



WOMEN & CUSTODIAL PROBLEMS

Nitasha Devi Research Scholar

Department of Law, SBBS University, Jalandhar, Punjab

Email: nitashathakur21@gmail.com

Dr. Seema Rani, Associate Professor, Department of Law,
SBBS University, Jalandhar, Punjab

“A prisoner is required to be treated as a human being entitled to all the basic human rights, human dignity and human sympathy”.

Abstract: The present paper is based on the conditions and problems faced by women and their children in custody either as Under trails prisoner or as Convicted prisoners.

Keywords: Women in prison, Custodial problems, Violence in prisons, Custodial rape, Feminine Hygiene.

I. Introduction

Women play a vital role in society. The important role she plays is the ability of mother, sister, wife and other social relations as mother-in-law etc. The constitution which is also called the mother of Indian Judicial system, legislature and administration has given out equality to women in India irrespective of caste, race, religion etc and had imposed various obligations to conserve women's right and to follow and adopt the requirement of international conventions on women's and their rights. There are two sides of coin and the darker side of this is in reality, women in custody faces a series of problems even their basic rights are ignored despite of the Apex and High courts as well as guidelines of various commission's recommendations for reformation of female prisoners i.e. women in conflict with law. There are very few circumstances where the custody of the women is important.

Punishing the law breaker is the main function of all civil societies. The Penal institutions are in existence and have a long history of existence. Existence of prisons can be found in pre-historic period. The concept of rigorous segregation and custodial measures were adopted in belief that offenders can be reformed to live in society but it was mere a myth or mere a belief as imprisonment shave the negative effects and has nothing to do with the reformation of offenders. There is no contact between the prisoner and their family and friends and it also curtails the freedom which is otherwise a fundamental right. The concept of re-habilitation of law breakers and preparing them for normal life by keeping them imprisoned is like building a Rome in one day.

The changing scenario of society includes the socio-economic changes and with this change the crime ratios has also change and the society has seen a rapid growth in crime ratio sand involvement of women's have also increased. The crimes like murders, theft, cheating, economic offences etc have seen a big growth due to socio-economic changes and so as the ratio of women offenders. The growth in women offenders have also increased the problems faced by them like heath issues, pre-natal and post-natal issues with other major concerns. The basic human rights of women in conflict in law and facing custodies i.e. as under trial prisoner or as convicted prisoner are also ignored despite various guidelines from the Apex Court, High Courts etc. The difficulties faced by them are required to be eliminated so that they can live alive of human dignity even in custody.

As per the data released in NCRB, the Prison Statics India Report for year 2019 there are 1350 prisons in India with actual capacity for keeping prisoners is 4,03,739 but astonishing fact is that 4,78,600 inmates are lodged in these jails surpassing its 100 percent capacity to

118.5%. and only 31 women Jails.¹ It is also a dark side of our Prisons system and failure on part of Governments that having 31 women Jails are in existence since independence and only few UT's and State have privilege to have women jails but that too with non-existent amenities. Although as per NCRB's data no of women inmates in women jails are 3652 and total capacity is 6511. Most female inmates are held in other kinds of jails due to the insufficient space of women's jail. Around 83.12 % of all female inmates in India were sent in custody other than women's jails.

II. Meaning of Custody

Custody is the state of physically holding or controlling a person or piece of property, or of having the right to do so. A person who has custody over property or another person often has affirmative duties to protect and care for those in their charge. In criminal law, a person is in custody when—after being arrested or convicted of a crime—they are held in jail or prison. Such persons are under state control until they are acquitted of their alleged crime or the conclusion of their prison sentence. Persons in state custody are limited in their liberties, and dependent upon officers to meet their needs. As such, officers owe a duty of care to anyone in custody, to ensure their health, wellness, and safety.²

III. Aims & Objectives of the study

- To study the rights available to women in custody in India.
- To study the position of women during the custody and problems faced by them in India.
- To study the role of Judiciary and the problems behind implementation of the guidelines of the Courts regarding to take the custody of women in India.
- To examine whether the implementation & enforcement mechanism is sufficient enough to safeguard the rights of women in custody.

