

Status of Women Prisoners – A Sociological Study

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Abstract: Crime is common to all countries and to all societies. Crime presents itself basically as a manifestation of the dis-functioning of a social system. The fact that social structures and value systems have been changing in most developing countries has had a pronounced effect on both, the nature and the composition of crime. Traditionally, the Indian women has been the foundation stone of the family and society in general. She creates life, nurses it, guards and strengthens it. In her task as mother, she plays a vital role in the development of the nation. In many countries, in all regions, the female prison population has increased dramatically over the last ten years. This article assembles data that identify some problems experienced by women incarcerated in prisons in India. Traditionally, the Indian women has been the foundation stone of the family and society in general. She creates life, nurses it, guards and strengthens it. In her task as mother, she plays a vital role in the development of the nation. In many countries, in all regions, the female prison population has increased dramatically over the last ten years. The present study is an attempt in this direction to understand the need and necessity of prison reforms, to identify the problem, the limitations, and its operational drawbacks, and to offer appropriate suggestions to make the prison system more effective and humanized one. The impact of inadequate health and mental health services on the lives of these women is explored, and separation problems encountered by the woman prisoner and her family are examined. Some recommendations for change are suggested.

Keywords: society, family, prison, problems, reforms, women prison

Introduction:

Crime is common to all countries and to all societies. Crime presents itself basically as a manifestation of the dis-functioning of a social system. The fact that social structures and value systems have been changing in most developing countries has had a pronounced effect on both, the nature and the composition of crime. Traditionally, the Indian women has been the foundation stone of the family and society in general. She creates life, nurses it, guards and strengthens it. In her task as mother, she plays a vital role in the development of the nation. In many countries, in all regions, the female prison population has increased dramatically over the last ten years. Already, in eleven countries women comprise more than one in ten prisoners. Women's offending and imprisonment is closely related to women's poverty. Women are particularly vulnerable to being detained because of their inability to pay fines for petty offences and or to pay bail. Women offenders typically come from economically and socially disadvantaged segments of society. Typically they are young, unemployed, have low levels of education and have dependent children. (Women in Crime, 2000), Many have histories of alcohol and substance abuse. A high proportion of women offenders have experienced violence or sexual abuse. At the same time, there tends to be greater stigma attached to women's imprisonment than men's and women who have been in prison may be ostracized by their families and communities.

Women continue to constitute a very small proportion of the general prison population worldwide. However, not only are their numbers increasing in tandem with the rise in the overall prison population in many countries, but studies in some countries have shown that the number of female prisoners is increasing at a faster rate than that of male prisoners. The fact that the proportion of male prisoners has always been vastly larger than that of women in the prison system has resulted in a general disregard to the gender-specific needs of women, as well as a denial of many services and opportunities, accessible to male prisoners. The failure of imprisonment to address the underlying factors leading to offending behaviour by women is reflected in the increasing rate of re-offending among women in some countries. The change in the composition of the prison population has highlighted the shortcomings in almost all prison systems in meeting the gender-specific needs of women prisoners. Many international treaties and conventions lay down broad guidelines on the treatment of prisoners in general.

DEFINITIONS OF TERMS

Crime:

Crime is an acute form of deviance which means digressing from what is considered normal. The legal definition of crime is that, it is behaviour or an activity in violation of the legal code. Hall Jerome has defined crime as, "legally forbidden and intentional action which has a harmful impact on social interests, which has a criminal intent, and which has legally - prescribed punishment for it".¹ Crime has also been defined in social or non-legal terms. The social definition of crime is that it is behaviour or an activity that offends the social code of a particular community.

Criminal:

Legally speaking, a criminal is one who is convicted by a court for violating the law of the land. A person who is arrested by the police but is let off by the court cannot be designated as a criminal, i.e., technically the term criminal cannot be applied to one who has not been convicted of a crime. However, the law has never specified whether the criminal status of a person ends after completing the term of imprisonment imposed upon him, i.e., when the status begins and when it ends. A serious problem thus occurs when society refuses to erase the label of criminal. In practice, a person who is once labeled as a criminal is often not permitted to forget the status.

Female Criminality:

Crime and criminal both have become the focus of attention in the present society. Crime is increasing at rapid rate. In India, crime has been considered a male behaviour. But today the former notion is proved wrong. Women, like men, suffer from tensions, frustration, jealousy, enmity and hatred, which motivate them to criminality. They indulge in all sorts of crimes. The changing social norms and values as well as the impact of other cultural patterns culminating in the complexity of life are largely responsible for this change. Female criminality is indeed a serious social problem, it may be considered a crucial problem because of its impact on family, upbringing of children and the overall fabric of society. As women's roles change and become more open to opportunities and tensions associated with the male-role, their criminal activities will be transformed in kind and degrees. The predominant factors which are found to determine criminal tendencies in Indian women are economic insecurity, social deprivation and emotional disturbances. Besides, family and domestic quarrels and destitution may also significantly affect the criminality of women. Social environment and deviance are highly relevant to the subject of criminality.

