

The Adequacy of the Child Rights Law Regime for the Protection of the Welfare of Children of the Prisoners in Sri Lanka

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Abstract

In recent decades, there has been a significant increase in the incarceration rate of prisoners for various reasons. This rise has also led to an increase in the number of children residing with their incarcerated parents. Despite these trends, specific laws addressing the welfare rights of these children in terms of education, health, safety, and nutrition seem to be lacking. Notably, the United Nations Rules for the Treatment of Female Prisoners and Non-Custodial Measures for Women Offenders, known as the Bangkok Rules, adopted in 2010, represent the first international instrument addressing the needs of children living in prisons with their parents. However, neither the Prison Ordinance nor any other existing laws in Sri Lanka address the situation of children of prisoners.

This research aims to investigate and identify the legal framework necessary to safeguard the welfare rights of children living with their incarcerated parents while assessing the current legal status that should be taken into account to protect these rights in selected prisons and probation houses in Sri Lanka. A mixed-methods approach was employed for this study, utilizing a historical analysis to understand the evolution of related laws, a comparative legal analysis to draw insights from jurisdictions like Australia, England and Wales, India, and South Africa, and personal interviews to gather empirical data.

The findings, based on feedback obtained from interviews with prisoners with children in Welikada and Pallekale prisons, probation houses in Pamunuwa and Makola, prison authorities, child rights activists, and legal representatives, conclude that the existing legal framework is insufficient to address the rights of children of prisoners. Consequently, this research recommends the enactment of legislation to comprehensively govern and protect these children's rights.

Keywords: *Child Rights, Legal Framework; Prison*

Introduction

In the midst of industrialization, westernization, and urbanization, our society has undergone significant and profound transformations, impacting not only its structural and socio-economic aspects but also its cultural fabric. These changes have not only resulted in a modified physical environment and a novel economic landscape but have also left an indelible mark on the social fabric, human behavior, and thought processes. Traditionally, women's roles were predominantly confined to domestic spheres, but they have now transitioned into active participants in the professional workforce, working alongside their male counterparts. However, due to factors such as family disintegration, marital discord, heightened aspirations, frustration arising from unfulfilled ambitions, stress, difficulties in coping, and societal shifts, women have increasingly become involved in criminal activities in contemporary society.

Over the last decade, the imprisonment rate has been substantially increasing according to the statistics published by the Department of Prisons in the year of 2016 as 4.9% with contrast to the year of 2013 ^[1], resulting in the higher number of women in prison. When mothers are remanded to custody, are pregnant or are the primary caregivers of young children, there are concerns that removing children from their care may involve child placements in out-of-home care. Therefore, the only solution left for the mother prisoners is to let them have their dependent children inside the prisons with them.

The increase in the number of prisoners in prison has brought new attention to issues relating to the care of their dependent children. Especially how the administration of children are occurred inside the prisons. Steps such as sending them to orphanages or sending them to schools for educating and alike.

And even the laws that govern the children who live in the prisons with their mother's has become one of the recent discussions of the government authorities as well as the international arena because of the fact that their rights are protected accordingly by the prison administration as well as by the legal framework of the country and how the international conventions have discussed this matter with regard to the protection of child rights.

This study signifies the fact that the attention should be brought forward to the administrative authorities in the country as well as to the regional leaders and in the international arena because the rights the children of the prisoners have been neglected by the authorities in charge of them. Most of the time children who are residing in prisons do not enjoy the basic human rights a child should enjoy since their birth due to the fact that some were born in prisons while some were brought to prisons with their parents. Therefore, it is high time for the authorities to raise their attention to these children who reside with incarcerated parents and for the protection of their rights.