IV. Problems faced by women in custody

Even after 73 years of Independence the society is still dominated by males and in this male dominating societies the weaker ones i.e. females has suffered injustice on a regular basis. The women i.e. our mothers, sisters, wives, daughters etc have faced and still facing various kinds of abuses at various levels even in custody. The custodial abuses can be termed as draconian unfairness towards women in custody either in police or in judicial or as convicted prisoners. The situation of the women in custody is still reprehensible despite various inefficacious efforts done by lazy institutional and governments processes as they face oppressions and punishments which are otherwise not a part of their incarcerations or custody. In terms of dehumanizing under trial women and violating their residuary rights there are many jails as example in India and despite various alarming incidents the Governments which also include state and center are slept over their own recommendations? The number of women's prisons in India is insufficient.

i. Scaring state of Affairs of Women in custody

The women facing trails, convicted for offences or awaiting releases from prisons faces the higher risk of problems during the custody. The problems like health, nutrition, hygiene, depressions, sanitization and violence in custody with other issues like lack of child care system, gynecologists, lack of staff and specially dedicated rooms or barracks to keep their children where no one is alive to take care of them are the major issues faced by the women prisoners. The article Women prisoner recount Jail Horror Stories: " Rape and Torture Common In Jail" published on 24.01.2019 by Teesta Stevalvad says "Over the past 15 years, India's jails have seen a rise in women inmates by 61 per cent, even though they constitute only 48.18% of the national population (according to the World Bank, 2017). Moreover, the Indian prison system has failed to respect their rights. From custodial torture, rape, denial of health services, lack of clean food and water and sheer ignorance on behalf of the state, women inmates languish amidst inhuman conditions in Indian jails."³

ii. Accommodation

National Prison Manual has some specific instructions for barracks etc. Jail Barracks can accommodate ideally 20 prisoners and dormitories for four to six prisoners. The single occupancy rooms are to be given to prisoners in need of privacy for the purpose of Study etc. as well as segregated cells where prisoners may be kept due to concerns of violence or contagious disease. Adequate HVAC facilities in barracks as well as washrooms and laundries are to be provided. Inmates are also meant to have individual secure storage compartments for their personal belongings. However, overcrowding is one of the key problems plaguing Indian prisons.

Overcrowding directly relates to a lack of space for prisoners and increase pressure on already limited facilities available in jails. The effects of overcrowding often become even more pronounced in the case of women, as they are usually restricted to a smaller enclosure of the jail due to lack of proper infrastructure for them. Overcrowding can worsen hygiene conditions and health problems with even minor infections

¹Prison Statistics India-2019 a report by NCRB

² <https://www.law.cornell.edu/wex/custody>

³ <https://cjp.org.in/women-prisoners-recount-jail-horror-stories/>

spreading quickly the dis-proportionality equal number for toilets and bathrooms exacerbates the situation. Overcrowding also has severe psychological effects on prisoners forced to live in such close quarters with one another. The National Prison Manual prescribes that in the case of overcrowding the excess numbers of prisoners are to be transferred to another institution /camp.

iii. Health and diet are the major issues

“Women’s health needs, covering mental, physical, sexual and reproductive health, require particular attention.”

