

WOMEN IN PRISONS INDIA

Dr. Kiran R. Naik.
Director' Skill Development
Vision Fly
2nd Floor, Above Malabar Gold,
Adarsha Mall, Beside Hotel Adarsha Palace,
Opposite RLS College,
College Road
Belagavi -590001

ABSTRACT:

A prison is a correctional facility meant to house individuals who break the law. The purpose of prisons is the reformation of inmates. Despite this, prison systems often hide violence and depravity behind their closed doors, which is detrimental to the reform of offenders. It is thus essential to recognize and fulfil the basic rights of prisoners to encourage their reformation. The problems related to imprisonment become even more pronounced in the context of women inmates. Prison systems are primarily designed to cater to men and are not well equipped to address the particular needs of women in prison. As per latest data available from the end of 2015, Indian prisons were home to 17,834 women. Only 17% of these women live in exclusively female prisons, while the majority are housed in female enclosures of general prisons. There is national and international agreement that the condition of prisons and of women living in them needs urgent improvement.

This report seeks to study the condition of women in prison in India and inform action for improvement. An attempt has been made to build understanding on the entitlements of women in prison, the issues faced by them and the possible methods for resolution of the same.

KEY FINDINGS:

There are a number of provisions in the form of laws, rules and guidelines that protect women from exploitation in prison and guarantee them basic services. However, the implementation of these provisions is found to be largely lacking and women face a variety of problems while living in prison. There is a severe lack of female staff, which includes guards, officers, doctors, nurses, counsellors etc. Accommodation arrangements are often inadequate, which is exacerbated by severe overcrowding in most prisons. There are inadequate numbers of toilets, bathrooms and other basic preconditions for sanitation and hygiene. The insufficient provision of water and menstrual hygiene products is a serious concern.

There is a lack of female medical personnel and facilities meant to cover physical, sexual, reproductive and mental health needs of women in prison. Nutrition, which is closely linked to health, is a concern particularly for pregnant and lactating women and children in prison. While they are to be given a special diet, this is not always followed. Women are entitled to have access to education while in prison, but apart from provisions for basic literacy, educational facilities are largely missing. Skilling and vocational training is also considered an important part of reformation, and every prison is meant to provide these services. Efforts in this regard are largely eyewash, with most courses imparting skills that are unmarketable, financially unviable and thus not much use to women after release. All prisoners have a right to legal aid, for which there should be legal aid cells in every prison to help with cases of complaints, under-trials, appeals etc. These are not found in all prisons, and linkages with State and District Legal Service Authorities can be improved. Physical and sexual violence is a common scenario in prisons, faced by inmates at the hands of authorities and other prisoners. The provisions for ensuring safety of women in prison and addressing their complaints need to be followed strictly, which is not the case currently. Prisons are an insulated world, and it is important that women in particular maintain contact with their social network outside prison to ensure a smooth transition after release. While the limit on number of letters, phone calls and visitations are relaxed in the case of women, more needs to be done to help them maintain contact and overcome the social stigma attached to women prisoners.

Many women live in prison with their children (below 6 years of age) in cases where no other adequate arrangements can be made for their care. Spending their formative years in prison can have a huge negative impact on children and thus special care needs to be taken to ensure their physical and mental health, education and recreation. The health of pregnant women and mothers also needs to be taken care of.

Re-integration in society is a challenge for many women prisoners, as they face severe social stigma, loss of family ties and employment, lack of economic independence and so on after release. Steps need to be taken to ensure that women receive all basic services while in prison, are protected from violence and supported after release to effectively take a place in society.

RECOMMENDATIONS

The adequate implementation of existing provisions will go a long way in improving the prison system. The National Model Prison Manual 2016 is a progressive document outlining the basic entitlements of women in prison and should be adopted by all states followed by its full implementation. A National Commission for Prisons, as also recommended by the Mulla Committee should be established to provide a national perspective on prisons and be a central body responsible for these. Regular and thorough inspections of prisons are also an effective way of ensuring that rules are being followed. This should be exercised in all prisons, with inspections conducted in an independent spirit and reports shared across multiple government agencies. A robust grievance redressal mechanism should be put in place in all prisons to ensure the rights of prisoners are not violated and their concerns are heard impartially. There should be both internal and external mechanisms for inmates to represent their grievances.

