
WOMEN BEHIND BARS: EXAMINING THE RIGHTS OF WOMEN PRISONERS IN INDIA

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ABSTRACT

This paper investigates the difficulties experienced by women prisoners in India and critically assesses the discrepancy between the law and its actual application. Despite statutory safeguards accorded to women prisoners, their concerns and needs remain largely neglected. This paper evaluates the current legal framework, administrative procedures, and infrastructural realities of the prisons to better understand the challenges faced by women prisoners such as access to healthcare including menstrual and reproductive health, sanitation, custodial violence and mental health support. Lastly, the paper suggests key reforms that would make prisons more gender inclusive in order to ensure protection of rights of women prisoners. This study adds to the larger conversation on prison reforms and human rights protection by bringing attention to the unnoticed hardships faced by female prisoners, highlighting the necessity of a more inclusive and equitable criminal justice system.

INTRODUCTION

Prisons are a crucial component of the criminal justice system, built to confine offenders and guarantee the administration of justice. Nonetheless, the reality of inmates within these walls frequently vary as per gender, with women inmates dealing with particular difficulties that often go unnoticed. Despite making up a smaller portion of the inmate population, needs of women prisoners differ from those of male inmates. However, the administration, regulations, and facilities of Indian prisons are still mostly focused on men, ignoring the unique needs of female convicts. Their difficulties while incarcerated are exacerbated by serious violation of their fundamental rights and dignity.

The prison system presents a number of difficulties for female inmates, including insufficient access to rehabilitative activities, poor sanitation, a lack of legal assistance, and inadequate healthcare, inadequate sanitation and hygiene conditions, unavailability of proper legal aid, etc. Women prisoners face severe social shame and isolation in addition to mental and physical challenges. Being separated from their families, children, and communities causes a great deal of emotional strain, which affects their mental health and social reintegration after release.

Even though there are many legal and constitutional safeguards for the rights of female prisoners, the reality of jail life in India still exhibits widespread gender discrimination. Women are more vulnerable to abuse and discrimination because the jail's rules and facilities, which are primarily designed for male inmates, ignore their unique and diverse needs. In order to address these issues and guarantee that the rights of female inmates are respected, a significant change in prison infrastructure and rules is necessary.

UNDERSTANDING THE CONCEPT OF PRISONS

Prisons, sometimes referred to as jails, are establishments where inmates are physically restrained and typically denied a variety of personal liberties. Prisons are places where people are physically restrained and have some degree of their personal freedom taken away from them. Prisons are an essential component of any nation's criminal justice system. Prison facilities may be designated specifically for adults, children, women, convicted inmates, pending trials, etc. Seventh Schedule, Entry 4, List-II, states that prisons are a state subject. State governments, who are governed by the Prisons Act of 1894 and their own prison manuals, are exclusively in charge of managing and administering prisons.

Therefore, amending the laws, rules, and regulations relating to prisons is mainly the responsibility of the States. The federal government also provides assistance to the states in the areas of prison security, medical facilities, school construction, facilities for women prisoners, vocational training, and the upkeep and renovation of old and outdated prisons.

The objectives of prisons have evolved and evolved over time. In order to punish those who break national laws, any criminal justice system must include a mechanism for retribution. Jail systems are considered essential worldwide. Since their isolation from society can reduce the threat they pose to the public, it is definitely in the public interest to keep the offenders incarcerated. Establishing a system that discourages criminal activity and habitual offenders is also crucial. Prisons serve four primary, fundamental goals, to break it down:

1. Punishment- to penalise people who have committed crimes. Punishment is administered by the criminal justice system.
2. Incapacitation- by eliminating the danger to the general population. Disabling those who are considered as criminals
3. Deterrence- by discouraging criminal activity. In essence, attempting to stop crimes from happening again.
4. Rehabilitation- It is one of the measures to help a prisoner change their perspective and behaviour. The idea that the outcome will be a law-abiding citizen.

UNDERSTANDING THE RIGHTS OF WOMEN PRISONERS

Every human being is born with the same dignity and set of rights. Human rights are essential and unalienable rights to which all individuals are entitled only by virtue of their human birth. The population of India is diverse, multiethnic, and multireligious. The idea of human rights is not just about shielding people against abuses by the state, but also to establish societal circumstances that enable people to reach their greatest potential. It is the state's duty to set up these circumstances so that each person can fully exercise their human rights. These rights cannot be denied, refused, or entirely forfeited even if an individual has committed a crime or violated any law¹.

¹ Sadia Khan, *Rights of Women Prisoners in India: Nexus Between the Pervasive Impact of Patriarchy and the*

Over the past century, there has been an increasing understanding that imprisonment serves as a tool for rehabilitation and reintegration into society in addition to punishment. As a result, there is now more attention being paid to prison reforms that aim to enhance incarceration conditions, lower recidivism rates, and safeguard inmates' human rights. One crucial component of prison reform is the protection of inmates' human rights. The criminal justice system and society at large can benefit greatly from efforts to preserve the human rights of inmates.

