CHAPTER VII
CONCLUSIONS AND SUGGESTIONS

7.1 Conclusions

The issue of delay in trial of undertrials is a cause of worry because a plethora of undertrials has been languishing in jails without trial not in Punjab but throughout the India. Unfortunately, nothing much seems to have changed even during the intervening of governments and various functionaries of law and justice for decades and more. In reality a huge majority of these under-trial prisoners are poor. They are denied bail for want of monetary security and trials take years. Often, they have no lawyers, live in pathetic conditions, do not have access to adequate medical care, and are likely to be tortured or exploited.

The functionaries of the Criminal Justice like police, investigating agency, prosecution agency, defense lawyers and prison department of the Punjab as well as the judiciary contribute in different ways for the lingering trials of undertrials. A critical analysis of key role of the police, prosecution agency, defense lawyers and prison department of the Punjab as well as working and implementation of Camp Courts, Lok Adalat, Free Legal Aid Cells, and the aspect of Plea Bargaining has been evaluated in the specific way of their application in the present empirical study.1

7.1.1 Overpopulated Punjab Jails

Prison population over the years reveals a continuous gradation in the population of undertrials in the Punjab. The study unveils that among the eight Central jails, Amritsar jail has been observed as the most over populated Central jail with 228.79% population till the end of year 2014, followed by Gurdaspur Central jail with 168.93%, Patiala Central jail with 147.53%, with 143.12% Ferozepur Central jail, 121.97% Jalandhar Model Jail and 117.01% Bathinda Central jail as on 31/12/2014. The prison population in these Central jails as well as throughout Punjab jails (including District and Sub jails) is overflowing than their actual capacity and thus, emerged as a stumbling block in the way of prison management as well as prison administration itself.

---
1 Empirical study has been conducted from the years 2011 to 2014 from Central and District jails of Amritsar, Gurdaspur, Jalandhar, and Kapurthala and the respective District courts of the same.
7.1.2 Maximum Security Jails

The jails under the empirical study i.e. Amritsar, Gurdaspur, Jalandhar are the maximum security jails. Among these, Gurdaspur jail has been converted from district jail to the Central jail with medium security jail in last three to four years. Before this, it too was a minimum security jail. Besides Kapurthala jail is a District jail with minimum security that has been merged later during the study, with New Model jail, Jalandhar at Kapurthala byepass road by the end of year 2012. Prison population has been cut down in comparison to last years in these jails and all the Central jails of Punjab only by increasing the authorized capacity of jail inmates in these jails with each passing years. The authorized capacity has been revised in all other jails besides Gurdaspur and Ludhiana Central jails during last two to three years.

7.1.3 New Model Jail Jalandhar and its Staff

Jalandhar Central jail has been converted into ‘New Model Jail Jalandhar’ at Jalandhar-Kapurthala byepass in 2011 and that is only after transforming this jail into New Model jail that the huge ratio of overpopulation of jails could be evacuated by end of the year 2011-2012. Some other new District jails have been formed during last 2-3 years to increase the Punjab jails’ capacity in order to meet the rising trends of prison population in Punjab.

As the Jalandhar Central Jail is located at the outer area of Kapurthala that is too far away from the main bypass to Kapurthala (5-6 km apex). Even to reach the jail from the main road and going outside from the jail to the main road, they used the vehicles of jail department. Further, in hurry of making the jail building due to the political pressures, the rudiments concerning the welfare and the living of prison staff have been put at stake. No basic amenities of proper food (in the lack of market), accommodation, hygienic living and sewerage system etc. have been provided in those quarters, and thus, became precarious for living in those quarters for the jail staff as per information gathered till the submission of thesis. Jail staff strength is very small in number than the actual required staff since the transforming of Jalandhar jail to the New Model Jail whereas it should be the first and the foremost acme of the jail administration.
7.1.4 Ratio of Undertrials over Convicts

Undertrials in Punjab jails are high in number than the convicts in these jails. In 2009, undertrials in Punjab jails were 94.65% while convicts were having 52.82% ratio. In 2010, the ratio of undertrials was 91.61% than the convicts’ ratio of 54.59%. In 2011, their ratio was reduced to 56.16% while the convicts were constituted 40.55% of prison population. The undertrial population has been increased in 2012 to 64.39% in comparison to 34.12% of convicts’ ratio in 2012. Undertrials in Punjab jails were having 68.61% ratio comparatively the convicts’ ratio of 31.38% in the year 2013. The ratio of Undertrials was at the highest proportion i.e. 68.33% than the Convicts ratio of 37.23% in the year 2014. In fact, this is not the situation in Punjab Jails only, but this is the situation of all the jails throughout India.

7.1.4.1 Undertrials under Different Time Periods of Detention

Undertrials from Amritsar, Gurdaspur, Jalandhar Central jails and the Kapurthala District jail have been scrutinized under various aspects. As far as undertrials under different time period of detention are concerned, the study reveals that maximum undertrials have been detained up to 3 months of time period of detention. After that 6-12 months of time period, then 3-6 months, 1-2 years, 2-3 years, 3-5 years and above five years periods respectively. Maximum number of undertrials upto 3 months have detained in Amritsar Central jail including both males(32%) and females(29%) and under 6-12 months, (23.02%) males and (26%) females. In Jalandhar Central jail, maximum male undertrials (23.57%) and female undertrials (18.96%) were detained upto 3 months of period; under 6-12 months (26.42%) males and (13.79%) female were detained among the four selected jails. Male undertrials above 5 years have been detained maximum in number in Gurdaspur (2.01%), followed by Jalandhar Central Jail (1.30%) and Amritsar Central; jail (0.48%) respectively. No female undertrial was there in these jails under above 5 years of time period.

7.1.4.2 Undertrials under Different Age Groups

Whereas undertrials under different age groups are concerned, study discloses that there was no male and female undertrial under 16 years and above to below 18 years of age.