Special procedures should be defined at time of arrest of women to ensure their best interest as well as that of their children. Since searches at time of admission and throughout prison life can be an experience where women inmates face humiliation and violence, these should be strictly regulated by defined SOPs. Adequate provisions must be made for pregnancy and childbirth in prison including medical, dietary and accommodation-related improvements. Children of prisoners, both the ones living with them or the ones living outside, should never be treated as prisoners themselves. Both physical and mental health needs should be addressed appropriately and regularly. Women inmates should have access to doctors and psychologists as and when needed. Educational facilities should be provided as per abilities of prisoners. Vocational training and skilling facilities in prison should be also be upgraded as it can improve the daily lives of prisoners

and give them economic support after release. Living condition of women inmates should be improved in terms of bedding, adequate lighting, sufficient number of toilets, options of clothing as per culture etc. Provisions of legal aid should be implemented with linkages with District and State Legal Service Authority. All rights and entitlements should be explained to women in a language they can understand. The number of undertrial prisoners in India is huge. Steps should be taken to facilitate their early release under Section 436A of Cr.P.C. as well in cases where are unable to pay sureties on release. Further, non-custodial measures such as community service, housing in shelters etc. should be given preference in the case of female offenders.

A comprehensive after-care programme can prevent recidivism and help in the smooth transition of women in society after release. This should include support for various aspects of post-imprisonment life including housing, employment, marriage, custody of children prevention of harassment by local police etc.

METHODOLOGY

Purpose – The purpose of this study is to build understanding on the condition of women in prison in India in order to inform action for improvement.

Objective – The objective of this study is to answer the following broad questions:

What are the entitlements of women in prison?

What are the various kinds of issues faced by women in prison?

What can be done to improve the existing situation?

This study is based on a mixed method design, analysing both quantitative and qualitative sets of primary and secondary data. Quantitative data on crimes by women and women in prison was collected from the National Crime Records Bureau (NCRB). The analysis was based primarily on two report series published annually by NCRB – ‘Crime in India’ and ‘Prison Statistics India’. All quantitative data was analysed using Microsoft Excel. The data was checked for completeness and accuracy before being graphically rendered.

Two qualitative studies were commissioned by this Ministry exclusively for the purpose of this report: (i) Collection of primary data from jail visits conducted by National Commission for Women between November 2017 and May 2018; and (ii) A Comprehensive Review of Prison Manuals by National Law University, Delhi. The findings from these two studies have formed the basis of this report.

A comprehensive document review was conducted of existing Government reports and studies. Ministry of Home Affairs shared data on facilities available to women prisoners from nine States/UTs. Qualitative studies on the condition of prisoners were obtained from the Bureau of Police Research and Development (BPR&D) and National Human Rights Commission (NHRC). A further review of Supreme Court judgments/orders and reports of Central Level Committees to study the condition of women prisoners was done.

It is envisaged, that this study will be used as a primer to understand the condition of women in prison, and the concerned authorities will take the recommendations forward.

