

Major Problems of Prisons and Conditions of Under Trial Women in India

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Abstract – Though the Prison System is as old as establishment of the Criminal Law and Judicial System in whatever form of the Government there have been whether it may be in princely States or in Democratic States. In Ancient times also, imprisonment as a punishment was initiated with the inception of Judicial System itself. However, the system of Prison administration in our country is more than 100 years old. If one looks back one cannot be impressed with the vast changes made during this period. The innovation, while still halting and employed only in some and not in all the prisons of the country, nevertheless give promise of the system of treating offenders. Attempts are now being made to treat the prisoners under less repressive discipline and with greater freedom.[1]

Administration of prisons and reformation of prisoners has been a matter of intense debate and sharp criticism at various Public Forums. Hon'ble Supreme Court of India in the recent years has come down heavily on the inhuman and degrading conditions in prisons. In many States, the problems of dilapidated Prison Structure, overcrowding and congestion, increasing proportion of under trial prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners, etc., have been engaging the attention of the Press and Social activists. With a growing advocacy for the protection of human rights in the various walks of lives, the plight of prisoners has emerged as a critical issue of Public Policy.[2]

Keywords: Women Prisoners, Under Trials, Prison Administration, Reformation in Prisons, Overcrowded Prisons, Law Enforcement Assistance Administration National Jail Census, Poor Treatment, Exploitation of Prisoners, Diseases like AIDs/HIV, Poor Health Care, Sanitary Issues and Problems of Sexual abuse, Lack of Legal Aid and other Assistance

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INTRODUCTION

Despite the relatively low number of persons in prison as compared to many other Countries in the World, there are some very common problems across prisons in India, and the situation is likely to be the same or worse in many developing Countries. Overcrowding, prolonged detention of under-trial prisoners, unsatisfactory living conditions, lack of treatment programs and allegations of indifferent and even inhuman approach of Prison Staff have repeatedly attracted the attention of the critics over the years. And in spite of repeated efforts on the recommendations of the Committee of Experts the Problem is as it was before. The common problems in all States and in every Prison are as follows:

OVERCROWDED JAILS/PRISONS

Congestion in jails, particularly among under trials has been a source of concern. The Law Enforcement Assistance Administration National Jail Census of 1970 revealed that the 52% of the Jail inmates were awaiting trial.[3]

Obviously, if prison overcrowding has to be brought down, the under-trial population has to be reduced drastically. This, of course, cannot happen without the courts and the police working in tandem. The criminal justice system would have to act in harmony.

Speedy trials are frustrated by a heavy court workload, police inability to produce witnesses promptly and recalcitrant defense lawyer who is bent upon seeking adjournments. Fast track courts have helped to an extent, but have not made a measurable difference to the problem of pendency. Increasing the number of courts cannot bring about a desired difference as long as long as the current 'adjournments culture' continues.[4]

CORRUPTION AND EXTORTION

Extortion by prison staff, and guard corruption is common in prisons around the world. Given the substantial power that guards exercised over inmates, these problems are predictable, but the low salaries that guards are generally paid severely

aggravate them. In exchange for contraband or special treatment, inmates supplement guards' salaries with bribes. Powerful inmates in some facilities in India enjoyed cellular phones, rich diets, and comfortable lodgings, while their less fortunate brethren lived in squalor. The food services are the most common sources of corruption in the Indian jails. Ninety five percent of prisoners felt dissatisfied and disgusted with the food served.[5]

UNSATISFACTORY LIVING CONDITIONS

Overcrowding itself leads to unsatisfactory living conditions. Although several jail reforms outlined earlier have focused on issues like diet, clothing and cleanliness, unsatisfactory living conditions continue in many prisons around the country. A special commission of inquiry appointed after the 1995 death of a prominent businessman in India's high-security Tihar Central Jail, Reported in 1997 that 10, 000 inmates held in that institution endured serious health hazards, including overcrowding, "appalling" sanitary facilities and a shortage of medical staff.[6]

Despite Government claims of regular medical checks and strict monitoring of communicable diseases in jails in the state, inmates continue to live under the ever-present threat of contracting AIDS or TB. Since 2011, at least 13 inmates have succumbed to AIDS till August 2015, while 42 others are currently HIV positive. During that period, 62 inmates have died of TB and 97 others suffer from the disease currently.

According to information from the state's prison department, a maximum number of 16 deaths of TB patients were reported from Udaipur central jail, while nine prisoners with the disease had died in Jaipur Central jail.