The Problem

The condition of majority of women prisons in India is bad and many offenders are languishing in jails without trial for several years. Further, the women prisoners are suffering in jails due to non availability of proper health facility, inhuman torture of women prisoners, solitary confinement, handcuffing and fetters on under trials, overcrowding of prisons, criminality in prisons and non availability of adequate separate prisons for women etc... The past decade has witnessed an increasing consciousness about the desirability of prison reforms.

The present study is a study of women who have been arrested for crime. The term 'undertrial criminal' is applied to a person whose trial has begun.

Imprisonment impacts on women differently than on men. The following are some of the key areas of concern:-

- (a) Problem with accommodation.
- (b) Inappropriate staffing
- (c) Lack of family contact.
- (d) Lack of education and work programmes.
- (e) Lack of proper healthcare.
- (f) High proportion by women prisoners with a history of mental, physical or sexual abuse.
- (g) The adverse impact of imprisonment of mother on their children.
- (h) Disproportionate representation of indigenous women and foreign women

Review of Literature:

Rao, V. and Sethna, M.J. made attempts to study female criminality from sociological point of view. Rao found that in rural areas, women may be guided by superstition to commit crimes. According to him, frequent murders of human lives as sacrifices to deities, are likely to be committed with the belief that human sacrifices reveal hidden treasures.

Rani, B.M. studied 120 female convicts in Andhra Pradesh. She has indicated that, women also take part in all types of crimes, including the ones which involved physical power and use of strong weapons. While analyzing the female property related offences in particular, she found that majority of them have indulged in petty thefts and house-breaking. Rani analyzed that, in general, women murderers were either deprived of the care of their parents or husbands and in-laws or a combination of both. The analysis reveals that, while committing murders, women concentrate mostly on persons who lived closer to them. She also observed that in more than 70 per cent of cases domestic factors, victim's provocation and lover's/friend's instigation contribute substantially to homicides by females. Rani revealed that urban areas provide more female offenders than rural areas. She found that more than 50 per cent female criminals were dependent and slightly more than 50 per cent belonged to backward castes.

Shastri Tara examined the background factors that contribute to the criminality of the female offender, the effect of imprisonment on her family and to what extent community welfare services are utilized by the members of the family during the prisoner's absence. Among the aspects examined were socio-economic and cultural causes leading to crime among women, their

general crime pattern, life of convicts in the prison after being sentenced, adequacy of training and other amenities provided in prison and the future plans of offenders after their release. She has studied 186 female offenders.

Nagla analyzed data regarding female offenders lodged in the Borstal Jail Hissar, Harayana. According to his analysis, most of them were drawn from 'young' category (only 11.11 per cent of the total were in the age group of 50-60 years), also, around 96 per cent were in the 'married' category. This leads him to deduct that family discord or circumstances in the families or in the marriage were responsible for goading the women to commit crimes. Nagla differentiates between the social roles ascribed to women and men by most cultures. The role of a wife, lover or girl-friend is important to a woman. Many female offenders engage in prostitution and property offences to earn money to support the drug habit or to get rid of debts incurred by husband and lovers. When couples are involved in robberies, the woman is usually the girl-friend or wife of the male robber. To a considerable extent, the criminal activity of women is influenced by the requirements of the men to whom they are emotionally attached. But now the pattern of role-behaviour is changing, so also the pattern of crime among women.

Objectives of the Study

In this context, the study intends:-

- 1) To identify the key factors—subjective, social, institutional to understand the nature of problem faced by women in jail.
- 2) To study the consequences of imprisonment on the inmates and their relationship with the family.
- 3) To study the various crimes committed by women and to examine their nature.
- 4) To analyze the socio-economic background of female criminals in terms of their age, marital status, residence, religion, caste, education, occupation, income, etc.
- 5) To understand the causes of female criminality.
- 6) To understand the criminal's feelings towards the offence and their attitudes towards society and stay in prison.

Methodology

The research is based on secondary data. The research is analytical and descriptive in nature. The data for the study have been gathered through different techniques such as : The documents analysed, include the reports on various committees in jail reforms, the documents officially published by the prison department, statutes on Prison and Prison Administration, Various Judicial Decisions, Jail Manuals, Newspapers, web-published Articles, e-Journals, Institutional Websites etc.

