

**A STUDY ON THE ROLE OF INTERNATIONAL INSTRUMENTS
IN THE TRANSFORMATION OF HUMAN RIGHTS OF
WOMEN PRISONERS IN INDIA**

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“To deny people their human rights is to challenge their very humanity.”

- Nelson Mandela

Abstract:

Any prisoner not considering whether that person is a male or female, or even convict or under trial; they do get their right share of human rights as them being a human. Especially irrespective of gender all prisoners are entitled few human rights which goes along with few restrictions posed by various prison mandates. To begin with they have the very right of a dignified treatment from the prison authorities and from their co-prisoners. Most importantly, they have the very right not to be subjected to any cruelty. Judicially, they will have the right of speedy trial, and the right to get a lawyer if they are not in a position to afford one. Just because they are prisoners living around walls of prison they can't be denied of the right to express. They also have the very right to meet their own families, and relatives owing to rules of prison mandates. If in case they get into any employment in prison, they have the right to get their due wages. Women prisoners in particular have their own set of human rights ranging from the separate prison for them considering their gender to frequent medical checkups by the gynecologists in the prison. Out of all every prisoner is entitled to a right to attain utmost health, be it physical or emotional.

Keywords: authority, human rights, instruments, judicial, life, trial, prisoners, women

Introduction:

Women prisoners in India in particular do have a number of human rights that are also shared with men like right to legal aid or even speedy trial. Also the right to be free from any kind of discrimination, torture or cruelty, and to have a dignified life. But, on the other side, owing to the gender; women in particular have their own set of rights to protect their dignity and privacy.

Firstly, they should be put in state prisons away from men considering their safety. There should be regular checkups done by a certified gynecologist who should be a woman. Even the search, examinations, patrolling in the women prisons should be done by a women prison authority. This way no women prisoner will be sexually or emotionally harassed by any male prison official. Special set of rights will be provided to women prisoner who is also a soon to be mother. Any pregnant prisoner indeed have a right to get frequent medical checkups, and she has every right to get her due medicines, and respective treatment on time. Prison authorities should ensure that arrangements were made for the delivery. Even the unborn child do have the right to be treated with dignity that in no certificate of the unborn, the place of the birth should be named as a prison.

State being solely responsible for the management of prisons, since prison management is a state subject, they are the ones to ensure that no prison authority is violating any human right of the prisoner. So state should see that, the prison laws they make should go in hand with constitutional provisions, judicial pronouncements, and most importantly, state laws should consider international instruments and their guidelines and should go in accordance with whatever said by international organizations, and conventions. The paper tries to put down such following guidelines put up by various international instruments that are actually contributing to uplift the status of human rights protection that is being made available to women prisoners in India.

Contribution of International Instruments towards the improvement in the status of human rights of women prisoners in India:

To begin with, the UN Standard Minimum Rules for the treatment of Prisoners of 1955 facilitated a range of fair share of human rights to the women prisoners. To begin with, Rule 8A stated that no women prisoner and a male prisoner should be kept in the same prison, and that they should always be kept in separate prisons to ensure safety of every women prisoner from their male counterparts and also from male prison officials. Rule 23 of the standard minimum rule stated that necessary pre and post pregnancy care and treatment that is to be provided to pregnant prisoner without fail. Proper dispensary, and delivery arrangements should be arranged.

Rule 24 of the rules stated that no prisoner who have any contagious disease should be kept along with the other prisoner. And that, every prisoner should be checked by an authorized doctor while and entering and exiting the prison after serving the term of the prison. And all the reports of the above mentioned checkups should be properly documented and be submitted to the officer of the local court. And in the report as per Rule 26, it is stated that the report should also be containing the opinions of the person who does the inspection regarding if medical, hygiene, food, and sanitation conditions are being done properly or not. Lastly, in the UN Standard Minimum Rules, the Rule 53 stated that only women prison authority should be made authorized to manage women prisons.

