

“WOMEN PRISONERS IN PAKISTAN : CHANGING PRACTICES TO ENFORCE LAWS & RIGHTS”

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Abstract

Women in Pakistan have always struggled to balance their domestic and social lives; sometimes their own relatives and blood relations deceive them and make them act as criminal. The situation is getting worst when they imprisoned. Jails should provide correctional facilities but ground realities are very different. Laws are made for the protection of women but Government is fail to implement them as well.

Women either in police custody or in jail are in quite horrible and dreadful situation. It is hard to measure their physical and mental state as they do not easily discuss their problems with anyone. Women prisoners who live with their children or have children outside the jail confront more psychological issues than others. More than 60% of women prisoners are mothers of little children. 3% of women’s children are living in jail with them. Most prisons are overcrowded and few provide rehabilitative services to prisoners. Majority of female prisoners are illiterate and unaware of their legal rights. These female prisoners accused of many crimes actually committed by their male partners are forced to live behind bars.

Introduction

In many countries, in all regions, the female prison population has increased dramatically over the last ten years. Furthermore, the percentage of increase in the number of women prisoners is much greater than that for men. Women Offenders typically come from economically and socially disadvantaged segments of society. Usually, they are young, unemployed, have low levels of education and have dependent children. Many have histories of alcohol and substance abuse. A high proportion of women offenders have experienced violence or sexual abuse. At the same time, there tends to be greater stigma attached to women’s imprisonment than men’s, and women who have been in prison may be hated by their families and communities [1].

Jails are always considered as correctional facilities for the criminals. A prison was defined as a place properly arranged and equipped for the reception of prisoners who by legal process are committed to it for safe custody while awaiting trial or punishment. Though the types of jails were changed according to time they always existed for the reformation of criminals. Early punishments for the women criminals were harsh and brutal. These punishments were not proved to be helpful for reducing the crimes and correction of female prisoners [2] Although women generally constitute between two and nine percent of prison population throughout the world, rates of female imprisonment are growing significantly.

Women in jails suffer from both physical and mental torture. In Marcel’s (France) (1999) a woman prisoner delivered a child in jail where her hands and feet were double chained and in this condition she got dripped similarly in American Jails women are in chains till they complete their work [3]. The tense

atmosphere, wicked behaviours of jail staff, feelings of loneliness, helplessness, inner aggression and loss of relations affect women very negatively. Pains of imprisonment are many. Faith (1993) presented the most comprehensive list of these including the stigma of incarceration, the claustrophobia of confinement, the boredom, anxiety about one's children, loneliness for family, withdrawal from alcohol and street drugs, the lack of privacy, abuses of power, little or no choice of diet, the cacophony of radios, television, (and) people and the uncertainty of when will you be released[4] also Pollock (1998) argued that female offenders are more likely than male prisoners to have had members of their families imprisoned therefore they are more mentally pressurized. In addition, women in prison more often had primary caretaking responsibilities for their children than male inmates [5] which increase their tensions. Women prisoners living with their children in jail seldom receive positive responses from jail staff and police officers; most of the time they are victims of the most humiliating and violating abuses in jail. Pregnant women prisoners are also exploited in jail and face physical and mental violence from jail staff; with no special attention or medical facilities, these women confront brutal behaviour [6].

Physical and sexual assault is very common in women jails. In US women prisoners are victims of sexual abuse by staff including male guards [7]. "Women in prison all around the world are at risk of rape sexual assault and torture" said a recent June 2008, Quaker UN Office-Human Rights and Refugees Publication report [8]. Women prisoners are unprotected and vulnerable in these circumstances. Having low self esteem allows victims to fulfil the immoral desires of the jail staff. With the increasing number of women prisoners the problems of health care, prostitution through jail staff, physical and mental abuse, sexual assault, missing gender specific needs, inappropriate facilities during child birth and care for children in jail are coming on to our screen.

Situation of Women Prisoners in Pakistan

The situation of women prisoners in Pakistan is not different from other countries. Women in Pakistan have low social status and a past of continuous discrimination by the society and Governments. Since 1947 to 2011 women are still considered inferior to men and lacks socio-economic security and opportunities in almost every walk of life including sphere of law. In the last decade many laws have passed to improve the status of women but are not implemented. According to I.C.C (International Criminal Court) The rule of law must be applied equally to all persons so as to ensure that all individuals enjoy equal rights irrespective of race, colour, creed or sex. Justice means equality of all persons in their legal and human rights Judiciary plays a vital role as the guardian of the constitutional equalities i.e.

