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State of Educational Rights of Inmate Dependent Children: A Case Study of Prisons in Khyber Pakhtunkhwa, Pakistan

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Abstract

Children, who are retained by imprisoned women (mothers), face several issues, including deprivation of their right to education. Imprisonment of women with dependent children often results in the impingement of child rights, including their right to education under Article 25(A) of the Constitution of the Islamic Republic of Pakistan, 1973. The retention of children above the age of six by imprisoned women under Pakistan Prison Rules 1978 is a violation of Article 25(A) of the constitution. The current paper analyzes the educational facilities available to the dependent children of female prisoners with reference to international standards and statutory laws. The paper adopts qualitative research design and interviews-based data obtained from women prisoners and jail authorities has been used. The study concludes that there is lack of proper mechanisms and facilities for safeguarding the educational rights of dependent children in prisons. The study has substantial implications for political, educational and administrative leadership in the Pakistani context and for leadership with similar contexts elsewhere.

Keywords: Dependent Children, Educational Rights, Inmates children, Women Prisoners and dependent children

Introduction

Education is a universal human right mainly because of its importance for the well-being of humans in terms of their socio-economic development and welfare. The United Nations through Article 26 of Universal Declaration of Human Rights (UDHR) 1948 have given a key place to education among human rights. Education being recognized as a fundamental right because of its important role in minimizing poverty, child mortality, eradicating gender discrimination and in guaranteeing the sustainable development, has been placed prominently in the Education for All (EFA) and Sustainable

Development Goals 2030 lists. 17 Sustainable Development Goals (SDGs) were unanimously agreed upon by 193 member states in 2015 where the SDG 4 focuses on ensuring quality education based on inclusiveness and equity, and on enhancing learning opportunities for all. It is important that international commitments are rectified and supported by the state laws. In order to fulfil international commitments regarding ensuring the right education, children between five to sixteen years of age shall be provided free and compulsory education under article 25-A of Constitution of Pakistan 1973, inserted through 18th Amendment to the Constitution of Pakistan (Raza Jamil et al., 2019).

The significance of education for the children including those living inside prisons has been well established. It is, therefore, important that the children living inside prisons should have equal right to and access to good quality education (Faizi et al., 2017). With reference to Article 25(A) of the constitution of the Islamic Republic of Pakistan 1973 the state is under an obligation to ensure also the educational rights of the dependent children of women prisoners. The educational rights of innocent dependent children in prisons need protection because of their circumstances that are not of their own making.

The state needs to warrant educational, mental and physical welfare of children living with inmate mothers. The State of Pakistan has endorsed Universal Declaration of Human Rights (UDHR, 1948), which emphasises the educational rights of children living inside prisons as dependents. It has been argued that such children have special educational rights mainly because of their vulnerable conditions inside prisons with inmates. However, the Pakistan Prison Rules are still not very clear about the educational rights of children who are forced to live with inmate parents.

Keeping in view this background, the current study aimed at highlighting the statutory laws and standards regarding the educational rights of dependent children of women inmates and evaluating the educational facilities available to dependent children of women inmates.

Significance of the study

This study is significant mainly because there is limited research on issues related to the educational rights and facilities of inmate dependent children in general and in the Pakistani context. Despite the requirements of national and international laws regarding the right of all children to education, there has been little practical emphasis on the proper education of inmate dependent children. This study may highlight the issues being faced by inmate dependent children and their mothers in their education. The study may also lead to awareness on the state level regarding this important issue and may lead to further academic exploration on a larger scale. This may result in steps being taken on the national level to improve the quality and access of education aimed at inmate dependent children in Pakistan and elsewhere.

Legal Framework of the Right to Education

Article 25-A inserted through 18th Amendment to the Constitution on 19th April 2010 ensures free and compulsory education for all the children aging between 5 to 16 years as a Fundamental Right. Even though Article 25-A of the Constitution of Pakistan is recognized by all four provinces including the Islamabad Capital Territory, there is a considerable gap in terms of the practical implementation of this fundamental right in the Pakistani context (Mahmood, 2010).

Article 26 of Universal Declaration of Human Rights (1948) ensures that everyone has a right to Education. It is also supported by Article 2 of Protocol Number.1 to the 1952 European Convention for the Protection of Human Rights and Fundamental Freedom which clearly states that no person shall be denied the right to Education. The above-mentioned statutes imply that people including those in prison are entitled to get education as their fundamental right.

