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An Empirical Study on Prisons of Odisha as Organs of Access to Justice Mechanism

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ABSTRACT

The prison management in India is under the exclusive control of the state government. This area is out of sight and generally out of mind. No one tends to know the harsh realities prevailing inside the prison walls. It rarely makes its place in columns of newspapers unless a celebrity, politician or businessman is convicted or awarded judicial custody. The study deals with two major prisons of Odisha state. It is classified into the preview of prisons, the issues identified and suggestions regarding the same. It is an empirical work conducted by the author concerned with the access to justice mechanism.

Keywords: Odisha, Prisons, Issues, Suggestions

I. INTRODUCTION

The jails in India are brimming with numerous problems. Some of them can be listed as overcrowding, lack of adequate medical facilities, Lack of staff, Physical mistreatment in forms of cruelty and beating, which leads to custodial deaths, living conditions not adequate to suit the needs of female prisoners, flawed administration, long detention of under trials, and lack of communication facility between prisoners, their families and councils.

The state government administers the prisons as it forms a part of a state list mentioned in the seventh schedule of the “Constitution of India”; hence the administration and management of all the prisons of the state are in exclusive control of that state.

The prisons in India are governed by “The Prisons Act, 1894”, a very old piece of legislation and the prison manuals made by the respective state governments. It provides for corporal punishments in cases where any prison offence has been committed. Acts such as “willful disobedience” of the regulations, use of intimidating language, threatening the fellow prisoners of prison officials, indecent and immoral behaviour falls within the category of a prison offence. The jail Superintendent exercises full discretion in deciding such punishment.

The states are endowed with the role and authority to make changes as and when required in the prison laws. The Central Government can provide assistance to the state governments to

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improve the security, medical facilities, facilities for female prisoners, etc. The Supreme Court of India, on recognising the problems prevailing in the Indian prison system on various occasions, have recommended the states make changes in the Act. However, only a little has been done. The prison reforms are a subject to be dealt with by the State Government, and hence the Central Government is not accountable for the administration or functioning of the prisons.

Across India, there are around seven types of prisons, namely, Central Jail, Circle Jail, district Jail, Sub Jail, Open Jail, Special Jail, Women Jail and Boston Schools.

(A) Research Objectives

- To study and analyse the present structure of prisons in Odisha.
- To accentuate the issues faced by prisoners in Odisha prisons.
- To understand the confluence between access to justice mechanisms and prisons.

(B) Scope Of Study

The Circle Jail, Chowdwar, Cuttack and The District jail, Bangar, Puri, of Odisha State, are selected for the imperative study.

(C) Research Methodology

The empirical method is applied in the present study. This report endeavours to comprehend the application of access to justice within the prisons of Odisha. The study is split up into two methods, namely, survey and questionnaire, which were directed to the under trial prisoners by interview method.

(D) Research Questions

1. Whether the objectives and provisions of the Indian Prison's Act 1984 are being complied with sufficiently?
2. Whether the mechanism for achieving access to justice under the Indian Constitution requires certain amend

II. DISTRICT JAIL, BANGAR, PURI (ODISHA) INDIA 15 MARCH 2019

(A) Geographical Location

District Jail Puri is one amongst the nine district jails in the State of Odisha. It is located in the interior of the district at the puri-Konark road. It is situated in a remote area, far away from the city of Puri. There is a huge forest cover along the road, leading to District jail, Bangar, Puri. This road passes through the Kausabhadra River, ahead of leading to the jail.

(B) Demographic Information

| Category | Male | Female | Total |
|-----------------------|------------|-----------|------------|
| Youthful Offenders | 403 | 17 | 420 |
| ADULT | | | |
| UTP | 235 | 12 | 247 |
| Sessions UTP | 96 | 04 | 100 |
| Rigorous Imprisonment | 72 | 01 | 73 |
| Total | 403 | 17 | 420 |

(C) Preview

The District jail, Bangar, Puri, is a well-protected prison. The walls are high and razor-wired. The one and only entrance for the jail premises is a huge grilled metal gate. The opening leads to a narrow enclosed passage where official formalities are to be complied with. Any person/official/visitor who intends to visit the jail is supposed to pass the security check. The Identification Proofs of visitors are duly inspected. A record register is maintained, containing the details and signatures of the people who enter the jail. No one is allowed to carry any commodity or gadget inside the jail premises.