---

2  As given in detail in Table 5.7(b) of Chapter V of the present study.
group; While under 18-30 years of age group, maximum male undertrials 95.04% and 4.95% female Undertrials are detained. After that male constituted 92.03% and female undertrials with 7.96% ratio under 30-50 years of age group, among the total number of Undertrials’ population. Lowest undertrials are detained under 50 years and above, i.e. 94.53% male and 5.46% female undertrials in the selected four jails. In case of female undertrials, maximum female undertrials (7.96%) detained in these jails under different crimes were of 30 to 50 years of age group, then (5.46%) female undertrials are of 50 years and above age group and 4.95% of them are found of 18 to 30 years of age group.

7.1.4.3 Undertrials under Different Crimes

Among undertrials detained under different crimes of (Indian Penal Code) IPC and (Local and Special Act) SLL, maximum male undertrials detained under murder cases are 18.30%, then 6.72% in Theft u/s 378-382, 6.30% in Counterfeiting, 6.13% in Attempt to murder, 4.37% in Culpable Homicide not amounting to murder, 3.80% in Rape cases, 3.09% in Burglary and Cheating both, 2.35% in Dowry cases, 2.29% in Dacoity cases, 1.99% in other IPC Crimes. Whereas maximum male undertrials under various SLL crimes are detained under Arms Act with 15.02%, after that with 5.05% under NDPS Act, 3.39% in Gambling, 2.55% in Immoral Trafficking, 1.36% in Dowry Prohibition Act, 1.07% in Excise Act as well as in Prevention of Corruption Act, 0.47% under Indian Passport Act, 0.26% in Indian Railways, 0.05% in Registration of Foreign Exchange Act and 0% in other SLL crimes.

Maximum female undertrials are involved under IPC crimes with 17.19% in Counterfeiting cases, then 10.85% under the crime of Murder u/s 302, 6.78% in Theft u/s 379-382, 6.33% in Cheating u/s 417-419, 5.88% in Rape u/s 376, 4.97% in Culpable Homicide not amounting to murder as well as robbery cases, 4.52% in Burglary and Criminal Breach of Trust, 2.26% in Attempt to murder u/s 307, 1.80% in Kidnapping & abduction, Dacoity, Arson as well as Cruelty by Husband, 1.35% in Dowry Death cases, 0.90% in other IPC and 0% under crime of Preparation & Assembly. It has been observed that female undertrials usually get involved u/s 379, s. 411, under Excise Act for Illicit Liquor in Punjab State. The maximum female undertrials under SLL crimes

---

3 As given in Figure 5.9(a) and 5.10(a) of Chapter V of the present study.
are detained under Arms Act with 11.31%, 3.16% in NDPS Act, 1.80% in Gambling and Excise Act, 1.35% in Dowry Prohibition Act, 0.90% in Immoral Trafficking, 0.45% in Indian Railways, Indian Passport Act and Registration of Foreign Exchange Act and 0% in Prevention of Corruption Act and Other SLL Crimes.\footnote{As given in Figure 5.9(b) and 5.10(b) of Chapter V of the present study.}

Female undertrials are detained in Murder cases mostly in Amritsar, Jalandhar jails. Whereas, the male undertrials in Gurdaspur and Kapurthala jails are usually detained under Motor Vehicle Cases, petty crimes such as theft, drugs, narcotics (liquor), abusing, Eve-teasing, physical assault, etc.

Empirical study of four selected jails\footnote{Empirical study has been conducted from the years 2011 to 2014 from Central and District jails of Amritsar, Gurdaspur, Jalandhar, and Kapurthala and the respective District courts of the same.} concludes that more than half of the population of prisoners comprises of undertrials. On account of high trends of unpredictable population in Punjab jails in last years and status of undertrials under different aspects in selected Punjab jails it has been analysed that ample ratio of these detainees has been debilitating and almost subverting the Prison Administration as well as Prison Management in the Punjab.

\section*{7.1.5 Shortage of Prison Staff}

Punjab prison administration is reeling with the problem of lack of jail staff. Shortage among Punjab prison personnel and ancillary staff is in the posts of Medical Officers & Pharmacists at the top with (100%) each, Deputy Superintendent \textit{Grade II} at second position with (66.66%), followed by \textit{Laangri} (59.37%), Accountant/Senior Assistant 40.74%, Matrons 40.42%, Superintendent 40%, Clerk/Junior Assistant 37.58%, Warders 37.21%, Assistant Superintendent 36.03% and Servant/\textit{Sewadar} 33.33%.

Besides this, the required ratio is also less, relating to the posts of Deputy Superintendent Grade I with 30%, Head Warders with 17.53%, Office Superintendent and \textit{Gard Kuli} each with 12.5%, \textit{Safaii Sewadar} with 10.29% shortage in their posts as well. However the posts of Head Matrons are fully filled.\footnote{As per statistics collected from Punjab Prison HeadQuarter, Chandigarh, Punjab, on 01/02/2014.} In addition, all the four jails do not have the required police escort for taking the undertrials and other prisoners for their case hearings in the courts.
As the study conducted by the researcher, it reveals that after the year 1992, no jail staff has been recruited in Gurdaspur Central jail; same is the situation of Amritsar, Jalandhar and Kapurthala jails. Only three warders have been recruited in last nineteen to twenty years in Gurdaspur jail that too only on compassionate grounds. The years have been passed away in waiting for any recruitment in jail staff of these prisons. No security cells, no lady staff is available in Gurdaspur and Jalandhar jails. In Amritsar jail, although female staff is there but it is too short in number that it does not meet the requirements of prison management. Further, recruitments in prison staff of Punjab have been made on compassionate grounds usually and that is the reason that Punjab prison staff has been coping with less educated and incapable prison personnel and staff as well in these jails.

7.1.6 Lack of Training among Prison Staff

Prison personnel in four selected jails do not have the technical skills i.e operating a computer and maintaining the prison record through technical ways. Prison staff used to keep the record of prisoners on registers besides the computers. Most of the technical jobs and ancillary jobs i.e. use of computers, printers or management of prison records through computers etc. are done by the convicts or undertrials in these jails who have the basic know-how to run the computers or who are literate to secondary/graduation/masters level. Many other technical and mechanical jobs are also done by such prisoners in the lack of prison staff. Insensitive and indifference attitude among jail personnel is due to lack of education, proper training and adequate facilities in Punjab jail administration.