- Equal access to employment
- Equal working conditions
- Elimination of discriminatory treatment+
- Elimination of discriminatory laws [9]

Women are exploited by many reasons, due to illiteracy, lack of control to resources, harassment at work place by employer and male colleagues and many traditional practices make her vulnerable. Gender inequalities and raising class differences not only affect women but also force them to involve in criminal activities. The ratio of women criminals is rising rapidly. In Pakistan women unaware of rights and laws easily incarcerated for crimes. It is important to give an historical overview of Laws related to women prisoners. The Hudood Ordinance of Zia era in 1979 has become a controversial document. The Hudood Ordinance account for much of the increase in the women's prison population since the early 1980's and was one of the major reasons of women imprisonment and police misconduct. According to a report by the National Commission on the Status of Women an estimated 80% of women prisoners were in jail because they failed to prove rape charges, and found themselves locked-up in adultery convictions [10].

In 1991 Pakistan's Prime Minister Mohtarma Benazir Bhutto promulgated regulations prohibiting police from keeping women overnight in custody, although they have not been in practice [11]. Women either in

jails or in police custody are not safe and face terrible situation. In Pakistan 80% of women prisoners arrested by police are raped in the lockups [12].

More than 70% of women in police custody experience physical abuse including sexual abuse by their police officials. Reported abuses including beating and slapping, suspension in mid air by hands tied behind the victim's back, the insertion of foreign objects including police batons and chilli peppers into the vagina and rectum and gang rape [13]. Unaware about their rights they don't even know the law under which they were imprisoned. Custodial violence passes undetected by state authorities and contributes to the lack of protection for women victims of such violence. These deplorable conditions are not restricted to Pakistani women but Bangladeshi and Indian women are also included. Many Bangladeshi women are forcibly taken to Pakistan illegally and police put them in jails often under Hudood offense and they suffered same level of exploitation and abuse as their Pakistani counterparts.

After the women protection Act 2006 situation has changed but not as much it required. There is very limited protection for women against false accusation (Quzf). In theory Quzf protects everyone against false allegations of Zina. However, despite the high rate of discharge in Zina cases, the number of Quzf proceedings is negligible. Similarly in cases of Diyat, the courts while pronouncing judgments sentence the accused with heavy fines and for this reason hundreds of women and men are confined in jails as they are unable to pay the amount of Diyat. Therefore, Diyat laws should be brought in conformity with Section 544 Cr.P.C. However, PWA is an important step in repairing some of the damage done by the Hudood ordinance. The PWA has amended two out of five Hudood ordinances. The whipping ordinance was ineffective by banning all whippings except in cases of hadd. The offence of zina ordinance has been radically amended. The prohibition order and offences against property ordinance still remain un touch. The Qazf ordinance has been amended in a careless manner and effectiveness of change yet to be needed [14]. The bill benefitted many female prisoners in the country; around 1, 3000 to 1700 female prisoners including 250 jailed in violation of Hudood Ordinance were released immediately out of more than 6,000 jailed women[15]. However the problem is that female prisoners in Pakistan are mostly poor and illiterate to the extent, as per some of the statistics 91% did not know under what law they were convicted [16].

Another important issue is the criminal justice system. The behaviour of our respectable judges has also raised questions. Judges are part of the society in which they live, reflecting many of its cultural values and moral norms but also many of its prejudices. In Pakistan only 10% of judges are females. In fact, Pakistan's judges at the lower levels of the judiciary and even sometimes at the higher level tend to reinforce discriminatory customary norms, rather than securing constitutionally guaranteed gender equality. Since the interpretation of law cannot be detached from the specific cultural context in which it is located, norms and accepted practices profoundly affect the application and interpretation of law. Women lawyers practicing in various parts of Pakistan confirm that: Judges are ready to believe the worst about women [17]. Not only our police or jail staff but our judges need gender sensitive training too.

Furthermore women prisoners who live with their children or have children outside the jail confront more psychological issues than others. They all suffered from depression and felt ashamed from their children because of their imprisonment. These women need psychologist and according to jail authorities they arranged a psychologist in jail. According to Human Rights Commission of Pakistan report mentally ill patients do not get appropriate treatment in jails. In December 2005 it was told that in central jail of Kot Lakhpat Lahore many mentally ill women prisoners were in jail. Although these women visited the hospital of mental diseases for treatment but their situation is not getting better. Other prison rules concerning women are routinely violated. For example the prison rule requiring immediately medical examination of incoming female detainees is rarely followed [18].