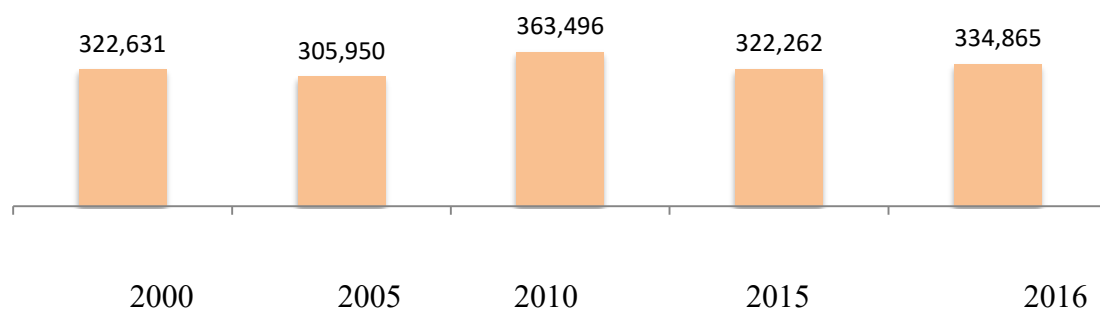
BACKGROUND

CRIMES BY WOMEN

In 2016, over 3 lakh women were arrested for crimes under the Indian Penal Code (IPC) and Special and Local Laws (SLL)⁷. A large number of these women were arrested for crimes under the Prohibition Act, for cruelty by relatives of husband and rioting etc. The overall number of crimes by women has been relatively consistent over the past decade or so. As can be observed from Figure 1, there is a relatively consistent pattern over the last 15 years, with the number of women arrested for various offences remaining between 3-3.6 lakh. While this number is relatively large, only a proportion of arrested women are incarcerated in prison, either following conviction or under trial.

Figure 1

Number of women arrested for various offences under IPC & SLL
(NCRB)



STATISTICS ON WOMEN IN PRISON

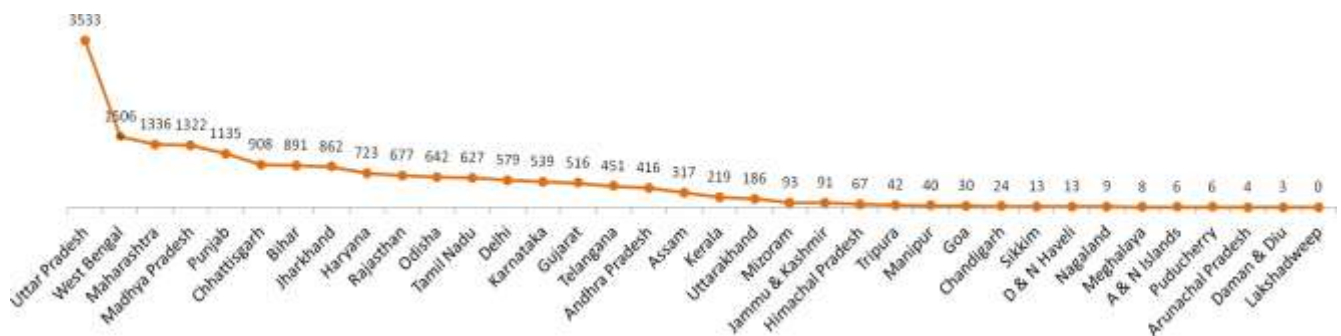
As per most recent data⁸ available from the end of 2015, there are 4,19,623 persons in jail in India. Women constitute 4.3% of this figure, numbering a total of 17,834 women. Of these, 66.8% (11,916) are undertrial prisoners. In India, an analysis of prison statistics at five-year intervals reveals an increasing trend in the

number of women prisoners – 3.3% of all prisoners in 2000, 3.9% in 2005, 4.1% in 2010 and 4.3% in 2015 were women. While women prisoners continue to be a minority in all parts of the world (less than 10%), the female prison population has increased faster than the male prison population on every continent. 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.

As can be observed from Figure 3, the geographical spread of women prisoners varies across the country. Uttar Pradesh by far has the highest number of women in prison (3,533), followed by West Bengal (1,506), Maharashtra (1,336) and Madhya Pradesh (1,322). The Union Territories, apart from Delhi (579), have a particularly low number of women in prison.

Figure 3

Number of women in prison across States/UTs of India



The graphs below show the different offences under which women are currently incarcerated. Figure 4 shows the various offences for which women are undertrial in prison and Figure 5 shows the offences under which they are convicted. By observing combined Global Prison Trends 2017 by Penal Reform International and Thailand Institute of Justice

figures of both convicted and undertrial prisoners we see that at 37%, a large proportion of women are in prison for murder, followed by 15% women who are incarcerated for dowry deaths.