7.1.7 Lack of Infrastructure in Punjab Jails

All the same, lack of infrastructure is also finds out in these jails. The researcher finds merely a single computer with printer in Amritsar, Jalandhar and Kapurthala jails whilst in Gurdaspur Central jail, not even a single computer was there. These jails didn’t have the proper electricity, infrastructure facilities, healthy and hygienic environment and other facilities. No De-addiction centre is there in Jalandhar, Gurdaspur and Kapurthala jails. No post prison assistance programmes have been found out to facilitate the social reintegration of people undergone prisons in any of the jail as per the present study.
Indifference, insensitive behavior of jail staff was also been noticeable. “No reforms can bring to Punjab jails until and unless the character of an old jailor becomes dead within today’s jailor”. Researcher observes that the name ‘Sudhar Ghar’ given to Punjab jails is only for saying, it will be more appropriate to call them as ‘pre-mental’ or ‘pre-addiction centers’ or ‘breeding grounds of crimes’.

Thus, though in India it is the subordinate judiciary that is assigned the primary task of ensuring the enforcement of the provisions under CrPC, but prison authorities and prison monitors also have a significant role to play to ensure justice to undertrial prisoners. The custody and security of prisons and prisoners within it are the fundamental duties and responsibilities of every member of the prison staff.

### 7.1.8 Need of Speedy Trial of Undertrials

Undertrials are the detainees who presumed to be innocent in the ‘eye of the law’. They constitute a sizeable portion of prison population that can be reduced by speedy trials and liberalization of bail provisions. The undertrial prisoners are detenues put in prisons mainly under non-bailable offences and persons are unable to produce sufficient sureties in cases of bailable offences. It is the result of an arrest for an alleged offence not followed by grant of bail. Sometimes they are denied justice for a long stretch of time. In certain cases they have to live in prison for a longer period than the period of imprisonment which would be awarded to them if they were found guilty.

One of the major reasons for high pendency of cases in courts are prolonged litigation caused by lengthy procedures. If timely justice is not provided to the sufferers it loses its importance and destroys the essence of basic human rights. A procedure which does not provide trial and disposal within a reasonable period cannot said to be ‘just, fair and reasonable’. Speedy trial is the essence of Criminal Justice and there is no doubt that delays in trial itself is a ‘denial of justice’.

### 7.1.9 Backlog of Cases in Punjab Courts

Rising backlog in courts is creating a huge problem, which is threatening the rule of law. It is often been a debatable issue that Indian judiciary would need centuries to clear the backlog of cases in the country. Massive backlog of cases in Judicial Courts is one
of the reasons for delay in disposal of cases. Nevertheless, the backlog of number of
criminal cases is much higher than the number of civil cases in these courts. The
average pendency rate of two different quarterly periods of a year is maximum in
Amritsar district courts with 85.11%, followed by the Jalandhar district courts with an
average of 81.41%, Kapurthala district courts with 69.17% and Gurdaspur district
courts with 35.06% quarterly average.7

7.1.9.1 Institution Rate is higher than the Disposal Rate

Study reveals that disposal rate of four district courts i.e. Amritsar, Gurdaspur, Jalandhar
and Kapurthala is comparatively high in Appellate courts than the Subordinate courts of
these four courts. Average disposal rate of Criminal cases is high in Appellate courts
(37.24%) of the selected four courts than the disposal rate of Subordinate courts
(30.02%). In the similar way, the disposal rate of civil cases is higher in Appellate
courts (31.19%) than the disposal rate of Subordinate courts (21.18%) of these four
courts.

7.1.9.2 High Rate of Pendency and Institution of Undertrials’ Cases

It has been observed that in Amritsar, Gurdaspur, Jalandhar and Kapurthala district
courts, the average percentage of adjourned cases of Undertrials was at the highest ratio
of 93.30% that was followed by the percentage of instituted cases of undertrials with
20.96% in all the four courts. The percentage of cases in which undertrials got released
held third position in Amritsar and Jalandhar district courts only with 9.00%. Fourth
was the acquittal rate of undertrials in these courts that was 6.82% and last come the
rate of conviction that was 4.70% in these four courts in the given time period.8 As per
the growth rate of number of cases in Punjab courts, it has been found out that the
institution rate is increasing but the disposal rate is not moving from its point of growth.
The main cause for this situation is shortage of judges at the Subordinate level.

---

7 As per data collected from the statistics rooms of Amritsar, Gurdaspur, Jalandhar and Kapurthala
District Courts under study for the quarterly period of April 30 to June 30 (2nd quarter) and October 31
to December 31 (4th quarter) of a year.

8 As per data collected from the statistics rooms of the selected four District Courts under study for the
quarterly period of April 30 to June 30 (2nd quarter) and October 31 to December 31 (4th quarter) of a
year.
Judgment writers too in Punjab courts are suffering with workload of writing the excessive judgments. Most of the courts have only one judgment writer due to the shortage of staff. The high number of institution, disposal, transfer and pendency in the Punjab courts causes delay in the disposal of cases and thus, increasing workload on judicial officers.

7.1.10 Average Delay in Trial Cases

Study unfolds that on average 34 hearings and 2.6 years period has been taken to decide a case after framing the charges when accused was in custody. In murder and other heinous cases, it takes 39 hearings and 3 years period to complete the trial. The period of trial will further increase if one leaves the cases being tried in the fast track courts. Similarly NDPS cases are decided in 35 hearings and 2.9 years delay despite the fact that special courts have been constituted to deal with these cases. Cases related with crime against women take average of 31 hearings and 1.9 years to complete the trial. In this category, cases of dowry death, rape and marital cruelty have been included. In local and special cases, trials are completed in 1.9 years and after 28 hearings. It implied that an undertrial inmate has to wait for average 2.6 years to get the final verdicts after framing of charges. Besides this, an undertrial has to remain in judicial remand for additional 90 days too.

7.1.11 Causes of Delay in Trials

Besides the high pendency and huge workload on judiciary, other main causes of delay in the trials are shortage of judges, non-service of summons to witnesses, non-appearance of witnesses, non-appearance of police witnesses, non-production of accused from the jail, delay tactics by advocates and accused, non-production of case property, undue adjournments, Lack of staff and infrastructure in Punjab courts and lack of coordination between various organs of Criminal Justice Administration. Besides these, there are number of causes of delay in trials cases.