The visit can be broadly classified into the following aspects:

(D) The Female Ward

The female inmate ward is situated approximately 500 meters from the main entrance. The structure includes a building and a field along the periphery of four walls. A boundary is constructed to separate the female inmate cell from the corresponding prison area. The ward was guarded by six police officers, all of them being females. They were designated at different corners of the said ward and seemed to share an affable bond with the female inmates.

The Cell was constructed in the form of a hall, having grilled windows that were low in height. The Ledge of the windows was being used by the inmates for keeping their belongings. The floor of the cell was clean and was used by the inmates for resting. Few of them had some sort of rug or mat which they had spread on the floor and were sitting on it or lying down. At the end of the cell was a construction of 2 toilets and 2 washrooms. The doors of the washrooms

concealed only the middle quarter of the structure.

On enquiring about the inmates, the police officer informed that all of the inmates were UTI's (Under Trials) except one. This arrangement was against the provisions of the Prison Act. They had kept the convicted and the UTI's together into a single Cell though it is contrary to S. 27 of the Prison Act, 1894, which says that the Under Trial Prisoners should be kept separately from the Convicted Prisoners.

(E) Interaction With the Female Inmates

The first jail inmate interviewed was an elderly woman. She was charged with trafficking under section 370 of The India Penal Code. She was quite satisfied with the living conditions of the prison. She mentioned that the inmates felt safe in judicial custody. Her only grievance pertained to the lack of professionalism shown by her Advocate. She did not have any kith or kin outside to fulfil the formal duties, and hence she was solely dependent on her lawyer for everything. Her lawyer seemingly took undue advantage of her misery. The Advocate did not meet her timely and didn't keep her well informed about the current legal position of her case.

Few of the female inmates even had their children staying with them. The children were of tender ages. One inmate was the mother of an infant baby. On enquiring about the services provided in the jail to ensure the best interest of the children, they responded that no special services were being provided in the jail. The children were sustaining life under the ordinary living conditions provided in the jail.

My interaction with subsequent female inmates pertained to the implementation of the Prisons Act, 1894. Whether the provisions of the act were being duly complied with? The convicted female inmate was hesitant to communicate. On interviewing her, information regarding her conviction was acquired. She, along with her husband, was convicted under Section 302 I.P.C. for murder. She narrated answers to questions and also confirmed that she was residing along with the Under Trials within the same cell. She did not have any grievances regarding the prison authorities or administration.

Further enquiry about various services and access to justice mechanisms led to answers regarding the legal services, the quality of food, medical facilities, sanitation and menstrual hygiene and recreational activities. Some questions were answered diligently, while there were instances where the female inmates snarled up for speaking upon certain topics.

(F) Interaction With Male Inmates

Discussions with the male inmates were time-constrained. The areas of enquiry were the same

as those of the female inmates. The outcome led to inferences that are elaborated as.

The food being served in prison was edible, but there was still room for improvement. Special meals were available occasionally, i.e. State holidays and days of national importance. The only service that could be categorised under the heading of recreational activity was watching television once a week. There was a television room that had a functional T.V set installed.

The cells of the male inmates were small as compared to the inmates they accommodated. Few inmates complained about instances of occasional quarrels amongst them due to overcrowding. Overcrowding can be lethal in certain cases. There have been instances in history where overcrowding of prisons led to grave results that are condemned to date.

(G) Issues identified at the puri jail

- **Overcrowding-** The male UTP Cells were overcrowded, which led to various issues like Suffocation, Spreading diseases, Quarrels among the cell inmates. One of the reasons for overcrowding is the pendency in trials. Humans have a natural tendency of living in a comfortable and organised space of their own. They shouldn't be deprived of this basic amenity.