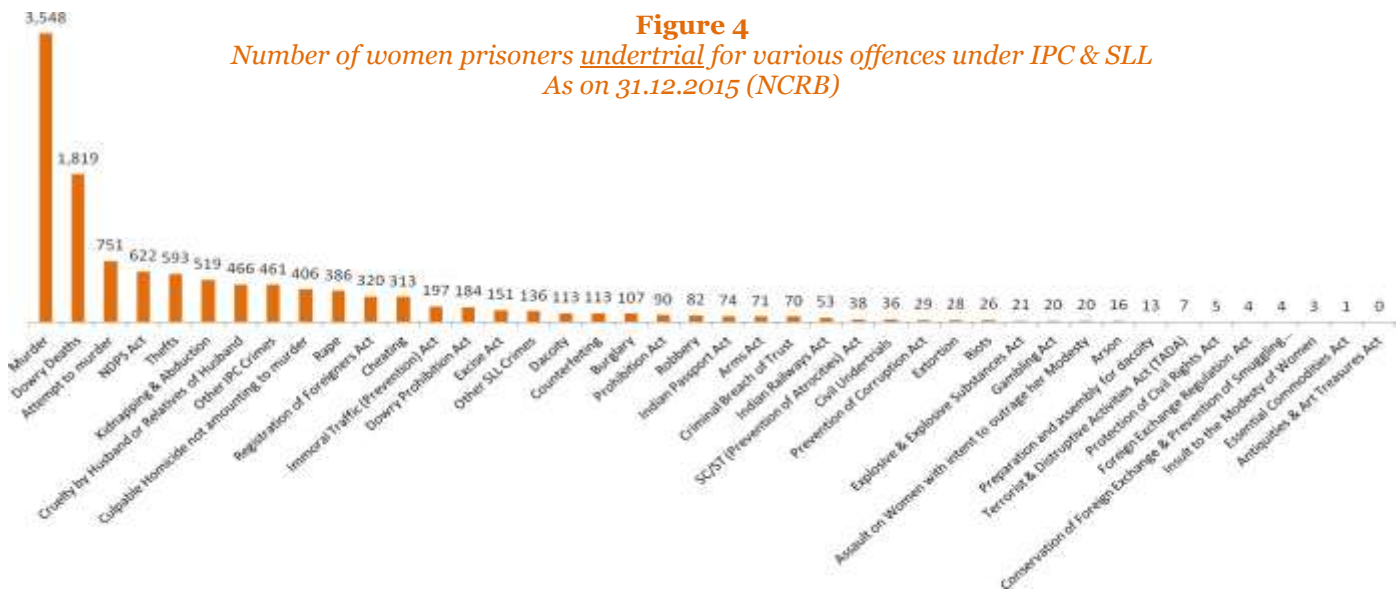
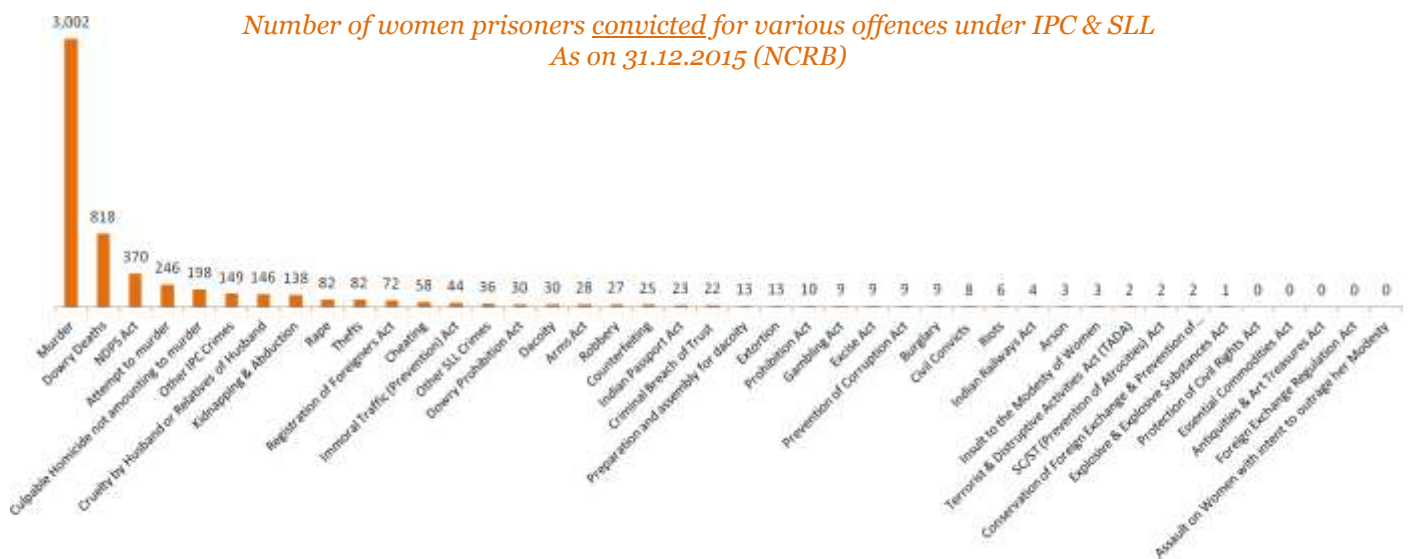


