

Confronting Gender Inequality in Prisons: International Problems and Human Rights

By

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Abstract

'Gender equality is more than a goal than a goal in itself. It is a pre-condition in meeting the challenge of reducing poverty, promoting sustainable development and building good governance'.

---- *Kofi Annan*

Gender inequality is a gender-based discrimination which is strictly prohibited under the international laws and thus it must be confronted in every sector to address the problems that still persist. In general, women represent a very meagre percentage of the total inmates in prisons but globally these numbers are increasing at a very alarming rate. In many instances it is also seen that imprisonment rate of women is more than men. The causes of women's imprisonment are many like that of non-violent offences, violence related, deteriorating financial issues and various other economic factors. The women offenders lack financial resources for their legal representation and end up paying fines and face difficulty in getting bail. The paper highlights the rights of women being detained without neglecting the obligations that comes alongside regarding the administration and the prisoners.

The article envisages the related factors accountable for gender inequality in prisons, and transpire solutions for addressing the concerned problems with incarcerated women struggling throughout nations.

Keywords- Prisoners, Gender Inequality, Incarceration, Human Rights, Prison, International Problem

1.0 Introduction

The circumstances under which women are committing criminal offences are having a slight difference with that of men. It can be stated that the women offenders who are in the prisons all across the globe either directly or indirectly face different types of deprivation and discrimination due to their gender. Generally, on doing background check of women inmates in prisons it is found that the reason for their imprisonment is not exactly similar to that of men. A large proportion of women prisoners are from economically and socially disadvantaged section of society and this reason make them vulnerable to lack of access to justice system, inability to pay fines or get bails. Due to their small numbers, another problem emerges which is pertaining to their gender based human rights and constitutional rights getting unaddressed

and unacknowledged during their jail term. It is a fact that prison regimes and systems have been invariably designed globally for the majority of male population thus women are subjected to gender inequality. Most of the prisons are not able to cater to basic human rights of women prisoners and it is more or less same in almost every country globally. There is a particular stigma attached to females in prison and this continues once they are out in mainstream society.

2.0 Research Problem and Objectives

Going by the statistics it can be seen that in more than half of the prisons in the world, female prisoners are in the range of 2% to 9% of prison's total population. In Europe it is 6.1% and being very low in Africa. In 2017, it was seen that female prison population has increased by more than 50% since 2000 with majority of them in pre-trial detention state. Generally, the women are imprisoned for monetary or acquisitive crime and serious criminal violence offences against them have been very less. Despite all these, women face gender discrimination like violence, sexual abuse in prisons, lack of accessibility to healthcare facilities and also improper accessibility to legal aid which all are violations of their basic human rights, it being an international problem. There lacks a common system for confronting gender inequality in prisons and hence it being the agenda of study here based on the formed objectives.

Objectives- The main objectives that are followed in this study are mentioned as under.

1. To focus on the aspect of Gender Inequality and its prevalence as an international problem;
2. To study about the prevalence of gender inequality and gender based discrimination present in different sectors across the globe;
3. To critically analyse the state and sufferings of women in prisons;
4. To analyse the infringement of rights faced by women in prisons;
5. To provide with suggestions/recommendations that can prove helpful in addressing of this problem.

3.0 Methods

The methodology followed in this study is briefly mentioned as under.

Philosophy- The use of interpretivism philosophical approach is done over here in this study for conducting the study of facts and its analysis. This is due to the fact that interpretivism is having direct association with philosophical position of idealism and the objective here is to group together diverse findings on prisons so as to confront prevailing gender inequalities and address violation of human rights. By making use of this philosophical approach, the researcher has acted as a social actor in appreciating differences among people but based on these differences to find out the factors responsible for the differences and come up with solutions for addressing it. All the aspects of this issue are highlighted over here making use of typical secondary data collection and thematic analysis process.

Approach- The approach that is followed over here is inductive reasoning because the start is done with theories study and observation of facts pertaining to prisons followed by obtaining patterns and coming up with theoretical observations. Care is taken to meet the objective requirement of the study and not develop any hypothesis thus giving freedom to alter study direction as the study progressed. The aim from the starting is to get meaning from

collected secondary data and thus form relationships from those to formulate objectives that have been explored. The resemblances, patterns and regularities have helped in generating a theoretical conclusion and come up with certain recommendations based on it.