Female crime in India at a glance :-

Eminent experts in the field of criminology develop various theoretical models. Highlighting the strain & theory of criminality based on tension or pressure of work, Merton (1949) states that social structure and society were equally responsible for crime causation. According to him women are prone to commit crimes when they are failed to attain 'culturally defined goals' through 'Institutional means.' Crime has become a major area of public policy and political debate, and to politicians and public commentators. It is often seen as sign of underlying problem in society. Our Indian women are considered to be holier than men and purer, but recently the crime rate of women has gone up and number of women prisoners keep increasing. Statistics on female criminality reveals that female criminals contribute a numerically smaller proportion than that of male offenders. But at present, there is upward trend in the number of crimes committed by women.

Crimes by Women

In 2016, over 3 lakh women were arrested for crimes under the Indian Penal Code (IPC) and Special and Local Laws (SLL). A large number of these women were arrested for crimes under the Prohibition Act, for cruelty by relatives of husband and rioting etc. The overall number of crimes by women has been relatively consistent over the past decade or so. As can be observed, there is a relatively consistent pattern over the last 15 years, with the number of women arrested for various offences remaining between 3-3.6 lakh. While this number is relatively large, only a proportion of arrested women are incarcerated in prison, either following conviction or under trial.

As per most recent data available from the end of 2015, there are 4,19,623 persons in jail in India. Women constitute 4.3% of this figure, numbering a total of 17,834 women. Of these, 66.8% (11,916) are undertrial prisoners. In India, an analysis of prison statistics at five-year intervals reveals an increasing trend in the number of women prisoners – 3.3% of all prisoners in 2000, 3.9% in 2005, 4.1% in 2010 and 4.3% in 2015 were women. While women prisoners continue to be a minority in all parts of the world (less than 10%), the female prison population has increased faster than the male prison population on every continent.

A majority of female inmates are in the age group of 30-50 years (50.5%), followed by 18-30 years (31.3%). Of the total 1,401 prisons in India, only 18 are exclusive for women, housing 2,985 female prisoners. Thus, a majority of women inmates are housed in women's enclosures of general prisons. 3.2.3 As can be observed the geographical spread of women prisoners varies across the country. Uttar Pradesh by far has the highest number of women in prison (3,533), followed by West Bengal (1,506),

Maharashtra (1,336) and Madhya Pradesh (1,322). The Union Territories, apart from Delhi (579), have a particularly low number of women in prison.

Criminal Procedure Code, 1973:

- (1) Sections 51(2) and 100(3) make it obligatory that a woman should be searched by woman, and with strict regard to decency.
- (2) Section 160(1) Criminal Procedure Code prohibits the police from requiring any woman to appear at any place other than the place of her residence for the purpose of examination by police.
- (3) Section 53(2) states that the medical examination of a female accused should be conducted only by or under the supervision of a woman medical practitioner.
- (4) Section 437 provides that in the case of a non-bailable offence, a court (not being the sessions or high court) may direct a woman accused to be released on bail.
- (5) Section 360(1) provides that a woman of any age, if convicted of an offence (not punishable with death or imprisonment for life), and with no previous conviction, may be released on probation for good conduct instead of serving the sentence (in contrast, a man would have to be below 21 years of age to obtain this benefit; or, if over 21 years, to be convicted of an offence punishable with fine only or with imprisonment for seven years or less).
- (6) Section 416 enacts that if a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed and may, if it thinks fit, commute the sentence to imprisonment for life.

Legal Provisions for Women Prisoners

Specific legal and administrative provisions exist with respect to women suspects and prisoners. These provisions are intended to provide directions to the police, courts and prison authorities in the handling of this group of women prisoners.

Prison Act, 1894:

- (1) Section 24(3) provides that in the case of female prisoners, the search and examination (on admission) shall be carried out by the matron under the general or special orders of the Medical Officer.
- (2) Section 27(1) provides that in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with male prisoners.
- (3) Section 46 states that no female shall be liable to the imposition of any form of handcuffs or fetters, or to whipping, as punishment for prison offences.

Rules Governing Women in Prison

As per the State List provided in the Seventh Schedule of Indian Constitution, all issues related to prisons, reformatories, borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions come under the domain of State Governments. The rules of incarceration are determined by following laws:

- 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, 2016

Facilities Available for the Under trial Prisoners

As an undertrial there are certain facilities available for her in prison. According to the Telangana Prison Manual, the facilities are as follows:

- (a) In every prison, in which women are confined there shall be one or more women jailors and/or matrons, who shall maintain discipline in the women's section of the prison. No woman under trial shall be removed from the women's section except with the special permission of the superintendent and for the purpose of being taken to court, interviews, release or transfer.

