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Declining State of Indian Prisons for Female Convicts - Critical analysis with the increasing number of female prisoners

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Abstract

The Indian prison administration is heavily criticized by scholars as it creates hardships for criminals more than it relieves them. The National Crime Records bureau that is a department of the Ministry of Home Affairs illustrates stark statistical realities of how mismanagement and weak implementation leads to a sorry state of Indian prisons. This paper aims at analysing the population of women in Indian prisons and the failure of the administration to cope with it. An attempt has also been made to understand the treatment and condition of female prisoners which will throw a light on how the system and policy need to be changed.

Introduction

Indian prisons, in their horrific realities, show how the prison administration system in this country has failed to uphold these four theories in practice. Women prisoners are a minority and often ill-treated or ignored just as they are outside prisons. There is no psychological treatment for female prisoners to deal with the consequences of their crimes. And since every woman is expected to undertake the role of motherhood, how can women prisoners attempt to justify it when they live in prisons that are worsening as inmate numbers rise?

One cannot correct his/her wrong while being treated less than human. Hence it is essential to recognize and implement the basic rights of female prisoners. In this paper, an attempt has been made to analyse the way prison administration is proving to be inadequate through statistical data.

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Laws governing Women in Prison

There are international and national laws that govern the well-being of these women. In the First United Nations Congress on the Prevention of Crime & the Treatment of Offenders held in Geneva in 1955, Standard Minimum Rules for the Treatment of Prisoners were formulated which talks about the treatment of prisoners and issues such as gender, violence against women, needs of pregnant women, and child rights in prisons.² Along with this, there are also the rules set out and recognized by the Indian Constitution and the Supreme Court. Hon'ble Supreme Court has affirmed the basic rights of prisoners – *'there could be several factors that lead a prisoner to commit a crime, but nevertheless a prisoner is required to be treated as a human being entitled to all the basic human rights, human dignity, and human sympathy.'*³ This is not just an opinion. It is a fact that there have been attempts made to reform laws and rules for better and efficient prison administration.

The two most important committees regarding female prisoners and their welfare are the All India Prison Reforms Committee, 1980-83 (Mulla Committee), and the National Expert Committee on Women Prisoners, 1987 (Justice Krishna Iyer Committee).⁴ In 1983, the Committee, chaired by Justice A. N. Mulla, issued a report comprising 658 suggestions, 35 of which are specifically for women in jail. Women inmates should be housed in separate institutions/annexes, women's prisons should be staffed entirely by women, and women should be given long probation. Later, in the year 1987, the National Expert Committee on Women Prisoners with Justice Krishna Iyer as its chairperson evaluated the situation of women in jails and made various suggestions. Some of the important recommendations include education of their rights to facilitate proper accommodation with female staff and the opportunity to contact

² Standard Minimum Rules for the Treatment of Prisoners, Economic and Social Council Resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf

³ Nidhi Singh, Female Prisoners in India and Their Condition, 2019, https://www.academia.edu/38163933/Female_Prisoners_in_India_and_Their_Condition_1_.pdf

⁴ Women in Prisons India, June 2018, Ministry of Women and Child Development Government of India, https://wcd.nic.in/sites/default/files/Prison%20Report%20Compiled_0.pdf

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legal counsellors or social workers and their own families.⁵ The recommendations of these two committees resulted in the constitution of the All India Model Prison Committee headed by Director General BPR&D to prepare a Model Prison Manual. Currently, there is Model Prison Manual 2016, and the Ministry of Home Affairs, as of 2017, has advised all the states/UTs to update and revise their manuals as per the 2016 version. Our Constitution also confers certain fundamental rights of female inmates.

Cases like the *R.D. Upadhyay vs. State of Andhra Pradesh*⁶ were fundamental in developing rights guidelines given by the Supreme Court of India. The apex court observed several shortcomings in the care of the children living in prisons and suffered from lack of proper nutrition, healthcare, accommodation, and upbringing in general.

