

RIGHTS OF WOMEN PRISONERS IN INDIA: ISSUES AND CHALLENGES**Prof. Dr. Anita Ladha,**

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INTRODUCTION

Prison system in India symbolises the system of punishment and also a sort of institution where the undertrials and suspects are kept during the period of trial. The prison system in India is essentially based on the British prison model which itself is based on the model of 18th century. As the prison inmates are to be dealt with different punishment and they stay in the prison for different period of time, it is therefore necessary to classify prisoners into different categories depending on the gravity of the offence committed and the term of punishment awarded to them. All the prisoners were kept in the same cell irrespective of the offence committed by them, whether they are habitual offender or innocent offender. They find themselves difficult in adjusting in the prison surroundings. Inside the prison, the life is most painful and disgusting.

Classification of offenders for the purpose of treatment is precondition for an ideal panel programme. Prisons in India are governed by the Indian Prison Act 1894 and the administration and management of prisons under the Prison Manuals of the States. The conditions of prisons in India is not satisfactory. The condition of prisoner inmates are very horrible and violates certain fundamental rights which are to be protected under the umbrella of Article 21. The utility of prison as an institution for rehabilitation of offenders and preparing them for normal life has always been a controversial issue. There is a stress on the need for retaining the institution of prison.

The law commission in its 70th report also makes certain recommendations regarding congestion in prisons. The concepts of release of persons on probation, parole, speedy trial, plea bargaining etc. have emerged to resolve the issues of prison management.

The prison system in India has traditionally been designed with male prisoners in mind, often overlooking the specific needs of women. Women constitute a small but significant proportion of the prison population, and their incarceration raises concerns about human rights, dignity, and rehabilitation.

Women prisoners are a small but vulnerable group within the criminal justice system. They face multiple challenges due to gender, social stigma, and institutional neglect. They face problems related to health, hygiene, and discrimination. Protecting their rights is therefore essential for social justice and gender equality.

LEGAL FRAMEWORK

The rights of women prisoners in India are protected under a combination of Constitutional provisions, National laws, and International instruments.

Constitution of India: Article 14, Article 15(3), Article 21 and Article 39(e) & 39(f)

The Constitution of India guarantees certain fundamental rights to the prisoners. Article 14 guarantees equality before law which focuses that the prison inmates right to equality must be protected. Article 15(3) provides for special provision for women and children whereby the provisions can be made for their welfare and care. Article 21 which is an umbrella Article for life and personal liberty and includes human treatment, during imprisonment, of all the prison inmates. Article 39(e) & 39(f) which gives equal opportunities and protection of health for women even if they are in the prison.

National Laws: Prisons Act, 1894, Model Prison Manual, 2016, The Bhartiya Nagrik Suraksha Sanhita, 2023 (Code of Criminal Procedure, 1973)

India formulated Prisons Act, 1894 and Prison Manual for the administration and management prisons in India. Prisons Act in 1894 provides for general provisions for the prison administration and the prison manual provides for the management inside the prison by the State agencies. The Model prison manual of 2016 guarantees gender sensitive guidelines for women prisoner. The Bhartiya Nagrik Suraksha Sanhita, 2023 (Code of civil procedure 1973) also protects the rights of person in custody, specifically related to arrest, detention and trial of the women who needs protection and care.

International Instruments:

UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules): These rules are not Mandatory but the preliminary observation related to them is that they provide for the minimum Standard of living and treatment of prisoners. What is generally accepted as being good principles and practice in the treatment of prisoners and prison management is embodied in the set rules. 'All prisoners shall be treated with the respect due to their inherent dignity and value as human beings' is one of the core ideologies of the rules.

Bangkok Rules (UN Rules for the Treatment of Women Prisoners) United Nations Rules for the Treatment of Women Prisoners (Bangkok Rules, 2010): The minimum rules for treatment of prisoners apply to all the prisoners irrespective of their gender without any discrimination. But the woman prisoners require some specific needs and they were taken into consideration under the Bangkok Rules. Initially the construction of prison were done with an intention to keep the male inmates. As the number of women prisoners is increasing worldwide, the treatment of women prisoners required an urgent attention based on gender sensitivity. The earlier rules related to prisoners did not draw sufficient attention to women's particular needs specifically gender-specific for prison management, health care, and rehabilitation. Bangkok Rules seems to be the boon for woman prisoners.

Status of Women Prisoners in India

According to the National Crime Records Bureau (NCRB), women constitute 4–5% of the total prison population in India. The majority are undertrials, awaiting trial or conviction. They are generally convicted under common offences include dowry-related crimes, domestic violence, and poverty-driven offences. Many women are mothers or pregnant at the time of imprisonment, making their incarceration particularly challenging.

Rights of Women Prisoners

The woman's in prison has certain rights till they're not released. They can be summed up as follows:

1. **Right to Dignity and Humane Treatment:** Women prisoners are entitled to protection from physical, mental, and sexual abuse.
2. **Right to Health Care:** They are entitle to regular medical check-ups, prenatal and postnatal care, and mental health support. Moreover, the attention should be given to access to menstrual hygiene products and other gender-specific requirements.
3. **Right to Legal Aid:** They are entitled to get free legal assistance as they cannot afford a lawyer or may be exploited by different stakeholder during trial.
4. **Right to Contact and Family Life:** Researches states that women are emotional and more sensitive towards their child. They need special provisions for their bonds with child specifically for mothers with infants. The regular visitation rights and communication with family is one of the core concept for their wellbeing.
5. **Right to Rehabilitation and Education:** The woman must get an access to vocational training, education programs, and employment opportunities inside prisons so that once released they will be able to survive and fight with the outer world.

