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# Indian Streams Research Journal

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## REFORMATION AND REHABILITATION OF WOMEN PRISONERS: A SOCIO LEGAL STUDY



**Manisha Yogesh kale**  
Research scholar, Sangali.

### ABSTRACT:

During past period the number of women indulged in criminality was less as compared with present time. In recent years, the female criminality rate has been a gradual increase. The modern trend places emphasis on the reformation of an offenders and their rehabilitation. Instead of punitive approach reformatory approach seems to be effective in case of women prisoners. A criminal is in need of a doctor-cum-guide and not of the jailer. Due to feminine temperament female criminals respond favorably to reformation. They should not be punished but should be treated and converted into a law abiding citizen by giving of training. They should be trained to reform in the society after completion of their sentence. Criminals can be reformed into a good citizen by giving them competent treatment during their imprisonment period. Reformation and rehabilitation of offender are two possible goals of punishment. Female criminals who are serving their term in the prison due to crime committed by them or in collaboration with other companion should be given a chance to rectify or correct their

ways so that when they finish their term and come out of the prison, they should be transformed into good citizen. In prison female inmates should be trained for some work during the term of imprisonment, so after completion of sentence she can reestablish herself in the society and she should not commit crime in future. Rehabilitating women prisoner's means preparing them for upright and productive life upon release from prison. Rehabilitation is reintegration of convicts in society. There is a definite need for an in depth and intensive study of female criminality and to acquire greater insight into the problem.

**KEYWORDS :** Reformation, Rehabilitation, Women Prisoners, female criminality

**INTRODUCTION:**

*"If you are going to punish a man retributively – you must injure him, if you are to improve – you must improve him, and men are not improved by injuries"*<sup>1</sup> **George Bernard Shaw**

Over the years, prisons have become place of low visibility where inhumane and even cruel conditions have prevailed. The possibility of inflicting injury and injustice on inmates has always lurked in these closed institutions. The substantial condition of a large number of prisons in India continues to be bad, dehumanizing and violative of the residuary rights of inmates. There has been a plethora of recommendations for the improvement of these conditions both from recommendatory bodies and from the apex judiciary.

The prison administration in India is a bequest of the British rule. The prison reforms in India were initiated in 1836 on the recommendation of Lord Macaulay. Thereafter, different Jail commissions were appointed. These commissions made some specific recommendations regarding reformation of prisoners. Instead of punitive approach reformatory approach seems to be effective in case of women prisoners.

Female criminality is the important factor that influences family's harmony and social stability. When any woman indulges in criminality the entire family gets disturbed and there are chances of disintegration of family system and ultimately the disintegration of the society itself. Female criminality is a main indicator to measure a community's moral standards. Due to modernization, Industrialization and urbanization female delinquency rate has been increased<sup>2</sup>. There is a definite need for an in depth and intensive study of female criminality to acquire greater insight into the problem. For the past two decades the discussion on women and crime has begun to draw much attention because of the interest shown in the academic circles on women and their development.

According to latest data of National Crime Records Bureau (NCRB) which is an Indian government agency responsible for collecting and analyzing crime data less than 2% of the jails in the country are reserved for women. Only 20 out of 1,394 jails in the country are exclusively reserved for women<sup>3</sup>. As per above data of NCRB it is clear that number of women prisons is less in comparison with male prisons. In order to achieve the object of reformation and rehabilitation of women prisoners first of all there is need to increase the number of women prisons. It is necessary for effective implementation of reformation and rehabilitative mechanism.

Till today the studies have conducted on reformation made in prison condition. In India very few studies have been done on reformation and rehabilitation of women prisoners. Only few studies have been conducted on prison life of female criminals, problems faced by them as well as reformation and rehabilitation of women prisoners. This research paper has been prepared to highlights the problems and to identify the factors which affect and influence the life of the women prisoners during conviction

and after conviction.

**OBJECTIVES OF THE STUDY:**

- 1) To understand causes of female criminality.
- 2) To identify the problems and issues faced by woman prisoners.
- 3) To understand the present reformation and rehabilitation system for women prisoners
- 4) To indentify the role and the responsibilities of the authorities in connection with prison reformation as a part of the system.
- 5) To evaluate the present mechanism of reformation and rehabilitation of women prisoners.

**REFORMATION AND REHABILITATION OF WOMEN PRISONERS:**

In criminal justice system sentencing is the final phase of a trial. Sentencing is perhaps most important and difficult stage in justice delivery system in which the judge decides the guilt of the accused and accordingly awards punishment to the accused. After the stage of sentencing the convicts are placed in prison as a punishment. Prison is a place properly arranged and equipped for the reception of persons who by legal process are committed to it for safe custody while awaiting trial or for punishment. There are five different theories of punishment. These are Deterrent, Preventive, Reformative, Retributive and Expiation (compensation). The modern trend places emphasis on the reformation of an offender and his rehabilitation<sup>4</sup>. Offenders are kept in prison as a punishment.

One of the possible goals of punishment is reformation of the offender. The process of reformation of the convict starts when she enters in jail and it continues till she settles down in the society after serving her term of imprisonment. The institution of prison is meant to serve the dual purpose of keeping away criminals from society and reformation followed by rehabilitation of the criminals<sup>5</sup>. The modern trend places emphasis on the reformation of an offender and his rehabilitation. Instead of punitive approach reformative approach seems to be effective in case of women prisoners. Reform means change and imports somebody by correcting faults, removing inconsistencies and abuses and imposing modern methods or values or to adopt a more acceptable way of life. Reformation is an act or process of a general improvement.