7.1.12 Delay in Investigation and Filing of Charge Sheet

It is clear from the study made by the researcher that the delay first commences at the investigation stage. This particular stage of the investigation has lent itself to corrupt
practices that need to be set highly corrected at the earliest. The investigation process in criminal cases usually takes much long time because they are having the huge workload due to shortage in staff, VIP duties like political duties; at Nakaa, Dharnaa, rallies and other law and order duties as well.

After that maximum cases of undertrials get linger on the stage of filing chargesheet. There are unexplained delays in submission of charge sheets by the police/investigating officer as the case may be. And these charge sheets run into thousands of pages that not only add delay in trials but also lead corruption. Further, usually an I.O has the duty to present the challan in Punjab but due to lack of staff, he could not do so, resources disclosed.

7.1.13 Lack of Scientific Methods of Investigation

One of the reasons for delay in investigation is that the investigating agencies in Punjab do not follow the scientific methods of investigation. The police authorities depends on oral witnesses usually than scientific investigations due to inefficient staff, lack of qualification among staff (as most of the constables are metric std.), lack of scientific training and most of all, due to the workload and number of duties/roles to play. The police authorities left with not enough time to make proper investigation.

7.1.14 Delay in Service of Summons

The next bottleneck is the delay occurs in course of service of summons to the witness that happens frequently due to the collaboration between the process server, police and the witnesses. Non-service of summons is one of the other important reasons for delay in trials. Study reveals that every police station has earmarked 3 to 4 officials for the purpose of services of summons. In Punjab they are known as ‘Tamili’. However the ‘Tamili’ found it difficult to ensure proper summoning to witnesses. On an average 8 to 9 hearings in cases have been passed away in the absence of servicing of summons. Delay in trial causes further delay as the complainants lose their interest because of excessive delay. Even the formal witnesses like police officials who are part of investigation lost their interest in the cases after their transfer from that district to other places and it is also difficult to serve summons upon them.
7.1.15 Non Appearance of Witnesses in Courts

Study revealed that “unfortunately there is no dearth of witnesses who come to the courts and give false evidence with impunity. This is a major cause of failure of the system. Many witnesses give false evidence either because of inducement or because of the threats to him or his family members. There is no law to give protection to the witnesses subject to such threats, similar to witness protection laws available in other countries”. In additions, there are no facilities for the witnesses when they come to the court and have to wait for long periods. They are not given their TA/DA promptly. Witnesses are required to come to the court unnecessarily and repeatedly as a large number of cases are posted and adjourned on frivolous grounds. No witness protection system is there in Punjab courts.

7.1.16 Non appearance of Police officials as Witnesses

It has been observed that the formal witnesses like Police Officers do not appear in the courts on the pretext of VIP duty, law and order arrangements and citing other reasons very frequently. The study revealed that for 2 to 3 years on an average, the police officers do not appear as witnesses before the Hon’ble courts. Due to undue pressure, lack of staff and corrupt practices, the Police and the I.O officers, under investigating process in trial cases are remained unable to play their role efficiently.

7.1.17 Non Production of Undertrials in Courts

Next is the primary responsibility and duty of the police to produce the undertrials before the trials courts on each hearing of the trial. But there are certain lapses and mismanagement on the part of the police for not producing undertrials on the particular hearing. Either they are not produced or produced so late which causes the avoidable delay. Study reveals that in Punjab, nothing less than 54 undertrials, on an average, daily fail to keep their date with the court. The lack of police escorts has been one of the main reasons furnished by the jail authorities for not producing undertrials in court. This is due to the district police authorities for not making available the police escorts on the ground of non-availability of manpower. In many districts, the sanctioned manpower is

---

9 As per recommendations of the Malimath Committee (2003), on Reforms of Criminal Justice System.
inadequate. As a result undertrials continue to languish in jail, without trial or conviction, but with the risk of torture and irreparable injustice.

7.1.18 Shortage of Courts and Judges

Shortage of courts and judges is one of the major reasons for delay in the trials of cases. There is gross inadequacy of judges to cope up the enormous pendency and new flaw of cases. A key reason for the pendency is there are simply not enough judges, not enough even to fill the vacancies that exist. The researcher observed that as per the rule of High Court, an officer is supposed to deal not more than 500 files. But in reality, they have to coping up with more than three thousand cases.

According to Punjab & Haryana High Court rules, there should not be more than 500 cases with one judicial officer. The framers of those rules were wiser enough to prescribe the time period of one year for disposal of criminal cases and two years’ for civil suits. But unfortunately, the number of cases pending before each court is more than 3000. The researcher observes during her interactions with the judicial officers that 70% of cases are State cases that the officers have to deal with daily. As many courts spend more than one hour every day in calling these State cases, with a view to adjourn them for a future date. The time spent for this purpose can hardly be considered as constructive use and thus, it is nothing but sheer wastage of court’s precious time in calling those cases just in order to put a future date.

In addition, the errors committed by the Trial court judges who are not of the right caliber can sometimes be so crucial that they change the entire course of the trials and thus, the result is irreparable injustice and thus, delays the trial. Apart from that a rectification of the error by the appellate court can hardly compensate for the injustice resulted out from the error committed by the trial court.

7.1.19 Role of Prosecutors

Prosecutors are the Officers of the Court whose duty is to assist the court in the search of truth which is the objective of the Criminal Justice System. This important institution of the Criminal Justice System is weak and somewhat neglected. Lack of strength of
Additional District Attorneys (ADAs) and their non appearance in courts is one of the major causes of delaying trials. Amritsar district courts have been reeling with the shortage of 50% in the posts of D.A, 22.23% D.D.As, and 58.24% in A.D.As posts in Amritsar district courts. Jalandhar courts are running with overall shortage of 20%. Gurdaspur courts coping with shortage of 22.22% and Kapurthala Distinct courts with 50% of Prosecution agency. There is Lack of Recruitment, Training and Professionalism in Prosecutors. “ADAs/Public Prosecutors are not getting appointed in proper courts and they are not appearing skillfully in courts also”-commented one of the Additional District Judge. “Public prosecutors are not competent”, the Additional District Judge admitted.

