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Plights of Women in Indian Prisons.

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ABSTRACT:

We are going to talk about Prisons, Indian prisons, especially women prisoners, how these prisons work, what problems women face during their convictions, and what new can be done to make their life easier behind these jails.

INTRODUCTION:

Prisons, we can say it is an institution run by the government where people are confined for the offenses (serious crimes) they commit or law-breaking, or any act/omission which is against the law. Specifically, it is an institution (under state jurisdiction) for the confinement of people convicted of serious crimes. There are some synonymous words used for prison are Jail, Penal institution, Place of detention, Lock-up, The detention center and many more are there.

The most popular word used for this is 'jail'. On hearing the word 'jail' many thoughts come into our minds like crime, confinement, depression, anti-social, loneliness, punishment, etc.

Tihar Prison:

Like this, we have 'Tihar Prison' which is also known by the names such as 'Tihar jail' and 'Tihar ashram', established in 1957 and is situated in Janakpuri approximately 3 kilometers away from Tihar village, New Delhi, India. It is not only the largest complex prison in India but also in South Asia, run by the Department of Delhi Prisons, Government of Delhi.

The prison has a capacity of 10,026 and a population of 17,534 as of 31 December 2019.

This prison was designed as a correctional institution. The main objective of this prison is to convert its prisoners into normal people in society. For the accomplishment of this objective, the prison provides them with some useful skills like jewelry making, snack making, stitching, fashion designing, and many more such skills to make them improve and help them normalize their life.

Education for those who are uneducated and illiterate and can be easily fooled by anyone so that she can know her rights and duties and also know the contents of those papers which are to be signed by them and also to make his/her day-to-day life easier.

Life of Women Prisoners:

If we say jail is the hell of earth, it would not be wrong. Though the accused are sent to jail for their correction and conversion into good and normal people of society, usually, they return with full tuition for the crime.

According to records of the National Crime Records Bureau as of 31 December 2021, there are 5,54,034 prisoners of which 4,27,165 are under trial, 5,31,025 prisoners are male, 22,918 are female and 91 are transgender over that 1650 women with 1867 children in which 1418 are under trial with 1601 and 216 convicted women prisoners accompanied with 246 children.¹

These jails have women prisoners which include foreigners, most of the cases in which they are accused are related to dowry, rape, murder, etc.

PROBLEMS (How Inside Works)

- Old prisoners control or direct (ragging) the new prisoners.
- There is a common bath area for women without doors in it
- There, food is offered three times but the quality of the food is not eatable (in the name of taste, pulses only contain salt, tea contains sweetness with lukewarm water, chapati is like papad, etc).

Actually, it's not the fault of the government, the government pays a good amount for a better life for these prisoners but the officers inside the jails, they do corruption or we can say that they provide bad food intentionally so that the prisoners buy good food from canteen by giving money and in this way, they regulate a business inside the jail. So basically we can say if you have money inside the jail only then you can have a good life there.¹

- Dining and kitchen areas are usually not clean and unhygienic which leads to different kinds of diseases.²
- Whatever disease they catch, the only treatment given is paracetamol in the name of medication.
- Prisoners do have altercations and fights for things like TV, clothes, food, etc, and many more like this. And due to the problem of impulse discontent, they easily get provoked and which may also result in crimes.

¹ Reports of National Crime Records Bureau

- When women prisoners go for hearing and return they use to get fully unclothed(including undergarments)for searching purposes irrespective of the fact that they are in their menstruation periods.
- Most of the women prisoners really do not know what they have done and once they are tagged as a criminal they remain criminals in the eyes of society for their whole life. Even after acquittal, family and society refuse to accept them.
- Loneliness, depression, and no hope of trial and acquittal lead these prisoners to commit suicide.

How they are governed

Prisoners and prisoners inside are governed by different laws, these are as follows:

- Indian Penal Code, 1860
- Prison Act, 1894
- Prisoner's Act, 1900
- Identification of Prisoner's Act, 1920
- Exchange of Prisoner's Act, 1948
- Transfer of Prisoner's Act, 1950
- Prisoner (Attendance in Court) Act, 1955
- Probation of Offenders Act, 1958
- Code of Criminal Procedure, 1973
- Repatriation of Prisoner's Act, 2003
- Model Prison Manual, 2003
- Model Prison Manual, 2016³

Committees, Commissions, and Working Groups:

- All India Jail Manual Committee, 1957⁴
- Working Group on Prisons, 1972⁵
- All India Prison Reforms Committee, 1980-83 (Mulla Committee)⁶

³ wcd, <https://wcd.nic.in/sites/default/files/Prison%20Report%20Compiled.pdf>, (last visited June. 28, 2023).

⁴ *Id*, at 05.

⁵ *Id*, at 05.

⁶ *Id*, at 05.