Background

The study conducted by the National Conference of State Legislatures by Steve Christian ^[2] has highlighted the fact that growing rate of the prison and the population has raised issues with regard to the collateral effects of the incarceration on children, families and their communities. The concerns surrounding children whose parents are incarcerated are examined in a set of inquiries, primarily centering on the impact of parental imprisonment on these children. Moreover, it underscores the obstacles that hinder regular contact, particularly in-person visits, as well as the difficulties encountered by both children and parents upon their release from correctional facilities. Additionally, the text presents potential policy alternatives for state lawmakers aimed at enhancing the well-being of children with incarcerated parents. These options encompass various stages of the criminal justice process, including arrest, sentencing, placement/intake, incarceration, and re-entry. It concludes that children of the incarcerated parents and their families face a lot of complex issues due to in national level and judicial service systems and that a large number of policy makers are on active interest to help the children of incarcerated parents. Although this study conducted by the author highlights the issues faced by the children of the prisoner parents but this research intends to discuss about adequacy of the welfare rights attributed to the children of the prisoners. According to the research study conducted by the National Commission of Women in New Delhi, India, by Dr. Shaila Parveen with regard to the conditions of women prisoners and their children ^[3], who reside in the Eastern Uttar Pradesh jails discusses that unprecedented increase could be seen in the case of women committing crimes and how severely the health well-being of women and their children who reside inside the jails are affected.

In this study the author emphasizes the impact of societal changes on crime rates and the status of women. This chapter also delves into the United Nations' minimum standard rules for the treatment of prisoners. Subsequent chapters of the study encompass a review of relevant literature, an exploration of the study's significance and relevance, and a detailed examination of the research methodology employed in conducting the empirical investigation. The study further supplements its findings with case studies that illuminate the challenges and root causes faced by women in prison. The author offers recommendations aimed at improving the conditions of female prisoners. These suggestions target various stakeholders, including the Central Government, State Government, Local Administration, non-governmental organizations, and educational institutions. Nonetheless, it is worth noting that the study highlights shortcomings in the provision of education, health, and food safety for children but underscores that a comprehensive national-level investigation on this matter is lacking in Sri Lanka.

A study conducted by the staff of the Global Research Directorate of the Law Library of Congress ^[4] provides insights into international and regional instruments addressing laws related to children residing with incarcerated parents. The report examines laws in 97 jurisdictions, covering various standards for children staying with parents in prison, including basic necessities and specialized residential units. However, it does not specifically address education, health, safety, and security concerns for these children.

Another report by the Quaker United Nations Office in 2006 focuses on women in prison and their children ^[5]. It highlights challenges faced by incarcerated women and addresses the protection of children's rights in this context. The report also discusses special procedures introduced by the United Nations Commission on Human Rights to address issues affecting women prisoners and provides recommendations for improving conditions for both women prisoners and their children.

Joseph Murray's research ^[6] serves as a foundational exploration of the impact of incarceration on the partners of prisoners, laying the groundwork for a more detailed examination of its effects on the children of prisoners. In particular, Murray discusses the methodologies that researchers or authoritative entities should employ when studying prisoners' children. He underscores the absence of any official body in the United Kingdom tasked with supporting the families of incarcerated individuals. However, it's important to note that Murray's study does not specifically address the welfare rights of children living with their imprisoned parents in correctional facilities.

The Annie E. Casey Foundation's report ^[7] centers on a comprehensive survey undertaken in the United States, targeting a representative sample of individuals with parents in prison. The study delves into parent-child contact during the incarceration period, specifically addressing communication methods and exploring the economic, emotional, and social consequences of parental incarceration. It also sheds light on the shame and stigma experienced by children when questioned about their parents' whereabouts or availability. Additionally, the report highlights the differing experiences of women and men when parents return home after their period of imprisonment.

Importantly, the report's key findings serve as valuable guidance for further exploration of best practices related to children's well-being, parental decision-making, and the development of broader policies and programs. However, it's important to note that the report does not specifically address the sufficiency of child rights laws in safeguarding the welfare of children with incarcerated parents.

The book which named as Contemporary Research and Analysis on the children of the Prisoners ^[8] is a collection of papers which covers many issues relating to children of the prisoners. It includes papers on the topics of moving towards children- friendly prison system, how to use mass incarceration for changes in the society, the effects that have on families because of detention before the pre-trials and how the procedure of arrest and detention procedures harm children. In one of the papers, it sets out 12 guiding principles that would work with the families of the incarcerated. Although this book highlights the themes on children of the prisoners, it does not deal with the child right issues that are faced by the children of the prisoner.

Methodology

A mix method was used as the research methodology of this study. The black letter approach was used with the primary and secondary sources, in order to identify the historical development of the study. Then through the comparative legal analysis, the jurisdictions that can be used to address the issues in the present legal system has been identified and finally with the emperical research, data was able to gather relating to the issues in the implementation. Therefore, both primary and secondary data was used. Finally, qualitative data has been gathered with the help of all these three methods and a qualitative analysis has been done.