The observations made by the researcher unveils that there is carelessness in filing the charge sheets in the courts. The prosecution agency cites a large number of witnesses in such cases, out of whom a majority are of official witnesses who stand transferred to other stations before the case reaches the stage of recording evidence. For non appearance of police witnesses in the courts, study discloses that the delay occurs due to the casual approach on the part of prosecution agency. As only the prosecution agency has the authority over the police witnesses to appear in courts in the trial cases.

7.1.20 Role of Defense Lawyers

On the contrary, the co-operation of the Defense Counsel is also necessary to review the delay in trial. The forty advocates taken under study usually filed 100 cases on average in a year. 60% of cases out of them were pending for evidence in advocates’ offices from selected four district courts. Challan has not been presented in 50-60 cases pending out of 100 cases in the offices of the lawyers. In many cases undue adjournments in criminal cases are made due to the Lawyers. The situation gets worse where one undertrial is in judicial custody and his accomplice on bail adopts delay tactics in the same case. In many cases, accused adopt delay tactics to kill the time and win over the witnesses with intent to get acquitted. In many cases, witness requested the judges to hear their cases in their lawyers’ presence only.

Besides no sane man would approve ‘their strikes’ in the situations like high backlog of cases, huge pendency in civil and criminal cases, at the most delay in justice. It is highly
deplorable behavior of lawyers being condemned by all classes of people time to time. “Police and judges are the main pillars of disposing justice but the lawyers’ accountability is nowhere”.

Although Section 167 CrPC prescribes a statutory time frame for conclusion of investigation and filing of charge-sheet in the Code, failing which the accused in custody is liable to be released on bail. However, in actual practice, it has been seen that there is no time period of completing investigation and filing of Chargesheet/Challan in the Punjab courts.

7.1.21 Lack of Co-ordination among the Functionaries of Criminal Justice System

In order to smooth the conduct of trials and speedy disposal of trials, it is necessary to have coordination between the organs of criminal justice system i.e. police, judiciary and prisons. But it has been seen in practice that lack of coordination among these functionaries constitutes a major cause of delay in quick disposal of cases. Official witnesses, lawyers, and public witnesses attribute the delay to procedural complexities and absenteeism in one form or another. Disarray is found among the judiciary, police and the prison department as well. The researcher observes that Judges blame the police officials, Investigating Officers, prosecution agency and the lawyers for delaying trials. On the contrary, the lawyers and the police agency/I.O agency targeted the judicial officers and public prosecutors for the same. The prosecution agency held the police, the accused and the lawyers responsible for delaying the justice in the similar way.

7.1.22 Inefficient Free Legal Aid Cells in Punjab

The researcher found that in Punjab, advocates engaged under ‘free legal aid’ do not pay proper attention during trial because of paucity of time and fewer honorariums. In the lower judiciary(Subordinate courts), most of the poor inmates who have been provided legal aid by the District Legal Services authority do not know even names of their advocates. Unfortunately, the disposal rate of cases through Free Legal Aid Cells is very lower in the Subordinate courts of Punjab. There is deficiency in legal aid system, especially for the juveniles too.

---

11 As stated by one of the Judicial Magistrate Ist Class (JMIC) from Punjab Courts, during an interaction with the researcher.
7.1.23 Non implementation of Plea Bargaining in Punjab

The implementation of the plea bargaining remained unsuccessful in India as well as in Punjab. Neither the general people nor the litigants understand its concept properly, nor has it been implemented and obeyed by the judicial officers and other wings of the Criminal Justice System in proper way.

During the incorporation of chapter of Plea Bargaining, the law framers failed to understand that how and to what extent the interest of justice should be protected to achieve the desired results. The period regarding pardon or reducing sentence of accused is not appropriate and once an accused intends to effect compromise with complainant or victim, as the case may be, he shall never be ready to suffer imprisonment even for a period of a single day.\(^\text{12}\)

7.1.24 Ineffective Working of Lok Adalat in Punjab

About the working of Lok adalat in Punjab, it has been observed that it is not much effected in Punjab. The lawyers, the judicial officers and the prosecution agency too were not satisfied with the working of Lok adalat in Punjab. Lok adalat is nothing, but simply an ‘eye wash’ for the purpose of putting up number of cases in the courts.

Fast Track Courts deal with the petty offences including both civil as well as criminal cases. But there is lack of Fast Track Courts and Special courts in Punjab.

7.1.25 Irregular Camp Courts in Punjab

Camp courts, no doubt, are playing comparatively good role in speedy disposing off the number of cases. But it has been seen in practice, that no regular camp courts are being held in Punjab jails.

7.1.26 No Separate Juvenile Courts in Punjab

It is worth noting here that there is no juvenile court in every district court of the Punjab till submission of the thesis. It has been decided in the committee of the Juvenile Board of Punjab held in February 2012 that juvenile courts will be established in all the districts courts of Punjab. But as per information available till writing of the thesis, no official juvenile court has been established in any courts of Punjab.

---

\(^{12}\) As stated by the Chief Judicial Magistrate, during an interaction with the researcher in District Courts Amritsar.
Thus, the abject and abysmal hardships faced by the undertrials during their trials in the judicial courts of Punjab have best gleamed in the present study. Even though law requires that trials should be conducted from day to day till completion, in practice this rarely happens. Cases are adjourned for a couple of months at a time, which further aggravates delay. Overburdened judiciary due to abound backlog of cases in the courts is undermining the overall judicial system in many ways. The shortage of judges, delay tactics by the police or investigating agency, the lawyers and the prosecution agency increase the chances of delay in trial. The provisions of Camp courts, Plea Bargaining, Lok Adalat and Free Legal Aid have not been used and implemented effectively.