- All India Group on Prison Administration, Security, and Discipline, 1986 (R. K. Kapoor Committee)⁷
- National Expert Committee on Women Prisoners, 1987 (Justice Krishna Iyer Committee)⁸

MEASURES:

These are some measures that can be taken to improve the lives of women prisoners in these prisons:

- Basic facilities are to be provided to improve their living condition through improving bedding, adequate lighting, a sufficient number of toilets, etc. And as per the National Prison Manual, a specified size for cells and barracks is to be provided.
- Overcrowding should be avoided as per the National Model Prison Manual, in case of overcrowding the excess number of prisoners are to be transferred to another institution.
- All rights and duties are to be conveyed in such a language they understand.
- Improve laws, rules, regulations, and guidelines.
- Appoint more female staff including guards, officers, nurses, doctors, etc. As per The National Model Prison Manual, 2016 there should be one guarding staff for every six prisoners and one lady DIG attached to prison headquarters to look after women prisoners, staff, and prisoners in the state.⁹
- Improve sanitation and hygiene quality, especially for menstrual hygiene as a majority of women prisoners fall in the age group of 18-50. As per the National Model Prison Manual, there should be one toilet and one bathing area for every ten prisoners, and specifically washing area of women should be in a secure area so that they may be protected from sexual harassment or abuse.
- Provide sufficient amount of water, as per the National Model Prison Manual 135 liters of water to be provided per inmate so that they can clean themselves as frequently as necessary.
- Prison manuals also provide for a minimum number of clothes to be provided as per the season.

⁷ *Id*, at 06.

⁸ *Id*, at 06.

⁹ *Id*, at 06.

- As per the National Model Prison Manual, a hospital should be provided in every prison with separate wards for males and females. A regular medical check-up is to be conducted and special care is to be taken for the elderly.
- Women prisoners in need of treatment for mental health should not be kept in prison but in a mental health hospital.
- Improve food quality (nutrition), especially for pregnant and lactating women, they require more protein and minerals than usual. Prison manuals of each state prescribe a proper diet and a standard amount of calorie and nutrition intake by these inmates. And there is to be one kitchen per 100 prisoners. There should be a three-time meal for each of them, in case any inmate is performing any religious fast then also proper food should be provided
- Article 39A of the Indian Constitution provides for legal aid for every poor and weaker section of society and ensures justice for all. Though all prisons have the right to legal aid, make legal aid cells available.
- Help them in maintaining social networks, so that it becomes easier for them once they are released. As per the National Model Prison Manual, they are allowed to interact with family members, and friends and are also allowed to write and receive letters, and can make and receive phone calls under prescribed guidelines.

Visits of the National Human Rights Commission of India and the National Commission for Women have noticed that most of the prisons do not have waiting rooms or they are too small and noisy. So a proper waiting room should also be provided.¹⁰

- Before sending pregnant women to jail, the authority should ensure that the prison has basic facilities available for childbirth.
- Most of the women there live with their children. And special care needs to be taken for ensuring their physical and mental health, education, and recreation.¹¹
- Improve provisions and facilities made for pregnancy and childbirth in prison.
- Educational facilities are to be provided based on their capabilities and skills. Education of young prisoners (aged between 18-21) is made compulsory. A library and basic books should be provided.

¹⁰ Wcd, *Supra* note 03, at 07.

¹¹ Wcd, *Supra* note 03, at 07.

- Vocational and skilling pieces of training are to be provided. Skills such as weaving, tailoring, making soft toys, bakery-related things, etc. The saving accrued from working in the prison shall help them immediately after their release
- As per the National Model Prison Manual, no male should be allowed in the women's ward unless it is legitimate and reasons are recorded.
- As per the law commission of India, a women prisoner should be accompanied by a female relative during any transit from one jail to another or from jail to court.¹²
- The search for women should be made with decency in a private space by female staff.
- In case of any sexual harassment or abuse, the women may lodge a complaint to the prison official and can also put it in the complaint box in writing. Immediate psychological support and counseling are to be provided.
- Privacy to these complaints is to be provided. Honourable Supreme Court has directed states to install CCTV cameras in each prison.
- As per the National Model Prison Manual, the District Judge to visit every prison in his jurisdiction and hear the grievances of the prisoners.

Special provisions for them in the Code of Criminal Procedure,1973

In the Code of Criminal Procedure,1973 special provisions are provided for their arrest:

- Women cannot be arrested before sunrise and after sunset (except in case permission is given by the judicial magistrate first class)
- She can only be arrested and searched by a female officer and with due decency.
- Section 433A of CrPC, which talks about serving at least 14 years in jail in case a life imprisonment is given in which death is a punishment and that death sentence is commuted to life imprisonment should not apply to women.

Early release and parole should be taken for women. In the case of a child with the woman, the woman shall provide a name and detail in writing, with whom she wants to keep her child. In case there are no family friends available, the child shall be kept in a childcare institution.

Special provisions for foreigners

¹² Wcd, *Supra* note 03, at 07.

They are facing more problems because of many reasons like language barriers, different cultures, and different foods in different land. These are some provisions made for them:

- The embassies are informed about their details.
- They are to be provided with a translator so that they can communicate and express their grievances with the prison officials and other inmates.
- They are provided with facilities that help them in connecting with their friends and families.

CONCLUSION:

- As the number of women prisoners is increasing and the situation of these prisons are not healing, they are not serving the varied purpose of their reformation. So there is an urgent need to understand the issues of these women and serve them the same.
- As the women are living with their children, proper education and recreational facilities are to be provided for their better improvement and future.
- Special care is to be taken for women belonging to minority communities, disabled, and foreigners as they may face discrimination.
- Make sure that the rules, regulations, and laws made in this regard are followed in a proper way.



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