



WOMEN PRISONERS IN INDIA – AN ENIGMA

R. Kiran Naik* Dr. C. M. Thyagaraja**

*Research Scholar, Department of Business Administration, Rani Channamma University, Belagavi.

**Professor, Department of Business Administration, Rani Channamma University, Belagavi.

Abstract

The study examines the problems of women prisoners in India. The data collected through the secondary sources till end of 2016. Through the study it found that, there is no equal distribution of prisons between the states and also number of prisoners in the prisons. Further, there is no relation between the capacity of the women prisons across the country and the number of women inmates.

There is no relation between convicted and under-trials in the prisons of different states across the country. At all India level results are matching with empirical results that are the under-trials were 66.8% and convicts 32.2%. Majority detunes in women prisons and others in central prisons it is seen that, crime starts as women folk enters the age of 18 it increases gradually in connection with age till 50 years and slightly decreases in the above 50 years of age group women. Further, the problems of women prisoners were identified like, overcrowding, accountability, legal rights, basic facilities etc. The suitable measures were suggested in the form of best practices in Indian prisons.

Keywords: Prisons, Women Prisoners, Problems and Suggestions.

Introduction

Prisons are meant to be places where people are confined as punishment for crimes. But, according to the inmates, women prisoners are treated differently and worse than men. Though the Prison was considered a house of captives and for punishment, the focus is changing now; Prison is no longer about punitive measures alone; it is viewed as a correctional institution for rehabilitation. Delhi Prisons Act was the Supreme Court judgment of Sunil Batra (II) v. Delhi Administration (AIR 1980 SC 1579), which states: no prisoner can be personally subjected to deprivations not necessitated by the fact of incarceration and the sentence of the Court. All other freedoms belong to them. The Act is based on the principle of preserving the “right to life” and that prisoners still have all of their rights, except those taken away by virtue of incarceration.

1. Karnataka Scenario

Almost all categories of prisons provide for separate enclosures in one corner of the prison. The little enclosures do not have enough space to move and there is little difference between the convicts and under trials present there. Women prisoners are only 3.91 per cent of the total prison population of the state (as per PSI, 2015) and there is more accommodation available for them than required. Yet women prisoners are faced with more problems than the male inmates. Dumped in one corner of the prison, they have no free access to the kitchen, visitors or the library, all of which are available to male inmates. The small number of women inmates also means that not all prisons keep women prisoners, and they are often held far away from home, affecting their right to family life. Their separation from families and children makes imprisonment more stressful. Due to a lack of female guards to accompany them, women prisoners are not produced at court on the required dates or as often as required, resulting in long delays in their trials. There is no uniform policy or facilities for women inmates across the state. In some prisons, fans are not installed in the women’s enclosure due to a “suicide risk”, whereas, the same facilities are allowed in other prisons. In some prisons, women are provided hot water facilities but the maintenance of solar installations is poor. However, the prisons of Bangalore, Chikmagalur, Tumkur and Belgaum have access to television programmes and other amenities. While the majority of central prisons emphasise on vocational needs of the male inmates, the women, other than in Bangalore, are hardly provided with any meaningful work. While in most prisons the women occupy themselves with sifting the grain, the inmates of Bangalore Central Prison engage themselves in bread, incense and chalk-making and earn between Rs. 10 and Rs. 20 per day. They also have access to the kitchen and facilities for their children. While male inmates in all central prisons have access to dispensaries and doctors at all times during the day, female inmates are visited by doctors once a week. Among the doctors working in the department, only one in Belgaum Central Prison is a gynaecologist with relevant experience to address the particular problems of women prisoners.

2. Need for the Study

The family system in ancient India and now to is patriarchal in nature. Eldest male member heads the family. Family is identified in the name of head of the family. Women have a subordinate and supporting position to men in the family. As a girl she is protected by father, as a wife by the husband and as an old person by the son. A woman in the family is protected by the male members. Their involvement in criminal activities is at a minimal level compared to men. Male criminality is widely discussed and has always generated interest in Criminology and lot of research work is done on this area.