Albeit indiscriminate arrests by the police, ignorance of legal rights by the undertrials, delay in trial procedure, reluctance of the courts to grant bail and inability to provide surety are some of the reasons that have led to the unnecessary detention of abounding undertrials in Punjab jails. There have been cases where the amount of bail is disproportionately high. Non-implementation of the existing legal provisions is a major reason for the large undertrial population lodged in prisons. In addition, there is lack of coordination between the Centre, Judiciary & State Governments and also because the undertrials do not have anyone to stand as guarantors, nor assets to furnish as bail bonds, the poor continued to suffer in prisons.

7.2 Suggestions

Study reveals that the undertrials usually suffer more ‘punishment without the verdict’. Only the most pressing concerns are highlighted and discussed in the study. The prime concerns are relating to making of the trial process speedy and effective in order to protect the undertrials from the agonies of unnecessary detention in Amritsar, Gurdaspur, Jalandhar and Kapurthala jails and all the jails throughout Punjab, to reduce the burden of work on judiciary and make its functioning effective, to fix up the responsibility, efficacy and accountability of the police, investigating agency, prosecution agency and the defense lawyers. A grave concern of Supreme Court, High Courts, Presidents, Prime Ministers, and Chief Ministers concerning the speeding up the trial system for undertrials and deciding all the cases in five years need to streamline.
The suggestions from the various stakeholders of criminal justice system i.e. experts of the Police, Investigating Officers, Judicial Magistrates, Public Prosecutors and the Defense lawyers have also been taken into consideration as per the study made by the researcher, data collected and questionnaires prepared. In compliance with question 29 and 30 of the annexure II of Judicial Magistrates, question no.22 of annexure III of Prosecution Agency and question 33 and 34 of annexure IV of the Lawyers, suggestions and opinions as to speeding up the trial process have been canvassed here.

7.2.1 Prompt Investigation of Criminal Cases should be There

Article 36 of the Punjab Police Act 2007 makes provisions for separation of investigation from law and order for effective crime investigation. Although Punjab has started the setup of separate investigating agency but it needs to be improve and make more effective. There should be a minimum fixed tenure for the investigating officers to ensure timely completion of investigation and trial as provided in Section 15 of the Punjab Police Act 2007. A constant check should be kept on investigating agency and the investigating officers.

7.2.2 Scientific Methods of Investigation should be adopted

It is suggested that in spite of depending on oral witness, Punjab government should adopt advance scientific methods of investigation for police and investigating agency. The level of qualification among police personnel and prison staff should be increased to ‘graduation level’. They should be provided with advance training and scientific techniques to adopt and utilize to inquire into a case. The required man power among police will reduce the workload of police. Only then the police/investigating agency can become efficient and apt in their role. It is proposed that all the interrogations should be carried out in the presence of a lawyer.

Criminal cases should be registered promptly with utmost promptitude by the SHO’s. Modern techniques of mobile applications, gazettes, Sms, flash messages, e-mails etc. should be applied for filing the FIRs and registration of cases. It is suggested by the judicial officers that Police officer should be ordered to give evidence within a period of one month only.

If any police officer is not appearing in the court as a witness, he should be fined minimum Rs.500/- as penalty or more as per the cost of litigation which would be a
compensation for the complainant/accused in the jail. Such a fine should be deducted from the ‘erring’ police personnel. The judicial officers urged that coercive methods (like penalty of fine/attaching the salary/notice to that officer) should have been thoroughly implemented against the ‘erring’ police officers (I.Os).

7.2.3 Appearance of Undertrials in Courts should be Regularized

It is suggested to set up dedicated police squads in all the districts for production of undertrials in the courts. Video conferencing facility should be started for smooth and speedy trials. For it retired army and police officials can be appointed that too for not more than a term of 3 years. It is suggested to fulfil the shortage of prison staff, required as per the Punjab Jail Manual 1996.

As far as Non-production of case property is concerned, it is suggested that case properties should not be given on superdari till conclusion of the case. Police Station officers(SHOs) should be made responsible to produce the same on each and every date of trial. It is suggested that Undertrials should not be detained in jails more than three months. There must be some decision after the time period of three months relating their aquittal or conviction/punishment.

7.2.4 Recruitment of Judges is the Need of the Hour

As per the study conducted, more judges at Subordinate level of judiciary are needed to be appointed. “One method commonly advocated for determining how many judges are required in the judicial system is the judge to population ratio, i.e., the number of judges per million persons in the population”. Thus, it is submitted that the number of judicial

---

13 As suggested by the eminent lawyers during the research work as per annexure IV.
14 As per the empirical study has been conducted from the years 2011 to 2014 from Central and District jails of Amritsar, Gurdaspur, Jalandhar, and Kapurthala and the respective District courts of the same.
15 All India Judges’ Association v. Union of India, (2002) 4 SCC 247 (“Apart from the steps which may be necessary for increasing the efficiency of the judicial officers, we are of the opinion that time has now come for protecting one of the pillars of the Constitution, namely, the judicial system, by directing increase, in the first instance, in the Judge strength from the existing ratio of 10.5 or 13 per 10 lakh people to 50 Judges per 10 lakh people); P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578 (“The root cause for delay in dispensation of justice in our country is poor judge population ratio”); More Judges Needed, states should take initiative, Manmohan Singh says. Times of India, April 7, 2013 http://articles.timesofindia.indiatimes.com/2013-04-07/india/38345513_1_three-crore-cases-india-altamas-kabir-judicial-reforms (Prime Minister Manmohan Singh terming the current judge-to-population rate “grossly inadequate”); Law Commission of India, 120th Report on Manpower Planning in Judiciary: A Blueprint (1987) (recommending a five-fold increase in the population-to-judge ratio and that India should have the same judge-to-population ratio by 2000 as the United States had in 1981).
officers should be increase ‘five times’ the present number of judicial officers in Punjab. And the courts should be increased keeping in view the increasing population. Vacancies in the criminal divisions should be filled up by appointing those who have specialized knowledge in criminal law. Until and unless the government does not increase the strength by appointing new judicial officers, the gulf between the institution rate and disposal rate will be ever expanding and judicial officers will be burdened more and more.

If a magistrate goes on leave, the cases of his court should be divided equally, inspite of cases on stage of agruments and orders, in the other courts for not to suffer delay in trials and not to overburden other courts.