The underlying idea that incarceration does not deprive a person of their intrinsic dignity is the reason why defending prisoners' human rights is so important. The legal ramifications of committing a crime include the loss of liberty, but they do not include the loss of fundamental human rights. In addition to being in line with international human rights norms, ensuring that inmates receive humane treatment advances the larger objective of rehabilitation and reintegration. But the state of Indian jails, especially for female inmates, still raises grave questions regarding their care, living circumstances, access to medical care, and safety from violence while incarcerated. Gender-sensitive prison changes are necessary because female inmates, a particularly vulnerable group, frequently experience difficulties that are distinct from those faced by their male counterparts. In addition to maintaining the rule of law, addressing these problems is crucial for creating a fair and just society that respects human dignity at all times. Given the particular risks that female inmates confront, it is crucial to investigate and comprehend their rights under different national and international legal frameworks. Thus, the subsequent sections will examine the international, statutory, and constitutional provisions that safeguard and govern the rights of women convicts, emphasising the gaps that still exist in their actual application as well as the degree to which these rights are upheld.

CONSTITUTIONAL PROVISIONS ON THE RIGHTS OF WOMEN PRISONERS

There is no specific mention of rights of women prisoners but they can be traced implicitly under the Right to equality provided by the Indian Constitution to all. Every person's rights under the Indian Constitution are based on their status as human beings and include life, liberty, equality, and dignity.

Problem of Women Prisoners, IJRPR, 1191-1197 (2023).

Article 14² of the Indian Constitution guarantees women in India equal legal protection, whereas Article 15 forbids discrimination based on gender. Article 15(3)³ permits the state to provide additional protections for women and children. Regarding female inmates, these clauses imply that the state is responsible for meeting their unique wants and specifications. The state must guarantee that female inmates have proper facilities, healthcare, and protection, and that they are not subjected to discrimination.⁴ Article 21⁵ safeguards each citizen's personal dignity and ensures their right to life. This provision guarantees that no one may be robbed of their life unless the due legal process is followed. As a result, it safeguards female inmates' rights and makes sure they are not the targets of abuse or arbitrary imprisonment.

Article 39A⁶ of the Constitution provides that all people, including female inmates, are entitled to equal justice and free legal assistance under. The goal of this article is to guarantee that all citizens have access to justice and legal counsel, irrespective of their financial or social standing. The Hon'ble Supreme Court ruled in the case of *M.H. Hoskot v State of Maharashtra*⁷ that the right to free legal aid at the state's expense to an accused person who was unable to pay for legal representation due to poverty, indigence, or an incommunicado situation was a component of the fair, just, and reasonable procedures implied in Articles 21 and 39-A, as well as Article 142 of the Indian Constitution and Section 304 of the Code of Criminal Procedure (Cr. P.C.).

Women prisoners have the right to speedy trial. There is an undoubted right of speedy trial of under trial prisoners. The Hon'ble Supreme Court of India in the case of *Hussainara Khatoon v Home Secretary, State of Bihar*⁸, held that speedy trial is a fundamental right implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution of India.

THE PRISONS ACT 1894

The first law in India to control prisons with an emphasis on inmate rights and reform was the Prisons Act of 1894. The following sections of this Act particularly address the rights of Indian

² INDIA CONST. art14.

³ INDIA CONST. art15.cl.3.

⁴ Sadia Khan, *Rights of Women Prisoners in India: Nexus Between the Pervasive Impact of Patriarchy and the Problem of Women Prisoners*, IJRPR, 1191-1197 (2023).

⁵ INDIA CONST. art.21.

⁶ INDIA CONST. art. 39A, amended by The Constitution (Forty-Second Amendment) Act, 1976.

⁷ *M.H. Hoskot v. State of Maharashtra*, AIR 1978 SC 1548.

⁸ *Hussainara Khatoon v Home Secretary, State of Bihar*, AIR 1979 SC 1369.

women prisoners:

1. Right to Separate Accommodation (Section 4 and Section 27)

The Act highlights the necessity of providing women inmates with separate housing in order to protect their privacy and safety. The State Government is required by Section 4⁹ to provide suitable accommodations for inmates in compliance with the Act's standards, which include measures for the segregation of male and female inmates. This guarantees that female prisoners are kept in segregated facilities to protect their safety and welfare.

The complete segregation of male and female inmates within a jail is required by Section 27¹⁰ of the Prison Act, 1894. In light of this section, if a jail has both male and female inmates, the female inmates must be housed in different buildings or in different areas of the same structure.

