

SECURITY WITHIN SECURED PREMISES

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ABSTRACT

Over the centuries , Prisons in India have evolved as a method of reform rather than an example to create deterrence . Accordingly, the hon'ble Supreme Court has ensured the uphold of basic prisoners' rights by stating in Re- inhuman conditions in 1382 prisons "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"

Crimes by women forms a smaller chunk of recorded crimes and hence the women prisoners whether undertrials or convicts are the neglected portions of much needed prison reforms by concerned state governments as per their powers enshrined in seventh schedule of Indian constitution. According to latest statistics Indian prisons by the end of 2015, housed 17, 834 women, out of which only 17% lived exclusively in female prisons, while others were lodged in female enclosures of general prisons . security of women prisoners are a stake in such enclosures with non adherence to directions of NATIONAL MODEL PRISON MANUAL 2016 which states - "the existing enclosures for women in common prisons will be renovated to ensure that women prisoners do not come in view of male prisoners during their passage to and from these enclosures". Security of women prisoners can be studied from varied directions ranging from safety from physical assault to mental assault in form of psychological stress due to prevalent in humane conditions inside prisons.

As of 2015, the total number of women jail staff was 4,391 constituting only 8.28% of total jail staff , clearly indicating towards the scarcity of female staff. and further inability to adhere to the directions of PRISON MANUAL , which directs that there should be one guarding staff for every 6 prisoners , such

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inability translates into grim situations , wherein jail staff stands unable to control fights among inmates or secure women housed s in women enclosures within common prisons.

Overcrowding in prisons again pose an administrative as well as security challenge. The recorded national average occupancy in Indian prisons is high as 276.7% in Dadra and Nagara Haveli and 233.9% in Chattisgarh. This problem when magnifies leads to menace of frequent quarrel amongst inmates for exploiting limited facilities in prison premises such as toilets and bathrooms.

One of the recommendations of PRISON MANUAL prescribes one toilet and one bathroom for every 10 prisoners, however such recommendations are rarely seen enforced on ground, this translates into either frequent fights among inmates or forcing them to avoid bathing for multiple days , forming a cause for psychological stress and health related issues. Passage towards toilets and bathrooms in common prison are often unguarded and lack safe entrances, which increase the risk of sexual abuse of women prisoners.

Another dimension which poses challenge to security of other inmates is the children of women inmates. It is a common observation that children are often forced to live with offenders of heinous crimes which is undesirable for their productive growth. Also, lack of basic facilities like proper clothing or food attracts opposition from their mother serving a sentence in prison. This creates psychological stress in such mothers which may take a dangerous turn when , such voices are left unheard.

There is a lot which is done on ground , but there is a lot which can also be done on ground, the only need is to explore the challenge in multiple directions in order to come up with innovate and long running solutions.

Introduction

In words of Nelson Mandela *“It is said that no one truly knows a nation, until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.”* Prisons in India after independence have emerged as correction home, aimed at inflicting reformatory form of punishments, thereby making constructive changes in defaced normal social activity. Indian judiciary has been a firm believer of upholding human rights of prisoners by stating *“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 sympathy².”*

However, such positive mindset of justice delivery, meets no rosy ends because of weak criminal justice system which starts breathing weak right from the age of admission into Indian prisons. Present scenario paints a grim situation of prisons, wherein inmates are not even entitled to basic human rights as a citizen as promised by the court by stating *“convicts are not by mere reason of conviction denuded all fundamental rights which they otherwise possess³.”*

Indian society, unfortunately treats certain classes of citizens as second class citizens based on various factors, one being gender. Females in our country are put into steel framework, and are expected to live within such unbreathable working frameworks. Any deviation from such centuries old working models, attracts social stigma without even delving into reasons of such deviations. Women prisoners, is one such class of isolated citizens who are looked down upon by society, which includes even their family members. Reformation of such strata of society, thus becomes difficult. The so called correction homes, should in such scenario must help them, to rise above such difficult situations and emerge as reformed and strong working pillars of the society, but unfortunately, the prisons on the contrary have emerged as a major contributor to post release psychological trauma which an inmate faces after her release.