The Jails accommodate a large number of prisoners and even Jail staff etc but the medical services in Jails are in very poor state of position. The Strength of the prisoners is increasing day by day but the medical services inside Jails have not been improved and no significant steps have ever been taken by the Government to improve medical facilities inside prison rather makeovers have been done. The Medical facilities such as specialty doctors and inside hospitals having modern basic life support systems, pathological labs etc must be there so that prisoners can get better medical facilities. The Inside Hospitals and Clinics of prisons requires improvements such as appointment of more doctors and other medical staff as per lodging capacity of jails especially Gynecologists, psychiatrists, Child specialist and orthopedics etc so that better medical facilities inside prison can be provided to women prisoners. The weekly or fortnightly medical camps should be organized in routine manner to overcome the health issues of every prisoner. The right to health includes providing healthcare that is available, accessible, and acceptable and of good quality. The National Prison Manual provides for a hospital in every prison with separate wards for men and women with comprehensive health screening for women prisoners to determine presence of STD or other diseases, psychological disorder, drug abuse or dependency, etc. Special care is to be taken for prisoners with medical conditions, elderly prisoners and needs of prisoners addicted to drugs⁴. The owing to the lack of awareness many of women enter prison with pre-existing physical and psychological conditions which requires immediate medical help. The right to health includes providing healthcare that is available, accessible, acceptable and of good quality. “Women’s health needs, covering mental, physical, sexual and reproductive health, require particular attention.” The Chief Medical Officer/Medical Officer (in charge) is meant to visit the prison every day and make a full inspection of all prisoners once a month. Lady Medical Officers are to be appointed for care of women prisoners. There are provisions in the National Prison Manual for inspecting the mental health of inmates and providing appropriate counseling and psychotherapy or recommending transfer to appropriate institutions. Female prisoners needing treatment for mental diseases should not be admitted in prison but kept in separate enclosures of mental health hospitals. The quality of food served in prisons are not of good quality and have not prepared in neat and clean manner and in most prisoners the food served to prisoners lacks basic daily requirements of nutrients. Food deprivation is a form of torture used across the world. However, *pingla diet* (*Thin diet served so that neither human being can survive nor can die*) is used to describe a practice where the inmate is kept hungry but not starved – she is provided with just enough food to keep her from dying. Article-11 of ICESCR⁵, recognizes the right of everyone to an adequate food and drinking water. Right to food means nutritional food is an integral part of right to life mentioned in Article 21 of the Constitution of India. Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. On average, adult women need between 1,600 and 2,400 calories a day. Women who are more physically active may need more calories along with other nutrients like Calcium, iron, and folic acid are particularly important for women. The women requires different nutritional needs during different stages of life, such as during pregnancy and breastfeeding or after menopause and due to insufficient nutrition women are more likely to have some health problems related to nutrition, such as celiac disease, lactose intolerance, vitamin and mineral deficiencies, such as iron-deficiency anaemia etc and It is of great importance that the dietary should be varied as much as possible. However, the prison administration and management have been subjected to criticism by courts, prisoners and public for not maintaining the basic minimum standards of human dignity, and for the poor living condition of inmates in place of human confinement like prison.

iv. Prison staff

The NMPM 2016 specifies that there must be one guarding staff for every six prisoners. Further, each prison is meant to have executive, medical, welfare, educational and other personnel staff to ensure proper functioning of the institution and for reformation of the prisoners. There is a paucity of female staff at every level. The Manual also stipulates that one lady DIG must be attached to the Prison Headquarters to look after women prisons, staff and prisoners in the state. There shortfall of staff in almost every jail of the country. The Hon’ble Supreme Court in Writ Petition (Civil) No. 406 of 2013 noted that there is a huge shortage of staff in almost every jail of the country. It directed all State Governments/UTs to take necessary steps on an urgent basis to fill up these vacancies by 31st December 2017⁶. Visits by NHRC to over 100 jails have revealed a woeful, lack of staff, particularly in small district Prisons. There is a growing need for exclusive women prisons, skilled female prison officers, Fulltime lady doctors, and pediatricians etc.

⁴Model prison manual 2016

⁵International convention on economic, social and cultural rights United Nations 1967

⁶(2017) 4 RCR(Criminal) 416

v. Sanitation & Hygiene

“There are usually a small number of bathrooms and toilets catering to a disproportionately large prison population”