The layout of the prison must guarantee that female inmates cannot view, speak to, or engage in any other kind of interaction with male inmates. The purpose of this clause is to shield female inmates from any possible physical or psychological harm that can result from interactions with male inmates. By erecting physical barriers and prohibiting any kind of contact or interaction with male convicts which could otherwise result in exploitation, abuse, or harassment. This provision aims to protect the safety, privacy, and dignity of female detainees.

2. Right to Dignified Search and Examination (Section 24)

The Act includes additional provisions pertaining to the search and examination of female inmates in order to protect their dignity. According to Section 24¹¹, a female officer must perform any kind of search or medical examination on female inmates under the general or special direction of the medical officer. The purpose of this clause is to guarantee that searches are carried out in a way that respects the dignity and privacy of female prisoners. This measure is especially crucial in preventing male prison officials from conducting intrusive and improper searches on female inmates, which could otherwise result in harassment or abuse.

3. Protection from Harsh Punishments in case of prison offences (Section 45 and Section 46)

⁹ The Prisons Act, 1894 § 4, No.9, Acts of Parliament, 1949 (India).

¹⁰ The Prisons Act, 1894 § 27, No.9, Acts of Parliament, 1949 (India).

¹¹ The Prisons Act, 1894 § 24, No.9, Acts of Parliament, 1949 (India)..

Women inmates are further protected under the Prison Act of 1894, which exempts them from several harsh methods that may be applied to male inmates. Prison crimes and the associated punishments are covered in Sections 45¹² and 46¹³. Crucially, the Act prohibits the use of handcuffs, fetters, or whipping as forms of punishment for female inmates. The understanding that female inmates, especially those who may be pregnant, elderly, or weak, need extra protection against cruel treatment is reflected in this exemption. The Supreme Court considered the constitutionality of handcuffing in *Prem Shankar Shukla v Delhi Administration*¹⁴, concluding that it violated Articles 14, 19, and 21 of the Constitution by being essentially inhuman, irrational, and arbitrary. The Court underlined that handcuffing is only appropriate in extreme situations and compromises human dignity.

PROVISIONS UNDER BHARITA NYAYA SURAKSHA SANHITA 2023

Section 43¹⁵: Unless they are female officers, police officers are not allowed to touch women when making an arrest unless there are special circumstances. Furthermore, unless there are special circumstances, no woman may be arrested after sunset and before sunrise without the Judicial Magistrate's approval.

Section 49¹⁶: If it is necessary to search a woman, only another female officer with a strict regard to decency may do it. The arrested woman must also be given a receipt for the items that were taken.

Section 51¹⁷: Only a female medical officer or someone under her supervision may perform a medical examination on a female prisoner if necessary. The purpose of this clause is to protect female inmates' privacy and dignity.

Section 53¹⁸: Only a female medical officer or female certified medical practitioner may perform or oversee an examination of an accused woman if one is necessary. This clause guarantees that female inmates won't endure humiliation when undergoing medical examinations.

¹² The Prisons Act, 1894 § 45, No.9, Acts of Parliament, 1949 (India).

¹³ The Prisons Act, 1894 § 46, No.9, Acts of Parliament, 1949 (India).

¹⁴ Prem Shankar Shukla v. Delhi Administration, (1980) 3 SCC 526.

¹⁵ The Bharatiya Nagarik Suraksha Sanhita, 2023, §43, No. 46, Acts of Parliament, 2023 (India).

¹⁶ The Bharatiya Nagarik Suraksha Sanhita, 2023, §49, No. 46, Acts of Parliament, 2023 (India).

¹⁷ The Bharatiya Nagarik Suraksha Sanhita, 2023, §51, No. 46, Acts of Parliament, 2023 (India).

¹⁸ The Bharatiya Nagarik Suraksha Sanhita, 2023, §53, No. 46, Acts of Parliament, 2023 (India).

Section 58¹⁹: Within 24 hours of their arrest, all individuals, including female inmates, must appear before the magistrate. This clause safeguards the fundamental rights of female inmates and guarantees legal supervision over the arrest.

Section 103²⁰: To protect the privacy and dignity of female inmates, if a search of a woman is necessary, it must be carried out by a female officer who strictly adheres to decency.

Section 179²¹: provides that a woman cannot be forced to show up for an investigation at a police station. In order to protect her from excessive harassment, the investigation must be conducted at her home or any other location where she dwells, unless there are special circumstances.

Section 401²²: The court may choose to release a woman on probation of good behaviour or following reprimand in lieu of punishing her if she has no prior convictions and is found guilty of an offence not punished by death or life in prison. This clause encourages female inmates to change and reintegrate into society.