The primary sources that were used to develop the historical background were Acts, Ordinances, Other International instruments, Conventions and Judicial decisions as well as case laws. Emperical methodology was used due to the fact that it can be used to collect the data that needs to be gathered with the help of unstructured interviews with the particular samples. A sample of fifty people were personally interviewed with a few questions which were asked randomly. Further, primary and secondary data is used as follows.

Through non probability sampling methods, the sample that is needed to conduct the interviews with prisoner parents were selected. Around twenty parents were interviewed by this statistical method and received the necessary information regarding the theme. By way of a cluster sample, some prisoner parents who live at probationary houses were also interviewed with pre-determined set of questions and obtained the information.

The prison authorities and the child rights activists were interviewed at their principal places situated at Welikada and Pallekela Prisons, Probationary Houses situated at Makola and Pamunuwa, and National Child Protection Authority in Madiwela.

According the Prisons Ordinance ^[9] of Sri Lanka, the treatment that should be given to the prisoners are mentioned in Part VI ^[10] and the Standard Minimum Rules for the Prisoners ^[11] (herein after referred to as "The Mandela Rules") and also the United Nations Bangkok rules ^[12] provide the necessary information while case laws of other jurisdictions helped in order to gather the required information.

Australia, England and Wales, India and South Africa is used to analyze the jurisdictional measures due to the reason that they have taken steps to protect the rights relating to the children of the prisoners. It seems that they are a step forward rather than Sri Lanka in recognizing and implementing their national laws. Judicial decisions and Statutes have been developed in these countries and they have paved the way to a successful development of the laws.

Legal Analysis

In the international legal regime, this particular theme of laws is being specifically addressed by the international instruments. The Mandela rules (hereinafter referred to as SMR) which was adopted by the United Nations Congress address the minimum standards that should be afforded with regard to prisoners. It particularly states that they are a set of general consensus agreed by the parties yet they are not practical to apply everywhere around the world.

The United Nations Rules for the Treatment of Female Prisoners and Non-Custodial Measures for Women Offenders (hereinafter referred to as “Bangkok rules”) which was adopted the United Nations General Assembly ^[13] seek to address with regard to the treatment of the women prisoners, explicitly their rights and the first international instrument that addressed the children in prison with their prisoner parents. These rules provide a supplement to United Nations Standard Minimum Rules for the treatment of prisoners and Tokyo rules on Alternatives to imprisonment ^[14].

The Convention on the Rights of the Child (herein after referred to as CRC) which was adopted by the United Nations General Assembly ^[15] in the year of 1989 specifically with the attention to protect the rights of the children who are under the age of eighteen (18) unless otherwise they have attained the age of majority, identified by the law. But the convention is silent on the issue of protection of rights of the children who live in the prison with their prisoner parents.

The United Nations Standard Minimum rules for the Administration of Juvenile Justice (herein after referred to as “The Beijing Rules”) were adopted by the United Nations General Assembly ^[16] in the year of 1985 to address the governing law of the juvenile offenders who are children or young persons who have committed any offence or behavior punishable by law under the particular legal system. They also do not highlight the issue of protecting the rights of the children of the prisoners.

While Sri Lanka has acknowledged international standards, they have not been put into practice at the national level. To integrate these standards into the country's legal framework, Sri Lanka needs an enabling statute that grants authority for the application of these international instruments within its borders. Enabling statutes often play a pivotal role in safeguarding people's rights. When violations of these rights occur, domestic law should not permit such infringements. If a state has internationally recognized certain rights as a specific category, they should automatically become part of domestic laws. In accordance with the Sri Lankan legal system, the enactment of an enabling statute is essential. Consequently, the challenge lies in incorporating international standards into the domestic legal system.

The Sri Lankan legal system have not yet referred their attention with regard to the protection that should be afforded to the protection of the welfare of the children of the prisoners. Therefore, the gap in the law seems to exist and the authorities should put their focus in this regard.

As the imprison rate seems to increase day by day, the rate of the children who reside with their parents do increase parallel. Therefore, the authorities should focus on ways and means to protect the welfare of the children specifically education, health and safety and food that are given to them. The children who are more than the age of five are separated from their parents but some are left with the prisons due to the reason that no relation is there to take care of them.