The International Committee of the Red Cross (ICRC) had an agreement with authorities to allow independent visits to prisons throughout the country, but this understanding was only partially honored. The ICRC had access to the Peshawar Central Prison, where it initiated a water-sanitation improvement project. ICRC visits were not permitted to some detention sites in the NWFP and Baluchistan. The ICRC suspended prison visits in Punjab in 2008, as its inspectors were not provided access to prisoners detained on certain security-related charges. Authorities at the local, provincial, or national level permitted some human rights groups and journalists to monitor prison conditions for juveniles and female inmates, but visits of prison conditions for male inmates, whose conditions were poorest, took place rarely and on ad hoc basis. This indicates that in Pakistan even International Organizations are helpless to some extent [19].

The basic purpose of laws is to bring justice and equality in the society and if laws are failed to do this then society become a mess. The one who commit crime should be in prison but the question is who decided that they are really guilty because laws are not protecting the innocent moreover it is also important that Jails are aimed to correctional facility not a criminal training centre. Justice doesn't mean to put criminals in jails but it includes acknowledgement of their future needs, their humanity, the provision of support and care, access to health care and education and opportunities to become skilled.

Objectives of the Study

The study has designed to know the attitude of women prisoners towards criminal justice system. Women in prison faced various discrimination based on gender and ethnicity. The research study has two main objectives

- a) To find out the abuses, women prisoners faced in jail
- b) To know the legal rights of women in Pakistan

Methodology

The data is collected from the Youth Offenders & Special Prison for Women. The jail was founded in 1993 in the Peer Ilahi Bakhsh Colony, New town in Jamshed Town. The size of the sample was 200. Majority of women prisoners belong to lower socio-economic class but were literate. Data was collected through a questionnaire. There were no specific criteria set for inclusion or exclusion of women prisoners because a limited number of women prisoners were available.

Results & Discussion

The data showed that above 50% women prisoners said that behaviour of jail staff is good. They had less severe problems with the male guards and female staff of Jail. Though when they were interviewed Jail staff is observing them keenly. Majority of women prisoners belong to a lower socio-economic class and they were satisfied and contented with everything happened to them. As Fig.1 indicates only 08.00% complaint and said that the behaviour of jail staff towards them is bad. On further inquiry they told the researcher that male staff often beat them brutally and physical and mental torture is common in the jail. One woman prisoner further said that she lost her child due to physical violence and could not able to register complaint about it because jail staff threatened her consistently. The behaviour of jail staff towards these women was very poor. The researcher observed women prisoners a bit scared when asked about behaviour of jail staff. Except a few many women admired jail staff but in a scared manner.

Fig.2 indicated the feelings of women prisoners. While they said that they are satisfied with the behaviour of Jail staff but also said that they feel suffocated in jail. Women imprison experience many psychological pressures. They feel isolated and want to runaway too. Confinement of a woman in prison is a stigma for a woman and her family. Deplorable conditions in jail, separation from family and feelings of abandonment make their situation even worst. Women prisoners were badly affected by the environmental problems; they continuously lived in a state of terror and distress. Violent behaviour, torture, abuses verbal and physical both, insecurity made the jail environment more miserable and depressing for women prisoners.

Fig.3 shows that only 26% respondents were aware about their legal rights. Illiteracy and unawareness are major factors regarding their lack of knowledge about legal rights. Moreover gender inequalities in education and development sector are playing a huge role in this. Although Women Protection Bill 2006 provides relief to many women, it fails to bring comfort to those who are imprisoned because of fake

property cases, murder and kidnapping. Though many women prisoners had a lawyer but did not know about the lawyer's progress towards their cases. Media can play a major role in prevalence of women legal rights but unfortunately our media is not highlighting this serious issue concerning women.

Women prisoners of Pakistan need serious attention of not only government but other Nongovernmental Organizations too. Discriminatory laws should be modified or eradicated to improve the social status of women in Pakistan. Criminal Justice system also needs to accelerate. Women in prison wait many years for justice, fear of future and helplessness make them more vulnerable, as according to William Gladstone British politician (1809 - 1898) said 'Justice delayed is Justice denied' .This process requires political will to change and implement laws.

Table -1

Behaviour of Jail Staff towards Women Prisoners

Behaviour of jail staff	Frequency	Percentage
Good	104	52.00%
Fine	80	40.00%
Bad	16	08.00%
Total	200	100%

Table -2

Respondent's Feelings regarding Jail Atmosphere

Feeling about jail atmosphere	Frequency	Percentage
Feel suffocated	51	25.50%
Feel isolation	39	19.50%
Want to run away	33	16.50%
It's pleasant	40	20.00%
Don't want to come again	37	18.50%
Total	200	100%

Table -3

Awareness of Respondents Regarding Legal Rights

Awareness about legal rights	Frequency	Percentage
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Aware	52	26.00%
Not aware	101	50.50%
Some how	47	23.50%
Total	200	100%

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