- **Absence Of Permanent Healthcare Facility-** The prison lacked an established health care facility. There was neither any provision of an infirmary nor a permanent doctor available inside the prison premises. The doctor was only called upon as and when the situation demanded. If any prison inmate required urgent treatment, the procedure was followed to get the person duly hospitalised.

- **No Special Provisions For Children With Female Prisoners** – The prison environment is non-congenial for children of tender age. The overall development and welfare of the child can be at stake in an inappropriate surrounding. The children face diverse deprivations concerned with nutrition, education, physical and emotional wellbeing, recreation etc. Lack of specialised medical facilities for such children was another matter of concern. The children shared the accommodation with various habitual offenders, which could have a grave impact on their psychology. Moreover, no special officials were designated in charge to look into the needs of these children. To sum up, there is an immediate need to make special provisions in prisons for such children. They cannot be deprived of all the special provisions provided for children under the Indian constitution.

- **Legal Aid-** Though the facility of Legal Aid is provided to the prisoners, most of them are not satisfied with it. The advocates are appointed after much delay, and those advocates do not perform their duties in a satisfactory manner. The opportunity of easy access to justice

keeps drifting away from convicts and undertrials due to procrastination of administration regarding the legal aid mechanism. The advocates appointed for the purpose should be prudent regarding the cases. They should regularly meet their clients and keep them well informed about their trials.

- **Intimidating Jail Environment-** The female as well as male prisoners were reluctant to speak in the presence of prison authorities. Most of them didn't speak up directly about any issues faced by them unless they were questioned in person. It can be inferred that the prison authorities might be intimidating the prisoners.

III. CIRCLE JAIL, CHOWDER, CUTTACK (ODISHA) INDIA 28 MARCH 2019

(A) Geographical Location

The Choudwar Circle jail is situated in the remote area of Choudwar, district Cuttack. The road route to reach there is by taking the Charbatia Road, which runs along the plains of the Mahanadi River, diverging into the village area to get the Circle Jail.

(B) Demographic Information

| CATEGORY | MALE | FEMALE | TOTAL |
|--------------|------|--------|-------|
| Remand | 332 | 02 | 340 |
| Session | 355 | 17 | 372 |
| Convicts | 07 | - | 07 |
| Convicts R.I | 275 | 11 | 286 |
| Total | 969 | 36 | 1005 |
| Detenu | 01 | - | 01 |
| Total | 970 | 36 | 1006 |

(C) Preview

High walls and grilled gates enclose so many lives its edifice structure. The lush greens providing a natural environment are also home to pests. The prison cohabiting hundreds of convicts and undertrials appears to be a forsaken structure. The roads running all along with the premises, trees growing tall, and shrubs alongside give an idea of unrestrained growth. The picture is contrary to that of the mindset of prisoners. They live a life restrained and controlled. Their hopes do not bloom, but they seem to doom, resulting from past grief or present

misfortunes.

UTP's building had a small garden space enclosed by walls and a road at the side, leading to the main building of the UTP cells. It was a triple storied building with cells on each floor. There was a long and narrow gallery that had scarce exposure to daylight. It served as a passage between the cells. There were cells on both sides of this gallery; the grilled wall of the cells ran along this passage. The gallery had footwear of prisoners scattered all over.

(D) The Male UTP Cell

The UTP cell was constructed in the form of a hall. It was rectangular in shape and had a set of washrooms. The inhabitants of this cell were mostly lying down on rugs, mats or bed sheets. The cell seemed very crowded as inhabitants were all over the place. The surroundings had an aura of discomfort because people were resting, sitting or lying down on the entire floor. It appeared clean but seemed very suffocating. There was no proper ventilation, and the air had a pungent smell.

(E) Interaction with the Male (UTP) Inmates

Except for a few, most of them seemed very reluctant to interact. One successful attempt to initiate a conversation led to information about the services provided by the authorities of the prison. In the words of the inmate, *they were just surviving. They faced various sanitation issues; the water supply was not adequate as per the population. Dinner was served too early, leading to a gap of up to 14 hours between the last meal and the next.*

Another inmate *complained about the quantity of food. He said that the food was served in minimum quantity, which failed to satisfy his hunger. He went ahead to complain about the sanitation issues and said that the toilet was clogged and hence it was not fit for use.* Later the same facts were confirmed by a few other inmates. Instances of custodial violence also came into light though most of them were reluctant to speak about it. Overcrowding was a significant and evident issue that couldn't be overlooked.