The basic facilities of sanitation and hygiene are in bad conditions in almost every Jail. The unhygienic and poor sanitation leads to ill health, psychological disorders and human to human communicable diseases as diarrhea, head and pubic lice's, lymphatic filariasis, ringworm tinea and trachoma etc. The Manual prescribes 1 Cubicle for every 10 prisoners, but there are usually a small number of bathrooms and toilets for numerous prisoners creating unhygienic and sanitization problems. The women's toilet should be separated in safe and secure way from any one's intervention, therefore the risk of sexual harassment can be prevented. There is a lack of sufficient water, which exacerbates the low levels of sanitation and hygiene. There have been reports of prisoners not being able to bath for multiple days due to non-availability of water. The National Prison Manual prescribes that thorough cleaning, disinfection and pest control of the inmates' accommodation must be done but due to small number of bathrooms and toilets, catering large prison population is a major concern. Every state's prison manual provides for a minimum number of clothes and undergarments to be provided to women prisoners as per climatic conditions and corresponding to basic hygiene standards but situation is otherwise. It is essential to note that a large majority of female prisoners fall in the menstruating age group of 18-50 years, increasing their need for proper sanitation facilities as well as access to adequate menstrual hygiene products like sanitary pads, intimate washes etc. but this is largely missing. Women are reportedly charged for sanitary napkins in some prisons or are only provided a set monthly number irrespective of need and usage. This leads them to use unhygienic materials such as cloths, pieces of old mattresses, newspapers etc. In order to improve the state of sanitation in prisons, strict implementation of state prison manuals is required along with regular and genuine inspections. Prison administrations can consider construction of more toilets & repairs as per accepted hygiene standards.

vi. Education

“Basic education is not universally available to women prisoners. Access to higher levels of education is almost entirely missing.”

The Manual provides for educational facilities for inmates, depending on their capability & previous qualification. The educating illiterate young offenders (18-21 Y) is considered as mandate. The NHRC reports that basic education is not universally available to women prisoners & higher levels of education are almost entirely missing. Even in cases where libraries exist in jails, they are many times not accessible to women inmates. Education is a important factor to help women re-integrate successfully in society after release. Every prison should provide educational facilities to women inmates & NGOs & local schools & colleges can be roped in to run programmes in prison for education women prisoners. In case there are some educated inmates in the prison, they can be encouraged to hold lessons for other inmates. Governments must work to link prison education with main stream education systems, so learning may be continued after release.

vii. Violence

“All staff assigned to work with women prisoners is to receive training on gender-specific needs and human rights of women”

The women's outside prison and inside prison are dominated by the men and are subjected to cruelty of every kind like verbal abuse, physical abuse, emotional abuse, mental abuse etc. The National Prison Manual, specify that no male should be allowed to enter the female ward of the prison unless with a legitimate duty, after which he should record the reason for his visit in his record book. There is to be round the clock duty of female head wardens and female wardens. Women prisoners should not be made to leave their enclosure under any circumstances other than release, transfer, and attendance at court or under order of the Superintendent for any other legitimate purpose. Incidents of violence including sexual violence by inmates and authorities has been reported from across the country but official reports remain silent due to fear in prisoners of retaliation as they are forced to stay in the same place where their perpetrators are staying. As per the National Prison Manual, if a case of sexual abuse or other forms of violence faced by a prisoner is brought to light, she must be guided to seek legal recourse and lodge a complaint to the prison officials and in writing in the complaint box. Prisoners may also file complaints under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 but it has been seen that despite making the complaints no stringent action has been taken in many case and the complainant prisoner are subjected to torture by the jail staff or another inmates for making complaints. Despite these protections, the Hon'ble Supreme Court acknowledged widespread incidence of torture and abuse in prison by both prisoners and authorities most recently in 2015⁷, directing States to install CCTVs in all prisons with some other directions. Prison administrations should be extremely strict in dealing with cases of violence against women prisoners.

viii. Contact with the outside world

“The social stigma attached to women living in prison is often so severe that female inmates do not receive visits or phone calls very frequently.”

The Apex Court has re-affirmed the rights of prisoners to maintain contact with the outside world. As early as 1979, it stated, “visits to prisoners by family and friends are a solace in insulation, and only a dehumanized system can derive vicarious delight in depriving prison