The topic of women crime has begun to draw much attention due to renewed interest in women and economic development. The role of women in Indian society has under gone considerable change since two decades leading to a greater participation in criminal activities by them. Hence, the statement of the problem is to look into the problems encountered by women prisoners in the prisons. “Women Prisoners in India – An Enigma”.

3. Aims and Objectives

The study aims to examine the basic issues of women prisoners and problems faced by them in Indian prisons. The main objectives of this study are:

- To study the living conditions of women prisoners in Indian prisons.
- To evaluate the women prisoners distribution among different prisons in India.
- To learn the age group of the women prisoners involved in Criminal activities.
- To appraise about the problems faced by women prisoners.
- To suggest measures to solve the problems of women prisoners.

4. Scope of the Study

The study covers the prisons in India. This study mainly confines itself to analyse the issues relating to the problems faced by the women prisoners in Indian. The findings of the study will provide an important contribution to Prisons in terms of reformatory activities to be conducted and provide necessary corrections for better and able management of women prisoners in Indian prisons. The study is based on secondary data and factual information is drawn from various reports up to 2016.

5. Research Methodology (Primary, secondary data, research design, data collection method)

The present study is based on the secondary sources of data. Secondary data was collected from Manual reports of HRLN& CSDL, New Delhi. (Human Resource Law Network and Catalyst Social Development Consultant Pvt. Ltd.), CHRI, Prison related Website, Journals and Articles. The collected data were analysed by using statistical tools like Percentage, Mean, and Standard deviation etc. Further, paper focuses on issues and problems on women prisoners and suggestions.

6. Analysis of Women Prisoners in India

The women prisoners and prisons in India are analysed in this section.

Table 1: State /UT-wise Distribution of Women Prisons in the Country

S. No	State/UT	No. of Women Prisons	No. of Prisoners
1	Andhra Pradesh	1	107
2	Bihar	1	82
3	Gujarat	1	103
4	Kerala	3	141
5	Maharashtra	1	200
6	Odisha	1	30
7	Punjab	1	173
8	Rajasthan	2	279
9	Tamil Nadu	3	417
10	Telangana	1	252
11	Uttar Pradesh	1	292
12	West Bengal	1	330
	Total States	17	2406
13	Delhi	1	579
	Total All India	18	2985

Source: HRLN Report on NCPR New Delhi, 2016

Table 1 shows that, the number of women prisons distributed among the states and union territories. The more number of prisons were found in Kerala (3), Tamil Nadu (3) and Rajasthan (2) while, other states have single prison, Delhi (579), followed by Tamil Nadu (417) Uttar Pradesh (292) and Telangana (252) are more crowded and lowest prisoners found in Odisha (30) and Bihar (82).

It is found that, these are the independent prisons for women’s whereas the women prisoners in other states are found with regular prisons with separate arrangements. There is no equal distribution of prisons between the states and also number of prisoners in the prisons.



Table 2: Capacity and Population of Inmates of Women Prisons

S. No	State/UT	No. of Women Prisons	Total Capacity of Inmates	Inmate Population	Total Capacity to Inmates Per cent
1	Andhra Pradesh	1	160	107	107 (66.88)
2	Bihar	1	83	82	82 (98.79)
3	Gujarat	1	210	103	103 (49.05)
4	Kerala	3	272	141	141 (51.83)
5	Maharashtra	1	262	200	200 (76.34)
6	Odisha	1	52	30	30 (57.69)
7	Punjab	1	320	173	173 (54.06)
8	Rajasthan	2	450	279	279 (62.0)
9	Tamil Nadu	3	1569	417	417 (26.58)
10	Telangana	1	250	252	252 (100.8)
11	Uttar Pradesh	1	420	292	292 (69.52)
12	West Bengal	1	300	330	330 (110.0)
	Total States	17	4348	2406	2406 (55.34)
13	Delhi	1	400	579	579 (144.75)
	Total All India	18	4748	2985	2985 (62.66)