The United Nations Conventions on the rights of the child (1989) also ensure all children the right to education. According to Article 3 (1) of this Convention, the best interest of the child shall be the primary consideration in all the actions concerning children whether taken by public or private social welfare organizations/institutions, administrative authorities, legislative bodies as well as courts of law. It is also emphasized by the Committee on the Rights of Child that in all the decisions relating to detention, placement before and after the trial and sentencing must be done by considering the best interest of the child of the accused/convict or an imprisoned parent by competent professionals and the focus must be confined to such best interests.

The Universal Declaration of Human Rights (1948), is the formal document that incorporates education as a basic human right and is supported and certified by numerous conventions and protocols to such conventions. These include the protocol to the European convention for the protection of human rights and Fundamental Freedoms Article 2 of Protocol-1 (2021) and The United Nations Convention on the rights of the child 1989, Convention Against Discrimination in Education (1960) and United Nations Educational, Scientific and Cultural Organization (1960) and the International Covenant on Economic, Social and Cultural Rights (1966), Article 13(1) which recognizes the right of education to everyone. The 2007 Lisbon Treaty recognizes the rights of citizens of the European Union through the enforcement of the Charter of Fundamental Rights, and Article 14 of the Charter recognizes that everyone has the right to education and to have access to vocational and continuing training (Vorhaus, 2014).

Literature Review

Literature reveals that children living with their imprisoned mothers face several problems including mistreatment by jail officials, psychological issues, lack of basic needs such as food, clothes and medication and exposure to sexual abuse (Javeed, 2011). The imprisonment of children with mothers affects their mental health. Due to the lack of social interaction the children are unable to cope up with the needs of the society. Often the children are transferred from one prison to another along with their mothers, and this continuous shifting result in insecurities among the children. These children often become rude and arrogant. Children of inmate women are also often victims of their mothers' ill-treatment. The imprisonment of parents has a life-changing effects on children including an impact on their mental and emotional health (Prayas, 2018). Contact with the adult criminal justice system can be detrimental to children. Living in custody amongst women accused or convicted for committing various crimes is often an abnormal life experience for children (Myers et al., 1999). Epstein (2014) also argues that the detention of parents, especially mothers has a bad influence on the lives of children. Children face mental health issues because of the confinement of their parents. Because of less contact of parents with their children, and their negligent attitude, the children become less social.

Children of inmate women in the Pakistani context, like such children in other developing countries' context are faced with several problems in the life inside prisons. The report (2020) of committee established by the Prime Minister of Pakistan to survey the states of women prisoners reveals that female prison inmates and their dependent children often face several problems including mistreatment and lack of facilities. The laws regarding the protection of women prisoners are often neglected by the authorities. The committee further reported the presence of the children between the ages 9-10 along with their mothers in the prisons even though the permitted limit is 5 years of age.

Studies suggest that children of convicted women in prisons are the most vulnerable class of children as defined in the Khyber Pakhtunkhwa Child Protection and Welfare Act 2018 (Amendment). Children born to convicted women in prisons or dependent children under the age of 18-year-olds often experience social and psychological traumas through no fault of their own. Constitutional

freedoms are at risk for dependent children and the facilities are often overlooked by the judicial system (Bhandari, 2016). The prison and the police are both provincial actors in the Pakistani context and the responsibility rests with the provincial government to protect the rights of prisoners, the rights of juveniles living with their imprisoned mothers. (2020).

Research Methodology

Research Design

This study adopted generic qualitative, exploratory research design, which is considered as a flexible research strategy that allows researchers to explore an under-researched area of study (Caelli, Ray, & Mill, 2003). This seemed the most appropriate design as the current research aimed at an exploration and analysis of the educational rights and the facilities provided to the dependent children of inmates in an area where this issue is substantially under-researched.

Sample of the study

The study was conducted in one district jail and two central prisons of the Khyber Pakhtunkhwa Province of Pakistan. Women inmates having dependent children and prison personnel including the superintendents of jail and lady assistants (see table 03) were employed as main participants in this study. Beside the 2 prison personnel, 12 female prisoners, 2 from district jail, 6 from one central prison and 4 from another central prison were the participants of this study. All participants (convicts and under trials) were in custody for various offences including murder, kidnapping, drug trafficking and extorting property etc., under the Penal Code of Pakistan 1860 and for transportation of narcotics drugs under the Control of Narcotics Substances Act, 1997. All participants were above the age of 23 and below 45 years (see Table .01 for convicts and Table .02 for under trails).