⁷(2015) 3 RCR(Criminal) 848

*inmates of this humane amenity*⁸. The Prison Manual makes provisions for inmates to interact with family members, relatives and friends on a fortnightly basis. Inmates are allowed to write and receive letters, meet with people and take phone calls under stipulated guidelines. The number of interviews is to be liberalized for women prisoners and there should further be no limit on incoming letters. Illiterate/semi-literate women should be provided help in writing letters. Despite these provisions, their implementation is affected by many factors. The social stigma attached to women living in prison is often so severe that female inmates do not receive visits or phone calls very frequently. The large numbers of male prisoners dominate the general waiting rooms, where female inmates often feel vulnerable. Moreover, the whole rehabilitative purpose of sentencing is to soften, not to harden, and this will be promoted by more such meetings. Sheldon Krantz rightly remarks “A sullen, forlorn prisoner is a dangerous criminal in the making and the prison is the factory.”⁹

ix. Children

“Spending their formative years in prison can have a severe negative impact on the entire lives of children”

Children to the age of 6 years are allowed to live with their mothers in prison if no other arrangements for their care can be made. This age limit varies from State to State. As on last count, a total of 1,597 women inmates are living in prison with their 1,866 children. The Hon’ble Supreme Court issued guidelines in 2006¹⁰ under which children in jail are entitled to food, shelter, medical care, clothing, education and recreational facilities as a matter of right. Before sending a pregnant woman to jail, the concerned authorities must ensure that the jail has the basic minimum facilities for child delivery, pre-natal and post-natal care. Pregnant and lactating women are to be provided with a better diet as well as facilities to boil water and milk. Gynecological examinations of prisoners are to be performed in District Government Hospitals. As far as possible, except in the case of high-risk prisoners, arrangements for temporary release are to be made to enable delivery of children in a hospital outside the prison. Suspension of sentence may also be considered in the case of casual offenders. Further, the birth certificate of the child should not mention the prison as place of birth to protect them against social stigma. As per a BPR&D report in 2009, proper facilities for biological, psychological and social growth of the child, crèche and recreational facilities are not available in every prison. In many cases, other than a glass of milk, an adequate special diet for children is not always provided. Spending their formative years in prison can have a severe negative impact on the entire lives of children, if not taken care of well. Prison administration should ensure that their facilities are tailored towards children living under their care, and these children should not be made to feel like offenders.

x. Re-integration in society after release

“Family ties are often lost and economic independence is a major hurdle”

The psychological and physical effect of spending time in jail, coupled with the social stigma attached to women prisoners makes it hard for female inmates to re-integrate themselves in society after release, as family ties are often lost and economic independence is a major hurdle. The Manual specifies that sufficient advance notice is to be given to family/friends on release of female prisoners. The Mulla Committee recommends that to avoid the stigma of imprisonment, the female escort accompanying the woman must be dressed in ordinary clothes. The Manual provides for after-care responsibilities of jail authorities to help released inmates integrate into society and includes utilizing options of home leave, open prisons, halfway houses, community-based programmes etc. to ease transition. In some States, a grant is sanctioned for rehabilitation of released convict prisoners. In the case of released under trials it is a way to help compensate for the trials inflicted on often-innocent persons while living in prison.

Methods for resolution

Despite a number of provisions given on paper for the welfare of women in prison, the reality of a jail is very different. The objective of re-formation is often forgotten in favor of discipline & uncalled for violence. The full implementation, in letter & spirit, of existing provisions & adoption of innovative methods will go a long way in improving the prison system. Some recommendations in this regard are detailed under.

A. Adoption & implementation of national model prison manual, 2016 by states

The National Model Prison Manual 2016 is the most recent and contemporarily valid document pertaining to the correctional architecture of our country. It sets out some basic minimum standards for the treatment & welfare of prisoners, & must be adopted by all States as a minimum guideline. It also provides specific measures such as gender sensitive training for all staff dealing with women inmates, which can go a long way in improving the lives of women in prison. Prison Manuals of States should align with these national standards & be implemented strictly across all jails in the area. In May 2017, the Hon’ble Supreme Court directed the Ministry of Home Affairs and States to work towards the implementation of the National Model Prison Manual 32 and this has been reiterated in later orders. Adherence to prison manuals is currently considered optional in practice, which should not continue. The Ministry of Home Affairs has proposed the setting up of an Integrated Prison Software System that is to contain data relating to prisoners and prisons. This may be taken up across all prisons expeditiously.