² Re - inhuman conditions - W.P. (C) No. 406 of 2013

³ State of MP v shyamsundar Trivedi 1995

Prisons offer multidimensional problems , which require urgent attention and resolution in order to serve the actual purpose of imprisonment.

Separate prisons

As per latest data available from the end of 2015, Indian prisons were home to 17,834 women, only 17% of these women live in exclusively female prisons, while the majority are housed in female enclosures of general prisons.⁴ such deficiency on part of state translates into non delivery of gender specific facilities which are included in basic human rights.

Prison staff

As per directions of the National Model Prison Manual 2016, there should be -

1. One guarding staff for every 6 prisoners.
2. One lady DIG attached to prison headquarters to look into matter of prisoners and prisoners staff.

Unfortunately, Recorded shortage of female staff results in the male guards fitting in the vacuum which is undesirable, as they cannot provide gender-specific services, which is the ultimate motto.

Housing Space

As per prescribed standard of National Prison Manual, Barracks are meant ideally to house only 20 prisoners and dormitories to house only 4-6 prisoners each. Additionally, every prisoners to be provided with separate and private storage system for personal belongings. Adequate cooling and heating facilities in Barracks are bare minimum level of services to be provided. Provision for segregated cells for prisoners in needs for instance, the one suffering from any contagious disease is also prescribed. However, overcrowding are the usual unpleasant site at such prisons, with national average occupancy reported as high as 226.9% in National capital. Various effects have reported from this inefficiency in prisons which are as follows-

1. Frequent quarrel amongst inmates.
2. Low hygiene level translating into health menace.

⁴ NCRB

3. Psychological effects on prisoners forced to live in such close quarters with one another.
4. Children of women prisoners are packed with offenders of heinous crimes, effecting their mind mapping at such early stage.

Transferring prisoners with good conduct to semi open or open jails can emerge as a better alternative serving multiple purposes, ranging from healing effect on the minds of inmates, to increased employability if are arranged in any productive economic activity such as horticulture and can at the same time solve the problem of over crowding at jails.

Hygiene

In order to maintain proper hygiene if is essential to provide proper accommodation along with toilet facilities. As per the principles enshrined National Prison Manual, one toilet and one bathing cubicle must be given forevery 10 prisoners. It further provides for 135 litres of water per in inmates. Ground realities unfortunately are far from such ideal service. Infact periodic cleaning, disinfection and pest control have also become a luxury for prisoners who are forced to use the available inadequate resources. Unfortunately incidents of prisoners picking up such jobs themselves as means of survival.

Sanitation

A bare minimum level of service delivery system calls for providing minimum number of clothes and undergarments to women prisoners as per climatic conditions . However, stats portrays a grim picture, wherein women prisoners are not provided such clothing and do not have the opportunity to wash these clothes regularly. Women prisoners risks their health when due to lack to accessibility to sterilised napkins, they are forced to used unhygienic alternatives for their necessary evil every month. Charging of sanitary napkins are one of the reasons for such inaccessibility. Various measures can be adopted by jail authorities to achieve the prescribed formula of sanitation, which are as follows –

1. Linking the mega projects such as “Swacch Bharat Abhiyaan” to construct and repair as per needs.

2. Prisoners can be trained to produce low cost and organic sanitary pads.

Health

This aspect connected with prisoners has multiple dimensions namely-

1. Physical health - Nutrition clubbed with hygienic dining forms the basic need for better physical health of women prisoners, who require more attention than male counterparts. As per prescribed standards, there is to be one kitchen per 100 prisoners, serving set scale of calorie laden food, 3 times a day. There is an agreed rule to increase the calorie intake and variety of food for pregnant and lactating female inmates. Dining area forms the part of prison, which is most neglected translating into a major source of health menace. Discrimination is served to female inmates in forms of less food on their plates when compared to male counterparts. Better attention and adoption of quick fix solutions as enumerated under can lead to automatic adherence to prescribed principle -