Source: HRLN Report on NCPR New Delhi, 2016

Table 2 shows that, the capacity of the prisons and the women inmates. The states like, Tamil Nadu (1569), Rajasthan (450) and Uttar Pradesh (420) are highest in capacity respectively, followed by Delhi (400) and Punjab (320). The women inmates are more in Delhi (144.77%), West Bengal (110.0%) and Telangana (100.8%) found over crowded, followed by Bihar (98.79) and Uttar Pradesh (69.52%).

This shows that, there is no relation between the capacity of the women prisons across the country and the number of women inmates. Because we found over-crowded prisons and high capacity prisons are not matching. There is uneven distribution of capacity among prisons across the country and number of women inmates in the prisons.

Table 3: State/UT –wise Distribution of Female Prison Inmates in Women Prisons

S. No	State/UT	Convicts	Undertrials	Detunes	Others	Total
1	Andhra Pradesh	70	36	0	1	107
2	Bihar	59	23	0	0	82
3	Gujarat	60	33	10	0	103
4	Kerala	49	92	0	0	141
5	Maharashtra	6	194	0	0	200
6	Odisha	15	15	0	0	30
7	Punjab	78	95	0	0	173
8	Rajasthan	100	179	0	0	279
9	Tamil Nadu	181	215	21	0	417
10	Telangana	136	107	9	0	252
11	Uttar Pradesh	292	0	0	0	292
12	West Bengal	93	237	0	0	330
	Total States	1139	1226	40	1	2406
13	Delhi	165	414	0	0	579
	Total All India	1304	1640	40	1	2985

Source: HRLN Report on NCPR New Delhi, 2016

Table 3 reveals that, the Uttar Pradesh (292) has highest convicts followed by Tamil Nadu (181), Delhi (165) and Telangana (136) further; Maharashtra (06) and Odisha (15) were the lowest convicts. The under-trials are more in Delhi (414), West Bengal (237) and Tamil Nadu (215), further, lowest in Uttar Pradesh (0) and Odisha (15). The Detunes are found only in Tamil Nadu (21), Gujarat (10) and Telangana (9), further, Andhra Pradesh has others (1) only.

As we find in the empirical evidences 60% of the prisoners are under-trials. We found similar to it that is 55% of prisoners are under-trials. There is no relation between convicted and Under-trials in the prisons of different states across the country. Detunes were found in 3 states and others in one state.



Table 4: Category –wise Distribution of Female Inmates in Different Prisons

S. No	Type	Convicts	% Share	Under trials	% Share	Detunes	% Share	Others	% Share	Total
1	Central Prison	2633	44.0	3226	54.0	18	0.3	102	1.7	5979
2	District Prison	1618	21.9	5748	77.9	14	0.2	3	0.0	7383
3	Sub-Jail	62	5.5	1058	94.5	0	0.0	0	0.0	1120
4	Women Prison	1304	43.7	1640	54.9	40	1.3	1	0.0	2985
5	Borstal School	0	0.0	13	100.0	0	0.0	0	0.0	13
6	Open Prison	108	99.1	1	0.9	0	0.0	0	0.0	109
7	Special Prison	15	6.1	230	93.9	0	0.0	0	0.0	245
8	Others	0	0.0	0	0.0	0	0.0	0	0.0	0
	Total	5740	32.2	11916	66.8	72	0.4	106	0.6	17834

Source: HRLN Report on NCPR New Delhi, 2016

Table 4 shows that, the category-wise distribution of female inmates in different prisons of the country. Majority convicts were found in Central Prisons (2633, 44.0%) followed by District prisons (1618, 21.9%) and Women prisons (1304, 43.7%). The under-trials were highest in District prisons (5748, 77.9%), followed by Central prisons(3226, 54.0%) and Women prisons (1640, 54.9%). The Detunes and Other prisoners found in Central, District and Women prisons only.