7.2.5 Systematic Service of Summons to Witnesses ought to be Necessary

There should be a separate cell in the police to ensure prompt service of summons. Rules can be amended to authorise the services of summons through telephone and E-mail in the modern era of information technology. Increase in strength of Serving agency in Punjab courts has also been recommended. Section 61 of the Code of the Criminal Procedure of India poses compulsion on the officer authorised to ensure summons to visit personally to the place of residence of the persons upon whom summons are to be served. It has been suggested that an enquiry should be made immediately against the Nayab court in cases of not doing his duty efficiently by him or the other option is that Nayab Court should be paid Rs.50/- for serving 10 summons(for e.g) to different witnesses and he will obey his duty for money. In case of summoning of witnesses, suggestions have been given that coercive measures like attaching the salary of summon serving agency should be taken against him by the courts.

7.2.6 Frequent Appearance of Witnesses in Courts should be highly Exercised

For making evidence speedy, it is submitted that if a witness came from farway places like from Delhi or other place to give evidence and if evidence is not been done due to any reason, that witness should be paid Rs.2500/- as TA/DA or any such amount that courts deems fit in order to compensate him for the loss occurred to his time and work for appearing in courts to give evidence. Proper arrangements should be made for

---

16 As suggested by the eminent lawyers during the empirical study.
payment of the allowances due to the witness on the same day when the case is adjourned. It is observed by the researchers that witnesses do not like to appear in courts due to lack of physical protection by the police. Thus, it is submitted that ‘Witness Protection System’ should be adopted and implemented in Punjab courts.

7.2.7 Training of Judicial Officers has to be Mandatory

Regular training and orientation programmes should be adopted to sharpen the adjudicatory skills of Judicial Officers. If judgments at the level of trial courts are of a high quality, the number of revisions and appeals may also get reduced.

7.2.8 More Fast Track Courts and Special Courts should be increased

There is a need of more Fast Track Courts in Punjab to curb the workload of high pendency on judiciary. Special courts for IPC, Rent cases and Civil cases like NDPS and Corruption cases etc. should be increase so as to deal with the all Sections of laws by a single judge sometimes becomes confusing for him. It is recommened that Criminal cases should be disposed off within six months to one year maximum time period and the Civil suits should be completed in two years. For long Cause Lists and Case Management System; 'Fast Track Courts' should be there. According to one of the Judicial Magistrate of Ist Class (JMIC)- “Judiciary is a leisure work. And it should be free from the pressures.”

7.2.9 Case Management System should be Followed

Court management should be adopted in Punjab courts. It is the study of the time taken in various stages in litigation. To improve the disposal rate, a time-frame for each stage of trial (like completion of pleadings, framing of charges, recording of evidence etc.) should be fixed up. There is a dire need to fix up a time-frame for each stage of trial. Case management is required too. Case Management as stated by Lord Woolf in his report “Access to Justice” has the following dimensions; (i)identifying key issues in a case; (ii)encouraging parties to settle cases or agree on issues; (iii)summary disposal of weak cases and trivial issues; (iv)deciding the order in which the issues are to be resolved; (v)fixing time table for parties to take specific steps; (vi)allocating each case to specific track (Fast Track/Multi Track); and (vii)the segregation of courts. Case Management need to be adopted and implemented in Punjab courts.
7.2.10 Trial Cases should not be Transfer from One Court to the Another

There should be no transfer of Trial cases to the Supreme Court as the criminal powers lies with Session courts only. Remand powers should be given to one separate court than the courts dealing with trials. As the Chief Judicial Magistrate(CJM) rightly remarked, “There must be some productive work that can be done; not more than the capacity of the person or the department doing that. But the hard reality is that the judiciary is coping with the work out of its capacity.”\(^\text{17}\) It is submitted that Magistrate of Ist class may be given the jurisdiction to deal specifically with the cases of Undertrials. As suggested by police officers as per present study, civil and criminal courts should be in the interest of criminal justice administration as delay in civil cases also leads to more criminal trials. It has been submitted that only those trial cases should be transferred in which courts feel satisfied or feel so.

7.2.11 Up-gradation of Infrastructure in Punjab Courts should be Implied

The infrastructure in Punjab Courts should be increased. Court staff too needs to increase in Punjab. From electricity, Computers, typing machines, fans, water coolers, furniture to the ancillary staff i.e. Ahalmad, Tamili, stenos, judgment writers, assistants of judicial officers, peons and security guards all are required more in number in Punjab courts.

7.2.12 Arrear Eradication Scheme is to be implemented

An 'Arrears Eradication Scheme', for the purpose of tackling grave pendency and massive backlog of cases is recommended to be applied and implemented effectively in Punjab courts. 'Arrears Eradication Scheme' can be helpful in tackling all the cases that are pending for more than 2 years on the appointed day.

7.2.13 Undue Adjournments should be avoided

Undue adjournments should not be allowed by the trial courts on flimsy grounds. Examination of witnesses can be conducted through ‘Video-conferencing’ in such cases. The witnesses will find it easy and will not evade from appearance. It will also be beneficial for Police officers who are transferred to other places. Timely completion of

\(^\text{17}\) During the interactions of researcher with Chief Judicial Magistrate of Amritsar District Courts, during her empirical work on 13/10/2014.
trials will curb the long delays in trials and huge backlog of cases in courts. It will also wipe out the unnecessary harassment to the witness, police, courts and undertrials too due to delays occurring in trials.

For ‘frequent adjournments’, Code of Civil Procedure after its amendment, w.e.f. 01.07.2002, permits adjournment of not more than three times to a party during the hearing of the suit. Recording of reasons is mandatory for granting adjournment.

7.2.14 Liberal Provisions of Bail should be applied in Letter and Spirit

Bail provisions should be liberalized and implemented at full tilt. Bail should be granted in non-serious cases and poor people should be released on personal bond. Study reveals that the police normally oppose the bail in the cases like murder, Fake Currency, NDPS and other heinous cases in Punjab. Thus, the police Officers have submitted that provisions of bail can be applied in the normal cases like cheating, accident, dowry, and hurt cases.