Although there are international standards developed to identify this category of laws, they have not been implemented domestically.

- *Constitution of the Republic of Sri Lanka ^[17] has not yet addressed this issue relating to the children of the prisoners.*

The Constitution has not recognized this category of children who reside with their parents in the prison in its provisions. As a result, the whole legal system has not been able to give recognition to the rights specifically child rights law regime in order to protect the welfare rights naming education, health and food and security, of these children. Even the right to equality ^[18] is guaranteed by the Constitution, it does not properly cover the children of the prisoners.

- *Although there are rights relating to children, no specific focus has been payed with regard to the rights of the children of the prisoners.*

The child rights that are applicable to every child in the nation does not give recognition to the children who reside in the prisons with their imprisoned parents. Although they comes under the definition of children, those children are a set of children who has been deprived to enjoy every right that are applicable to them. Moreover, the Sri Lanka is a signatory to the CRC, without an enabling statute, it cannot be put into action.

- *Even though there is a Prisoner's Ordinance in the country, it does not identify the rights relating to children of the prisoners.*

The Prisons ordinance deals with the laws affecting to the prisoners and what benefits they enjoy and like. But this document has not recognized the children who reside with their mothers or fathers in the prison nor the laws that should govern their rights.

- *There is no mechanism to identify the recognition given to the children of the prisoners because of lack of case laws to be found.*

Not knowing the law is not accepted in a legal case but being unaware of any particular category of law makes the people lose the privileges that they are entitled to. When the prisoners and their children are brought up into the prisons, no one will read out the laws and the privileges that they will gain.

- *The right of the children of the prisoners to enjoy the education right has not yet been addressed in the national laws.*

The Education Ordinance ^[19] does not state in its provisions the right to education guaranteed for children of the prisoners. There is no mandatory obligation on the part of the authorities to provide them with good education. It also encompasses a discriminatory action committed by the Government and the authorized officers for the children of the prisoners.

- *No legislation has been passed to recognize the right to health of such children*

The children who live in the prison are also vulnerable to epidemic disease and other diseases that are spread inside the prison. The Medical Ordinance ^[20] nor the Health Services ^[21] act do not confer obligation on any authority to provide health care facility to those children.

- *No recognition has been given to protect the right to enjoy a healthy diet and the security of such children.*

The children who live at the prisons with their parents do not sufficiently get to eat a healthy diet because the authorities are not under the obligation to provide them a special menu of foods and it needs them to bear an extra cost. And the children do not enjoy the social security rights that the Government and the authorities should provide.

- *Those children are prone to sexual assaults by the people who live in the prisons or by the respective authorities.*

The children are prone to sexual assaults and exploitations by the people who have distorted sexual desires and sexual abnormalities when the children are isolated and they have no contact with the external environment and lack of experiences and knowledge regarding the people.

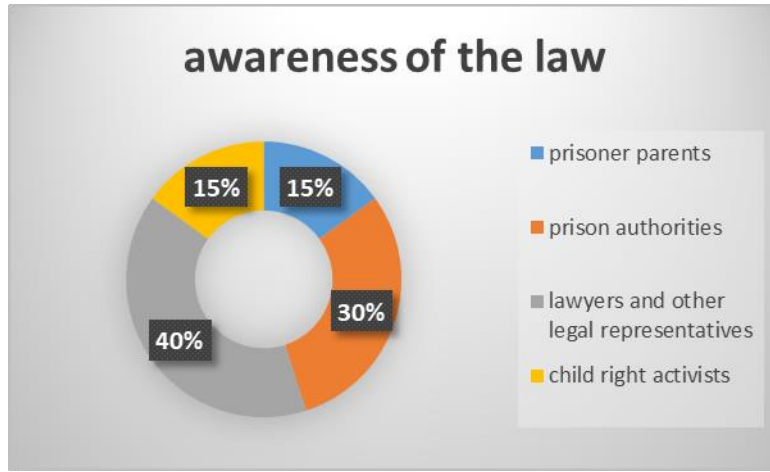
However, the policies or legislation of the country and territories in Australia differs significantly to Sri Lanka where standard guidelines for correctional services in Australia state that if arrangements are made for children and babies to live in prison, comprehensive and well-structured policies and programs should be developed in which children's interests are paramount. Each of the states has provided guidelines on the age limits and the number of prisons available for the children with their prisoner parent ^[22]. The expectation is that the child will leave the unit at the age of eighteen months or earlier.

