers listed against their name. We proposed to select the persons—we thought—would be given priority in providing legal aid. Most of the jails provided that though with not so encouraging statements. One of the Superintendents told us that their experience was that the list wouldn’t be of much help as even they had been trying to put these database to use. We don’t entirely disagree. But from the list of Jail No. 4 we picked up the name of Ravinder Yadav, who had been in prison for more than seven years for an alleged role of an informant in a dacoity. Many more cases were shortlisted and pursued. But Ravinder’s case alone justified and repaid the entire effort that was put in the exercise. This more so, if it is kept in mind that the Jail authorities have been diligently reporting such cases to the Hon’ble High Courts under the Court’s directions in *Sankara vs. State*.

But the fact remains that we are overflooded with requests, and are unable to entertain most of them. In each visit we are in a position to pick not more than 30-40 cases for initial scrutiny. There remains the risk apathy growing among the inmates towards us. We can’t allow situation to drift to a state when most inmates say that “well! I have seen them thrice, they haven’t heard me.”

Problems there are and many more will present themselves, but we are not worried. We are ready to face them as they come; for the results our efforts have shown and the encouragement the jail authorities have given and the appreciation we have got from the courts and our colleagues are fuel enough to keep our commitment continuing.

But what has actually glued our attention on this project is the immense human tragedy that we saw, what has fixed our eyes on Tihar is the helpless yet hopeful eyes of those whom we meet; And what has rivetted our soul to the cause.
is the soul-lessness of legal process to which we were sensitised. This could have been a sufficient answer to a point made by a participant in the workshop on Tihar project (the 1st of the many which have since followed).

Sometime in the workshop on Tihar Jail project a member from the audience made a point. He said that looking at the progress he felt the project needed streamlining. I had a strong impulse to stand up and ask whether he meant that we had achieved so little. But the necessity of maintaining decorum restrained me. However, the thought haunted me. "What all have we achieved?" I put the question to myself. Suddenly I felt myself agreeing with the person. We could count the cases we had actually helped reach their logical conclusion (as we saw it) on our fingers. I was disturbed for a moment. But then immediately my thought went to what the Director of our programme had said while announcing the date we were to suspend our project for exams. He had fixed an achievement target of 2 cases before April 6. On insistence from students this was raised to 5. Once this came to my mind I could console myself that well we were 'killed' our target with over two dozens bails. But this was barely a consolation. I was still uneasy. And this uneasiness forced me to reflect upon the gains of our endeavour.

I feel our project has achieved this in two ways--most volunteers confessed they had joined merely out of inquisitiveness. So, in the first instance, this curiosity was converted into commitment--a socially relevant one. Secondly this commitment and enthusiasm--more than what can be termed "concrete achievement"--inspired fellow students to join this project. Unfortunately our project could not accommodate more; but the response to other cells under legal aid clinic is a direct result.

A common grievance of the inmates we met was regarding dates. They said that for 6 or 7 hearings in a row their cases have not made progress because on each date they simply appeared and a subsequent date was put on their challans'. This was a shocking experience for us.

On the bail hearing of Ram Naresh, we reached the court at 11 a.m. His bail plea on the basis of the order of the Hon'ble High Court in Sankara vs. State had to be decided. The matter was listed at No. 13. Matter No. 7 was being heard. We thought aloud that the matter might come up before lunch. Someone asked us as to how were we interested in the case. We explained. Then having known that we had come for a matter concerning a Tihar Jail inmate he said--"not before 4 p.m." We were taken aback. But we said nothing thinking he is one like us and must be just harbouring a guess. But we were wrong.

Around 4 p.m. around 5-6 Tihar inmates were brought to the court. Ram Naresh was one of them. And the court clerk started giving dates on each challan. It was this event which made us realise the reason for this "date problem." Actually the cases are not heard in strict order of the list. Still we do not know why but the whole batch of 5 or 6 inmates was brought to the court at 4 P.M. when the sitting judge can do little else than give a date. On our special request Ram Naresh's case was considered and his bail bond sent for bailee's address verification from the judge's chamber.

A real and first hand understanding of a much talked about problem was the result of our day's effort. Could we, or for that matter anybody, have understood this problem vis-a-vis the inmates without having been involved in such an endeavour? Obviously not! But this is not the achievement I am talking of. The real breakthrough lies in the beginning of our search for a solution to such problems. We know that the courts are overburdened. But why should the inmates suffer alone. Why can't there be a hear-
ing strictly in the order of the listing as in superi-
or courts? Here we have been able to appreci-
ate the problem that confronts us. This is no
mean achievement. This is an aspect we will
now be looking into.

In very early stages of the programme we
realised that none of us had very kind words for
the lawyers especially the ones provided by gov-
ernment to the accused. The trend continues.
On the face of it, this might look as the very
familiar rebellious mood of the youth against the
system. But there is something deeper attached
to it. Are not these resentments with the state of
affairs and so close encounter with miseries of
the inmates going to work as antidotes? Antidotes
against the apathy which has overwhelmed
the present lot of the legal profession? True, to
some extent this sympathy is likely to wane with
the replacement of youthful idealism with "pro-
fessional" pragmatism. Yet, the least that would
be achieved is a sub-conscious responsibility in-
culcated in our minds against this irresponsibility
we see in the system. And with this kind of atti-
dudinal adjustments in us we are confident that
we have won half the war we are fighting.

Prof. P.K. Tripathi said, "lawyers do not
have time to reflect"--we while doing some cas-
es stumbled upon certain anomalies in law which
are quite often missed. Perhaps this would in-
culcate in us a habit of reflection while we prac-
tice--a habit of questioning the norm and a habit
of looking for innovative solutions. And a habit
of finding time to reflect rather than merely de-
fect the problem that confronts us.

This temperament--of having the audacity
to confidently question something by which oth-
ers abide--does not come simply. It has to be
inculcated through various activities. Succeed-
ing and sometimes failing. The project gave us
a stage to work. The small successes gave enor-
mous excitement; And failure passed with the
pace. Imagine an LL.B. Ist year student appear-
ing before an additional sessions judge with a
bail petition! Even informally, could I have ever
dreamt of the feat? No. It didn't bother us much
that we were not officially allowed access to ju-
dicial files as the advocates. The magistrates
were indulgent enough to allow us to inspect the
file sitting next to the accused (the order of in-
spection being for him). We ran at least a year
ahead in our professional training.

Then we saw -- and possibly learnt -- leader-
ership skills operating at their best. We saw the
inception and growth of a movement. From the
fluidity of a simple stream to that of a more
viscous and coherent flow. Outsiders could val-
idly have criticised us for ad-hoc-ism but we could
feel that for a movement of this nature individual
participants need to be given space to operate.
Social realities and situations are myriad. So, for
an effective intervention they need to be ob-
erved from different eyes. And each perspec-
tive has to be assimilated into another. Each
participant has to contribute his bit through ideas
and analysis. If at all one needs to call such an
attitude ad-hoc-ism, this ad-hoc-ism taught us
the art of being constantly critical, and
constructively so, to what was being done. This
 taught us the skill of recognising the importance
of each experience. We lived the experience of
making an ocean out of small drops. And this
gives us a very sweet taste.

These apart, the goodwill such an
endeavour created for our institution was in-it-
self invaluable. Are these mere achievements?
The project has achieved much more than what
could have been expected of it. Both at the mi-
cro and macro levels.

As students we only get a theoretical view
of a system we are to become a part of a hypo-
ethetical perception of a live environment we are
so close to. And we are able to feel the system
only when we become a part of it. Then, we
acquire a stake in the system. We can no longer
remain unbiased enough to gather a fair picture.