⁸(1980) AIR(SC) 1579

⁹Sheldon Krantz, *Corrections and Prisoners Rights* pp. 129-130

¹⁰(2006) AIR(SC) 1946

B. Establishment of a national commission for prisons

The Mulla Committee recommended that a National Policy on Prisons must be formulated, to reform and re-assimilate offenders within the social milieu. To further this objective, it recommended the setting up of a National Commission for Prisons to function as a specialized advisory body for all prison and allied matters. The functions of proposed Commission may be to monitor the standards and norms of different categories of prisons, enroll individuals and community groups to serve in the prevention of crime and treatment of offenders, review achievements of State correctional institutions and plan their future organizational and personnel structure in consultation with them, coordinate plans for administrative and operational functioning of prisons with the States/UTs and monitor their progress in order to have an all-India perspective on prisons. The Commission may work out and finance pilot projects to serve as models for the development of prison administration. It may also publish an annual statistical report relating to prison data. Such a body would serve as an overarching monitoring and reviewing body, and also an advisory body for the development of prisons. It would lead to better coordination between States and a uniform policy on prisons. This would likely bring consistency in services for women inmates across the country. The setting up of this Commission may thus be considered.

C. Periodical inspection of prisons

The National Policy on Prison Reforms and Correctional Administration states *“Prisons are hitherto a closed world. It is necessary to open them to some kind of positive and constructive public discernment. Selected eminent public-men shall be authorized to visit prisons and give independent report on them to appropriate authorities.”* It is suggested that a more robust mechanism for inspections be put in place to conduct independent, timely and regular inspections. All official visitors must hold special one-on-one interviews with prisoners away from prison authorities during inspection visits. All reports from official inspection visits by Board of Visitors, DLSAs (District Legal Service Authorities), State Commission for Women etc. must be shared with District Magistrate, District Sessions Judge, State Legal Services Authority, State Human Rights Commission, State Commission for Women and State Department of Women and Child Development/Social Welfare. State Commissions for Women will follow the comprehensive Prison Visit Proforma as developed by NCW and will regularly submit online reports in this format. The recommendations of the inspection report must be mandatorily complied with, or in the event of non-compliance, reasons for such non-compliance must be given in a time-bound manner. Such inspection reports and implementation records should be publicly available. A fair and thorough inspection can itself be a very effective tool in improving conditions of prisons and the lives of women living in jail, and this must be carried out regularly and in its true spirit.

D. Strong resolution system

The Manual prescribes the creation of a Prisoners' Sabha to organize events and activities for prisoners as well as provide an avenue to represent concerns and seek redress of grievances. Prisoners should also be able to represent their grievances verbally or in writing during visits by Board of Visitors, DLSA, and State Commissions for Women, District Magistrate etc.

E. Special procedure for arrest of women

The CrPC contains certain special provisions for the arrest of women – the arrest of women after sunset and before sunrise (except with the prior permission of Judicial Magistrate First Class) is prohibited and a female arrestee is mandated to only be searched by a female officer with due regard to decency. However, there are additional areas that need to be covered explicitly by the law. The police official arresting the woman should ideally be dressed in plain clothes and not their uniform so as to reduce the stigma associated with incarceration. Provisions should also be made for the custody of minor children of the woman at the time of arrest. She must provide in writing the name and details of the person with whom she wishes her minor children to stay during her period of incarceration, and this must be complied with strictly. In case where no family/friends are available to care for the child and he/she cannot accompany the mother to prison, the child should be appropriately placed in a Child Care Institution.

F. Pre-natal & post natal concerns

When deciding to which prison the woman is to be sent, regard should be for her caretaking responsibilities if she has a child, and as far as possible, the woman must be given the choice of selecting the prison and her children must be kept in the prison in a manner that they are not made to feel like offenders. Administration should ensure the facilities provided are tailored towards children living under their care. NGOs, schools and pediatricians can be engaged to ensure that children in prisons have access to basic facilities of education, day care, recreation and a healthy lifestyle. So far as practicable or possible prison administration shall strive to create a suitable environment for children's upbringing, which is as close as possible to that of a child outside prison. E.g., airy rooms with adequate natural light, minimum security restrictions, outdoor play area, opportunity to socialize with peers outside prison if not available within prison etc. Women prisoners whose children are in prison with them shall be provided with the maximum possible opportunities to spend time with their children. Children should receive a special diet and be regularly examined by a Lady Medical Officer at least fortnightly to monitor their physical growth and condition of physical and mental health. They should have access to a Lady Medical Officer as per their need. Children, whether living in prison or visiting, should never be treated as prisoners. Body cavity searches should never be applied to children. Ideally, no child shall be admitted into