Figure 5

*Number of women prisoners convicted for various offences under IPC & SLL
As on 31.12.2015 (NCRB)*



RULES GOVERNING WOMEN IN PRISON

As per the State List provided in the Seventh Schedule of Indian Constitution, all issues related to prisons, reformatories, borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions come under the domain of State Governments. The rules of incarceration are determined by following laws:

- Indian Penal Code, 1860
- Prison Act, 1894
- Prisoner’s Act, 1900

- Identification of Prisoner's Act, 1920
- Exchange of Prisoner's Act, 1948
- Transfer of Prisoner's Act, 1950
- Prisoner (Attendance in Court) Act, 1955
- Probation of Offenders Act, 1958
- Code of Criminal Procedure, 1973
- Repatriation of Prisoner's Act, 2003
- Model Prison Manual, 2003
- Model Prison Manual, 2016

From time to time, the Government of India had established various Committees, Commissions and Working Groups to study and suggest improvements in prison conditions and administration. Some of these include:

All India Jail Manual Committee, 1957

Working Group on Prisons, 1972

All India Prison Reforms Committee, 1980-83 (Mulla Committee)

All India Group on Prison Administration, Security and Discipline, 1986 (R. K. Kapoor Committee)

National Expert Committee on Women Prisoners, 1987 (Justice Krishna Iyer Committee)

The Committee under the chairpersonship of Justice A. N. Mulla submitted a report in 1983 containing 658 recommendations out of which 35 pertain exclusively to women in prison. These include incarceration of women prisoners in separate exclusive institutions/annexes, staffing women prisons with women personnel only and probation to be extensively provided to women.¹⁰

The All India Group on Prison Administration, Security and Discipline popularly known as R. K. Kapoor Committee was constituted in July 1986 to examine and review various aspects of administration and management of prison, especially in the context of security and discipline and suggest measures for improvement. The Committee recommended better communication systems, watch towers, wire fencing, raising of height of perimeter walls, metal detectors, dog squads etc. It also recommended Close Circuit Televisions (CCTVs) for monitoring activities along the perimeter wall, rooftops and main gate area

etc.¹¹

Later, in the year 1987, the National Expert Committee on Women Prisoners under the chairpersonship of Justice Krishna Iyer appraised the situation of women in jails and made various recommendations. Some of the important recommendations include:

- Women prisoners should be informed of their rights under the law.
- Only women constables should conduct searches on women prisoners.
- Women doctors should do medical check-up of women prisoners as soon as they are admitted to prison.
- Women prisoners should be allowed to contact their families and communicate with their lawyers, social workers and voluntary organisations.
- Women prisoners should be allowed to keep their children with them.
- Separate jails should be provided for women.
- Special prosecution officers should be available to present the case of women prisoners.

The Government of India as per the direction of the Hon'ble Supreme Court,¹³ constituted the All India Model Prison Committee headed by Director General BPR&D to prepare a Model Prison Manual. In December 2003, the Model Prison Manual so prepared was circulated to all the State Governments/UT Administrations for adoption in order to make the superintendence and management of prisons more effective. However, with the passage of time, a need was felt to revise and update the Manual to reflect current times. Consequently, the Ministry of Home Affairs constituted an Expert Committee in December 2014 to revamp and update this Manual.