7.2.15 Coercive Methods need to be applied for Strict Implementation of Rules

In case of a criminal trial, it has been submitted by various stakeholders that there must be some provisions to impose penalty in terms of imprisonment/fine/both on conclusion of a trial to any of the following- (1) accused, if approved; (2) complainant if lied/false; (3) Investigating Officer/I.O, if State finds so. They all are quite firmly favour the ‘coercive methods’ to be applied in case of ‘the erring person’; whosoever he may be. It is suggested that criminal justice system should give particular attention to improving the investigation, prosecution, bail provisions, speedy trial in criminal and undertrials’ cases and confer punishments on ‘erring persons’ involved in these trial cases.

7.2.16 Recruitment and Proficiency of Prosecution Agency should be Obligatory

It has been suggested that the vacancies of public prosecutors should be filled as per provisions of law. ADAs/Public Prosecutors should be appointed in proper courts and they should appear skillfully in courts too.

---

18 As suggested by the various stakeholders during the empirical study.
Prosecution Witness’s (PWs) should be made appear in courts in due time. The prosecution agency should be given proper training to become competent and efficient. The recruitment, training and professionalism need special attention regarding Prosecution agency so as to make it synergetic with other institutions and effective in delivering good results. It has been suggested mutually agreed date sheet should be prepared and followed in spirit to ensure smooth and speedy trial.

7.2.17 Accountability of Defense Lawyers should be Fixed up

Lawyers should be made accountable for their negligent or inefficient role. It is submitted here again that a mutually agreed date sheet should be prepared and followed in spirit to ensure smooth and speedy trial.

They should become sincere towards such noble profession morally and ethically and should support our justice system to make it efficient, effective and speedy as well. Strikes should be restricted by the lawyers in Punjab. “Police and judges are the main pillars of disposing justice but lawyers’ accountability should also be there.”

Rules should be framed to seek the reports from the Magistrates against the erring advocates and accused. Such reports should be given weightage in cancellation of licence of the advocates and operate as a bar in getting any kind of government employment.

7.2.18 Revolutionize the Punjab Prisons Administration

Construction of new jails and barracks in Punjab are necessary to reduce the overcrowding and to afford lodging of inmates as per their classification on the basis of sex, age, gravity of crime, undertrial/convict status etc. Repair and renovation of existing jails is required to bring them up to the minimum standards. Infrastructure of Punjab prisons need to be expanded and advanced technically.

Improvement in sanitation, water supply, bedding, food and diet are suggested in Punjab jails. Health and medical facilities are required in Punjab jails. Separate medical ward/hospital should be provided in all the jails that keeping female inmates with one

---

19 As commented by one of the Judicial Magistrate 1st Class, during the interaction with the researcher for present Empirical work from the District courts, Amritsar.
20 As per suggested by the Chief Judicial Officer, during the interaction with the researcher for present Empirical work from the District courts, Amritsar.
female nurse/doctor at least. Rehabilitation facilities should be provided to jail inmates after release.

It has been further suggested that a detailed knowledge of who is in prison (offences, socio-economic backgrounds, personal details, sentencing experience) needs to be available in the public domain to ensure transparency and public debate.

7.2.19 **Recruitments and Rewards of Prison Staff ought to be Mandatory**

Immediate recruitment of more prison and police staff is required in Punjab. Salaries and scales should be increase. Honours should be given to the prison personnel who do their duties with utmost dedication and sincerity. A transparent and suitable system of rewards needs to be adopted and implemented to encourage the prison staff for the performance of their duties par excellence.

It is submitted that adequate living accommodations should be provided to prison staff for their general well being. Construction of staff quarters by collecting data from the State Governments has been suggested.

7.2.20 **Training of the Prison Staff should be made Compulsory**

Training of the prison staff towards correctional programmes is of paramount importance. A number of trained prison staff should be encouraging by organizing better sports activities, cultural, religious programmes and de-addiction/health camps, meditation programme and computer training etc. It is submitted that six months’ compulsory training should be given to jail functionaries/staff. Further, re-orientation courses for up-grading the skills of prison staff have been propounded. The attitude of staff towards prison inmates and their rights should be sensitized and humane. Last but not least, prison Staff should regularly be trained in the area of human rights and prison management.

Thus, the State may have its financial constraints and its priorities in expenditure, but as the Supreme Court held in *P. Ramachandra Rao vs. State of Karnataka*, “The law does not permit any Government to deprive its citizens of constitutional rights on a plea of poverty’ or administrative inability.”

---

7.2.21 Synchronization among the Functionaries of Criminal Justice System

There should be proper coordination between various organs of Criminal Justice Administration i.e. police, judiciary, prosecution and the prison officials. There should not be any kind of ‘watertight compartmentalisation’ between these functionaries.

An informal system should be devised to make better coordination in the larger interest of criminal justice administration. Training programmes for judges, prosecution, police and prison officers should be held and a forum for proper coordination of Criminal Justice System agencies should be evolved. The infrastructure in Punjab Courts, the police department and prison department of Punjab should expand and streamlined.

7.2.22 Some Other Legal Provisions being suggested

Like Punjab & Haryana High Court, the functioning of Legal Aid Cells in District courts of Punjab should also be improved, regularized and effective. It has been submitted that free legal aid should be provided to the poor and needy person under detention and quality of the service should be improved.

It has been recommended in accordance with the study that the Camp courts should be commenced effectively and regularly in the jails of Punjab. It is the dire need of the hour to set up Lok adalats on permanent and continuous basis in Punjab. In order to tackle the problem of undertrial (un-sentenced) prisoners, the judicial officers and district judges should also visit prisons (monthly) to review the cases of undertrial (un-sentenced) prisoners periodically.

There is need of wide applicability and effective implementation of Lok Adalat throughout Punjab. For Juvenile Courts in Punjab, it has been recommended that there should be effective set up of Juvenile courts in Punjab and they should be held regularly.

The concept of plea bargaining should be applied in letter and spirit in Punjab courts in order to dispose of cases coming under the purview of this provision. There is need of coordination between the Centre, Judiciary and State Governments also. Because the undertrials do not have anyone to stand as guarantors, nor assets to furnish bail bonds; Alas! The poor continued to suffer in prisons.