The World Health Organization put forward few guidelines to stop rampant spread of HIV AIDS in prisons in 1993; and the guidelines played a huge role in controlling major such infectious diseases in almost all the member states. A special mention was made about women prisoners. The WHO stated that women prisoners who are infected with HIV Aids should be taken care off well both physically and mentally as women who are infected with such disease need a separate and affective care and treatment. The guidelines stated that prison staff should ensure that the prisoner who is affected with HIV know her medical status and she should also know that treatment is being provided to her despite she living in the prison. Also separate special guidelines have been given to manage pregnant prisoner who is already infected with HIV. The guidelines were also given to prison staff to ensure frequent checkups by gynecologists.

The KYIV Declaration on Women's Health in Prison of 2009 stated that even before women prisoner entering the prison proper screening should be done regarding both physical and psychological health thereby facilitating segregation among other women prisoners and to provide individual care based upon their stage of health. The declaration stated that along with primary health services, specialist services should also be provided to women prisoners like for Aids, TB, Hepatitis, and other such contagious diseases. The declaration stated that in order to ensure that prison policies and administration should be done in accordance with the

human rights protection of the prisoners and to protect basic rights of their children who are living with them; the staff needs to be additionally trained and gender sensitized.

The declaration stated that women prisoners should be given proper counseling so that they do not commit any self harm to themselves and to such children of theirs. The declaration highlighted the need of the participation of NGO's to conduct awareness programs wherein the women prisoners get to know their rights and other facilities like parole or probation.

The Bangkok Rules of 2010, which are also known as the UN Rules for the treatment of the women prisoners and non-custodial measures for the women offenders is one such instrument that spoke exclusively about women prisoners at the largest. The rules mainly concentrated on gender based alternatives like organizing counseling sessions in the women prisons to help women prisoners to come out of their utter misery. The rules stated that proper healthcare and humane treatment are the most important essentials in the women prisons.

The Bangkok rules stated that the dignity of the women prisoner should be kept safe while during searches. The rules stated that the children of such women should never be treated as prisoner as if does would affect their mental health. Most importantly, the Bangkok rules stated that legislators, and policy makers should be attentive towards protecting the rights of women prisoners, and that the existing age old rules must be immediately updated. The rules also stated that every women prisoner should be made known her rights, and should be taught about various other things like free legal aid, probation, and parole services.

The Nelson Mandela Rules of 2015 spoke more briefly about women who are deprived of liberty in their lives in various prisons around the globe. The rules stated that women in prisons are the ones who need to be given a life of dignity away from torture and cruelty. The rules stated that their needs should be met regarding the fact about their gender no matter in whatever circumstances. The rules stated that both men and women should be lodged separately, and that too women should be classified again based on assessing the character of health of each one of them. The rules stated that prison staff who is supervising women prisoners should be properly trained and sensitized before their appointment. The rules stated that proper arrangement of food that is necessary for the pregnant women prisoner should be arranged, and even after the childbirth, the choice of the child to be near or away from the mother should be prioritized.

Conclusion:

Though most of the International legal instruments talk about the protection of human rights of women prisoners, what is necessary was not extra resources, and budget of the state but affective implementation of already existing rules which also need to be extensively updated. Investments should be made in training the prison staff, employing more gender sensitive women prison authorities is the need of the hour. Policy makers should put focus on the women prisoners and update their laws in accordance with the newly legislated international instruments. Authorities in the prison administration should be made answerable to the wellness of every women prisoner existing out there. There is an urgent need to introduce gender sensitized prison mandates throughout India. Jurists should infact consider that other than for major offence, no women should cost her life for any of the minor offences committed by most of the women prisoners mainly in India as it would not just cost her life for that minor offence but also cost her the life of her children. And in order to secure the health of women prisoners proper and regular medical checkups should be done, to see if that

women prisoner has any health problem or if she has been sexually assaulted. And in order to protect mental health of hers, she ought to be allowed to meet friends and family members in accordance with that particular prison rules and timings. Most importantly, there should be regular monitoring by local authorities of the court and there should be provision of grievance redressal directly to that court officer. Thus the complaints made about prison administrative staff should always be kept confidential along with immediate enquiry on that particular prison staff. Lastly, and most importantly, women prisoners need to be taught basic skills like tailoring, soap making, and handicraft works so that they can earn something from the skills garnered in and when they are out of prison too. This helps women prisoner not to go out and repeat committing the similar offences again.

References:

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