PRISON MANUAL 2016²³

The 2016 Prison Manual places a strong emphasis on the reformation, safety, and health of female inmates. In addition to counselling and treatment for psychiatric illnesses, it requires women to undergo thorough health exams that encompass sexually transmitted infections, mental health conditions, and substance abuse. To prevent sexual violence and gender issues, training and awareness-raising for staff is provided in the manual. To facilitate reintegration, the handbook offers targeted after-care and rehabilitation as well as preventive health education. Pregnant women and mothers with infants are not allowed to receive certain punishments, such as solitary confinement. Prenatal and postnatal care, well-equipped crèches and nursery schools, food, medical attention, education, and recreational facilities should be provided to the children of women convicts in accordance with the Supreme Court's ruling in *R.D. Upadhyaya v. State of A.P.*²⁴.

¹⁹ The Bharatiya Nagarik Suraksha Sanhita, 2023, §58, No. 46, Acts of Parliament, 2023 (India).

²⁰ The Bharatiya Nagarik Suraksha Sanhita, 2023, §103, No. 46, Acts of Parliament, 2023 (India).

²¹ The Bharatiya Nagarik Suraksha Sanhita, 2023, §179, No. 46, Acts of Parliament, 2023 (India).

²² The Bharatiya Nagarik Suraksha Sanhita, 2023, §401, No. 46, Acts of Parliament, 2023 (India).

²³ Model Prison Manual 2016.

²⁴ *R.D. Upadhyay v. State of Andhra Pradesh*, AIR 2006 SC 1946.

UNITED NATIONS RULES FOR TREATMENT OF WOMEN PRISONERS AND NON- CUSTODIAL MEASURES FOR WOMEN OFFENDERS (THE BANGKOK RULES)

The Bangkok Rules place a strong emphasis on treating female inmates with gender-sensitive care, protecting their wellbeing, health, and dignity. In light of their caregiving responsibilities, they require nondiscrimination in jail treatment, as well as good housing close to their families and hygienic amenities, including free sanitary items. The Rules provide a strong emphasis on gender-specific healthcare, which includes substance addiction, mental health, and reproductive health screening . They forbid the use of restraints during labour, delivery, and the postpartum period, as well as the strict confinement or disciplinary segregation of expectant, nursing, or infant-caring mothers. When female inmates disclose abuse, they must be protected, counselled, and given medical attention right away. The Rules also require prison staff to get training and capacity-building in order to address the unique needs of female inmates and encourage family interaction, particularly with children. Staff must get training on how to stop harassment, discrimination, and violence based on gender. Juvenile female inmates must receive special attention and counseling to enable them to have access to protection, healthcare, and education. In order to protect the child's best interests, pregnant women and mothers with children must have access to proper medical treatment, food, and facilities. Open prisons, family interaction, and community-based programs should all be used to facilitate reintegration. The cultural and familial requirements of women from minority groups and foreign nationals shall be met . To reduce the possibility of abuse, authorities must give non-custodial measures for women on trial top priority .

CHALLENGES FACED BY WOMEN PRISONERS IN INDIA

The numerous obstacles that Indian women inmates must overcome have a substantial effect on their general well-being, health, and sense of dignity. Women detainees frequently endure cruel and inhumane treatment inside prison walls, despite the constitutional and legal protections for their protection. The jail system, which was largely created with men in mind, disregards the gender-specific requirements of women, which leads to a systemic violation of their rights. Women convicts continue to be among the most vulnerable groups in society due to inadequate living circumstances, lack of access to healthcare, sanitation, and security. The main issues that women inmates confront are highlighted in this chapter, with particular

attention paid to issues including overcrowding, poor hygiene, subpar medical facilities, a shortage of staff, and incidents of violence against inmates.

1. Poor Living conditions & Overcrowding in Jails- In India, one of the biggest problems facing female inmates is prison overpopulation, which results in subpar living circumstances. Due to the lack of separate housing for female detainees in the majority of Indian prisons, the living conditions are unhealthy, lack privacy, and have inadequate ventilation. Due to a shortage of space, many women are forced to sleep on the floor, which exposes them to unsanitary and cruel conditions. “ In Punjab, women inmates lacked basic amenities including adequate bedding, ventilation, and room to walk around”, according to a research²⁵ on the conditions of these inmates done by the Bureau of Police Research and Development (BPR&D). In addition, overcrowding increases the likelihood of disease outbreaks, inmate physical discomfort, and psychological stress. The facilities in jails are still insufficient, even when there is no overcrowding. The physical and mental health of female inmates is negatively impacted by the fact that they are frequently kept in cramped, poorly ventilated cells. Another significant issue brought on by overcrowding is the inability to maintain the separation of convicts and undertrial inmates, as required by prison laws. Tensions among prisoners rise as a result, making them more susceptible to abuse and violence. In the case of *Shri Rama Murthy v State Of Karnataka*²⁶, petitioner highlighted the issues and problems faced by inmates of Karnataka’s state prison. The court discussed the issue of overcrowding in prisons and noted that overcrowding led to a number of issues such as lack of proper sanitation & hygiene and substandard quality of food necessitating urgent reforms such as redistribution of inmates, building new prisons, upgrading the existing infrastructure, etc.