It shows that, at all India level results are matching with empirical results that are under-trials are 66.8% and convicts 32.2%. Majority detunes found in women prisons and others in central prisons.

Table 5: Distribution of Different Types of Female Inmates in Prisons in the Country by Age Group at the end of 2016

S. No	Category	16-18 Year	% Share	18-30 Year	% Share	30-50 Year	% Share	50 year & Above	% Share	Total
	INDIAN									
1	Convicts	0	0.0	1149	20.7	3067	55.4	1325	23.9	5541
2	Undertrials	0	0.0	4089	35.9	5503	48.3	1805	15.8	11397
3	Detunes	0	0.0	14	19.7	55	77.5	2	2.8	71
4	Others	0	0.0	0	0.0	5	100	0	0.0	5
	Total	0	0.0	5252	30.9	8630	50.7	3132	18.4	17014
	FOREIGNERS									
6	Convicts	0	0.0	60	30.2	107	53.8	32	16.1	199
7	Undertrials	0	0.0	218	42.0	224	43.2	77	14.8	519
8	Detunes	0	0.0	1	100.0	0	0.0	0	0.0	1
9	Others	0	0.0	52	51.5	44	43.6	5	5.0	101
	Total	0	0.0	331	40.4	375	45.7	114	13.9	820
	Total (I+F)	0	0.0	5583	31.3	9005	50.5	3246	18.2	17834

Source: HRLN Report on NCPR New Delhi, 2016

Table 5 indicates that, the age group of 18-30 years Indian and Foreign convicts are 1149 and 60 respectively and under-trials 4089 and 218 respectively. The age group of 30-50 years increased involvement in crime that is Indian and Foreign convicts were 3067 and 107 respectively and under-trials were 5503 and 224 respectively followed by others. The age group of 50 & above were Indian and Foreign convicts 1325 and 32 respectively and under-trials 1805 and 77 respectively.

It can be seen that, crime starts as women folk enters the age of 18 it increases gradually in connection with age till 50 years and slightly decreases in the above 50 years of age group women.

7. Issues/Problems/Challenges of Women Prisoners

Overcrowding: The statistics does not reveal the truth. The cases are far greater in number. They do not tell the story of those prisoners letters of application which are sent from department-to-department and court-to-court. There is a need to do a thorough review and hold everyone in the system accountable.



Accountability: An enquiry should be held in the matter of custodial deaths. This puts a check on prison officials. The Government admits that 60% of arrests are unnecessary. Inspire of this, corruption and dishonesty is rampant in Indian prisons.

Legal Rights of Prisoners: The NGOs can play a pivotal role in safeguarding the legal rights of prisoners. The justice was needed for the betterment of society. NGOs can demand accountability because we have a rights-based approach to justice in this country. Why is it that a judge automatically remands a defendant for 14 days? And then does it again and again and again? The judge needs to do something when he knows that the system is flawed, that the prosecutor hasn't read the case, or the police have trumped up the charge.

Prison Administration System: The functioning of the prison administration system still remains way behind. Various committees and panels have been formed, but the problem still persists. The problem is intrinsic to the prison administration system. The Government needs to examine the people who administer prisons. To take an example, no one wants to be the Prison Minister unless they have a vested reason. There is a whole prison visiting system laid down in the law to create a Board which is required to meet a certain number of times a year, inspect a certain number of cases and submit a report to the IG, to the Minister and to the Parliament. But none of it happens.

Non-Implementation of Laws: The non-implementation of laws, asking for a new law for Police or Prisons would be a big mistake. Even the Prisons Act of 1894 had a scheme and logic to it. Today these are just piecemeal regulations for the public and the parliament. The situation would improve dramatically if already-existent current rules and regulations are carefully read and followed and if NGOs work collaboratively in this joint venture. The current impression is that if archaic provisions are upgraded, things will improve. The officials don't even follow the archaic provisions, changing them will do nothing!