Data collection and analysis strategy -

The whole study of the facts and findings collected here is from various secondary sources which include previously researched articles, international journal and conference papers, reports and survey findings among others. For meeting the objective of gender discrimination in prisons being an international problem, prison system of three different places i.e. American, European and Indian prison system is critically studied. The aspect of women prisoners also having human rights and in no way it can be violated despite them being prisoners or under-trial is explained over here in details. Different types of problems faced by women prisoners in jails and factors responsible for it presented in a theme wise basis and after its critical analysis recommendations are presented accordingly.

4.0 Key Results and Arguments

Gender Inequality- An International Problem

It is worth mentioning over here that the aspect of Gender Equality is at heart of United Nations (UN) values. Gender based discrimination is prohibited in accordance to all human rights treaty globally. There has been continuous progress done in preserving and securing of rights of women globally but the still there are millions of girls and women who experience violence and discrimination of different types in various sector. It includes denial of their equal treatment, lack of dignified treatment, missing autonomy and various other difficulties in leading a normal life. There is not just only discrimination but also violence against women which is mainly due to thinking and misconceptions which are rooted in the society. The matter of concern is that these conceptions are pretty much systematic and persistent in the society and hence are the contributing factor for prevalence of gender inequality. In addition to these, another matter of serious concern is that in recent years it is observed by many of the human rights experts that there is a recurrence of skepticism against basic human rights enjoyed by women. Gender inequality is commonly observed in the form of gender based violence but globally women have been raising voices increasingly to be treated equally and for it they are actively participating in feminist movements. The OHCHR (*Office of the United Nations High Commissioner for Human Rights*) is responsible for promoting and ensuring of women's human rights globally with their core concept is to attain gender equality in every sector and domain of work. These include promoting equal enjoyment of human rights for women in the form of reproductive and sexual rights, freedom from all types of violence, their equal representation in decision making and complete socio-economic equality. OHCHR considers gender inequality happening in any sector or place (even in workplace of any type) to be an international problem pertaining to violation of human rights and hence carry out monitoring activities regularly for proper advocating of women's rights.

Gender Inequality and its prevalence across various sectors globally

Gender inequality pervades globally and when it is pertaining to economic dimensions' gender inequality is very much prevalent because women representation is less than their men counterpart on formal work sector. Taking into reference the case of political scenario, women's representation is lower than men with it being the same in corporate fields as well. In workplace situations, women are given comparatively less opportunities than men in terms of promotions or salary payment which is also a type of gender inequality. A form of social gender inequality is women not educated or lack of opportunities to gain knowledge in comparison to

the men thus decreasing their chances of getting represented or voicing their opinions. The achievements in the aspect of gender equality has been worth mentioning and also can be seen from the manner in which cooperatives function and it can be seen as an output of cooperative movement. The cooperatives are not just only owned but also controlled by its members and presently many of the global cooperatives are allowing open membership which in a way encourages democratic activities. It is a sign of being more responsive to demands and needs of cooperative members irrespective of their gender contributing to local community's overall development. Gender neutral organisations have the potential to become vehicles for empowering women so as to become an effective economic cum social organisation. The cooperatives which are having the facility of member ownership depict democratic control. These organisations are in a way inclined to invest and support the development of women members by arrangement of training and education so as to turn them into impact members. The organisations which are complying with the principle of open membership usually tend to follow a holistic approach while dealing with its human resources. For upholding of basic human rights and removing gender inequality, the cooperatives membership, by-laws and all types of associated benefits needs to be granted without any sort of discrimination. The cooperatives which are following these types of regulations have the potential of attracting women along with men who are well poised to present a different perspective that can prove beneficial for tackling deeply embedded gender based inequalities in the society for an overall social and economic upliftment.

