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Condition of Women Prisoners in Pakistan and Reforms for Improvements

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Abstract

In the present article the existing and prevailing poor conditions of prisons in Pakistan had been elaborated with specific situation of women prisoners. The outdated domestic laws and flaws thereof, international treaties, conventions and guidelines had been discussed with reference to the basic and fundamental rights of the inmates, especially women prisoners. At the same time the researcher had also focused on reforms from very root and rudimentary level to legislation. To cure up the situation the reorganizations required in all related institutions. The role of judiciary in contribution for betterment of jail conditions had also been imperative and researchers also added cases where judiciary made good contributions in this regard. It had also been further focused that what had been the main issues of women inmates and how to tackle and remove them. The researchers also made recommendations/findings for the improvements of the conditions of female inmates in jail.

Key Words: *Inmates, Prisons, UNODC, Ombudsman, Superior Courts.*

Introduction

The self-respect and integrity of the human beings are of utmost importance and it is expected that it should be regarded and honored by all aspects including the basic rights. The Universal Declaration of Human Rights in article 5, 8, and 7 provide no cruel and inhuman punishment, assess to effective legal remedy, and equality before law, respectively. The Constitution of Pakistan, 1973 also facilitates, under article 10, 10A, and 25, equality of law, no discrimination and provision of fair trial. At present; the conditions of women inmates in prisons are very poor and needs immediate attention. In sub-continent first law on prison was passed in 1818 i.e. Regulation No. III of 17 April, 1818, later on Bombay Act II of 1874, Act IX in 1894, The Prisons Act, 1894, The Punjab Borstal Act, 1926, and the 1932 Jail Manual

promulgated. As per Jail Manual there are four types of jails in Pakistan: Central prison, Special prison, District prison, Sub-prison. At present; the women inmates have very miserable condition, despite having out dated legislation; the female prisoners are still facing a lot of problems. These women are facing health issues, psychological problems, food deficiency, poor sanitary conditions, and there is high risk of reproductive health deceases including cancer, drugs, and illegal sexual practices.

Objectives of Study

The main objective of this study is to critically examine the conditions of women inmates in the prisons of Pakistan. To study the problems which the women prisoners are facing in the prisons, during their visits to courts, and after their release form the prisons. To discuss the relevant statutory provisions, case laws study and international principles regarding the basic rights of the prisoners. To propose the recommendations to fill the gaps in the existing laws of Pakistan in relation to prisoners, particularly female inmates.

Research Questions

1. What are the difficulties and problems being faced by the women inmates in the prisons of Pakistan?
2. Why the existing laws are not adequate to protect the female prisoners in Pakistan?
3. How the international conventions and principles are helpful for the protection of women inmates?
4. What are the principles and guidelines enshrined by the Superior Courts for the female prisoners?
5. Which may be the possible recommendations for improvements of prisons in Pakistan?

Research Methodology

The research method used in this article is qualitative method. Both Primary and secondary sources are also approached. A primary source includes formal authoritative records of law, statutory and constitutional provisions, while secondary sources are law journals, legal encyclopedia, law search websites, and other sources where precedents of the Superior Courts had been published. As the researcher has a special focus on the most vulnerable factor that is women and how the women can be protected by applying the appropriate laws and international guidelines.

Conditions of Women Inmates in Prison in Pakistan

The conditions of women prisoners in Pakistan is worse, they are facing numerous issues not only from internal set ups but also from external mechanism i.e. investigation, courts' proceedings and transportation from prison to courts. Within the prisons women prisoners do not have basic rights because they are generally controlled and supervised by the male jail officials, lack of simple medical facilities, food and drinking water issues, and poor accommodations (United Nations Office on Drugs and Crime, 2014). In Pakistani society; there is a tendency that whenever some woman is in jail she loses support from her family, relatives and friends (UNDC, 2011). It has also revealed that in Pakistan prisons 12.5% women prisoners stated that during prison they faced sexual harassment from male jail officials (UNDC, 2011). In Pakistani prisons there is no proper system for women prisoners to educate, to feed and accommodate them and to address issues of women inmates (Penal Reform International, 2007) (UNODC,

2011). The women prisoners are involved in Hadood cases (Reforming Pakistan's Prison System Crisis, 2011).

The International Conventions, Convents, Guidelines and Treaties on Prisoners

1. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.
2. Convention on the Elimination of All Forms of Discrimination against Women, 1979.
3. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment was adopted by the General Assembly in December 1988.
4. The Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in December 1990.

