

THE PLIGHT AND PROBLEM OF WOMEN PRISONERS WITH SPECIFIC EMPHASIS ON SEXUAL ABUSE

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ABSTRACT

Prison establishes a significant piece of any cultivated society. It is such an establishment where all the offenders are imprisoned to change with the goal that they can be brought back in the general public again as honest residents. Reorganization is unimaginable in an exacting condition; rather a harmonious situation is required where the individual get enough degree to build up their internal goodness inborn inside himself. All dynamics of sexism, patriarchy and sexual violence that are very prevalent in the society and translated directly into the conduct and behaviour in prisons. Women prisoners are often subjected to such sexual abuse and violence on the account of male prisoners and fellow inmates.

Human rights can just encourage such condition to the people behind the bars, subject to specific limitations according to law the following research redresses this insufficiency by portraying a typology of the equivalent. In the first place, the characterization framework determines the extent of sexual exercises working inside female remedial environs. Next, the heuristic establishment of the typology is probably investigated, particularly in connection to progressing proactive sexual misuse/exploitation counteraction activities that help to prepare prison guards, superintendents, and overseers for work in women's prisons. At last, a few future research bearings are hypothetically laid out in regards to convict sexuality and the treatment of sexual abuse for unfortunate casualties/culprits in female remedial establishments. These incorporate legal reforms and approach techniques that ostensibly take care of the wellbeing, emotional well-being, and social government assistance needs of imprisoned women.

Keywords: Women Prisoners, Prison, Sexual Abuse, Human Rights.

INTRODUCTION

Women in the modish jail system face numerous issues; some subsequent from their lives before detainment, others coming about because of their detainment itself. Women in jail have encountered exploitation, flimsy family life, educational and work disappointment, and substance abuse and psychological wellness issues. This particular research study however, aims to specifically emphasize on the sexual abuse and violence issues that have been being endured by women prisoners over the years.

Social factors that underestimate their cooperation in standard society and add to the rising number of women in jail incorporate neediness, minority bunch part, single parenthood, and homelessness. Women have a lower inclusion mile for men. Women have been held in genuine violence, criminal harm, and expert wrongdoing however perpetrate relatively more avaricious violations, for example, theft. Women's tressing than men and endure lopsided violations are probably going to be identified with their household problems. **Deborah Labelle and Sheryl Pimlott Kubiak, (2004)**, stated that the women who fill our prisons and jails occupy a specific social location that is informed by the realities of class and economic disparities, our nation's history of race discrimination, and the social constructions of gender. Women constitute the most rapidly growing population in the criminal justice system, and are the majority under its jurisdiction for drug-related crimes. Women in criminal justice institutions have frequently been exposed to abuse before their incarceration.ⁱ

Often in prisons, the women prisoners are subject to sexual abuse and violence at the hands of their fellow inmates and the police officers as well. Their plight tends to showcase a rather hopeless situation wherein they have no alternative but to endure such gross abuse upon them. 'In committing such gross misconduct, male officers have abused their nearly absolute power over female prisoners to force them to have sex, either through actual or threatened physical violence or through the provision or, by implication, threat to deny goods and privileges. In other cases, male officers have offered or provided goods and privileges to female prisoners as a form of reward for engaging in sexual relations or have violated their most basic professional duty and engaged in sexual contact with female prisoners absent the use or threat of force or any material exchange.'ⁱⁱ

The very significance of these aspects is that there arises a legitimate right to "considerably proportionate" treatment and facilities for female prisoners was endangered by a regulatory

understanding of the approach as sexually impartial, thereby limiting the sexual orientation contrasts that are required to be secure.

The frame of mind of society towards prisoners may differ as indicated by the object of discipline and social response to wrongdoing in a given network. On the off chance that the prisons are implied for requital or prevention, the condition inside them will be corrective in nature delivering more prominent torment and enduring and forcing serious limitations on prisoners.