Dr. L.D. Mishra, Special Rapporteur, National Human Rights Commission, found that, the basic rights of prisoners – like getting a medical examination, right to food and personal hygiene – are being violated. Most medical officers are unaware of the fact that a basic physical examination, of someone admitted to a prison, should take place. Food must be comprised of carbohydrates, protein, minerals and fat. Basic nutrition is even more important for children. We need one kitchen for every 250 people. The prisons are smoky. There are no chimneys, exhaust fans, or fire proofing. Mosquitoes are rampant. There is no platform for washing or cutting vegetables and no chapatti-making machines. Chapattis are made on the floor. Prisons need to pay more attention to personal hygiene. They need to have appropriate toilet facilities. Many prisoners lack access to clean water.

Condition of Women Prisoners

Women face lot of difficulties in prisons – from bad infrastructure to overcrowding. Prisons are teeming with prisoners. Hundreds of prisoners have been accommodated where the capacity is less than hundred. Basic facilities - such as electricity or fans in rooms, or clean bathrooms and toilets have not been provided. Kota prison has no bathrooms at all. There are no proper medical facilities for women and there are no gynaecologists. 60-70% of women need counselling but there are no counsellors.

Further, all kinds of convicts are kept together. Women from tribal areas, face even greater discrimination, they are usually implicated on false charges. At times, police take women family members into custody when male culprits are missing. Families of women prisoners have to travel a long distance as they are kept in far away cells; in some prisons men and women are kept together like in Chhattisgarh, as there are no separate prisons for women. There is only one open-air prison for women prisoners in the country located in Pune.

Vocational Training: Prisons do not have many options for the vocational training for women. For example, in Jaipur, inmates have been provided with nothing other than sewing machines. NGOs also face difficulties in generating funds for vocational training and rehabilitation of women prisoners.

Sexual Harassment of Women in Prisons: Women also face a lot of sexual harassment, both in prisons and in short-stay homes. NGOs find it very difficult to gain access to victims as they are not allowed to enter prisons.

Children in Prisons: Children of women prisoners and juveniles are in conflict with law often mistreated in prisons. In Punjab children of prisoners get less than two spoons of milk powder a day. There are no nurseries or playgrounds for children in prison. Children of prisoners are allowed to visit their parents in prison but there are no facilities for them.

8. Suggestions of women Prisoners

The Model Prison Manual has seventeen important guarantees that are essential for safeguarding the rights of the women prisoners. These guarantees include:



Right to a Speedy Trial, Right to Bail, Right of Convict to Appeal, Right to Contact with Outside World, Institutionalized Mechanism to address Grievances, Right to Medical Examination, Right to Living Accommodation, Right to Food/Nutrition, Right to Clean Drinking Water, Right to Environmental Sanitation, Right to Personal Hygiene, Right to Clothing.

Study found that, these guarantees are not being provided to prisoners. A major area of concern is that trials do not take place on time. We have a situation of non-attendance of investigating officers and prosecution witnesses, magistrates on leave, lawyers on strike and excessive case adjournments. One solution is to have judges and minister meet inside the prison. They can handle the entire process in a matter of hours instead of months. But judges are reluctant to do so. Doing this on a regular basis could drastically decrease the number of under-trials in prisons and speed up the rate at which cases are dealt with.

There should be a complaint box for addressing prisoner grievances. To make these changes, political will is essential and it seems that, in India, there is little political will for prison reforms.