The key features of the updated Model Prison Manual 2016 include emphasis on prison computerization, special provisions for women prisoners, focus on after-care services, prison inspections, rights of prisoners sentenced to death, repatriation of prisoners from abroad, enhanced focus on prison correctional staff. Ministry of Home Affairs vide advisory dated 4th May 2017 advised the State Governments/UT Administrations that in order to ensure basic uniformity in prison rules and regulations, all States and UTs should revise their existing Prison Manuals by adopting the provisions of the National Model Prison Manual, 2016.

A National Policy on Prison Reforms and Correctional Administration had also been framed in 2007, which gave a number of directives relevant to women prisoners –

maintenance of human rights of prisoners, avoiding overstay of undertrials etc. It further states, “Women prisoners shall be protected against all exploitation. Work and treatment programmes shall be devised for them in consonance with their special needs.”

ENTITLEMENTS & PROBLEMS

The Mulla Committee clearly defined a list of rights of prisoners which include the right to human dignity, right to basic minimum needs such as drinking water, hygiene, medical care, clothing, bedding etc., right to communication with the outside world, right to access to law, right to meaningful and gainful employment and so on. Every state is meant to have a manual of rights and duties of prisoners, which should be handed to inmates at the time of admission in the prison. The same list is to be displayed in the prison and explained to the inmate in a language that she understands. With the increasing number of women inhabiting Indian prisons, there is a growing need to understand their rights and better address their needs in the context of a largely male-centric prison system. This chapter outlines some of the particular problems faced by women in prison.

PRISON STAFF

The National Model Prison Manual 2016 (henceforth referred to as the ‘National Prison Manual’) recognises in principle that there should be one guarding staff for every six prisoners. Further, each prison is meant to have executive staff, medical, welfare, educational and other personnel to ensure proper functioning of the institution. As of 2015, the total number of women jail officers/staff was 4,391, which is only 8.28% of the total.¹⁴ There is a scarcity of supervisory level female officers. The National Prison Manual prescribes the appointment of one lady DIG attached to the Prison Headquarters to look after women prisons, staff and prisoners in the state.

“there is a huge shortage of staff in almost every jail of the country”

In May 2017, the Hon'ble Supreme Court noted that there is a huge shortage of staff in almost every jail of the country. It directed all State Governments/UTs to take necessary steps on an urgent basis to fill up these vacancies by 31st December 2017¹⁵. Visits by NHRC to over 100 jails have revealed a woeful lack of staff, particularly in small district Prisons.

There is a growing need for exclusive women prisons, skilled female prison officers, fulltime lady doctors, and paediatricians etc.¹⁶ The lack of staff in the context of women prisoners translates to the reality that male staff often becomes responsible for female inmates, which is undesirable. The presence of women inmates necessitates gender-specific services, which should be provided by female staff. Hiring of female prison staff should be made a priority. As a temporary measure, prison administrations may consider linking prisons with female doctors, gynaecologists, ANMs, teachers, psychologists, socio-legal counsellors, NGOs etc. in the local area to ensure that women prisoners are not bereft of these basic services.

ACCOMMODATION

A specified size for cells and barracks in prison is prescribed in the National Prison Manual. Barracks are meant to ideally only house 20 prisoners and dormitories to house only four to six prisoners each. Further, single occupancy rooms are to be provided to prisoners in need of privacy for the purpose of

“overcrowding is one of the key problems plaguing Indian prisons”

study etc. as well as segregated cells where prisoners may be kept due to concerns of violence or contagious diseases. Adequate cooling and heating facilities in barracks as well as washrooms and laundries are to be provided. Inmates are also meant to have individual secure storage compartments for their personal belongings. However, in reality, overcrowding is one of the key problems plaguing Indian prisons.