or retained in prison if he/she has attained the age of six years. The best interest of the child should be the determining criteria to determine whether and for how long they should stay with their mothers in prison. Overnight visits for minor children living outside prison to maintain a bond with their mothers must be allowed at least fortnight. A separate area with a positive homely environment must be provided within the prison for purpose of this stay with the mother.

G. Children of women prisoners

Women prisoners whose children are in prison with them should never be treated as prisoners. The prison staff must display sensitivity, respect & dignity when searching children. Ideally, no child shall be admitted into or retained in prison if he/she has attained the age of six years. In case where no family/friends are available to care for the child & he/she cannot accompany the mother to prison, although the child should be appropriately placed in a Child Care Institution and be ensured that children of the same woman prisoner are housed together in alternative care. The prison administration must ensure that the child be placed in a manner that she/he can interact with the mother regularly at least once a week. Children must be removed from the mother's care with utmost sensitivity & only after making adequate arrangements for his/her stay. Minor children live outside prison from natural love & sentiments of their mother's loves causes slow mental, emotional & physical growth. A separate area with a positive homely environment is deprived to minor children i.e. is very necessary for their betterment & upliftment.

H. Better living arrangements

State prison manuals must be updated and strictly implemented to provide basic entitlements to all women prisoners including appropriate living areas, bedding, toilets, outside area etc. Prisons can be linked to local Swachh Bharat initiatives, if needed, to construct more bathrooms & toilets and carry out repairs for better hygiene. The prison doctor or competent public health body should regularly inspect & advise the Superintendent on the quantity, quality, preparation and service of food; hygiene & cleanliness of the institution and the prisoners; sanitation, temperature, lighting & ventilation of the prison; & suitability and cleanliness of the prisoners' clothing & bedding. The Superintendent should take into consideration the advice & reports provided and take immediate steps to give effect to the same. Women prisoners sentenced to six months imprisonment or below should be issued 3 sets of clothing, 2 towels and 3 sets of customary undergarments. This number will increase to 5 sets of clothing, 3 towels and 5 sets of customary undergarments for women sentenced to over six months. Inmates should be able to choose type of clothing from a set of options as per preference. At a minimum this should include saree with blouse and petticoat, kurta with salwar and dupatta, shirt with trouser/long skirt in light colours, but not necessarily white. Women in their post-natal phase must be given separate accommodation for one year after delivery to maintain a certain standard of hygiene and to protect the child from infections and other diseases. Also, sick women prisoners must be kept isolated for health purposes. Prison rules and practices that treat prisoners in a dehumanized way should be abolished such as rules that require prisoners to abstain from singing or laughing, that consider it an offence to refuse to eat food, or those that allow prisoners to wear sandals only upon the sanction of the Superintendent, all need reconsideration.