Data Analysis

In this section of the study, we analyze the data obtained from personal interviews with study participants and present the findings using graphical representations. The sample required for gathering essential information was selected using both probability and non-probability sampling methods commonly employed in statistical science. The sample underwent two rounds of personal interviews, and the data obtained from both rounds were consolidated and treated as a unified dataset for analysis.

Findings

1. *Does Sri Lanka has any laws relating to the protection of welfare rights of the children of the prisoners?*



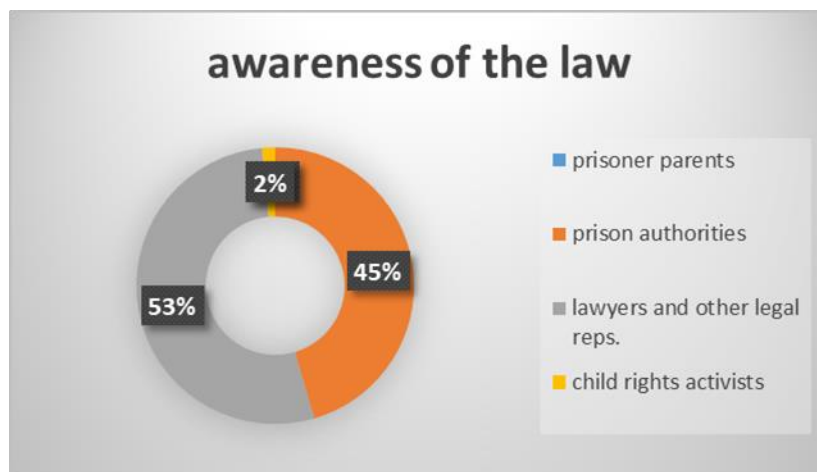
When the two samples were questioned with regard to the awareness of the law, most of prisoner parents were on the idea that Sri Lanka does not recognize such welfare with regard to the children who reside with them in the prisons. The prison authorities' opinion was that although Sri Lanka does not recognize such rights, international legislations must have enacted addressing this issue. The lawyers and other legal representatives and the child rights activities were sure that Sri Lanka has not enforced such a legislation to govern the welfare rights of the children and that the Bangkok Rules have been enacted by the United Nations in the year of 2010.

2. *If Sri Lanka does not have any particular laws, how does the education/health and food/ safety measures are taken into consideration? Are there any International or regional laws to govern such welfare needs?*

The prisoner parents argued that the law enforcement authorities should take emergency steps in order to pass a new legislation that govern the welfare rights specifically education, health and food and safety rights with regard to the children who reside with them in the prisons because they do not sufficiently enjoy such rights when they live in the prison and they also get the treatment as the juvenile offenders even though when they have not committed any crime. Further they highlighted that those rights are not protected and the authorities take no step in order to give their children the right to education, health and food and safety under any law. They have no knowledge regarding any of international or regional mechanism that has been enacted to protect such rights.

With regard to the responses received by the prison authorities, child right activists and legal and other professions, such rights of the children of incarcerated parents are not governed by any law or regulation and they further declared that although there are international instruments available, they cannot be enforceable in the country because we have not enacted any enabling statute to put them into action.

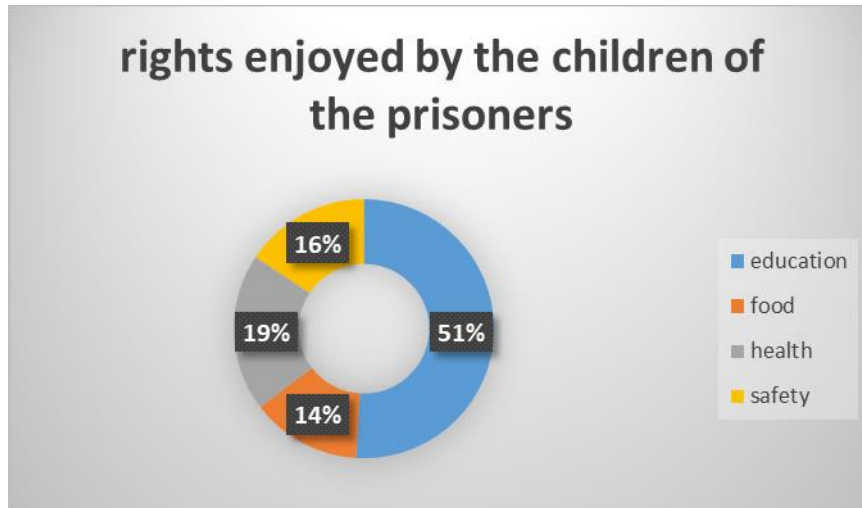
3. *Do you have sufficient knowledge on the international and regional laws relating to welfare of the children of the prisoners?*