(F) Interaction with the Female Inmates

Most of the female inmates were educated. Few of them even possessed a bachelor's degree. They narrated that their stay was comfortable. They were provided with the basic amenities. Their medical requisites were dealt with promptly. They even said that the behaviour of the jail authorities was very polite and benevolent with them. *The only issue faced by them was the procrastinated adjudication process.* They wanted, and few of them were also entitled to a speedy trial, but the delayed judicial process was a huge barrier to their access to justice. The

crimes they were convicted/charged for ranged from crimes of deciding like *Chit fund and Bank Frauds to the ones of grave nature like domestic violence, dowry death and human trafficking and flesh trade.*

(G) Issues Identified at the Circle Jail, Cuttack

- **Overcrowding-** The issue of overcrowding was noticed in the male and female cells. Prisoners infused the male UTP cells. The inmates were deprived of an adequate area to sustain life. Most of them were restless, irritated and anxious. The cells were comparatively small, considering the population of prisoners they accommodated.

- **Inappropriate Sanitation-** The sanitation facility of the male UTP cells was in a devastating condition. There was a lack of water supply to meet the daily sanitation needs of the prisoners. The washrooms were small and filthy. There was a single toilet in every cell, which caused severe difficulty in usage. The toilet of the cells generally clogged due to lack of water supply and extensive use.

- **Defective Infrastructure-** The infrastructure of this jail was in deteriorating condition. Even the open space in the jail was limited. The cells were small; they lacked proper ventilation. The walls had not been whitewashed for a long time as the paint camouflaged.

- **No Recreational Programmes-** Recreation is necessary for every human. It helps a person stay healthy physically and mentally. The jail authorities do not conduct any recreational programs for the inmates. Many of them desired to participate in sports, showed interested in reading etc., but no provisions regarding the aforesaid were made.

- **Inadequate Medical Facility -** There was provision for a visiting Dr. in the jail, and an ambulance facility was available. There was no facility of the hospital at the prison premises.

- **Custodial Violence –** It seems that the human rights of a person cease to exist once they enter the prison. Custodial Violence was commonly prevailing in prison, practised in various forms of torture, beatings, harassment etc.

IV. CONCLUSION AND SUGGESTIONS

The prisons are expected to be institutions that help prisoner reform. In India, the reformative system of punishment is being followed. In order to fulfil the requisites of a reformative system of punishment, a standard form of rules and regulations should be framed by the authorities keeping in mind that the purpose of prison is not only to punish people for their wrong conduct but also to reform them.

All prisons should function in conformity with the basic human rights principles. The prisoners should be treated with dignity. They shouldn't be subjected to any form of abuse for being a

criminal. Their basic requisites as a person should be met with. Their health and hygiene should be maintained by the prison authorities during their stay in Prison.

It is believed that whoever commits a crime can be reformed from a criminal to a better individual by keeping him under the supervision and guidance of the authorities in charge, away from society. The purpose is not to punish but to make them repent the wrongs they committed so that at the end of their term in prison, they turn out to be a reformed person who can become an integral part of society.

Based on the observation and interaction with the prison inmates, the following are the key suggestions for reforms in prisons-

- **Quality of Food should be Upgraded-** A good standard of the food served in the jails should be maintained, keeping in view the minimum required calorie intake by an individual. A measuring scale should be developed, and routine quality checks should be conducted on the food which is served to the prisoners.

- **Revamp Sanitisation** - The sanitation of the jail restrooms should be checked regularly. The inmates should be enquired regarding the same regularly, and facilities should be provided as per the need. The Toilets should be cleaned at least twice a day in order to avoid clogging. The water supply should be increased as per the strength of inmates accommodated per cell. The water supply should be regular, and in no case, shortage should occur.