According to Dr. P.K Gupta, former Principal of S.N Medical College of Jodhpur 'TB is fatal if not treated in time and the bacteria can pass one person to another through their breath'.

Overcrowding in jails further exacerbates the situation. The inmates in such jails generally stay in close contact, leading to general risk of contracting TB. The Udaipur central jail held 1090 prisoners as of July 31, 2015 almost double its capacity of 597 inmates. At 182.58% occupancy, the Udaipur central jail was found to be the most over-crowded of all the jails in the State.

Additionally, in the last four years, 13 inmates with AIDS have died in jails, five of whom were lodged in Jodhpur central jail.[7]

'No one wants to go to prison however good the prison might be. To be deprived of liberty and family life and friends and home surroundings is a terrible thing.'[8]

To improve prison conditions does not mean that prison life should be made soft; it means that it should be made human and sensible.[9]

STAFF SHORTAGE AND POOR TRAINING OF STAFF

Prisons in India have a sanctioned strength of 49030 of prison staff at various ranks, of which, the present staff strength is around 40000. The ratio between the prison staff and the prison population is approximately 1:7. It means only one prison officer is available for 7 prisoners, while in the UK, 2 prison officers are available for every 3 prisoners.[10]

INEQUALITIES AND DISTINCTIONS

'Though prisons are supposed to be leveling institutions in which the variables that affect the conditions of confinement and the criminal records of their inmates and their behavior in prison, other factors play an important part in many countries'. This report by the Human Rights Watch, specifically cite countries like India and Pakistan, where a 'rigid' class system exists in the prisons. It states that under this system, special privileges are accorded to the minority of prisoners who come from the upper and middle classes irrespective of the crimes they have committed or the way they comport (conduct) themselves in prison.[11]

INADEQUATE PRISON PROGRAMMES

Despite the problems of overcrowding, manpower shortage and other administrative difficulties, innovative initiatives have been undertaken in some prisons. For e.g. the Art of Living has been carrying out a SMART program in Tihar Jail. This includes two courses per month and follow up sessions every weekend. Two courses are annually conducted for prison staff. But these are more by way of exceptions and experiments. A Srijan Project there is aimed at providing social rehabilitation. However, such programs are few and far between. Many prisons have vocational training activities, but these are often outdated. Hardly any of the prisons have well planned prison programs providing structured daily activities, vocational training, pre-discharge guidance and post-prison monitoring.

Prisons, though for a short or longer period are places of living for both accused as well as convicts. The reformatory objective expects that it should also be a place of learning and earning. To provide physical, material and mental conditions of decent living to prisoners, it requires recreating almost a miniature world inside the prisons. This is difficult if not impossible. European countries are increasingly in search of alternatives to confinement, as they realized more resources for assimilation of deviant are available in open society rather than inside the closed walls. This has not happened so far in India as governments across

the ideological spectrum are illiberal and society is unsympathetic to rights of the incarcerated. The result is lowest priority to the prison management. Consequently prisons function in complete isolation, without adequate qualitative, quantitative human and physical resources and support of other institutions.[12]

POOR SPENDING ON HEALTH CARE AND WELFARE

In India, an average of US \$ 333 (INR 10,474) per inmate per year was spent by prison authorities during the year 2005, distributed under the heads of food, clothing, medical expenses, vocational/educational, welfare activities and others.[13] This is in contrast to the US, where the average annual operating cost per state inmate in 2001 was \$ 22,650 (the latter presumably also includes salaries of prison staff). The maximum expenditure in Indian prisons is on food. West Bengal, Punjab, Madhya Pradesh, Uttar Pradesh, Bihar and Delhi reported relatively higher spending on medical expenses during that year, while Bihar, Karnataka and West Bengal reported relatively higher spending on vocational and educational activities. Tamil Nadu, Orissa and Chhattisgarh reported relatively higher spending on welfare activities.[14]

LACK OF LEGAL AID

In India, legal aid to those who cannot afford to retain counsel is only available at the time of trial and not when the detainee is brought to the remand court. Since the majority of prisoners, those in lock up as well as those in prisons have not been tried, absence of legal aid until the point of trial reduces greatly the value of the country's system of legal representation to the poor. Lawyers are not available at the point when many of them mostly need such assistance.[15]

A workshop conducted by the Commonwealth Human Rights Watch in 1998 in Bhopal, focused on several aspects related to legal aid.[16] It was pointed out that 70% of the prison population is illiterate and lacks in understanding of prisoner's rights. Thus, the poor in prison do not always get the provisions in law though the State is obliged to provide legal aid. As also observed by the Mulla Committee, most prison inmates belong to the economically backwards classes and this could be attributed to their inability to arrange for the bail bond. Legal aid workers are needed to help such persons in getting them released either on bail or on personal recognizance. Bail provisions must be interpreted liberally in case of women prisoners with children, as children suffer the worst kind of neglect when the mother is in prison.[17]

The lack of good and efficient lawyers in legal aid panels at that time was also a concern raised.