The prisoner parents had no idea about any of international or regional instrument that governs the welfare rights specifically, right to education, health and food and safety, of their children who reside in prisons with them. While the prisoner authorities had some idea that there are international instruments but no particular as to what they are. The

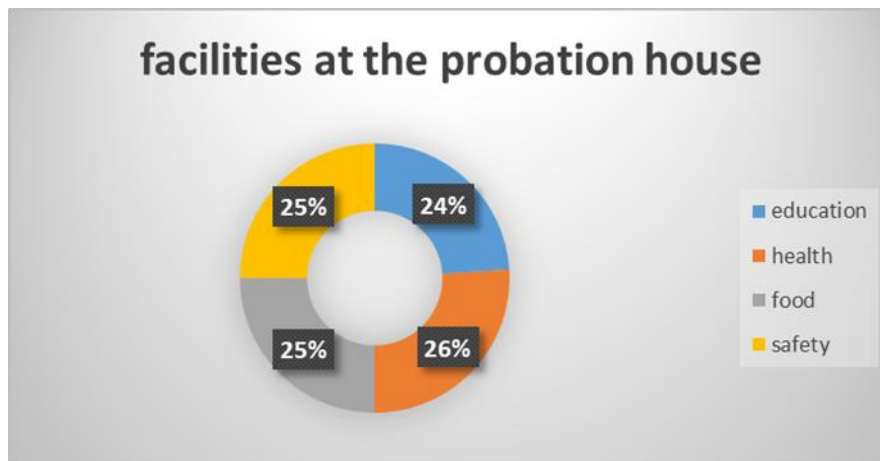
lawyers and other legal representatives and the child rights activists had sufficient knowledge as to the awareness of international instruments and identified specifically about the Bangkok Rules and said that they were the first set of laws that recognized the rights of the children of the prisoners.

4. *What are the facilities provided for the children who reside with their parents inside the prisons? How their educational /food and health / security needs are provided?*



According to the prisoner parents, the children hardly ever get the privilege to enjoy their right to health and food and safety, but they get to attend to classes conducted by volunteers. They get food like other prisoners and the safety is protected by the prison authorities.

5. *What are the facilities provided for the children who reside at the probation houses?*



The children who reside at the probation houses get to go to school with other children at the house and they get food and secured by the police officers as well. They get to face check-ups trice a month and proper medication when they get sick.

6. *Do you have adequate resources to provide the facilities for the children at the probation house?*

This question was specifically directed at the prison authorities and the probation officers at the probation houses. They said that they do not have enough resources to provide the facilities that need to provide as welfare needs of the children but they use the available resources adequately.

7. *Do the probation officers have sufficient knowledge on the laws relating to the children who reside under them?*

Most of the probation officers whom were questioned, did not have sufficient knowledge on the laws that govern the children of the prisoners who now stay under their authority. But they seemed to have an understanding that those children also are governed by the laws applicable to juvenile offenders.

8. *What are the laws that should be implemented to protect the educational, health and food and security rights of such children?*

According to the purview of the prison authorities and the probation officers, they should get the equal treatment like other children who live in the civil society because most of those children get isolated, bullied and neglected at schools and other places because of the reason that they live at probation house although they have not committed any crime or misdemeanor. Therefore the law enforcement authorities should focus more on those affected children when establishing or implementing the laws relating to them. They should further implement a system to conduct special health camps to assess their physical as well mental well-being of those children. And the security does not suffice that they should be given the security form the police but they should feel the sense of security that they get when they are with their parents.

9. *Does the rights of the children are operated adequately in probation houses? Is there any mechanism to monitor them? How do they monitor the children who reside at the prisons with their parents?*

Currently, there is no proper system to monitor the children who reside at the probation houses or prisons with their parents sufficiently receive the welfare needs. But the National Child Protection Authority is on the process of enforcing a mechanism to monitor the children who reside at the probation houses or prisons get adequate welfare needs and facilities that they are entitled to receive.