The reformative views of penology suggest that punishment is only justifiable if it looks to the future and not to the past. In order to achieve crime minimization effectively, and for the purpose of reformation and rehabilitation of offender individualization of criminal and categorization of crimes is utmost necessary. The motives behind the offences, and the other backgrounds of the offenders should be clearly examined and there should be made a way so that the offender's mental environment may be changed.

Reformative theory claims that criminal can be reformed into a good citizen by giving him treatment during their imprisonment. The object of the criminal law is to reform than to punish the individual offender. Women delinquents respond favorably to reformative methods due to their feminine temperament. The women prisoners should be treated more generously and allowed to meet their children and family members frequently. This will keep them mentally fit and respond favorably to treatment methods. Particularly, the women who fall a prey to sex offence should be treated with sympathy and their illegitimate children should be assured an upright life in the society<sup>6</sup>.

Another possible goal of punishment is rehabilitation of the offender. Rehabilitating women prisoner's means preparing them for upright and productive life upon release from prison. Female criminals who are serving their term in the prison due to crime committed by them or in collaboration with other companion should be given a chance to rectify or correct their ways so that when they finish



their term and come out of the prison, they should be transformed into good citizen. Rehabilitation is reintegration of convicts in society. In prison literacy classes shall be held for illiterate women prisoners. Women prisoners shall be imparted training in domestic and home sciences, dai work, sewing work, embroidery, home decorating, toy making, artificial flowers making, tailoring, basket making, wax making, stationary articles making, painting and drawing, local handicrafts and cottage industries, bee keeping, flower gardening, spinning, handloom weaving, wool weaving, umbrella making etc<sup>7</sup>.

Prison rehabilitative programmes help the inmates to readjust in society after their release. The training given to prisoners in prison help them to earn wages and support their family after their release. When the inmates are in prison the wage earning scheme will facilitate them to support their family members. Women should be given enough support and help to be independent and do something worthwhile for herself, her family and her kids. Proper public awareness is also a need as a criminal returning to her society is not accepted and is taunted by everyone. Hence rehabilitation of prisoners helps them to socialize.

#### **ROLE OF JUDICIARY:**

India has international obligation to protect the women and ensure gender justice Protection of women and gender equality is the basic scheme for many legislations in India. The judiciary play important role for protection of rights of women prisoners and also to ensure their reformation and rehabilitation. The protection of Article 21 of Indian Constitution is available to convicts also. A convict is entitled to the precious right guaranteed by Art. 21 and the convicts shall not be deprived of their life and personal liberty except according to procedure established by law<sup>8</sup>. Supreme Court has held that right to legal aid and speedy trial, right to have interview with family members and friends. Protection to the prisoners in jail from degrading, inhuman and barbaric treatment, right to live with dignity are Human rights which implicit within Art.21 of the Constitution.

The role of Supreme Court in introducing jail reforms has been commendable. Supreme Court by delivering judgments in various cases protects the rights of prisoners. Speedy trial is essence of criminal justice . “Right to speedy trial” is a fundamental right which is implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution<sup>9</sup>. Supreme Court also issue directions regarding female convicts. Supreme Court held that, “Human dignity is a clear value of our Constitution not to be bartered away for mere apprehension entertained by jail officials.” Similarly torture and ill-treatment of women suspects in police lockups has been held to be violative of Article 21 of the Constitution. The Court gave detailed instruction to concern authorities for providing security and safety in police Lock ups and particularly to women suspects<sup>9</sup>. The court also directed that female suspects should be kept in separate police Lock ups and should be guarded by female constables<sup>10</sup>. Hence the Supreme Court has come forward to take correct measures and to provide necessary directions to the executive and legislature about protection of rights of women prisoners.

#### **HURDLES IN REFORMATION AND REHABILITATION OF PRISONERS:**

There are certain hurdles in the implementation of reformation and rehabilitation mechanism. The prison authorities face several difficulties such as

- Non cooperation of inmates,
- Lacunas in law relating to reformation and rehabilitation,
- Insufficient number of prison authorities,
- Lack of societal cooperation,
- Budgetary provisions are insufficient for proper implementation of reformation and rehabilitation

mechanism etc.

#### CONCLUSION AND SUGGESTIONS:

The present study reveals that separate women prisons are essential to keep the women prisoners. The number of women prisons is not sufficient in India and it should be increased. Women prisoners being women have special requirements which should be necessarily fulfilled. Prisons should be converted into correctional homes. It is essential for the women prisoners for their reformation and rehabilitation. To fulfill this purpose it is compulsory that they should be provided basic facilities in the prison. In the case of pregnant women prisoners they can be granted bail and in case the children are dependent on the women prisoners, their mercy application should be considered sympathetically and released accordingly. Most of the women prisoners are not aware about the complexity of judicial process. Legal awareness programmes should be launched on war footing in the jails so that women prisoners should be made aware of their legal rights and about the complexity of judicial process. Sufficient lady doctors should be appointed in the prisons. The efforts should be made on war footing to reduce the strength of women under trial prisoners and for this purpose the procedure of plea bargaining can be adopted. Panels of visitors should be appointed on a permanent basis to all prisons as recommended and emphasized by National Expert Committee on women prisoners and apex court in various observations.

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