2. Poor Sanitation & Hygiene- The absence of adequate facilities for cleanliness and hygiene in prisons is another significant issue that female inmates must deal with. There should be one lavatory and one toilet for every ten inmates, according to the National Prison Manual²⁷, however this is not always the case. Women inmates are forced to live

²⁵ NATIONAL POLICE RESEARCH REPOSITORY Research Studies on Police and Prison Issues [2020-23] <https://bprd.nic.in/uploads/pdf/Outcome%20of%2015%20research%20studies%20completed%20by%20the%20BPR&D%20in%20the%20year%202020-23.pdf>

²⁶ *Shri Rama Murthy v State of Karnataka*, AIR 1997 SC 1739.

²⁷ Model Prison Manual For The Superintendence and Management of Prisons in India https://www.mha.gov.in/sites/default/files/2022-12/ModelPrisonMan2003_14112022%5B1%5D.pdf

in filthy and unsanitary conditions because prisons lack adequate lavatory and toilet facilities. Women inmates are more susceptible to infections, urinary tract disorders, and reproductive health difficulties due to the lack of access to sanitary and private restrooms. Furthermore, there are serious problems with menstrual hygiene among female inmates, particularly those who are of menstruation age. Prisons frequently lack sanitary napkins and other menstruation supplies, so inmates are forced to use unsanitary alternatives like dirty clothes, which can worsen their health. Women are also more susceptible to sexual harassment by male inmates or prison officials when there are no safe and separate restrooms for them. Despite the National Prison Manual's requirement that restrooms be situated in secure areas, the majority of jails do not follow these rules. Women prisoners' right to dignity is directly violated by this lack of basic cleanliness, which furthers their marginalisation.

- 3. Poor Healthcare and welfare** - Indian prisons have a woefully inadequate healthcare system, and women inmates suffer from a serious lack of access to medical care, especially when it comes to their mental and reproductive health. Maternal care, gynaecological health, and mental health support are among the unique healthcare needs of female inmates that are frequently ignored in correctional facilities. Pregnant and nursing women as well as women having pre existing medical conditions often do not get adequate and proper medical care during their incarceration which results in a number of serious health issues. Although most jails lack specialised medical personnel, the National Prison Manual (2016) advises that every prison housing female inmates have one female medical officer. In addition to having an impact on the health of the convicts, this causes serious psychological discomfort for the female inmates. Their well-being is significantly impacted by their inability to obtain regular health checkups, counselling, and mental health support. Moreover, sexually transmitted infections (STIs) and infectious illness cases frequently go undiagnosed and untreated, which worsens the condition of the patient. The absence of medical treatment during pregnancy and labour is another major healthcare issue. Many female inmates who are pregnant or have young children with them do not receive the appropriate medical care. Additionally, the lack of access to basic healthcare treatments for infants born within jails affects their development both mentally and physically. This unequivocally demonstrates a flagrant human rights violation in the jail system.

In the case of *R.D. Upadhyay vs State Of A.P.*²⁸, the SC discussed the dire condition of female inmates, more particularly the plight of pregnant women. While referring to a report by National Institute of Criminology and Forensic Sciences the court noticed that no special treatment was afforded to pregnant women and their nutritional needs were often neglected. Further children of some of these prisoners stayed with them and “crowded environment, lack of appropriate food, shelter and above all, deprivation of affection of other members of the family, particularly the father was generally perceived by the mothers as big stumbling blocks for the proper development of their children in the formative years of life.”²⁹ Noticing the plight of these women the court issued guidelines to the government for provision of facilities to these women and the children of women prisoners.

- 4. Lack of Prison Staff-** The absence of adequate female prison staff poses another critical challenge for women prisoners.³⁰ Male staff personnel frequently foster an unfriendly and dangerous atmosphere, which makes it difficult for female inmates to voice their complaints or health concerns. The National Prison Manual states that there should be one female staff member for every six female inmates; however, most institutions do not maintain this ratio. As a result, female inmates are more susceptible to physical and sexual abuse as male prison employees are in charge of caring for them. Women inmates are further discouraged from reporting instances of assault or harassment or seeking help due to the dearth of female medical officers, counsellors, and administrative staff. With little to no accountability for the offenders, this silence of their voices feeds the cycle of abuse. Women inmates are left in a vulnerable and neglected state as a result of the shortage of female staff, which also hinders the implementation of gender-specific prison reforms.