The Legislation at Domestic Level in Pakistan

Pakistan Prison Act and Rules 1894 and 1978, respectively, have provided the rights to the inmates, including the women prisoners. For accommodations and sanitary conditions, section 4 (Prison Act, 1894) and Rules 745 to 752. Segregation of Prisoners, section 27 to 30 (Prison Act, 1894) and Rules 224 to 249. For education, Rule 679, Rule 215 for remission to prisoners who qualify to examination. Release of Parole, section 2 and 5 of Good Conduct Prisoners Probation Release Act, 1962. Remission system, Rules 199 to 223 provide different heads and basis for remission, medical Facilities, Rules 776 to 809. Meeting with relatives and friends, Rules 552 to 662. Jail Visits, chapter 38 of Jail Manual provides with the facility of jail visits by the officials and non-officials. Rule 312 deals with the labor of the women prisoners.

International Protections and Safeguards to Prisoners

Body of principles for the protection of all prisoners who are in any kind of custody and captivity says “all persons under any form of detention or imprisonment shall be treated in a human manner and with inherent dignity of the human being” (Standard Minimum Rules, 1955). The International Convent on Civil and Political Rights also states that no one shall be subjected to torture or a harsh treatment, or punishment (Article 10, Convention, 1987). The Body of principles for the protection of all persons under any form of detention and imprisonment narrates that “no detained or imprisoned person shall, even with his consent, be subjected to any medicinal or scientific research that may be harmful to his wellbeing” (Principle 22, Convention 1988). The Principles of Medical Ethics applicable for the jobs of Health Personnel, mainly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (Principle 1, Convention, 1983)

Reforms to Improve the Conditions of the Women Inmates

Scientific Identification of Cases

At all levels i.e. at the time of registration of case, entrustment of investigation, conducting of investigation, starting of trial/prosecution of case(s) in court and most importantly in prison, all concerned must keep in mind the nature of offence, the age of the female accused, and the previous criminal history, if any. It is also relevant that every women accused is not first offender and guilty of minor offence, therefore, we must consider all connected facts and figures while discussing this important issue. The first offender must be given more attention during investigation, court proceedings and in prison. The age of the women accused is also one of the significant factors which ought to be considered because most of

the times, in developing countries, the young age male and female tend towards the crimes due to its temporary charm and easy money which results into the destruction of their career at very young age and if once they treated like a hardened criminal they can never be reformed at later stage. Another factor which is relevant in this context is that the immature and young minds can be reformed more quickly and effectively. In many cases there are women accused who have dependent kids who remain with them and due to imprisonment of said women the future of the kids remains at risk which should be addressed by the legislature and competent authority. One of the reports indicates that cases of women accused firstly be identified as to nature and heinousness of the offence, age of the women accused and dependent children be also considered as to their education, food, accommodation, maintenance, reforms, recreations and medical treatments (handbook,2008).

Separate Jails for Men and Women

Maximum efforts must be exhausted to establish separate jail(s) for women prisoners and in the said separate jails barracks ought to be designed and allocated in such a way that first offenders should be imprisoned in separate barracks and in those separate barracks it is further to be considered that first offenders of heinous nature crimes must be separately locked up and offenders of petty nature offences may be imprisoned in other barracks. The convicts and under trial prisoners must separately be kept, no convict or under trial prisoner be kept along with other category. Female jail staff, from lower to higher post, must be appointed in such jails. The said female jail staff must be trained specially to deal with all types of women accused persons.

Medical Facilities based on modern and scientific techniques

The medical facilities provided in jails in Pakistan are nothing, but a paper-based demonstration by the concerns. There is no proper medical facility for the male prisoners and what to say about female who usually have some complicated and serious medical issues. Report of 2013-2014 of Human Rights Commission of Pakistan revealed that not a single full-time female doctor available in prisons in Pakistan, no separate medical checks-up and separate medical treatment for women prisoners (State of Human Rights, 2014). According to United Nations Office on Drugs and Crime (UNODC) report; more 80% of women prisoners in Pakistan prisons are facing harassment, insanitary conditions and health care (State of Human Rights, 2014). During the survey the UNODC found that suicidal depressions, sleep disorders and mental sickness/illness amongst the women prisoners, it has been further found that there was not a single gynecologist available to attend a woman prisoner in case of any gynecological emergency (State of Human Rights, 2014). Rules 776 to 809 (Pakistan Prison Rules, 1978) deal with the medical facilities to the prisoners in prison but very surprisingly in all these rules there is not a single rule which specifically deals with the women prisoners. Another Rule deals with the classification of prisoners as to health (Rule 777, 1978), Rule 787 says that in every prison there shall be a hospital for sick and infirm prisoners (Pakistan Prison Rules, 1978). Rule 802 deals with drinking water but in practice, there is no such facility (Pakistan Prison Rules, 1978). Rule 803 of the Rules deals with food supplies and vessels to receive attention. The cook house shall be supervised properly and minutely by medical officer (Pakistan Prison Rules, 1978). Rule 804 of the Rules says that sanitary issues strictly and minutely observed. The government and competent authority shall direct and ensure that medical officer to conduct monthly tests and check-ups of all prisoners especially women prisoners and maintain all the relevant record of the tests, treatments and check-ups.