Several suggestions were made to speed up trial processes so that the population of under-trials could be reduced. And some suggestions include imparting legal literacy to the prisoners, sensitizing the prison administration, taking up individual prisoners to provide legal aid, involving Para-legal staff to work with prisoners, both convicts and under trials. The Lok Adalats involvement to be greater and that constant monitoring of prisons were necessary to identify inadequacies and shortcomings in the prison administration. It finally suggested the need for law reform as essential to the entire system of legal aid.[18]

Many of the women were illiterate, had never stepped out of their houses, had no financial resources and many had been arrested on petty charges. Most had no idea about legal procedures, such as, what is the process of trial, how to arrange for a defense lawyer, what laws exist to protect their children or property etc.[19]

ABUSE OF WOMEN PRISONERS

Physical abuse of prisoners by guards is another chronic problem. Some countries continue to permit corporal punishment and the routine use of leg irons, fetters, shackles, and chains. In many prison systems, unwarranted beatings are an integral part of prison life. Women prisoners are particularly vulnerable to custodial sexual abuse. The problem was widespread in the United States, where male guards outnumbered women guards in many women's prisons. In some countries, Haiti being a conspicuous example where female prisoners were even held together with male inmates, a situation that exposed them to rampant sexual abuse and violence.

A book reviewing prison services in Punjab, India reported that, 'to get food supplements, or blankets in winter, class c-prisoners must fan the convict officers, or massage their legs, or even perform sexual favors for them. The enslavement of other prisoners to the convict officers who effectively run the prisons is particularly severe for new comers (known as Amdani). They are teased, harassed, abused and even tortured as part of the process of breaking them in.[20]

CONSEQUENCE OF PRISON STRUCTURE AND FUNCTIONS

Physical and psychological torture resulting from overcrowding, lack of space for segregation of sick, stinking toilets for want of proper supply of water, lack of proper bedding, restrictions on movement resulting from shortage of staff, parading of women through men's wards for lack of proper separation, non-production of under trial prisoners in courts, inadequate medical facilities, neglect in the grant of parole, rejection of premature release on flimsy grounds, and several such afflictions result not only

from any malfeasance of the prison staff but from the collective neglect of the whole system.[21]

In many places, non-governmental organizations provide rehabilitation programs and a few provide aftercare. Most prisoners are ill prepared for release. No steps are taken to minimize their chance of committing re-offences. Programs to develop a set of values, the ethos of honest labor with the community are essential.

Well-established prisons with continuous good leadership generally impart literacy to the illiterate inmate and offer facilities for higher education to those who are already reasonably educated and are willing to improve on their knowledge so that they are usefully employed after getting back to the community.

HEALTH PROBLEMS OF WOMEN PRISONERS IN PRISONS

The overcrowding, poor sanitary facilities, lack of physical and mental activities, lack of decent health care, all increase the health problems in prisons. The prisons are 'excellent venues for infectious disease screening and intervention, given the conditions of poverty and drug addiction'.[22]

It is surprising and indeed shocking that despite the large prison population in India, there is a complete dearth of published information regarding the prevalence of health problems in prisons. An exception is a small study in the Central Jail at Hindalga in the Belgaum district of Karnataka, 850 prisoners were evaluated.[23] Follow-up of these prisoners for a period of one year revealed that Anemia (54.82%) was the commonest morbidity among chronic morbidity followed by respiratory tract infections (21.75%) and 184 diarrhea (13%) for acute morbidity. Pulmonary TB and HIV contributed 2% and 1.5% respectively. Other morbidity included diabetes (3.6%), senile cataract (7%), pyoderma (12%) etc. Very few details are available of this work including criteria for diagnosis, investigations carried out etc. In another study, anemia was the common physical problem noted in prisons.[24]

TUBERCULOSIS

TB notification rates in prisons are many times greater than that for the general population. TB is considered to be the single biggest cause of death among the world's prison populations. Despite TB's endemic nature in Asia, TB among prisoners is not well documented.[25]

Prisoners are vulnerable to TB because:

- (I) They are from the most disadvantaged socioeconomic strata of society, mostly young males, and therefore may enter the prison with a high risk of prior TB infection/disease.