- 5. Violence against the Prisoners -** Violence and custodial abuse in prisons are among the most urgent and terrible issues that women inmates must deal with. Male prison employees have been known to physically assault female inmates, rape them while they are in custody, and even kill them. Because they are afraid of reprisals, women inmates frequently endure beatings, harassment, and demeaning treatment that goes undetected.

²⁸ *R.D. Upadhyay v. State of Andhra Pradesh*, AIR 2006 SC 1946.

²⁹ *R.D. Upadhyay v. State of Andhra Pradesh*, AIR 2006 SC 1946.

³⁰ Himani Anand and Muskan Goyal, *Rights of Women Prisoners in India: A Legal Analysis*, IJISAR,61-69, (2021).

Even when someone dies while incarcerated, prison officials frequently try to hide the cause of death by claiming it was suicide or a natural disaster. The bone chilling case of *Tuka Ram and Anr. v. State of Maharashtra*³¹, wherein a girl was taken under detention by the police officers and was subjected to rape and extreme cruelty, serves as a reminder that women prisoners are especially vulnerable and they need to be protected at all costs. The issue of custodial violence against women was brought by a journalist named Sheela Barse in the case of *Sheela Barse v. State of Maharashtra*³² which resulted in issuance of guidelines by the SC to the appropriate government for separate lockups for female inmates and ensuring proper medical care and legal representation to these inmates. This issue was further highlighted in the case of *Christian Community Welfare v. Govt. of Maharashtra and Ors*³³ wherein the court issued guidelines to be followed in arrest and detention of women prisoners.

EMPIRICAL FINDINGS: VIOLATIONS FACED BY WOMEN PRISONERS

“As per Report on ‘Women in Prisons’ launched by the Ministry of Women and Child Development launched in 2018- in India, there are 4,19,623 people incarcerated as of the end of 2015; 17,834 (or roughly 4.3%) of them are women, according to the most recent data available. 11,916 (66.8%) of these inmates are awaiting trial. The percentage of female inmates in India increased from 3.3% of all inmates in 2000 to 4.3% in 2015, according to a five-year interval review of prison statistics.³⁴” A majority of female inmates are in the age group of 30-50 years (50.5%), followed by 18-30 years (31.3%). Of the total 1,401 prisons in India, only 18 are exclusive for women, housing 2,985 female prisoners. Thus, a majority of women inmates are housed in women’s enclosures of general prisons.³⁵

Further, the National Commission for Women in 2018³⁶ inspected 20 Central jails and various other prisons across the country to inspect the conditions in which the women prisoners were kept. Some of its observations regarding the major Central Jails will be discussed below-

Madhya Pradesh - When the MP Commission for Women visited 30 prisons in the State that

³¹ *Tuka Ram and Anr. v. State of Maharashtra*, AIR 1979 SC 185.

³² *Sheela Barse v. State of Maharashtra*, AIR ONLINE 1987 SC 31.

³³ *Christian Community Welfare v. Govt. of Maharashtra and Ors*, AIR 2004 SC 7.

³⁴ Ministry of Women and Child Development, ‘Report on ‘Women in Prisons’’ (2018).

³⁵ Ministry of Women and Child Development, ‘Report on ‘Women in Prisons’’ (2018).

³⁶ National Commission for Women, ‘*A Report on Improving the Conditions of Women Inmates in Prisons*’ (2018).

house female detainees, it found a number of serious problems. The majority of prisons did not offer any skill-training programs for the rehabilitation of female inmates' children, nor did they have crèche facilities. Additionally, there were generally insufficient medical facilities, and in certain situations, there were no specialised physicians, especially gynaecologists. In several prisons, it was discovered that the food provided to the convicts was of poor quality. Furthermore, even in situations where bail was allowed, many undertrial inmates were discovered to have been held for longer than three months, demonstrating a significant lag in the legal system.

Haryana - Furthermore when the commission inspected the Central Jail in Ambala, Haryana there are a number of serious problems which female prisoners faced. The female quarters are extremely overcrowded, with little room for sleeping and few restrooms. Convicts and undertrials are not kept apart, which is against the jail manual. Lack of window panes, exposure to severe weather, and exposed drainage close to female wards are examples of poor infrastructure conditions. Due to a shortage of specialised physicians, regular medical officers, and police escorts for hospital trips, there are still insufficient medical services available. Inmates do not receive regular health examinations. There are few programs for skill training and little cooperation with businesses or non-governmental organisations for constructive endeavours.

Andhra Pradesh- There are a number of problems with female prisoners at the Central Jail in Nellore, Andhra Pradesh. Only 19 female prisoners—14 of whom lack literacy—are imprisoned there despite the facility's 50-person capacity. Prison administration is impacted by the 38 open posts out of 169 authorised jobs, including the position of Women Deputy Jailor. Female prisoners sleep on the floor with little bedding and do not have their own mattresses. Healthcare is badly impacted by the extremely poor medical facilities, which include only one dermatologist living 50 kilometres distant and no general duty medical officers, gynaecologists, nurses, or psychologists. Despite the fact that the prison generates Rs. 2 crore annually from a variety of production activities, female convicts are not engaged in any of these revenue-generating activities or skill-development programs.