BACKGROUND OF THE STUDY

The current study deals with the rather pressing and sensitive issue of sexual abuse inflicted upon women prisoners, their plight in the prison system and the aftermaths that follow as result of such infliction of abuse upon them. It is imperative to receive and authorize prison rules that unmistakably characterize and preclude all types of sexual wrongdoing, including intercourse, contacting, and verbal debasement and badgering of women prisoners. As per **F. Adler, 1975ⁱⁱⁱ**, 'Despite the renewed focus on women prisoners' problems, the data available is insufficient and is the subject of much controversy within the academic and law enforcement communities.' As a result, it is difficult to gather a comprehensive picture of the current status of women prisoners. **B.K. Jordan et al, (1996)**, states that 'Women in criminal justice institutions have frequently been exposed to abuse before their incarceration. In fact, 40 to 60 percent of women under correctional supervision report that they were physically or sexually abused at some time during their lives with a far greater frequency and severity than non-offenders on the outside transfers to and expands in the correctional environment.^{iv} Prior to delving further into the prospects of sexual abuse it is imperative to define the requisite concepts around which the study revolves viz. crime, prison system and sexual abuse. The word **crime is gotten from Latin word 'crimen'** which means charge, allegation, blameworthy. A wrongdoing is a demonstration which damages a political, strict or moral direction thought about significance to secure the general public. The arrangement of criminal equity with which we are concerned is based the legitimate methodology. **According to the Government of India Prisons Act of 1870, 'Prison'** means any goal or penitentiary and includes the airing grounds or other grounds or buildings occupied for the use of the prison. Prison means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the detention of prisoner.'^v **The World Health Organization (WHO) defines sexual violence as:** 'Any sexual

act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in an setting, including but not limited to home and work.^{vi}

The following concepts give an insight into the basic concepts around which the study is revolved. The main aim of the study is to analyse the various factors influencing the plight of women in prisons. The following definitions help in coming through to the perspective that women over the past few centuries have been contrived victims of sexual violence and have been subjected to atrocities like sexual violence and sexual abuse. The present study aims to analyse the very imperative need for punitive prison reform in order to combat the reasons and factors affecting sexual abuse of women prisoners in aspect of their victimization by the same.

LITERATURE REVIEW

Labelle and Kubiak, 2004^{vii} state that the social authority and control male custodial officers hold over incarcerated women creates a "super authority" and an atmosphere of threat.

D. Skoler & J. McKeown, 1974^{viii} state, the average female prisoner today is a poor, young, uneducated, racial minority member who is often also an unmarried mother and the head of a household.

Tewksbury and West, 2000^{ix} reported that sexual behaviors readily identified as urgent and consequential from the standpoint of prison safety and security, such as sexual coercion, have been studied more often than other types of behaviors. When compared with the remaining categories of the proposed typology, the perceived inconsequential or nonproblematic nature of suppressed sexuality in prisons arguably has resulted in its failure to receive sustained research attention. This point notwithstanding, when investigating the full range of sexual behaviors found within female correctional facilities, suppressed sexuality is an essential form of activity. As such, it must be considered a part of the classification continuum.

Richie, 1996^x contends that violent victimization itself is often at the root of the criminalization of women and materially constitutes their path to prison. Most people who are incarcerated already lived within systems of control and surveillance deployed by the neo-liberal state.

Knowles, 1999 in his work pointed out that it is increasingly difficult for inmates to set these learned behaviors aside and re-adjust to life outside of the prison culture. Inmates that come

into prison as non-violent offenders often leave prison with more aggressive and violent tendencies due to instances of being victimized while in prison.

Gresham Sykes, 1958^{xi} pinpoints five primary “**pains of imprisonment**” that individuals face in long-term incarceration. The first is the “deprivation of liberty”, where the individual is stripped of their self-identification and provided a new status of rejection from general society. Secondly, inmates face a “deprivation of goods and services.” Many of the tangible resource’s inmates have access to on the outside are no longer an option while incarcerated. The tangible items given to them/permitted by those in charge are the only items inmates can have. Third, inmates face a “**deprivation of autonomy**,” where they are forced to relinquish their individuality, privacy, freedom and independence. Fourth, inmates **lack security** – facing more direct threats of personal victimization.