Education Reforms

Education is an essential element of any reintegration platform in any prison sentence strategy. It is over and done with a procedure of prescribed and casual education that prisoners are provided the opportunity for a successful rehabilitation into society. Prescribed education packages can be fruitful in formulating prisoners to find service and be self-sufficient when they are free from prison (Boucouvalas, & Pearse, 1985). In Pakistan Prison Rules; Rule 215 which provides for remission to prisoners who qualify to examination but there is no proper set up and plan to educate the prisoners and it has never been heard or reported that some prisoners have done well in education; there is no infrastructure to get educated in prison in Pakistan.

Reformative facilities

To let a person to be reformed is one of the basic principles of international criminal justice system and the same principle is applicable in most of the modern countries because the punishment alone cannot prevent a person to repeat the offence in future. Therefore, the reformative facilities in prison are as important as in common routine. Unfortunately, it is noted that prison laws applicable in Pakistan are of ancient times which have not been amended or re-enacted in accordance with the changing requirements. There is no concept of reformative activities in prisons of Pakistan and due to lack of said facility there is very low ratio of prisoners who reform themselves (State of Human Rights, 2014). At the time of admission in prison there should be some Psychiatric facility to assess the mind set up of the prisoner, especially the women prisoners because the women prisoners face more issues than to male prisoners. During the survey the UNODC found that suicidal depressions sleep disorders and mental sickness/illness amongst the women prisoners (State of Human Rights in 2014). The prisoners, especially the women prisoners, must be sent to visit rehabilitation clinics; therefore, relevant Rules must immediately be amended to incorporate this facility for the prisoners. The United Nations' bodies also advice and suggest that accused persons must be counseled by the Psychiatrics and maximum efforts obligatory be made to arrange such imperative facility in all prisons (Handbook for Prison Managers and Policymakers).

Court Proceedings and Reforms thereof.

Now let's have a glance over court proceedings in cases of women prisoners and before having a look over this, one must have to see the reasons and causes due to which women are arrayed/roped in criminal cases. The code of criminal procedure, 1898 and police Rules are the relevant laws which provide a general trial procedure but there is no separate and independent law or amendment in general laws to provide a speedy disposal of cases of women prisoners. However, it is very ease to tackle this situation by adopting a simple formula i.e. first of all separate and independent court is to be established which shall hear only cases of women prisoners, secondly, there should be a female judge who should hear the cases of women prisoners so that women prisoners could easily explain their position/stance and female prosecutor may be appointed in that court. Thirdly, cases should be fixed as to nature of offence and shortest possible dates must be fixed. The UN has voluntarily designed some bodies to provide guidelines as to court proceedings and in this regard it has been suggested that court proceedings in case of woman prisoner must be fixed in such a way that any first offender must not meet an offender who has a history of offence of same nature or some other kind, dates must be short, specialist judicial officer must be appointed (UN Women, Report, 2015-2016).

Prison Labor Reforms, up gradation and utilization

Prison Labor, chapter 33 of Prison Rules, 1978 provides for the constitution of commercial and industrial centers in prisons and also provides guidelines of such labor works. But unfortunately, there is no proper mechanism established in this regard, the technical and training education is having worst conditions in Pakistani prisons. But there is a hope of betterment of the situation because the chairperson of Technical Education and Vocational Training Authority (TEVTA) publicized in December that they would deliver finances extending from 10,000 to 100,000 rupees to inmates for their technical training in jails. According to a contract, 6,400 inmates were to be skilled yearly in 13 jails of Punjab(State of Human Rights,2015).