Punjab- The Central Jail, Amritsar, Punjab, faces several issues despite having a capacity of 260 female inmates, with 137 female inmates currently housed. There are no organised educational or skill-building activities for the seven children who live with their mothers. There

is no regular medical personnel for routine check-ups, and specialists like gynaecologists only visit once a week, indicating insufficient medical care. Furthermore, the safety and privacy of both male and female prisoners are jeopardised when they are transported in the same van for court appearances. Additionally, the jail does not make the best use of solar energy for lighting and other uses.

Karnataka- 119 female prisoners are housed at Bangalore's Central Jail, despite a number of difficulties. There is a shortage of female employees and inadequate training for them. Elderly convicts' case evaluations and bail are delayed because so few DLSA attorneys offer legal representation. The lack of pure drinking water, appropriate primary education, and skill training beyond traditional trades negatively affects the well-being of the inmates' children.

Bihar - With 77 female convicts compared to a capacity of 32, the Central Jail in Motihari, East Champaran, Bihar, is severely overcrowded and needs three more barracks. The management of the jail is impacted by the 132 out of 270 open staff posts, including 89 warders. Women, especially pregnant prisoners, are forced to sleep on the floor because there are no beds available. Inmates are at risk for health problems because there is only one nurse to care for 77 women and the single gynaecologist is on maternity leave. Inmates and their children are not provided with adequate schooling, vocational training, a clean kitchen, or running water in the jail. Regular psychiatric counselling and legal assistance services are also insufficient.

Maharashtra- The Byculla District Jail, Mumbai faces overcrowding with 321 female inmates against a capacity of 262, including 270 under-trials and 15 convicts. Since DLSA attorneys hardly ever appear in court or interact with prisoners, legal help is insufficient, and many detainees are left waiting for trials for more than five years. As seen in one instance where an inmate was given ₹30,000 bail but remained incarcerated, financially weak inmates are unable to provide bail bonds. There is just one medical officer at the jail, and paediatrician, psychologist, and gynaecologist services are only offered by appointment. For the 19 children living with their moms, there are no adequate recreational opportunities or creche facilities. Despite extended stays, undertrials receive little vocational training.

Gujarat- The Vadodara Central Jail has 65 female inmates against a capacity of 210, with 05 children. The need for case reviews is highlighted by the fact that, despite adequate infrastructure, 32 out of 46 prisoners are incarcerated for murder, with 20 of them being illiterate. The female barracks lack western restrooms, a sanitary napkin incinerator, and a

social worker or psychologist.

Assam - 92 foreign nationals are among the 115 detainees in Tezpur Central Jail's female wing, which is overloaded compared to its 105-inmate capacity. There is no mosquito meshing, no gynaecologist, and no crèche facility for 4 children. Firewood is used for cooking, and sanitary napkins are not properly disposed of. For prisoners of Indian descent, bail surety is still a significant problem.

Tamil Nadu - There are 157 prisoners at Puzhal Central Jail out of a total of 500. Despite effective administration, there are no gynaecologists assigned, and there aren't enough solar incinerators for sanitary napkins

Goa- Although the Central Jail in Colvale, Goa, is authorised to house 51 female inmates, it now houses 21 of them (8 convicted and 13 awaiting trial). The quality of legal help is subpar; attorneys do not frequently visit or inform prisoners of the progress of their cases. The affordability of bail bonds is still a problem. The health of the inmates is impacted by the jail's shortage of full-time gynaecologists, psychiatrists, and counsellors.

Delhi - The female ward of Central Jail No. 6, South West District, New Delhi, is overcrowded, housing 480 prisoners compared to the 400 authorised. Inmates' main complaints are about inadequate food amenities and barracks maintenance. Even with specialised medical treatment, infrastructure upkeep is still an issue.

West Bengal - With 64 detainees housed in Jalpaiguri against a capacity of 45 and 149 female inmates housed in Berhampore against an authorised capacity of 122, West Bengal's Central Correctional Homes are severely overcrowded. Due to a serious shortage of medical officers and speciality doctors, there are not enough healthcare facilities. Food storage facilities are lacking, children have not received vaccinations in the last year, and undertrials have been imprisoned in Jalpaiguri for two to five years. In addition, there is no childcare or pre-school facility for kids, and legal aid services are still inadequate.