Mariner, 2001 has stated that the trauma that ensues from sexual victimization transcends into life after prison. Aside from the risks of contracting a sexually transmitted disease or other infection, sexual victimization trauma often affects the victim’s long-term “behavioural and cognitive functioning.

INSIGHTS INTO PLIGHT OF WOMEN PRISONERS

As per **C. Kenny (1936)**, ‘To understand the nature of corrections, it is helpful to begin by considering the on-going nature of crime and society's response to it. Before a wrong reaches the level of being recognized as a crime, society's concern is largely geared toward compensating the victim.’^{xii} Some 25% to 40% of the general female population experience some form of sexual abuse before the age of 18 years (**Dutton, Burghardt, Perrin, Chrestman, & Halle, 1994**)^{xiii}.

The root cause of sexual abuse of women prisoners stems from the concept of the crime and punishment they are serving. The aforementioned have several meanings and understandings attached to their ambit. The basic reports of sexual abuse on women prisoners involve male officials vaginally, anally, and orally assault and explicitly attack and abuse female prisoners. Estimates of the incidence of childhood abuse amongst female prisoners vary. For example, **Sargent et al. (1993)** state that nearly 70% of their sample reported experiencing some form of abuse before the age of 18 years. **Raeseide (1994)**^{xiv}, in his study of posttraumatic stress

disorder amongst a cohort of Australian women offenders, found that 55% had experienced childhood sexual abuse and 21% had experienced childhood physical abuse.

As per **Rosenblatt & Pariente, (1973)**^{xv} ‘Within the main class of women prisoners, there are several significant subgroups, two of which are singled out for special treatment largely because of their sex. These two classes of offenders are female juveniles and prostitutes. Both of these groups are more severely restricted because their behaviour is considered to represent a threat to established sexual mores.’ They utilize obligatory pat-searches to grab women’s bosoms, rump, and vaginal zones, see them improperly while in a condition of uncover, and take part in consistent verbal badgering of female prisoners, adding to a custodial domain that is frequently threatening and exceptionally sexualized. At times, women have been impregnated because of sexual unfortunate behaviour and a portion of these prisoners have confronted extra abuse as improper isolation, refusal of satisfactory medicinal services, and additionally strain to look for a premature birth.

The size issue additionally tangibly affects the quality of life inside the prison. This is regularly found in the nature of the administrations accessible in women’s prisons, the sort of guidelines forced on female detainees, and the subsequent in general environment of the institution. Most have no social insurance offices for mother and infants in spite of the way that numerous women enter prison pregnant. Male prisoners likewise get strict administrations for the most part not accessible to female detainees. Other zones where the openings open to female prisoners fall behind those routinely managed men incorporate mental counselling and the accessibility of legitimate and recreational administrations.

STATUS OF WOMEN PRISONERS AND ABUSIVE FACTORS AFFECTING THEM

Hensley, Tewksbury, & Kochanski, (2001); Tewksbury & West, (2000)^{xvi} state, Prison sexuality is shaped by multiple levels of social life that are determined by mainstream culture and amplified by the idiosyncratic subculture of correctional confinement. Moreover, various **environmental, biological, psychological, and sociological factors** influence sexuality in society, and these factors are further complicated by the experience of incarceration

Investigation of sexuality inside the limits of women’s prisons uncovers an assortment of sexual acts including, among others, masturbation, consensual sex, what’s more, constrained sex. Be

that as it may, no single arrangement framework has up to this point been built up that sorts the scope of sexual direct found in female remedial settings. Albeit sexual violence in women's prisons can be depicted regarding its three structures which are, control, consistence, and pressure and the comparing practices that rise inside the way of life of female imprisonment, it can likewise be portrayed as far as different culprit injured individual connections. In particular, sexual violence can be submitted by -

- a prisoner against a staff part,
- a convict against another detain, and
- a restorative specialist against a prisoner.