The national average occupancy was reported at 114.4% in 2015. States/UTs such as Dadra and Nagar Haveli, Chhattisgarh and Delhi have reported the status of overcrowding in prisons as high as 276.7%, 233.9% and 226.9% respectively.¹⁷ Overcrowding directly relates to a lack of space for prisoners and increases pressure on already limited facilities available in jails. The effects of overcrowding often become even more pronounced in the case of women, as they are usually restricted to a smaller enclosure of the jail due to lack of proper infrastructure for them. Overcrowding can worsen hygiene conditions and health problems with even minor infections spreading quickly the disproportionality equal number of toilets and bathrooms exacerbates the situation. Overcrowding also has severe psychological effects on prisoners forced to live in such close quarters with one another. Though convicted and undertrial prisoners are to be housed separately, this is not usually possible due to severe space constraints. Further, young offenders (18-21 years of age) that are also to be housed separately, mostly find themselves with older women offenders. Overcrowding in prisons also leads to children of prisoners having to live in cramped and undesirable conditions. The National Prison Manual prescribes that in the case of overcrowding, the excess numbers of prisoners are to be transferred to another institution/camp. Especially in the case of women, the priority should be to transfer them to the nearest women prisons where feasible or to other prisons with space to house more women inmates. This should be practiced universally.

It is pertinent to note here that even in prisons where overcrowding is not a serious issue, accommodation is still found inadequate in many cases. A study by BPR&D on the condition of women prisoners in Punjab¹⁸ reveals that a majority of women do not even have adequate sleeping

“women did not even have adequate sleeping arrangements in jails and had to sleep on the floor”

arrangements in jails and have to sleep on the floor. There have also been reports of inadequate heating/cooling arrangements in barracks and cells as well as the lack of natural light. Owing to the fact that women still remain a minority in comparison to total prison populations, they do not receive adequate specialised services or infrastructure. Since there are a limited number of jails that can house women inmates, women imprisoned for an assortment of petty or non-violent offences find themselves in prisons with high levels of security required only for a small number of women incarcerated for heinous and violent offences. Steps need to be taken to ensure that imprisonment is only considered a last mile measure in the case of women, and non-custodial measures are encouraged.

SANITATION & HYGIENE

Most jails are lacking in basic facilities of sanitation and hygiene. While the prescription in the Prison Manual is to ensure one toilet and one bathing cubicle for every 10 prisoners, this is rarely seen on the ground. There are usually a small number of bathrooms and toilets catering to a disproportionately large prison population. Women's toilets should also have safe entrances and be situated in secure areas away from male intervention, which is not always the case. The incorrect placement and structure of toilets and bathrooms in prison can increase the risk of sexual harassment/abuse of women prisoners. The National Prison Manual further estimates the daily need of water at 135 litres per inmate. It prescribes that women prisoners may have a bath or shower as frequently as necessary. In reality, there is a lack of sufficient

water, which exacerbates the low levels of sanitation and hygiene. There have been reports of prisoners not being able to bathe for multiple days. The National Prison Manual prescribes that thorough cleaning, disinfection and pest control of the inmates' accommodation must be done

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periodically. No menial duties or conservancy work related to women's enclosures is meant to be carried out by the prisoners, but it is often found that prisoners themselves are made to clean the toilets, bathrooms and barracks. Every state's prison manual provides for a minimum number of clothes and undergarments to be provided to women prisoners as per climatic conditions and corresponding to basic hygiene standards. However, it is found that prisoners are often provided with very limited clothing, and do not have the opportunity to wash these clothes regularly. It is essential to note that a large majority (81.8%) of female prisoners fall in the menstruating age group of 18-50 years, increasing their need for proper sanitation facilities as well as access to adequate menstrual hygiene products. They are to be provided with sterilized sanitary napkins as per their requirement, but this is largely missing. Women are reportedly charged for sanitary napkins in some prisons or are only provided a set monthly number irrespective of need. This leads women to resort to using unhygienic materials such as cloth, ash, pieces of old mattresses, newspapers etc.

In order to improve the state of sanitation in prisons, strict implementation of state prison manuals is required along with regular and genuine inspections. Prison administrations can consider creating linkages with local Swachh Bharat initiatives to facilitate construction of more toilets and repair as per accepted hygiene standards. Prisoners themselves can be trained to produce low cost and organic sanitary napkins. There are also a number of NGO and CSR programmes under which menstrual hygiene products are distributed free of cost, which can be leveraged to cover a number of prisons in each state.