10. *What are the measures that can be taken to protect the rights of such children? What are the actions available for such violations? What are the preventive measures that can be taken for violation of rights of children of prisoners?*

According to the probation officers and child rights activists, a mechanism can be implemented to check whether the children get adequate facilities and in situation of violations, they should have a direct line to dial and complaint either to the National Child Rights Authority or any Police station to lodge a complaint.

Currently, there is no on-going process that can take actions against such violations.

The preventive methods suggested by the child right activists ae that, if it is likely that such a violation is about to take place, the parents who is the guardian of the child, should be able complaint of such violation or deprivation to the nearest Police station or any other authorized officer who is available.

11. *Isn't there any method which you can implement that the parents with infants can stay with their parents outside the prisons?*

There are many avenues that can be adopted by the law enforcing authorities not to separate infants from their parents. One of the method is that the authorities can build safe houses that can be used as rehabilitation houses outside prison where, both infant and parent can stay until her/his imprisonment period is over.

Conclusion

The overall conclusion of the study highlights that the child rights law relating to welfare of the children of the prisoners are not adequately discussed in the legal sphere of Sri Lanka because in order to facilitate such a law that is recognized in the international arena, to be applicable in the national legal system, under the law of the territory, the government should enact an enabling statute. But such enactment has not yet being passed. Therefore, there is a growing and dire need that has created a gap in law that, enactment of such a legislation is crucial for the government for the child rights law regime of the laws relating to children of the prisoners.

Recommendations

According to the issues that has been discussed in this research study, following recommendations or suggestions can be made for the administrative authorities to emphasize the importance of protecting the laws relating to the children of the prisoners. They are as follows,

- *The Constitution of the Republic of Sri Lanka has not yet addressed this issue of laws relating to the CHILDREN of the prisoners.*

Although under the Art. 12 (1) of the Constitution, the right to equality has been conferred on every child in the country, no provision has been addressed to govern the laws that should be applicable to the children of the prisoners who has decided to live/reside with their prisoner parents in the prison. They do not seem to be treated equally as the rest of the other civil children who live in the society. They are considered to be children of either criminals or prisoners who have committed any wrong doing.

Under the Indian Constitution, the prisoners are governed by the State Governments and they are empowered to manage and administer the prisons in each federal state. With regard to the situation of Sri Lanka, the Constitution does not recognize the rights relating to prisoners nor enactment of any laws that affect them. Therefore, it can be recommended that the Constitution can be amended by giving recognition to the prisoners and their rights and the delegating the law enforcement authority on either the Ministry of Justice or on the Executive of the state. As per India, the power of management and administration can be delegated on the Provincial Councils while having the law-making authority on the Minister. With regard to the enforcement of laws affecting the children of the prisoners can be delegated specially on the National Child Protection Authority.

- *Although there are rights relating to children, no specific focus has been payed with regard to the rights of the children of the prisoners.*

Although The CRC has recognized the importance to protect the rights of the children in order to protect the best interest of the child, they have also not focused on the rights relating to the children of the prisoners. Under Articles 19 ^[23], 24 ^[24], 26 ^[25], 27 ^[26], and 28 ^[27] general protection has been given to every child but not addressed this particular theme of rights of the children of the incarcerated parents. Under the Bangkok rules, special recognition had provide for the children in prison with mothers and it requires that special provisions should be made for mothers with children before the admission. Further, Sri Lanka has not even recognized such category of law that affects the children of the prisoners.

In Australia, the laws of the six states and two mainland localities have their own legislations relating to the correctional services they administer. The provisions are made in relation with regard the accommodation of children with their mother in prison. Therefore, the Sri Lankan legal system should also focus on the rights that affect the children of the prisoners and rules and procedures should be established prior to the admission of prisoners with children.

- *Even though there is a Prisoner's Ordinance in the country to govern the laws affecting the rights of the prisoners, it does not identify the laws that affects the rights relating to children of the prisoners.*

Under the Prison Ordinance, the provisions are made with regard to the admission, discharge, food, accommodation, health and clothing that should be provided to each and every prisoner. It only specifically deals with the prisoners but the children who reside with their parent prisoners have not given attention might be due to the reason that they are not considered as prisoners. As they also reside inside the prisons with their parents, they are entitled to certain types of rights.