Prisons of KP Province Pakistan

Sr.No.	Code Name of prisoner.	Age	Police Station	Under Section	Sentence
01	Woman Prisoner (WP.01)	25 Years	Darosh Chitral	494/497/200 PPC	5 years R.I.Fine Rs.45000/-or 7 months S.I
02	WP.02	40Years	Noshera Cantt	9-C CNSA	5years R.I.Fine Rs.2lac or 3 months S.I
03	WP.03	34 Years	Gulberg	392 PPC	10years R.I.Fine Rs.2 lac or 6 months S.I.
04	WP.04	37 Years	Rustam Mardan	302/34 PPC	25years R.I.Fine Rs.one lac or 6 months S.I.

05	WP.05	40 Years	Abbottabad	365-A PPC/7ATA	25 years R.I. Forfeiture of property
06	WP.06	35 Years	Azakhel	302/34/109/ 201 PPC	25 years R.I. Fine Rs.4 lac
07	WP.07	40 Years	Pharipua	9-C CNSA	6 Years R.I.Fine Rs.50,000/- or 6 months S.I.
08	WP.08	29 Years	Hayatabab	9-C CNSA	5 Years R.I.Fine Rs.50,000/- or 5 months S.I.
09	WP.09	24 Years	Khursheed Khan Shaheed	324/337(f)(i v) PPC	10 Years R.I Fine Rs.20,000/- or 3 months, Daman Rs.30,000/-

Table. 01. List of convicted participants as per record of District Jail and Central

Sr.No	Code Name	Age	Police Station	Under Section
01	WP.10	29	Peshawar	302/34 PPC
02	WP.11	32	Battal	302/427/201
03	WP.12	39	Phulra	302/202/201/34

Table 02: List of under trial participants as per record of District Jail and Central

Sr.No	Designation	Name Code	Station
01	Superintendent Jail	Official.01	Central Prison
02	Lady Assistant Superintendent	Official.02	Central Prison

Table 03: List of Superintendent and Lady Assistant Superintendent of Jail

Data Collection

Data was collected using semi-structured interviews. Semi-structured interviews are useful data collection tools for qualitative data collection processes. The interviews were conducted within the boundaries of women enclosures of jail and each prison. Prior permission was acquired officially from the concerned authorities. The first author of this paper collected the required data. As audio-recording was not permitted, interviews were recorded by taking rich and detailed written notes during the interview process. Questions were asked in *Urdu*, and *Hindko* languages and later translated into English. Interviews were also conducted from personnel of jails in direct meetings.

Data Analysis

Data was analyzed using thematic analysis. Thematic analysis is a useful method for probing the viewpoints of different participants, highlighting comparisons and variances of data in depth. It is also a well-structured and flexible analysis method for interview based textual data (Braun & Clarke, 2006). Use was made of the six broad steps of thematic data analysis suggested by Braun and Clarke (2006).

Ethical Considerations

Throughout this study, ethical concerns were taken into consideration. Before conducting interviews, it was ensured to the jail authorities that the data obtained from participants shall be used for research purpose only. Participation of the research participants was voluntary and based on informed consent. Confidentiality of the participants were taken care of and instead of their actual names code names have been used (see column 02 of Table 01 & 02 and column 03 of Table 03)

Findings of the Study

Findings of the study reveal several challenges in the way of proper education of children living with their inmate mothers. The findings have been listed into main themes.

Lack of Educational Infrastructure in Jail

Non availability of proper educational infrastructure for the dependent children of inmate came out as an important problem in the way of education. Participants identified several issues related to this problem. One female inmate (WP.03) sarcastically remarked that her child goes to school very rarely whenever any high-ranking officer must inspect jail, the administration decides to open lockup number 8 for a day and have students (children of women inmates) sit there with their books and copies. But I don't want to teach my son acting like a student rather being a real student, so I end up not sending him to school, even for that day.

One of the central prisons in KP, had similar conditions in this regard as reported by (WP.09). Although one cell (chakki) was allocated for teaching purpose. It was locked when first author arrived in jail (arrival time...9:20am). It was opened rarely. The cell had three tables, one torn plastic mat, and a few general books and notebooks, covered with dust which showed that it was never functional before.

Non-availability of Proper Teacher

Findings revealed that no proper teachers were available for education for dependent children of women prisoners. Planned lessons by teachers help students to learn in real sense, however, without proper teachers' effective education is not possible. One women prisoner responded: "*Although, there is a room for school, but it always remains closed and no education takes place there. Also, no Ustani (teacher) is ever available.*" (WP.11)

Another woman prisoner (WP.06) share that one of her kids was in second grade when she was imprisoned. Her family refused to take their responsibility and as no educational facility was available in the jail, the child is deprived of education for two years.