- 1) Positive discrimination should replace the non-reasoned discrimination and female inmates must be served with more and better food, packed with calories.
 - 1) Regular inspection of kitchen must be conducted to ensure the adherence to hygiene standards.
 - 2) A jail committee must be formed, to look into the complains of bad quality food being served.
 - 3) Periodic and regular cleaning of dining areas must ensured be by jail authorities.
 - 4) Fortified food and nutrient supplements must find a place in prison diet plan to improve nutrition level.
 - 5) Medical officers must be appointed to check the physical health of inmates on monthly basis.
 - 6) Utensils serving food, must gain required attention of jail staff, to either make sure that they are clean or replace them with bio-degradable utensils made by inmates themselves, which could also be sold in case of surplus.
- 2. Reproductive health** - As per the stats, a major chunk of lodged female inmates are in their reproductive age brackets[31.3% of them are in

age group of 18.30 years⁵]. This calls for attention to be paid on their reproductive Health. Before admitting females to jails, screening by appointed medical officers must be done to sieve out the cases of any sexually transmitted diseases (STDs) or any initial stage of pregnancy. Such screening tests, must promise a degree of confidentiality to the subjects.

Sterilised sanitary napkins must be provided to them, preventing them to use unhealthy alternative such as newspaper, old clothes etc.

3. **Mental Health** - This aspect of health misses a sight of jail authorities, translating into missing cases of depression, which when aggravated changes into suicidal death in the secured premises. Monthly mental health detection tests must be conducted along with routine health check ups. Contact with outside world can also serve as an avenue to prevent depression amongst inmates, who find it difficult to adjust with new people with an enclosure. Court in *Hiralal Mallick v State of Bihar*⁶said “ *to reduce mental tensions among the prisoners , the prison authorities should provide for the vital link between the prisoner and his family by periodically granting parole.*

Semi-open jail system has emerged as Buddha’s middle path ways, wherein prisoners with recorded good conduct are kept in prison with no bars. This helps in improvement of mental health of inmates as such system creates a sense of freedom and appreciation amongst the chosen ones, thereby motivating others to improve their conduct and win such brownie points.

Others aspect of outside world, is the link with family members and friends established via permitted visits and phone calls. However, it is observed that many jail authorities are unable facilitate the inmates in form of dis-interrupted phone connections, noisy or no visiting rooms for visitors of inmates. Social stigma attached to women in jails aggravates the situations, as the inmates often face social isolation even on part of family members. Establishing links with local hospitals and NGOs can help female inmates to recover from different levels of depressions. Community programmes focusing on cultivating life skills.

⁵ NCRB 2016

⁶ 1977 cri, LJ 1921 at 1927 (SC)

Education

Article 21 of Indian Constitution provides for education for all, which also includes women prisoners. Providing education, serve 2 purposes- maintaining discipline within prison and help them to re-fit in social web, with better chances of employment in outside world. In order to impart to education, facilities such as teachers, libraries and classrooms are to be provided by state authorities.

Linkage with government schools and local NGOs can always emerge as a better alternative.

Where education serves the function of increasing the chances of employment, it's coupling with skilling can in a way be a guarantee of employment. Besides, it also helps in earning, when inside the jail premises. Many skilling programmes are currently in their way to equip women prisoners such as carpentry, weaving, making soft toys and other products. One such example of skilling and easy earning the agreement between Delhi government and Tihar jail authorities to procure benches for Delhi government schools from the jail. Court has declared that *"when prisoners are made to work , a small amount by the way of wages could be paid and should be paid so that the healing effect on their mind is fully felt."*⁷

Maintenance of security

Due lack of adequate women prisons, female inmates are launched into barracks assigned to them. This increases the call for strictly vigilant system to ensure security of women counterparts. A good practise employed by Tihar jail must be adopted in this direction. Biometric identification system consisting of photographs and biometric fingerprints of all prisoners, helps in easy tracing of movement of prisoners across the prison premises, thereby promising better security for women prisoners. Regular Body searches are also recommended in this direction, with loud provision of adopting least intrusive mode for conducting the search. Alternatives to physical and invasive search procedures

⁷Dharambir v State of UP, AIR 1979 SC 1595

such as Hand-held metal detectors, breathing analyzers are adopted. In Thane, Maharashtra, which deserves appreciation.