- (II) They have poor nutrition, before entering the prison as well as the poor diet inside the prison plays a contributing role.
- (III) They may be HIV-positive before due to injecting drug-use. In some countries, up to 70% of prisoners with TB are also infected with HIV. The vulnerability of prisoners to punishment, sexual violence can increase the risk of transmission of HIV, which accelerates the progression to TB.[26]
- (IV) Prisons are overcrowded and have poor ventilation.[27]
- (V) Budgetary allocations for health care are low and poor treatment is inadequate.
- (VI) Anti-tuberculosis treatment may not be completed prior to release or transfer.

Prisons are reservoirs of TB and threaten not only the inmates, but the prison staff, visitors and community. As with any confined and limited environment effective TB control activities can be initiated.

HIV/STIs

The HIV/AIDS (Human immunodeficiency virus infection and acquired immune deficiency syndrome) epidemic ravaged prison populations, with Penal facilities around the world reporting grossly disproportionate rates of HIV infection and confirmed AIDS cases. Inmates around the world frequently died of AIDS while incarcerated, often deprived of even basic medical care.[28] In countries like India, Indonesia and Thailand, HIV prevalence in prisons is between two and 15 times greater in the prison populations than in the general community. This could be on account of risky heterosexual or homosexual encounters, voluntary or coerced, injecting drug use.[29]

Most prisoners bring in HIV infection when they enter the prison. High risk sexual behaviors are common in prisons, and combined with a lack of poor knowledge of HIV/ other STI (sexually transmitted infection) transmission and a paucity of services makes this a very hidden and difficult problem to tackle.[30] The tedious prison environment, crowding and hostility, lack of occupation of mind and body and just plain boredom lead to accumulated frustration and tension. This environment leads to high risk activities such as use of drugs and unprotected sex. Some become involved because of monetary gain. Risky lifestyle leads to the transmission of diseases from one prisoner to another and poses a serious public health risk if unchecked.

There continues to be stigma associated with discussing HIV/AIDS particularly in correctional settings where many HIV risk behaviors (e.g.

injection drug use, unprotected anal sex) are disallowed. However, there are hardly any reports of sexual activity in prisons in India and no prevalence data is available.

WOMEN AND HEALTH CARE IN PRISONS

Although the population of women in prisons is relatively low, their adverse social positions and social disadvantage make them more liable to rejection from families and greater dejection when they are in prison. Low levels of education and poor legal awareness makes women more likely to serve longer sentences in prison.

Studies from developed countries find that mental illness is grossly over-represented among incarcerated women. It is substantial contributor to the poor health status of this population. Of particular concern are the effects of trauma and substance use disorders, which are often a result of past victimization. Mental ill health may also be appreciated in relation to psychological distress in the form of suicide and self-harm, both of which are elevated among women compared with both their male counterparts and the general population. The prison experience frequently compounds this disadvantage and psychological distress by failing to address the underlying trauma and die particular mental health needs of female prisoners. Women are "unable to defend themselves, and ignorant of the ways and means of securing legal aid. They are unaware of the rules of remission or premature release, and live a life of resignation at the mercy of officials who seldom have understanding of their problems."

CONCLUSION

Women in the contemporary prison face many problems; some resulting from their lives prior to imprisonment, others resulting from their imprisonment itself. Women in prison have experienced victimization, unstable family life, problems in education and work, and substance abuse and mental health problems. Social factors that marginalize their participation in mainstream of society and contribute to the rising number of women in prison include poverty, lack of social support, separation or single motherhood, and homelessness. Lack of financial support and social ostracize makes life after release a veritable hell.

Particularly difficult situations for women are separation from children and other significant people, including family. Some women are pregnant when they come into prison and this can be a particularly difficult time, physically and psychologically. World over, it has been found that prison services are not sensitive enough in timely recognition and treatment of their mental health problems and do not address their vocational and educational needs adequately when compared to men. As mentioned earlier,

women are more liable to abuse. In some parts of the world, it is said that women in prison are likely to be subject to more desperate disciplinary action than the men. The characteristics of women offenders and their pathways to crime differ from male offenders. The system responds to them differently, therefore there is the need for gender-responsive treatment and services.[31]

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