Statistical Analysis - The right to live with dignity is something one acquires as soon as he/she takes birth... the fact that one is in prison does not change that. This, however, has not been true for the women prisoners in our country. Out of the 4, 78,600 prisoners in total, only 19,913 were female prisoners.⁷ These kinds of statistics, when compared to the statistics of almost a decade back, i.e., 2009, show a constant rise of female prisoners by approximate 29% while the rise in the female population in the last ten years is an approximate 12% only. In India, there were only 15 states/UTs with women's jails (31 women's jails) with a total capacity of 6,511. As of December 31, 2019, there are no distinct women's jails in the remaining 21 states/UTs. The total capacity of 31 Women's Prisons was 6,511; however, the actual number of female inmates in these Women's Prisons was 3,652. (Occupancy Rate: 56.1 percent). The next statistic which makes the difference is of undertrial prisoners. Out of the total 19,913 female prisoners, 13,550 are undertrial prisoners.⁸ 68% of the female population is under trial prisoners. The next compelling number is the occupancy rate in prisons, which was reported at

⁵ Id.

⁶ R.D. Upadhyay Vs State Of Andhra Pradesh & Ors,(2006), AIR 1974 SC 2092

⁷ Prison Statistics India 2019, The National Crime Records Bureau, <https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf>

⁸ Prison Statistics India 2019, The National Crime Records Bureau, <https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf>

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(170.1%) in Uttarakhand followed by Chhattisgarh (136.1%) and Uttar Pradesh (127.3%) respectively. Overcrowding is deteriorating the prison administration of this country.

Now, as overcrowding in prisons rises due to a massive number of undertrial female prisoners, the lack of prison staff only adds to the downward spiral in the life of female prisoners. According to the latest Model Prison Manual, there should be one guarding staff and a considerate ratio of medical, executive, welfare, and educational personnel based on the total population of female inmates. A total of 51,126 executive staff including 4,840 Officers and 46,286 sub cadre staff were posted in Indian jails against sanctioned strength of 72,273 at the end of the year 2019.⁹ A total of 7,794 women staff was reported as working in different cadre across Indian jails.¹⁰ A total of 761 Correctional staff was posted in Indian jails against the sanctioned strength of 1,307 at the end of the year 2019.¹¹ A total of 1,962 Medical staff was posted in Indian jails against sanctioned strength of 3,320 at the end of the year 2019. The number of female staff out of this is only 252, and there are absolutely zero doctors or medical professionals trained in psychological and mental health problems. The educational and employment facilities play an important role in enabling the transition of inmates from prison life to civil life. A total of 1, 14,262 prisoners had been educated in the country during the year 2019. The educational and employment program, as well as the education of young illiterate young offenders (18-21 years), is not available anywhere except in the Lucknow jail. Female prisoners get rupees 10/day as a peon, 10/day for Female inmates who cook regularly for three months; get 10 rupees packing, 18/day for cooking. These numbers show that all the laws, committees, and regulations that are very well laid out on paper are never implemented in real life.

⁹ Prison Statistics India 2019, The National Crime Records Bureau, <https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf>

¹⁰ Id.

¹¹ Id.

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Duty of Motherhood and Female Prisons

The next important data is of how many women are attempting to fulfill the duty of motherhood while living in prisons. There were 1,543 women prisoners with 1,779 children, out of which 1,212 women prisoners were undertrial prisoners who were accompanied by 1,409 children and 325 convicted prisoners who were accompanied by 363 children.¹² The Model Prison Manual 2016 permits children up to six years of age to stay with their mothers in prison.¹³ When deciding on the jail to which the woman will be transferred, consideration should be given to her caretaking responsibilities if she has a kid, and the woman should be allowed to choose the prison as much as feasible. The eye-opening case study of 60 mothers who are imprisoned in the Central Jails of Jodhpur and Jaipur by Asha Bhandari revealed some important facts. The outcomes of this study are as follows –