Best Practices in India

We listed out the following areas where meaningful best practices can and should be developed:

1. **Use of Technology in Prisons:** CCTVs have been installed for maintaining security and prison management in Tihar, Delhi, Tamil Nadu prisons.
2. **Health and Medical Facilities:** Drug de-addiction Centre – Delhi is a good example; VCCTC & Hospice for women and men with HIV – West Bengal; Intake Screening Examination – Tamil Nadu.
3. **Educational and Vocational Training:** Introducing the following educational and vocational training courses: IGNOU; National Open School; Computer Centre; Engineering, MBA, DCA; Carpentry; Bakery; Pottery; Shoe-making; Sculpture making; Soap and phenyl making.
4. **Information Dissemination:** Information dissemination needs to be worked upon in a big way. One of the most basic things that all prisons should have is a website with up-to-date contact information. Yet even a cursory search of prison websites in India reveals that website up-gradation hasn't taken place.
5. **Staff Development:** Staff development is important for prison staff morale as well as for the successful management of prisons in many cases, it can be as simple as starting a staff newsletter and can be a very effective tool of communication.
6. **Health and Medical Facilities:** Some prisons are equipped with nothing better than a weighing machine. As a result the cause of custodial deaths remains indeterminate, inconclusive and shrouded in ambivalence. It is nearly impossible to tell if the prisoner died due to torture and abuse, lack of food and nutrition, or a prior, undiagnosed and untreated illness. Most prisons have failed to comply with the National Human Rights Commission's (NHRC) requirements for proper medical care and lack even basic X-ray facilities or the ability to conduct any medical tests.
7. **Food:** There are no consistent national standards for food. In many cases the quality varies widely, along with the amount of food and variety in meals that prisoners are offered. Modernization of kitchens and the use of stainless steel cooking vessels and trolleys, gloves, caps and special dresses while cooking food, etc. help in maintaining hygienic standards.
8. **Starting Work Programmes and Shops in and outside Prisons:** Some examples include: Petrol Pumps; Agriculture; Tea Shops; Pakoda Shops; Shops; General Stores; Pan Houses; Cycle Repair Shops; Farming in Sugarcane Research Institute.
9. **Rehabilitation Measures:** Setting up a rehabilitation fund; providing a training kit; Wages; Housing loan for prisoners.
10. **Community Involvement:** NGO participation; Games/ Sports; Providing Stationery, Computers, Fees; Providing Counsellors; Creative Art/ Cultural Therapy; Cultural Activities like Theatre, Music and Dance, Poetry Recitation, Musical Band; Religious Programmes like Kirtan, Self-esteem programmes, Cassettes, Gurdwara meetings.
11. **Women Prisoners -Vocational Training Programmes:** Very few prisons offer activities for women or children. Some prisons administrators have argued that this is because women will fight with each other, but it seems to be that women are more likely to fight with each other when they have nothing to do.
12. **Children in Prisons:** Children in prison are particularly neglected. They are deprived of all outside experiences. Following the RD Upadhyay judgment, many have been transferred to prisons with crèches, but this only means being moved away from their families.
13. **Reducing the number of under-trials in Prisons:** Following measures can be adopted for reducing the number of under-trials in Prisons: Jail Adalats; Section 436-A;Plea Bargaining; Special Courts on Monthly Basis; Legal Aid Services.
14. **Open Prisons:** 27 Open Prisons exist in India as per Prison Statistics 2007.
15. **Setting up of Grievance Redressal Mechanisms**



9. Conclusions of the Study

Many of the historical rules on women have to do with their role in society and the family and this need to be thoroughly examined. Women tend to feel the impact of being imprisoned that much more acutely than men do. This is in part, because of the greater stigma attached to women in prisons and in part because of the lack of social support and the psychological stress of being separated from family and children. Prisons can cause major damage and disruption to the lives of vulnerable women and their families. Most of them are in prison for non-violent offences and pose no risk to the public. Therefore, consideration should be given to the development and implementation of non-custodial strategies for women particularly during pregnancy or when they have young children. There needs to be an emphasis on non-custodial solutions, especially on probation.

Gender-sensitive legislative frameworks, penal policies and prison rules are necessary to ensure that the needs of women in prisons are addressed in a systematic and sustainable way. Prisons need to be about correction, reformation and rehabilitation. The only lasting solution includes the involvement of NGOs and civil society organizations.

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