For the reason for this article, the level of violence that joins in each of these affiliations won't be outlined as the measure of mischief that happens is bound to be a component of situational abuse/exploitation factors regardless of whether physical power, terrorizing, dangers, or weight are utilized instead of an element of the person in question and guilty party's status in a given sexual violence relationship. Be that as it may, we note that the three-culprit unfortunate casualty relationship as determined apparently mirror the least to the most destructive connections.

Additionally, every affiliation can show itself inside each of the three structures that establish the sexual violence classification. At the end of the day, control, consistence, and intimidation as structures or kinds of sexual violence can be communicated through a prisoner-on-staff part, a convict-on-convict, furthermore, a restorative specialist on-prisoner relationship

Apart from the institutional considerations already mentioned, women prisoners face psychological and social factors affecting them that are uniquely sex oriented.^{xvii} **Payak (1973)** stated the restrictive and heavily regimented environment tends to foster a special type of institutional dependency in female inmates. Deprivation from family and social structures is more keenly felt by women prisoners than men and has an effect on their methods of adapting to prison life. This is seen most directly in the nature and prevalence of lesbianism in women's correctional institutions.^{xviii}

GLOBAL INSIGHT INTO PLIGHT OF WOMEN PRISONERS: In order to provide an in-depth global picture of the plight of women prisoners, the present study has taken into consideration facts and case studies of pertinent countries from each continent.

- **United States of America:** As per the findings of the National Institute of Correction of U.S.A a case study dating back to 2010 has stated the following in light of safety of women in correctional facilities, “the safety problem inherent in staff misconduct was discussed in every facility. Staff sexual misconduct was seen as a safety violation and contrary to the purpose of the job itself. Acknowledging that safety is “critical in a female facility,” one officer emphasized that any sexual act was seen as “inappropriate” because it is a threat to the safety of the facility. Although some staff felt that misconduct was caused by specific predatory individuals, others believed that misconduct was part of a larger problem of inadequate security procedures. One supervisor noted that misconduct occurs “when we are not doing our walks, our checks—it happens when people are not doing their jobs.” Another participant said that the offenders “know who is doing their job. They know if staff is not doing their duty.”^{xix}
- **India:** The new Model Prison Manual, 2016, in one of its chapters specifically dedicated to ‘Women Prisoners’ states at the very outset itself that, “To ensure safety of women prisoners and guard them against any form of exploitation, it is desirable that at least one woman’s jail be established in each state.” The suggestions for special prisons for women prisoners are not new as it has been recommended by several committees including ‘Jail Reforms Committee, 1980-83’ and ‘National Expert Committee, headed by Justice Krishna Iyer, 1986-87. The lackadaisical attitude of the Governments towards properly addressing the issues and concerns of female prisoners can simply be understood by going through the Prison Statistics India 2014 report according to which, out of 29 states / UTs in India, only 13 states / UTs have ‘women jails’ and the number of such jails out of total number of 1387 jails in the country is just 19. This indicates that the Governments have hardly any interest in improving the prevailing grim situations. Women prisoners are not safe even behind the bars. Their exploitation continues unabated. This indicates that there is essentially a huge lacuna in the security system of the Indian prisons. These statistics certainly point towards a rotten security system inside the prisons. Not only that, but such a huge number of unnatural deaths of female prisoners in three consecutive years also corroborate my facts about the dilapidated state of medical care and protection system in place inside the prisons for female prisoners.^{xx}
- **Mexico-** As the National Commission on Human Rights in Mexico (CNDH) recognized, many women prisoners are abandoned by the very people who got them involved in crime in the first place, and don’t receive conjugal visits, as would happen if they were men.