Women and their state in Prisons

There is a general perception in the society because of which incarcerated women or women who are imprisoned are usually treated differently when compared to general population. The prevalence of sexism in prison is an undeniable fact. The gender bias for detained women is kind of identical to those, which unfastened women face in society whilst selecting among their profession and doing household activities. The women prisoners are exposed to endless jokes about their sexuality, their ability being questioned, their decision making quality termed illogical and their behaviour given the name of mood swings due to hormonal imbalances with all these happening quite frequently in the prisons.

The women who have been imprisoned are repeatedly told and always reminded about their inability to be good mothers in later course of their life because they are made to be felt like negative influential characters in their child's life, when they are going to back or released from prisons. There are many women in prisons who all due to lack of equal chances and accessibility to justice opportunities keep on experiencing a trauma throughout their lifetime. Additionally, in most of the prisons there is no mental healthcare or trauma informed care facilities are available thus restricting the women to silently get shamed and abused with no scope of getting relieved.

Common problems faced by women in Prisons

There are several issues pertaining to gender inequality and gender discrimination which are commonly faced by the women in prisons and it generally come from lives that these women lived before being imprisoned. There is no denying of the fact that women prisoners are coming to the prison with different types of problems when compared with their male counterparts and there is always a high chance that women are going to encounter more problems because the environment in prison is designed in such a manner to suit the male offenders in general. Some of the critical problems usually faced by women prisoners are their separation from their partner and children, inadequate healthcare service (*both physical and mental*), exposed to sexual abuse, limited or no access to educational programs and an overall very unsafe environment. These problems are also the same for male offenders as well but there is

significant difference in accordance to effects of these problems in lives of women prisoners, both in and out of prison.

There have been several research activities that have been done on this topic from which it is obtained that majority of female prisoners are women who are mothers and their children below the age of 18 years. As the women are to bear most responsibility for raising children, their incarceration is like additional burden to child's upbringing and imbalances appearing in family, for which the women are always blamed. In most of the countries, globally do make an effort for housing women inmates within reasonable distance from their residential addresses but most of the time it is not possible because prisons are not having facilities (i.e. *toilets, separate bathrooms/washrooms, cells etc.*) to accommodate women prisoners. This gender inequality or gender-based discrimination results in women to be lodged in jails located far from their home making visitation difficult.

Another important concern is that in general women in prison are less in numbers than the male prisoners thus resulting in females to receive substandard, delayed or no medical attention at all. In most of the prisons across different countries the common services exclusively meant for women like that of pelvic examinations and mammograms are not present. The pregnant women who are entering the dark coop finds it extremely challenging to cope up with environment due to lack of prenatal care facilities and in extreme instances women prisoners remaining shackled in chains even during the time of labor. The women prisoners are commonly subjected to assaults and allegations of sexual abuse against both male and female correctional officers are pretty high. It is also found that the environment provides very less scope for women prisoners to recover because with many research results it has been established that they have been subjected to rapes, groped and victimised by different types of sexual coercion but all these getting hardly reported.

International Gender Discrimination and Gender Inequality based problems in Prisons

Europe

Discrimination against the women prisoners also exists in majority of the prisons in European countries but there have been some of the strict actions that have been taken in recent times to keep these in check by the CPT (*European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*). Despite women constituting a very small portion of jail inmates in total, CPT ensures equal treatment of incarcerated women in all over European jails. The existing prison rules are a main hindrance in making women inmates adapt with prison environment as rules are made taking the aspect of male prisoners into consideration. On CPT's recommendations many of the prison administration have started smaller living units for women prisoners instead of large capacity accommodation to restrict common occurrences of violence against women like verbal abuse having sexual connotations and any other type of sexual harassment. It is also checked that whether women in European jails are having access to meaningful activities like sports, education, and vocational training like that of men, which was previously restricted only for men. Additional changes in prisons included remodelling of washing facilities, availability of sanitary pads and separate dust-bins for disposal of blood stained clothes/belongings. The committee has even restricted the rampant use of strip searches on women inmates as it is quite degrading and invasive for preventing women from embarrassment. Lastly, the prison staffs are educated to make them cooperate

with mothers and pregnant prisoners to bring a change in prisons environment for women prisoners.