- Almost all of them agreed that the space provided to them for living is very low than the standard required according to the manual.
- 60% of them agreed that the environment of prison impeded the normal growth of their children.
- Serious lack of nutrition resulted in children getting ill, and 80% agreed that the prison staff did not provide for the minimum milk and diet requirements of babies resulting in malnutrition.
- 99% of women agreed that their children would suffer socio-psychological issues due to spending their childhood in prisons.¹⁴

¹² Prison Statistics India 2019, The National Crime Records Bureau, <https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf>

¹³ Model Prison Manual 2016, <https://www.mha.gov.in/sites/default/files/PrisonManual2016.pdf>

¹⁴ Bhandari, Asha. "Women Prisoners and Their Dependent Children: A Study of Jaipur and Jodhpur Central Jails in Rajasthan." *Sociological Bulletin*, vol. 65, no. 3, 2016, pp. 357–379. *JSTOR*, www.jstor.org/stable/26369541. Accessed 22 July 2020.

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Prison Brutality and the Struggle to survive behind bars

Among the unnatural causes of deaths in prisons (165), Suicide (116) was the predominant cause followed by Accidental Deaths (20), Murder by Inmates (10), Deaths due to Negligence / Excess by Jail Personnel.¹⁵ On June 23, Manjula Shetye, a prisoner complaint against five missing pieces of *pav* and *two eggs*. She was beaten, allegedly assaulted sexually with a *lathi* driven up her vagina, and then left to die, admitted to a local government hospital only after she fell unconscious.¹⁶ *Jan Adalat v. State of Maharashtra*¹⁷ was also important as it gave several accounts of terrible lives in prison for women. The prisons lacked basic facilities like the absence of separate toilets and bathrooms for male and female prisoners, bad quality of the food served and lack of beds for emergency services in the jail hospital, and overcrowding of jails.¹⁸

Key Findings

After going through numerous accounts of terror and institutional statistics, it is evident that the Indian prison management fails miserably at providing a life worth surviving to female inmates.

- No action has been taken to reduce the number of undertrial female prisoners, which constitutes three-fourths of the entire female population in Indian prisons.

¹⁵ Prison Statistics India 2019, The National Crime Records Bureau, <https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf>

¹⁶ Dhruvo Jyoti & Roshni Nair, Tales from former inmates: What life is like in a women's jail in India, Jul 26, 2017 14:05IST, <https://www.hindustantimes.com/india-news/tales-from-former-inmates-what-life-is-like-in-a-women-s-jail-in-india/story-UBBSj0N5yz2VskZpqqGiLK.html>

¹⁷ Jan Adalat Through Shaikh Ibrahim ... vs The State Of Maharashtra And Anr , (2017), <https://indiankanoon.org/doc/161255457/>

¹⁸ *Saba*, Protection of dignity, privacy of women prisoners, provision of hygienic food & basic infrastructure form focal points of prison reforms as directed by Bombay HC, March 6, 2017, <https://www.scconline.com/blog/post/2017/03/06/protection-of-dignity-privacy-of-women-prisoners-provision-of-hygienic-food-basic-infrastructure-form-focal-points-of-prison-reforms-as-directed-by-bombay-hc/>

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- The Right to live with dignity is a guaranteed right under Article 21 of the Indian Constitution as well as the Model Prison Manual 2016 and to deprive a prisoner of that right is unwarranted. However, all these rights are codified only on paper; their implementation for the upliftment of life behind bars is a myth. Appropriate legal aid is absent for most female inmates as they are unaware of their basic rights and the procedure for appeal is unheard of for most women.
- The biggest problem and the most fundamentally ignored outcome is the lack of medical staff trained to deal with the psychological needs of women. There are no psychologists or psychiatrists assigned to treat women with addiction or disorders, and no special wards or environments developed for such female inmates. This results in female inmates not being able to deal with life in prison and after prison.

Conclusion

The right to live life with dignity and the course of repentance in prisons for crimes committed by one is a difficult one, and the sorry state of affairs of Indian prisons makes it more and more difficult. Women, as a minority here as well, lead a deprived and strenuous life. Even after several reforms and amendments in-laws and regulations, there is a minimum to zero change in the life of female inmates even after their number is showing a steady increase.