There are 9,601 women detained in state prisons and 1,121 in federal prisons. In total, they represent 5.1% of the prison population, compared to the 217,000 men in jails, according to 2016 data from Mexico's National Institute of Statistics and Geography (INEGI). Around 53% of the women were jailed for health-related crimes, in particular drug trafficking. While there is no set criminal pattern, the not-for-profit says these women share many characteristics: they are poor, have a low level of education, belong to marginalized communities and, before being locked up, worked in humble positions. Their crimes are not violent and many of them have repeatedly been the victims of sexual violence. These women fall into crime for many reasons: gender violence, the feminization of poverty, addictions, and a crime-prone environment where men call the shots, particularly in a sexist society.^{xxi}

- **Zimbabwe-** In a research report^{xxii} on Zimbabwe, women interviewed spoke of how once they had been locked up for the day, they chose not to change pads or use the waste buckets so as not to expose fellow inmates to the smell of blood. They added that these buckets could also overflow and users become splashed with bodily waste when using them while babies who crawled about at night risked coming in contact with its contents. According to Amnesty International^{xxiii}, the lack of access to clean water and adequate sanitation facilities in Zimbabwean prisons contribute to women's ill-health and also exposes children, infants and babies living with their mothers in the prisons to infections which can be life-threatening.
- **Greece-** A study^{xxiv} aimed to explore the problem of inmate sexual victimization in a Greek prison. A total of 400 individuals were approached in the largest Greek prison and 50 individuals participated. The questionnaire examined sociodemographic, offence-related information, sexual victimization during incarceration, experiences of witnessing the sexual coercion of other inmates, and history of sexual victimization. Thirteen (26.0%) participants reported sexual victimization by an inmate, including either "only non-penetrative" or "only penetrative ones" or "both penetrative and non-penetrative" ones. The victimized participants also performed worse in child sexual victimization and self-esteem scores as compared with the non-victimized ones. More precisely, the victimized participants in our study reported that they would mostly prefer a violent reaction as a response to sexual victimization, which was not the case for the non-victimized participants, who preferred a more indirect way to respond. This probably derives from the experience of victimization and their need to retaliate.

NEED FOR REFORMS IN AMBIT OF VICTIMIZATION OF WOMEN PRISONERS

Social scientists have a major impact on the public's awareness and attitudes surrounding sexual behavior (**Struckman-Johnson & Struckman-Johnson, 2006**)^{xxv}. Sexual awareness among the public, policy makers, social research scientists, and practitioners is lacking in the area of women's prisons. Studies on sex in prison have typically been viewed with disbelief and have been the subject of controversy, cynicism, and disapproval (**Hensley, 2002**)^{xxvi}. Consistent with this perspective, (**Tewksbury and West, 2000**)^{xxvii} stated that "those who conduct research on prison sex often are marginalized by professional colleagues and viewed sceptically by both colleagues and the public." In addition, the majority of these investigations have been conducted by men, and the findings themselves may communicate nothing more than a masculine orientation concerning a distinctively female criminological concern (**Owen, 1999**)^{xxviii}. Although no scientific inquiry is without methodological limitation, and although some may regard prison sex research as insignificant, innovative approaches and an emphasis on evidenced-based science could help shed some light on the subject of prison sex reform (**Barton, 2005**)^{xxix}. Indeed, empirically derived data on institutionalized sexuality may have important implications for incarcerated, their families, prison staff, and, ultimately, society as a whole. Moreover, novel research protocols could help facilitate sexual assault prevention and intervention strategies in an effort to reduce victimization. As such, the typological model of female convict sexuality as previously delineated in this article necessitates future testing and analysis, especially in the context of implementing useful programming and policy around perpetrator/ victim treatment.