I. Improvement of health & nutrition

Comprehensive health screening of women must be done on admission, with due regard to their right to privacy, dignity and confidentiality, including their right to refuse screening. This will help in identifying health issues, providing adequate treatment and in preparing an individualized health and diet plan for the inmate. Telemedicine and jail collection of samples for routine testing may be done or constructing jail pathology labs, clinics and hospitals with specialty doctors etc must be there for better health management of prisoners. There should be comprehensive medical check-ups on an annual basis, regular medical check-ups on a monthly basis and access to a lady medical officer at all times for check-up, testing, treatment etc. as needed by the inmate. Papanicolaou tests and screening for breast and gynecological cancer should be done for women on a regular basis. In case lady medical officer is not available, prisoner will be transferred to the nearest medical facility where a lady doctor is available. Physicians should have daily access to prisoners who are sick, injured or suffering from other mental or physical health issues. Coverage of jails by interns or final-year medical students may also be done once a week to ensure medical services to women prisoners. Women with mental health issues must be transferred to appropriate institutions rather than keeping them in prisons. Inmates should have access to female counselors/psychologists at least on a weekly basis or as frequently as needed by them. First-time offenders must especially be counseled on admission, to prevent recidivism. Sterilized sanitary pads should be issued free of cost to women prisoners as per their requirements with no maximum limit. In case a prisoner falls seriously ill, her family/legal representative should be informed about her illness and must be shifted to Hospitals with better Medical facilities for treatment. Medical support must be extended to women inmates even after release to ensure continuity of care. Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits. Adequate equipment and space should be provided for this purpose. Information about preventive measures for HIV, STDs or other gender-specific diseases must be provided. This could also be done through peer-based education. The prison staff must undergo mandatory training in gender-specific needs of women, first aid and basic medicine to tackle emergencies and minor issues effectively.

J. Addressing violence

Body searches must be conducted as per clearly formulated guidelines. While searching women prisoners, the least intrusive mode should be adopted as considered appropriate in the situation. The type of search to be conducted should be communicated clearly to the inmate and reason for the same should be explained. In case of strip searches, they should be conducted in two distinct steps with upper body and lower body examined one after the other to avoid complete nudity at a given time. Body cavity searches should be avoided, as far as possible. CCTV cameras must be used with due regard to the dignity and privacy of women prisoners. Alternatives to physical and invasive search procedures, such as body screeners and metal detectors can be considered for use with due regard to safety and health of inmates. Written record should be kept of the type and frequency of searches for all inmates, which should be available for examination by official visitors. All staff involved in the custody, interrogation and treatment of prisoner must be sensitized on gender-issues, human rights and sexual misconduct. Adequate female staff must be appointed to tackle incidents of violence. Prison administration must deal with cases of violence with strictness and taking into account the risk of retaliation. Under trials and convicts must be housed separately to prevent violent episodes between inmates.

K. Legal aid & awareness

District and State Legal Service Authorities must be linked to prisons. All legal rights of the prisoner must be explained to them on admission in a language they can understand. Continuous awareness must be provided to inmates about their rights and remedies under the law through workshops and adequate linkages with NGOs, State Commissions for Women, law colleges etc. They must be encouraged to visit legal aid cells. Legal aid work must be incentivized to encourage more lawyers to take it up. Some women inmates may also be trained as Para Legal Volunteers to help other inmates in knowing their rights and providing them with legal support. Inmates must be given adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider, without delay, interception or censorship and in full confidentiality. Video-conferencing with lawyers may be provided with proper monitoring mechanisms in place, to ensure that the prisoner does not feel alienated from the system. States must curb the malpractice of legal aid lawyers demanding money from inmates for taking up their cases with stern action.

L. Conclusion

The number of women in prison in India is steadily growing and number of issues plagues the lives of women in prison, many of whom are under trials. Prisons are not effectively serving their reformatory purpose. There is an urgent need to understand the issues of women in prison recognize their rights and ensure these rights are fulfilled to give them status of human beings. 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. Many women who live with their children do not receive appropriate educational, health and recreational services to raise them well. These issues coupled with a lack of legal aid in prison, limited contact with the outside world and high incidence of violence by inmates and authorities further exacerbate the situation for women. Their re-integration in society after release is thus also a huge challenge. 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. A genuine and responsive grievance redressal mechanism should be put in place to help address the violation of rights in prison and give inmates a method to have a dialogue with the administration. 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.

Acknowledgement

This project would not have been possible without the support of many people. Many thanks to my Guide Dr. Seema Garg who read my numerous revisions and helped make some sense of the confusion. Also thanks to Sandeep Saini a student of Law from HIMCAPES College of Law at Badehra, District Una, HP, who offered support and editing. Thanks to the Sant Baba Bhag Singh University for granting me an opportunity to study doctorate of Law. Special Thanks to my father In Law for providing me with the financial means to complete this paper.