Generally imprisoned women are viewed as inadequate, incompetent mothers who are incapable of dealing with their children properly. One of the inmates responded: "*I am stranded, and, indeed the worst mother whose kid's education is suffering due to her imprisonment.*" (WP.05)

Both inmates were extremely worried about non-availability of educational facilities for their children. They argued that their children were significantly distressed by the emotional behavior of their mother and by the stressful prison environment and seemed to suffer from hopelessness, frustration, loss of self-worth, loneliness, and stigmatized self-identity.

Lack of Regular, Systematic School Schedule and Adequate Syllabus

Lack of the regular, systematic period and adequate prescribed syllabus were identified as important problems in the way of education of inmates. Teaching and learning is never effective without following regular routines. Not a single prison was equipped with proper teacher, planned periods with approved syllabus. Without recommended and recognized syllabus, the process of education becomes an entirely ineffective exercise.

One of the respondents stated: "*Although one lock-up is named as school for kids but with no teacher and proper books. Few general books and story books are being taught to children of various age groups.*" (WP.02)

Another prisoner said, "*Occasionally a lady comes outside of jail after namaz-e-asr (Asr Prayer) and spends here about half an hour and tries to teach my kid through stories but other times she says that she is not in good mood and cannot teach.*" (WP.07)

Responses showed that lack of regular, systematic school schedule and adequate syllabus was the main hurdle of dependent children of women prisoners.

Proper monitoring is an effective tool to demonstrate independent children's education, but no evidence of effective monitoring was found in any jails of KP Province. Without appropriate monitoring of teaching staff on regular basis, education of children is difficult to be safeguarded.

Problems in the Way of Parental Involvement in the Education of Children

Data revealed that lack of parental interest in the education of dependent children was a significant problem that hampered the process of their education. One of the prison lady assistant superintendents (Official.02) shared information that jail administration always try to manage education of kids but inmates having children show hesitation sending their children as school is located at a distance from jail. Another prison superintendent responded, "*Education is important, no doubt but unfortunately prisoners refused to send their kids to school as situated around the prison.*" (Official.01)

The inmates on the hand came up with several excuses for not sending their children for education including the stressful jail environment. One of the inmates reported: "*Children do not get proper*

education because they are negatively influenced by the prevailing stressful environment of prison” (WP.01). Another inmate argued: “*My seven years child is very tense and disturbed and is not willing to come out even of the boundaries of cell. I am helpless to handle his condition then how I can send him to school situated outside of jail.*” (WP.12)

Similarly, one inmate (WP.08) responded that her child is unable to understand why she in custody and her daily questioning of why they are in the prison has been a cause of continuous stress for her.

Inmates also reported that the stressful environment in jail and the threatening behavior of some of the other inmates towards their children make these inmates of psychologically stressed that they find it difficult to think about the education of their children.

Lack of Facilities for Ethical/Religious Education

Data revealed that no adequate arrangement was in place for ethical and religious education for dependent children of women Prisoners. Participants showed considerable concern regarding the lack of religious educational facilities for their children. One of the participants said: “*I am much tensed about my 11 years old daughter because of her lack of religious education in jail*”. (WP.10). Another inmate said: “*My 8-year-old child is living with me in jail and I am worried about his education, especially, about his religious education. Though one of my prison mates teaches him Noorani Qaida but this does not happen regularly.*” (WP.04)

Other inmates also reported that religious or moral education is not provided on regular basis and the attitude of the religious teacher is generally casual. It was reported that there is need for religious education to be provided on more regular basis as a right of the young inmate children.

Lack of Proper Implementation of Rules Regarding Education of Inmate Children

Findings indicated that legal rules regarding rights of education of children of inmates were not properly implemented. None of the participants were aware about rules regarding the educational rights as guaranteed under Article 25(A) of the 1973 constitution of the Islamic Republic of Pakistan. Similarly Rule 326 of Khyber Pakhtunkhwa Prison Rules (KPPR) 2018, states that children of women prisoners can be retained along with them till the age of six years. After six years of age children should on rule not be kept inside prisons. According to rule 327 of Pakistan Prison Rules 1978 the district magistrate has the duty to decide for the proper care and schooling of the child. However, this study indicated that some children above the age of six years were kept inside prisons with their mothers.