LEGAL ASPECTS PROTECTING WOMEN PRISONERS

International law provides the necessary model, best practice and assessment framework for global structure of prisons and their obligations to women prisoners. In 1955, the First United Nations Congress on the Prevention of Crime and Treatment of Offenders adopted the most recognised non-treaty text within the international legislative framework on detention. This text, known as the United Nations Standard Minimum Rules for the Treatment of Offenders (UNSMR) provides the basic guidelines to be observed by states in the fulfilment of their obligations with regard to incarcerated persons.^{xxx} But then, as far as its specific application to

women is concerned, the UNSMR addresses only the separation of women and men, the medical care of pregnant detainees and provisions for children to be imprisoned with their mothers. In 1988 and 1990, the UN adopted three additional instruments on imprisonment. They are: The Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (1988)^{xxxix}, the Basic Principles of the Treatment of Prisoners (1990)^{xxxix}, and the United Nations Standard Minimum Rules for Non-custodial Measures (1990).

This study aims to highlight specifically on the following principles laid down by the United Nations:

Basic Principles for Treatment of Prisoners, 1990^{xxxix}:-

#2- There shall be no discrimination on the grounds of race, colour, **sex**, language, religion, political or other opinion, national or social origin, property, birth or other status.

#5- Except for those limitations that are demonstrably necessitated by the fact of incarceration, **all prisoners shall retain the human rights and fundamental freedoms** set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.

#9 - Prisoners shall have **access to the health services** available in the country without discrimination on the grounds of their legal situation.

#10- With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the **reintegration of the ex-prisoner into society** under the best possible conditions.

Standard Minimum Rules for Treatment of Prisoners, 2015^{xxxix} -

#8- Separation of categories:

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus, (a) **Men and women shall so far as possible be detained**

in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate.

#53- In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.

(2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.

(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

CONCLUSION AND RECOMMENDATIONS

Equality does not mean treating everyone the same. The new gender equality duty means that men and women should be treated with equivalent respect, according to need. Equality must embrace not just fairness but also inclusivity. This will result in some different services and policies for men and women. There are fundamental differences between male and female offenders and those at risk of offending that indicate a different and distinct approach is needed for women.^{xxxv} This article has attempted to portray the status of women prisoners today from the view point of how various issues effect their best interests. It has been shown that women inmates are subjected to sex-based differential treatment in a number of areas within the criminal justice and correctional systems. The results of this paternalism can be both positive and punitive. While women prisoners are turning more toward advocacy and resistance to protect their rights and improve the conditions of their incarceration, it is not clear that the results of these efforts have been completely beneficial.

Prisons are not just an impression of the general public inside which they are found; their capacity to successfully restore and think about detainees considerably affects general wellbeing, social structures and cultural crime percentages. In popularity based social orders the law supports and secures the central estimations of society. To guarantee the accommodating treatment of female prisoners in various nations, change endeavours need to begin from strategies overseeing prisons and security offices who have likewise been enabled to keep people.

As a major recommendation, activities of security organizations should be carefully represented by existing principles and guidelines, consequently, there is a requirement for successful sexual orientation mainstreaming among global security organizations through sexual orientation delicate strategies that perceive and address the exceptional needs of female prisoners and officials. Legitimate changes can't be viewed as compelling without satisfactory assets for the execution of prescribed benchmarks. As appeared right now, insufficiency has additionally impeded the limit of detainment offices to oblige the necessities of female prisoners. In numerous nations, the security segment stays one of the most supported divisions. This paper keeps up that there is a requirement for various nations to shed the past view of prisons as instruments for retributive equity and grasp rather the understanding that correctional establishments are recovery offices. This is an undertaking that can be successfully executed through joint effort among government and non-legislative associations. By the by, it falls on non-legislative associations to drive this change by sharpening both strategy producers and general society. An adjustment in open observation will go far in impacting the administration's mien and promise to battling the issue of asset insufficiency inside punitive organizations. It follows that the center assignments of guilty party appraisal, custodial administration, treatment conveyance, restoration and release and rehabilitation arranging are probably going to require consideration what's more, assets, to guarantee the sex related requirements of women in prison are fittingly met.

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