In South Africa, under the Correctional Services Act ^[28], a subcommittee is appointed to take care of the child's food, clothing, health care and other facilities that are necessary for the healthy development of the child while in the prison. As such, the Prison Ordinance also needed to be repealed in order to accommodate the children of the prisoners.

- *There is no mechanism to identify the recognition given to the children of the prisoners because of lack of case laws to be found.*

Due to the lack of awareness of the prisoners with regard to the laws that are applicable for the children who reside with them in the prisons, no litigations or complaints has been filed by the prisoners whose rights of their children has been violated.

The judiciary should establish a mechanism where prisoners can go to litigation in situations of violations of rights that are attributed to their minor children who reside with the. And they should also be given opportunity to request an attorney on behalf of them and a fair hearing to be given.

- *The right of the children of the prisoners to enjoy the education right has not yet been addressed in the national laws*

The CRC in its provisions ^[29] has described that every child is entitled to primary education which should be delivered without any cost. Schools should be administered in an orderly way in order for children to benefit from education.

The Education Ordinance ^[30] does not recognize the right to free education by the children of the prisoners who reside in the prisons.

In India, the children whose parents are prisoners, are entitled to go to schools and some of the Indian schools have lowered their tuition fees from children whose parents are in prison.

In Egypt, under the Promulgating the Child law ^[41], a nursery should be established in every prison for women, children should attend to nurseries until they reach four years.

Further, Brazil has adopted guidelines under their education legislation that nurseries and child care should be fully equipped with qualified people.

As a recent development, in the year of 2014, the first prison school has been established in the Watereka prison for the juvenile offenders. And in the year of 2018, an educational center and a library has been opened at the Welikada Prison. Such schools and institutions should be established in order to provide educational facilities to children of the prisoners with the people who has the best qualifications to carry on activities in the future with the aid of the Government.

- *No legislation has been passed to recognize the right to health of such children*

Even though the CRC recognizes the right to health ^[42] by every child, no profound recognition has been given with regard to the children of the prisoners. In South Africa, the Department of Correctional Services, is responsible for the child's health care when such child resides at the prison with their parents because it is necessary for the sound development of the child. The Federal Prisons Administration Authority of Ethiopia should provide the new born babies who reside at the prison with their mothers with necessary foods, vaccination and medical care.

Therefore, Sri Lanka should also enforce legislation or other mechanism that affect the health care of children of the prisoners and should held medical health camps in order to monitor the growth and development of each child who reside at the prisons with their parents. Annual check-up procedures should also need to be conducted by the Ministry of health to monitor the health status of every child to assess the vulnerability to diseases. Vaccinations should be properly given at the correct time of each child. All these measures should be enacted through a legislation, where it makes a mandatory duty to the authorities to follow the orders.

- *No recognition has been given to protect the right to enjoy a healthy diet and the security of such children.*

Under the CRC, a state should provide nutritious food ^[43] and security ^[44] to every child. Although it does not specifically address the children of the prisoners, the provisions are applicable to them as well. Therefore Sri Lankan Government is under the obligation to provide healthy diet plans and the social security needed for these children and a proper mechanism (either by enacting a legislation or other mechanism) should be established and it should be monitored by the Minister in charge of the particular subject.

- *Those children are prone to sexual assaults and exploitations by the people who live in the prisons or by the respective authorities.*

In South Wales in Australia, under the Mother's and Children Program, the prisoner mother can serve her sentence in an environment where it is away from the prison approved by the authorities, with her child until such child reaches six years old.

Like that even Sri Lanka can establish separate prison houses for women prisoners who have children with them and keep them away from the other prisoners. They should be kept separated from the prison population. Conducting programs by the Child Rights Authority highlighting the issues that could be faced by those children when they are isolated and away from the external environment.

- *They live in an environment of criminals and other offenders who have committed grave crimes and the foundation to the development of the personality is laid when they are inside the prisons and motivated by those criminals and offenders.*

The children of the prisoners can be employed in different activities to follow aesthetic subjects such as music, dancing and dramas, art and craft activities which will engage in activities that will help to enlighten their future by the intervention of the Child Rights Authority of other non-governmental organizations.

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