Children of women prisoners

Court has pointed out that a child shall not be treated as an under trial/ convict while in jail with his/her mother. Such pronouncements becomes necessary where, a child is forced to spend his/her formative years in premises which is undesirable for his residence and growth as a an healthy and happy individual. Supreme Court has issued guidelines for the better upbringing of child who is either born or has entered the jail with his/her mother upon conviction :

1. No female prisoner shall be allowed to keep a child who has completed the age of six years . upon reaching the age of six years , the child shall be handed over to a suitable surrogate as per the wishes of the female prisoner or shall be sent to a suitable institution run by social welfare department. Such children shall be kept in protective custody until their mother is released or the child attains such age as to earn his / her livelihood. Children kept under protective custody in a home of the department of social welfare shall be allowed to meet his/her mother once in a week. When a female prisoner dies and leaves behind a child, the superintendent shall inform DM concerned and he shall arrange for the proper care of the child.

2. Children in jail shall be provided with adequate clothing, suiting the local climatic requirement for which state/UT government shall lay down the scales.

3 State/ UT government shall lay down dietary scales for children keeping in view the calorific requirements of growing children as per medical norms .

4 A permanent arrangement needs to be evolved in all jails , to provide separate food with ingredients to take care of the nutritional needs of children who reside in them on regular basis

5 Separate utensils of suitable size and material should also be provided to each mother prisoner for using to feed her children

6 Cleaning drinking water must be provided to the children . this water must be periodically checked

7 Children shall be regularly examined by the lady medical officer to monitor their physical growth and shall also receive timely vaccination. Vaccination charts regarding each child shall be kept in the records. Extra clothing, diet and so on may also be provided on the recommendation of the medical officer .

8 The child of female prisoners living in the jails shall be given proper education and recreational opportunities and while their mothers are at work in jail, the children shall be kept in creches in charge of a matron / female warder.

9 The stay of children in crowded barracks amidst women convicts, under trials , offenders relating to all types of crimes including violent crimes is certainly harmful for development of their personality. Therefore, children deserve to be separated from such environment on priority basis.

Legal awareness

Our constitution has guaranteed fundamental rights to its citizens , which cannot be violated , except in some rare conditions. However, due to lack of legal awareness , people including prisoners are unable to exercise such rights, which points towards the need towards raising awareness amongst them. According to one of the recommendations of justice A.N.Mulla Committee, women prisoners should be informed of their rights under laws, Innovative ideas over the periods of time have emerged in various cases for the same for instance-

1. In *Sunil Batra v Delhi Administration*⁸- Court directed that the state shall take early steps to prepare in Hindi, a prisoner's Handbook and circulate copies to bring legal awareness.

2. The importance of speedy trial in form a legal right was highlighted by court in case of *A.R.Antulay v R.S.Nayak*⁹, where the court said "the accused cannot be denied the right of speedy trial merely on the ground that he has failed to demand a speedy trail.

⁸ AIR 1978

⁹ AIR 1984 SC 1630

Above mentioned are some the aspects which are either left unheard by the State , or are left on the stage of better implementation . Parliament and the Judiciary stand at a length from the grass root level and can only help in policy formation or guiding the administration . It is the jail authorities which are to be sensitized towards the gender specific needs of inmates so they can better serve as a well functioning arm of justice delivery system . Modern era of justice delivery system is marching smartly towards reformative form of criminal justice delivery system which has its base in classification based upon age, sex, gravity of offence and mental depravity. The whole purpose of creating a change in a society and reducing crime rates right from its base can never be accomplished unless the ones in the present net do not come out as warriors instead of survivors who suffer from burden of guilt coupled with non acceptance on part of society , jail authorities, media, family and the violence there upon. The words of Gandhi ji “hate the sin and not the sinner”, should become the guiding principle for the criminal justice delivery system in order to change the society by way of reform and not by creating deadly deterrence, because it is to be understood that there will always be a criminal psychology which can easily sieve through such deterrence and create nuisance but a society with a healthy mind set is not likely to commit a crime, let alone the dare of playing with framed legislation. There is much which has been done, but there also a need to build a road ahead to march smoothly on path of reshaping the society for the better.