Case Study on Prison Reforms

In Todaro versus Ward, In this case the set of women inmates argued that jail medical authorities have violated the fundamental medical standards. The court applied "deliberate indifference" test and observed that by not correctly screening women's health and un-well managing prison health services, the prison had denied or unreasonably delayed prisoners' access to proper medical care in violation of the Eighth Amendment (Eighth Amendment in American Constitution). The court ordered the prison to take specific steps to improve its medical services (Todaro vs Ward, 1977).

Courts' Contribution in Relation to Jail Reforms in Pakistan

The Supreme Court of Pakistan (Suo moto Case, 2006) discussed the crucial issues regarding the conditions of prisons in the country and the intrinsic responsibilities of the offices of the Ombudsman to take cognizance and resolve the deficiencies; indication of substantial maladministration and systemic dysfunction in the criminal justice system at large and in prisons particular including regulatory frameworks. The Ombudsman offices may; therefore, form standing committee and inspection team to scrutinize the systemic failures in the administrations of the criminal justice system, the prisons to make proposals to correct malfunctions and set good administration standards (Suo moto Case No. 1, 2006). In another cases of Human Rights in relation to gross violation Prison Rules at Lahore, District Jail and in this order important instructions have been issued to the concerned authorities (Human Rights Case No. 2760/2006). Human Rights Case is also directly relating to prison department and poor conditions in prisons (Case No. 29, 2009).

In Suo Moto case the Honorable Supreme Court of Gilgit (Pakistan) has observed in relation of basic and fundamental rights of the prisoners and noted that reports of District and Sessions judges show that jail administration had no concept of rights of prisoners as human beings and controlling authorities in government were also least bothered about problems of prisoners. Prisoners are human beings and subject to law who are entitled to fair and equal treatment in respect of their rights. Supreme Appellate Court, for improvement of poor condition and reformation of jails issued directions and asked the Home Secretary and Chief Secretary for taking action on jail reformation. Supreme Appellate Court also directed the District and Sessions Judges and jail reform committee for implementation of the directions so issued and to submit their reports (Suo Moto case No. 14,2009).

Practical Recommendations

1. Prison staff should be made aware of the international prohibition on torture and cruel, inhuman or degrading treatment or punishment and prohibition should be merged into law.

2. Instruments of restraint, such as handcuffs, body belts and straitjackets, should be kept in a central location in the custody and ought to be issued just by the authority of a senior fellow of staff.
3. Arrangements should be in place to provide permanent contact to prisons by a judge, non-governmental bodies or other liberated individuals to ensure that torture or cruel, inhuman or degrading treatment or punishment does not take place.
4. There should be close coordination between prison officials and authority sending accused to prison; prisoner's whereabouts must be informed to the person concerned.
5. The size of the prison cell must not be less than 6 square meters per prison, Jail staff should make some alternative, secure and good arrangements for overcrowded jails and in these context women prisoners must be given priority.
6. The accommodation should be prepared that maximum air and light may be used for especially the women prisoners.
7. All the new admitted prisoners must completely be medically examined and their record be confidentially kept, the prisoners with serious illness must be separately locked. Women prisoners must be made aware of all serious deceases like AIDS, HIV, Hepatitis, TB and all other such deceases.
8. The governmental and non-governmental organizations must hold medical camps for proper medical awareness and voluntary tests, Non-governmental organizations (NGOs) may also be encouraged. The best available medicines must be provided to inmates.
9. Process for parole may be encouraged not only in courts but also by the jail authorities. Women under the age of 18 and above the age of 50 must be dealt carefully. Special arrangements must be made for the accommodation, food, education and recreation of the children who are accompanying the women prisoners. For remission the women prisoners ought to be given priority.
10. Rules may be amended with regard to the outdoor games for women prisoners. The current labor system and industries must be revived and private sector must be encouraged to replace it and remunerations must also be sufficient. Under the law a trained counsel must be appointed.
11. Security systems in prisons also may be updated and ungraded and CCTV cameras must be installed to curtail i.e. sexual harassment.
12. It is imperative to utilize the skilled inmates to the best of their abilities, including the women prisoners.

Conclusion

No doubt that the conditions of female inmates in prisons of Pakistan are worse; having no adequate food, water, accommodation, and medical facilities but all these basic amenities are provided under the out-dated laws and rules. The international conventions and principles, thereunder, have provided important framework which can be followed to rescue the miserable situation and conditions on women in prisons of Pakistan. The Superior Courts of Pakistan have also settled guidelines to improve the conditions of women inmates but practically these guidelines are not followed. Now there is dire need to amend the existing law or promulgate the new law which could address this dejected condition of prisons of Pakistan.

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