America

Women prisoners have to face different types of problems in American prisons because most of the prisons are run by male officers and personnel who are not cooperating or trying to understand the monthly physical challenges faced by women (i.e. menstrual cycle) that turns out to be a very humiliating experience for them. Additionally, mammograms reports are incomplete, rape incidents are unreported and many more serious issues that vary from one prison to another traumatizing an incarcerated woman. The male prison officials lack the basic knowledge about different handling of women prisoners. There are also laws present for the sake of women prisoners but usually this fall short, an example of it is PREA (*Prison Rape Elimination Act, 2003*) in United States. Despite this act being very much into existence, imprisoned women experience sexual assaults in prisons regularly with male guards finding this assault funny on their part. On speaking up the women prisoners are not listened, being treated as objects of sexual pleasure in jails and target of more abuse only because of their gender. Gender discrimination is a violation of not just only constitutional rights but even basic human rights as when a woman walks into the prison it in no way means she has given up her right to be treated free of discrimination or inequality of any type but it is something that is missing in majority of American prisons. The justice involved women are suffering in prisons not just only because of their trial but also due to ignorance and excessive gender biasness prevalent in prisons environment.

India

According to the findings, the most common problem that is present in Indian prisons is all about absolute shortage of female staffs. The lack of women staffs results in male staff to take charge of prisons and also women prisoners which is an undesirable occurrence because gender specific services are then not made properly accessible to female staffs. The women inmates in Indian prisons get deprived of basic healthcare due to absence of lady Medical Officers, gynaecologists and separate female wards in most of the prisons. Mental health women prisoners are not treated well and kept isolated due to lack of proper facilities. The incidents of sexual violence on women prisoners by male jail officials is often heard and even reported from across different jails in the country but commonly women inmates do not report such abuses as they fear of their well-being while staying in the same place with the perpetrator. The NHRC (*National Human Rights Commission*) of India have found out that women prisoners do not have access to legal aid cell which is a violation of their constitutional and human right to justice. For mother prisoners only children up to age of 6 years are allowed to stay with them and no other arrangements is there post that age. The introduction of *Model Prison Manual* by Home Affairs Ministry of Indian government was done in 2016 to address these issues, specifically the gender inequality based issues but nothing much has improved yet.

5.0 Conclusion

Summary

From the study of the article related to gender inequality in prisons, it is obtained as an international problem because it is prevalent in most countries of the world. Women prisoners do get abused and are discriminated in the prisons because of their gender and a common perception regarding them that is still prevailing in the society. The condition of prisons in

addressing the gender inequality issue is more or less same in prison systems of developed and developing countries causing violation of human rights. The condition of women prisoners in American prisons is not that good when compared to Indian Prison system but a change for good can be seen in the European prisons coming up with gender specific reformations.

Implications

The findings of the study point towards the fact that despite international organisations and forums like OHCHR promoting women's right to human rights in every sector, but it is missing in prison systems globally. There is a lack of conception and clarity among people who are a part of prison system that human rights still hold even after a person irrespective of gender is imprisoned or under-trial (*exceptions in gruesome crimes*). The Prison system being different from other normal sectors, the prevalence of Gender inequality is very high due to a preconceived notion still present in its environment due to which women have to suffer as can be seen from instances of American, Indian and European prison systems.

Importance of findings

The findings of the study focus specifically on those areas in prison system where there are loopholes leading to women prisoners being exploited and discriminated with their basic human rights getting violated. In addition to discussion of factors responsible for gender inequality prevailing in prisons and a comparative study on the Indian prison system of three different international regions is done providing a learning scope for improving the prison system for women inmates where it is lacking.

Recommendations for addressing the problem

Some recommendations which are presented over here in line with objective requirement of the topic for confronting gender inequality in prison to solve international problems and human rights issues is based on assessment of prison system and take integrated, proportionate and women centered measures taking into consideration of gender specific requirements. For women prisoners' health and hygiene aspects must be emphasised while redesigning the Prison system in addition to increasing numbers of women prison staffs and gender sensitization of existing staffs. Lastly, regular monitoring of prisons is a must with inmates or under-trials (women) given access to legal assistance as their right to justice so that they can release from jails and providing them with necessary post-release support.

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