- **Check on Custodial Violence-** Regular Health checkups of the jail inmates should be conducted to check on custodial violence. Whenever a case of custodial violence comes up, strict action must be taken against the prison authorities. There must be surveillance through CCTV cameras, and the recordings should be checked by the assigned authorities to avoid misuse of power and instances of custodial violence.

- **Permanent Doctor to be Appointed-**Round the clock doctor facility should be available in the jails. The doctor coming for visiting purposes for a couple of hours cannot cater to the medical needs of the sick prisoners. A permanent clinic or hospital should be instituted to attend to the immediate needs of the sick or infirm prisoners. Such infirmaries should be well equipped with all the basic resources which could be required for the urgent treatment of prison inmates. The sick inmates should be kept separate from others until they have completely recovered.

- **Overcrowding should be Controlled** - The prisoners should not be kept in overcrowded cells as it affects their physical health and has a great impact on their mental health. Overcrowding may result in quarrelling, harassment and many other subsequent issues.

Overcrowding further leads to a shortage of facilities, disturbed administration and mismanagement.

- **Recreational Programs should be Launched** - Some activities should be conducted in the jails for the purpose of the recreation of the prisoners. Sports/ Reading Facilities/ T.V should be arranged in furtherance of the same. The respective state government must launch programs for the smooth implementation of such proposals.

- **Special Services should be Extended for Children with Female Prisoners-** Considering the special needs and best interests of the children, they should be provided with some educational services. Special care should be taken for the health of these children by providing them with a highly nutritious diet as growing children need it the most. Officers should be designated to keep a check on the living conditions of the children. Timely routine medical checkups should be conducted on children and their mothers to ensure that they are healthy. The mothers of these children should be provided with utensils, blankets, sheets and other commodities of adequate size, keeping the age of children into consideration. Provisions should be made to keep such mothers and their children in a separate ward so that they do not have to live in the company of other prisoners. It's the mother who is serving the sentence; the child shouldn't be punished for the mother's wrongs.

- **Specialised Training to Prison Officials-** The prison officials and staff should undergo special training to manage the prisoners, cater to their needs, contribute to the reformatory set up of the prison and adhere to the responsibilities assigned to them. They must be vigilant at all times and be aware of all the issues prevailing in prison. They must be physically fit and emotionally stable to provide an unbiased administration.

- **Prisoners should be Supervised Regarding their Rights in Prison-** whenever a person is awarded judicial custody or is under trial/convicted, it should be mandatory that before the person begins such term, and they should be informed about their rights in prison. Their rights should be in written form, read out to them orally, and their signatures should be taken after the said narration in the presence of a judicial officer.

- **Legal Volunteers and Ngo's should be Involved-** There are various organs of the society working for the betterment of humankind. Legal volunteers and NGO's should be given timely access to the prison inmates for providing services.

- **Infrastructure should be Enhanced-** The overall infrastructure of the prisons should be enhanced. The cells/wards should be well ventilated and spacious. The cells should be built, keeping all the seasons around the year into consideration. The windows should have panes so that they can be closed in winter. They should be well furnished with essential electrical

appliances, including lights and fans. The walls should be high and clean. The floor should be smooth. A sufficient number of wards should be constructed to accommodate different categories of offenders separately.

- **Quality Drinking Water should be Made Available-** Water filters should be installed and regularly inspected. Water is an essential survival need and, if contaminated, can also be a reason for several diseases and infections.

- **Regular Medical Checkups of Inmates should be Conducted-** Everyone is entitled to live a healthy life. The confines of prison shouldn't result as a bar to one's health. Every inmate must be put through a health checkup minimum twice a year. This will keep them individually healthy and result in ensuring the well-being of all the inmates. Contagious diseases can be checked and treated in a timely guaranteeing health and well being.

- **Reformative Programs should be Launched-** Humans, unlike any other species, tend to learn and evolve. Motivational programs and pep talks should be arranged in the prisons. They will motivate the inmates to plan a better life for the future and help them deal with their self-doubts.