- (b) No male officers, including Superintendent and Deputy Superintendent shall on any pretext enter the women's section without the women Jailor or Matron, and the two shall not separate whilst in the section.
- (c) A register shall be maintained at the gate of the women's prison or women's section of a prison. Whenever any woman under trial is taken out, an entry shall be made in the register.
- (d) Undertrial prisoners should be admitted during usual working hours of the prison. On admission they shall be examined by the medical officer for marks of violence, birthmarks, etc.
- (e) It is the duty of every prison officer to find out whether an undertrial prisoner has been previously convicted and such information should be immediately forwarded to the concerned Superintendent of Police for necessary action.
- (f) Private clothing to meet reasonable requirements should be allowed to undertrial prisoners. An undertrial prisoner who has no sufficient clothing of her own may be provided with the same at government cost.
- (g) Food from outside may be allowed. Prisoners allowed to receive outside food, shall not be given prison food. Undertrial prisoners should not be allowed to cook their food separately in the institution.
- (h) One interview per calendar week with family members or relatives or close friends or lawyers may be allowed.
- (i) No newspapers shall be supplied to undertrials at government cost.
- (j) Unless she so desires, no undertrial prisoner shall be allotted any work except that it shall be her duty to keep her bedding, clothing and yard clean.
- (k) An undertrial prisoner may make purchases from the canteen as per canteen rules. Women undertrial prisoners should normally be escorted by women police.
- (l) Separate conveyance should be provided for the transport of women undertrial prisoners.
- (m) Undertrial women prisoners accused of the offence of traveling ticketless released on bail should be paid traveling allowance if the Superintendent considers that it is necessary to do so in the interest of the released woman prisoner.

As far as possible women undertrial prisoners should be handed over to their relatives after release. If this is not possible a woman police or woman prison guard should escort the released woman undertrial prisoners to the nearest station or bus stand.

Telangana State Prison Department

Telangana State Prisons Department came into existence on 1st November, 1956 after the re-organization of States. Initially the Prisons Department consisted of only few Central Jails, District Jails and Sub Jails Subsequently during 1976 in pursuance of the policy decision taken by the Government to transfer the administration of Sub Jails from the control of the Judiciary to that of the Prisons Department, the Prisons Department expanded itself into a major Department.

Telangana State Prisons Department is considered as one of the most progressive Prisons Departments in the country. It has to its credit a number of far reaching reforms which were emulated by other states of the country. Among these achievements are introducing Panchayat System among prisoners, introducing Stainless Steel Utensils and Gas Cooking System in the Prisons, provision of septic toilets in place of dry type toilets in 1980, uninterrupted water supply and introducing innovative vocational training programmes for prisoners, besides providing of modern medical facilities.

In recent times, Telangana State Prisons Department has achieved the unique distinction of introducing the Video Linkage System between Prisons and Courts for the first time in the Country which enabled speedy justice to the Undertrial prisoners.

Our principal goals are to:

- Keep prisoners in safe custody.
- Maintain order, control, discipline and safe prison environment.
- Provide decent conditions for prisoners and meet their needs, with respect to food, clothing, bedding, hygiene, sanitation and health care.
- Provide positive programmes which help prisoners address their offending behavior and allow them as full and responsible a life as possible.
- Help prisoners prepare for their return to the community.
- Keep the prison force disciplined, motivated and professional by reinforcement with periodical training.
- Deliver prison services using the resources provided by Government with maximum efficiency.

In meeting these goals, we will co-operate closely with other criminal justice agencies for development of the criminal justice system as a whole.

Conclusion:

The number of women in prison in India is steadily growing. A number of issues plague the lives of women in prison, many of whom are undertrials. Prisons are not effectively serving their reformatory purpose. There is thus an urgent need to understand the issues of women in prison, recognise their rights and ensure these rights are fulfilled. 6.2 While there are a number of progressive rules laid down for the welfare and fair treatment of prisoners, particularly women, this does not always translate into practice. Women face issues related to lack of female staff, inadequate and cramped accommodation, low levels of sanitation and hygiene, insufficient services to address physical and mental health needs, deficient nutrition, negligible educational opportunities and often unusable skill and vocational training. Prison administrators and all staff dealing with women prisoners

should mandatorily undergo gender sensitive training, which will help them make better decisions with regard to women in prison. They must also be sensitive towards the needs of women belonging to minority communities, disabled women and foreign nationals so as not to discriminate against them in any manner. This study may be used as a primer to understand the condition of women in prison, and the concerned authorities should take the recommendations forward. 6.8 This study has been an attempt to build understanding on the areas for improvement within the prison system. The reader will likely agree that there is a definitive need to reform the largely male-centric prison system so as to make it effective to house and reform women prisoners. Policy makers and administrators may use this study as background reading while taking decisions on prison reform.

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