Uttar Pradesh - Uttar Pradesh's district jails are severely overcrowded; Muzaffarnagar has 80 inmates compared to a capacity of 30, Maharajganj has 93 inmates compared to 30, Bareilly has 101 inmates compared to 120, Shahjahanpur has 66 inmates compared to 60, and Badayun has 74 inmates compared to 30. A number of undertrials have been incarcerated for more than

five years, and legal aid resources are insufficient. There are unfilled positions for doctors, female nurses, and chemists leading to inadequate healthcare facilities. There are no options for adult literacy, skill development, or higher education. Common spaces like libraries, classrooms, and indoor activities are also lacking, and there is still little participation from NGOs and the civil society.

Severe overcrowding, bad healthcare, insufficient legal aid, a lack of skill development, and limited NGO involvement in the majority of jails are all shown in the inspection reports. Inadequate childcare, education, vocational training, and infrastructure exacerbate the situation for female prisoners, underscoring the critical need for better amenities and assistance in all correctional facilities.

ANALYSIS

Even while India has extensive legislative frameworks designed to safeguard the rights and dignity of female inmates, there is still a significant discrepancy between these laws and how they are actually applied. Articles 14, 15, and 21 of the Constitution provide equality, dignity, and personal liberty to all people, including women in prison. Furthermore, certain safeguards including segregated housing, access to healthcare, and respectful treatment for female prisoners are outlined in the Prisons Act of 1894, the Bharatiya Nyaya Suraksha Sanhita of 2023, and the Prison Manual of 2016. Nevertheless, empirical data shows flagrant abuses of these rights.

Systemic flaws in prison administration are shown by the real circumstances experienced by female inmates. The well-being of female inmates is significantly impacted by overcrowding, poor hygiene, a lack of proper medical facilities, and a shortage of qualified female prison staff. The spirit of laws intended to guarantee gender-sensitive treatment is in conflict with the absence of access to gynaecologists, separate sanitary facilities, and maternity care. Furthermore, undertrials' predicament is made worse by instances of brutality in custody and postponed court proceedings, which compromise the constitutional guarantees of life and personal freedom.

Furthermore, the reality shows a lack of organised rehabilitation programs, insufficient legal help, and inadequate childcare and educational facilities, even if the Bangkok Rules place a strong emphasis on gender-specific jail reforms. According to reports from several states, a

large number of female inmates continue to be held behind bars because they are unable to provide bail bonds, lack legal support, , all of which violate Article 39A of the constitution.

This stark discrepancy emphasises how urgently current law protections must be implemented, with an emphasis on enhancing prison infrastructure, medical services, and female inmates' access to legal assistance. To match the intended legislative protections with the actual reality, prison administration must adopt a gender-sensitive strategy.

CONCLUSION AND SUGGESTIONS

The research project explored the concept and necessity of prisons, the legal framework governing the rights of women prisoners, their actual living conditions, and the challenges they face within the Indian prison system. It examined constitutional provisions, statutory laws, international guidelines, and the Prison Manual 2016, alongside empirical data, to highlight the gap between legal safeguards and their on-ground implementation. The study revealed widespread violations of women prisoners' basic rights, including inadequate healthcare, poor sanitation, lack of legal aid, insufficient female staff, and limited rehabilitation opportunities, resulting in severe neglect and exploitation.

The hypothesis is largely supported by the empirical data. Women inmates are denied dignity, health care, and legal protection because the prison system, which was largely built for male criminals, does not meet their unique needs. Nevertheless, there have been some initiatives in certain prisons which suggests only a limited compliance with the law. Therefore, the theory is partially true since, despite the existence of legislative frameworks, they are nevertheless poorly implemented, which results in systematic neglect and prejudice against female inmates. To close these disparities and guarantee the safety and respect of Indian women prisoners, gender-sensitive prison reform is necessary.

Regular and unexpected inspections by independent organisations and person in authority should be carried out to verify accountability and transparency in order to overcome the difficulties experienced by female inmates in India. It is necessary to implement a strong grievance redressal system that includes complaint boxes so that women can voice their concerns without fear. To avoid postponed trials and protracted incarceration pending trial, adequate legal aid must be guaranteed along with rigorous oversight of attorneys' performance. To preserve the mother-child link, new moms should have access to separate postpartum care

rooms, and minor children should have the ability to visit overnight. For improved rehabilitation, skill-building initiatives that are connected to employment prospects through NGO partnerships must be encouraged. Furthermore, implementing regular, structured activities like yoga, therapy, and job training can enhance mental well-being and lower recidivism rates. It is also essential that jail staff receive regular training on how to handle medical emergencies and guarantee gender-sensitive care. The cycle of marginalisation and crime can be further broken by providing financial incentives and educational opportunities for the children of convicts. By implementing these policies into place, it will be possible to guarantee that female inmates receive the respect they deserve, the care they require, and successful rehabilitation, all of which will promote their reintegration back into society.

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