Discussion

The present study explored the educational rights and facilities of inmate dependent children behind the bars in Khyber Pakhtunkhwa Province. Findings highlighted various issues including lack of educational infrastructure for dependent children. None of prison was adequately equipped with educational facilities such as appropriate buildings or classrooms, furniture, playgrounds and libraries etc. Physical and organizational setups are essentials requirements to ensure the education under article 25(A) of the constitution. According to the Report of Government of Pakistan, Ministry of Human Rights (2020), prisons are the first family unit for such infants and dependent children of woman prisoners. The primary responsibility of the state is to warrant educational welfare of children living with inmate mothers. Secondly, lack of proper trained teachers was identified another hurdle in the way of education of dependent children. Trained and well qualified teachers can properly educate young children and can set them for success as good and healthy members of the society.

Jail environment lacks the provision of standard education facilities with regular school timings and prescribed syllabus. Teaching and learning are generally not effective without following regular routines (Haney, 1985). Jails studied in this research were generally not equipped with proper teachers, planned periods or approved syllabus. The education setup was not properly organised and did not seem to fulfil the educational and developmental needs of children on a systematic basis (Baunach, 1985).

Besides, this study identified various challenges that women prisoners had to face in the way of their children education, e.g., effects of jail environment on their children in forms of mental disturbance, anxiety, exploitation and maltreatment. Dependent children were living under direct influence of an unsuitable environment inside jails. Children of inmate women seemed to have been perceived as an extra-burden rather than as humans with dignity and rights. Article 321 of The Convention on the Rights of the Child (CRC) 1989 endorsed the rights of children to be protected from conditions that interfere with their education, or to be harmful to their health or physical, mental, spiritual, moral or social development (Nafees et al., 2012). This seems to have not been followed in letter and spirit in the prisons under this study.

Non-availability of religious education teacher for children was identified as another issue faced by inmate children and their mothers. This is an important issue and as an Islamic state, the prisons should have facilities for religious and ethical education as is the case in most schooling in the public and private schools in the country.

The inmate mothers of such children reported sever depressive feelings of anxiety and stress mainly because of the problems they faced with respect to the education and upbringing of their children. Similar were the findings of previous studies that report the persistence of psychological stress among prisoner mothers for similar reasons (Enos, 2001; Lindquist & Lindquist, 1997; Forsyth, 2003).

Non-implementation of statutory laws on right of education under Article 25 (A) of the Constitution and Rule 326 (5) of The Khyber Pakhtunkhwa Prisons Rules 2018 were identified as major hurdles. Rules 326 (1) & (5) and Rule 327 of the Khyber Pakhtunkhwa Prisons Rules (2018) emphasize that children until the age of six years can be accommodated with their mothers and it is mandatory to provide them with appropriate amenities of recreation, well-being and education. The best interests of the child shall be taken into consideration and therefore children over the age of eight years may be retained with woman prisoners based on individual assessment and in case more proper care arrangements are not available. The Deputy Commissioners in whose jurisdiction dependent children resides in jails is under an obligation to safeguard the best interests of the dependent children subjected to the conditions satisfied as provided in Rule 327. Implementation of these these rules, however, is often ignored in prisons in the area studied in this research.

Recommendations

Keeping in view the main findings of this study the following are offered as some key recommendations for improving educational facilities for inmate dependent children in the area of this study and in Pakistan in general.

1. It is important that the educational rights of dependent children of women prisoners may be acknowledged in true sense with a focus on practical implementation of legislative provisions.
2. Probation system may be introduced specially for mother prisoners having children above the age of five years and there may be reconsideration in the duration of prison sentences keeping in view the age of their children.

3. To ensure the implementation of Article 25(A) of the Constitution, in true sense, educational arrangements may be made inside or in proximity of prisons for dependent children of women prisoners whose relatives refuse to take their responsibility.
4. In cases, where a mother accused with a dependent child is at risk of a custodial sentence against the gravity of the offence, the judicature may acquire information about the dependent children as a mandatory requisite. In this way educational infringements of children rights may be dealt with.
5. The state may make special arrangements for religious and ethical education of inmate children where such education is provided on a regular basis.
6. Inmate mothers may be provided regular counselling and guidance sessions in order to deal with the child rearing related issues and problems.
7. Education policy makers may come up with policy provisions covering all aspects of the process of education of inmates, including the provision of qualified teachers, proper course contents, regular time schedules, and assessment procedures.
8. Further research might be conducted on this and similar issues in the Pakistani context to further consolidate the causes and consequences of negligence regarding the educational rights of inmate dependent children.
9. The current study was qualitative, exploratory study and might have limited generalizability. It is, therefore, recommended that large scale, quantitative studies might be conducted to explore the issue on a broader, national level for better generalisation of the results and for dealing with the issue on the national level.

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