Major Issues Faced

Women prisoners face unique challenges in Indian prisons:

- **Overcrowding and poor infrastructure:** Woman prisoners are kept with inadequate space and living conditions. Many prisons lack separate facilities for women. There are inadequate sanitation, bedding, and recreational facilities for them.
- **Lack of privacy and hygiene facilities:** Due to limited access to sanitary products and personal space they face challenges as to gynaecological care, pregnancy support and mental health services. Poor access to medical care including prenatal and gynaecological services, many times they loss their life. Many times they face high prevalence of stress, depression, and trauma. Women with Children suffers from mental health neglect, emotional stress, anxiety, and depression which often go unaddressed. Due to limited access to nurseries and childcare support, their children often live in substandard conditions.
- **Separation from children:** The woman's have limited provision for visiting or living with children which affects the basic right of a child to be in care.
- **Limited access to legal aid and education:** Many women are unaware of their legal rights. Low awareness of rights under law and procedural safeguards, they suffer a lot. Limited access to legal aid and speedy trial mechanisms resulted in violation of their rights.

Special concerns for women with children:

From the above issues and challenges, it can be understood that there are certain special concerns for women and children which includes lack of proper facilities for children in prison. The Nutritional and educational needs often ignored which means that the major challenge is lack of education, food, and care. Many times, it resulted in psychological trauma for both mother and child. However, the Supreme Court issued guidelines for better treatment of women prisoners with child in R.D. Upadhyay vs State of A.P., (2006).

Judicial interventions

Indian courts have played a key role in protecting women prisoners' rights. The judiciary is vocal in stating the responsibilities of State agencies and emphasis on protection of rights of prisoners.

In case of State of Punjab v. Ram Lubhaya Bagga, (1998) 4 SCC 117, the court emphasized on humane treatment of prisoners. In Sheela Barse v. Union of India (1983), the court highlighted neglect of women prisoners, including their health and legal access. It emphasized protection of women prisoner's rights. In D.K. Basu v. State of West Bengal, (1997) 1 SCC 416 the court laid down safeguards for arrest and detention which are applicable to women as well. In Sunil Batra v. Delhi Administration (1980), a milestone case, court highlighted the need for humane treatment in prisons. In R.D. Upadhyay v. State of A.P. (2006), the court addressed the rights of children living with incarcerated mothers. In this, Supreme Court issued guidelines for proper care and protection of children living with incarcerated mothers.

Instead of the present laws and guidelines, women prisoners are still facing the challenges and implementation of the same. The reasons for its poor implementation can be the poor monitoring and accountability of prison conditions, lack of gender-sensitive training among prison staff, budget constraints and social stigma affect quality of care and inadequate data collection on women's prison conditions.

Reforms and Policies

Several reforms already done with an aim to address women prisoners' issues:

- Model Prison Manual, 2016 which introduces gender-sensitive provisions for health, hygiene, and rehabilitation.
- State-level reforms whereby some states have women-only prisons and provides for vocational training programs and counselling services.
- NGOs play an important role in legal awareness, counselling, and rehabilitation support.
- National and State Women Commissions are established to oversight and advocacy for women prisoners.

Way Forward

To improve the rights and rehabilitation of women prisoners, the following measures are necessary:

- To strengthen gender-sensitive policies and implementation mechanisms: Separate prisons or wards for women, improved sanitation, and recreational facilities has to be established.
- To improve healthcare, hygiene, and counselling services: Regular gynaecological and mental health check-ups, prenatal care, and trauma counselling has to be scheduled.
- Create separate units for women with children: Childcare facilities, adequate nurseries and play areas for children living with incarcerated mothers has to be arranged and maintained.
- NGO's Collaboration: Enhance NGO collaboration for legal, psychological, and vocational support.
- Training prison staff: Initiatives to be taken to train and sensitize prison staff on gender issues.
- Promote rehabilitation and reintegration programs: Vocational training, education, and skill development to aid post-release reintegration has to be implemented.
- Legal and psychological counselling: Measures should be made for the counselling both legal and psychological.
- Skill training and education: Provisions has to be made for skill training and education to enable post-release self-reliance.

CONCLUSION

Women prisoners deserve respect, dignity, equality, and humane treatment. Real reform lies not in punishment alone but in rehabilitation and social reintegration. Society must support women prisoners in regaining their rights and dignity, ensuring that justice reflects both law and humanity and help them reintegrate after release. The Constitution of India, the Prison Act, 1894, Model Prison Manual, 2016, and the Supreme Court judgments provide certain safeguards. However, practical implementation remains a challenge.

Women prisoners in India face unique challenges that require gender-sensitive prison management. While laws and judicial pronouncements exist, implementation gaps continue to undermine their rights. Comprehensive reforms in infrastructure, healthcare, legal access, and rehabilitation are critical to ensure that women prisoners are treated with dignity, fairness, and humanity, in line with both national and international standards. Understanding the legal safeguards, institutional arrangements, and challenges faced by women prisoners is crucial to achieving gender-sensitive justice.

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