HEALTH

The right to health includes providing healthcare that is available, accessible, acceptable and of good quality.¹⁹ The National Prison Manual provides for a hospital in every prison with separate wards for men and women. It further prescribes comprehensive health screening for women prisoners, including tests to determine presence of sexually transmitted or blood-borne diseases, mental health concerns, existence of drug dependency, etc. All prisoners are to be vaccinated at the time of admission. Special care is to be taken for elderly prisoners and needs of prisoners addicted to drugs. The prison administration should be cognizant of the fact that owing to the lack of awareness and spending on health concerns of women in the

“Women's health needs, covering mental, physical, sexual and reproductive health, require particular attention.”

world at large, many of them enter prison with pre-existing physical and psychological conditions, which require intervention. The Chief Medical Officer/Medical Officer (in

charge) is meant to visit the prison every day and make a full inspection of all prisoners once a month. Lady Medical Officers are to be appointed for care of women prisoners. There are provisions in the National Prison Manual for inspecting the mental health of inmates and providing appropriate counselling and psychotherapy or recommending transfer to appropriate institutions. Female prisoners needing treatment for mental diseases should not be admitted in prison but kept in separate enclosures of mental health hospitals.

Despite rules laid down in respective State manuals, the physical and mental health of prisoners often suffers. In many cases, female wards in hospitals and lady Medical Officers especially gynaecologists are not available. Concerns of mental health are often not given adequate importance, and women suffering from mental illnesses are often housed in prisons due to lack of other appropriate facilities. A total of 51 deaths of women prisoners were reported in 2015²⁰, of which 48 deaths were considered to be of natural causes and three deaths occurred due to committing suicide. Women's health needs, covering mental, physical, sexual and reproductive health, require particular attention. The Ministry of Home Affairs has acknowledged²¹ that prisoners have to be re-socialised and re-educated, which needs substantive changes in their perceptions, attitude and behaviour. All this presupposes their good health, not only the absence of disease but also the presence of a feeling of wellbeing and happiness. While there is a need to hire full-time lady doctors, in cases where there is a lack of medical staff, prison administration can create linkages with local government doctors, gynaecologists, psychologists, ANMs

“not only the absence of disease but also the presence of a feeling of wellbeing and happiness”

etc. Further, the prison staff must undergo mandatory training in gender-specific needs of women, first aid and basic medicine to tackle emergencies and minor issues effectively.²² This can at least ensure that basic needs of women in prison are met on a temporary basis. Health screening of women inmates must be done with due regard to their privacy and dignity, their right to medical confidentiality, including their right not to share information and not undergo screening for their reproductive health history.²³ Steps should also be taken to transfer women prisoners with mental health issues to appropriate facilities rather than keeping them in prison. The aspect of continuity of care must be factored in and support should be extended to women after release so they may continue to get adequate treatment.

NUTRITION

Nutrition is closely connected to good health. Prison Manuals of each State prescribe a scale of diet with standard calorie and nutritional intake for inmates. There is to be one kitchen per 100 prisoners. Every inmate is supposed to receive three meals a day, which are to be served fresh and hot in clean and covered areas with adequate time to consume the food. Prisoners observing religious fasts must also receive appropriate food. The calorie intake and variety of food is to be increased for women prisoners who are pregnant or lactating and require more protein and minerals than usual. Such women are meant to receive additional milk, sugar, vegetables, fish/meat, curd, fresh fruit etc. as per the Prison Manual. Every complaint about food must be reported to the Superintendent.

However, visits to prisons have revealed that differential calorie definition for women and men is often used as a justification to provide women prisoners with much less food than men prisoners. The quality of food is reported to be largely adequate in most prisons, but there are reports of unhygienic conditions of kitchens and dining areas. In reviewing the implementation of the Mulla Committee Recommendations, the Ministry of Home Affairs observed that dining spaces are often considered the most neglected areas in prisons.²⁴

In order to ensure that food is being provided to inmates as per rules, regular surprise inspections are required. Inspectors should also check whether quantity of food for women is not disproportionately low and that a special diet is being provided to pregnant and lactating women as well as children. Fortified food and nutrient supplements may be introduced in the prison diet to improve the health of inmates. A level of automation can be introduced in kitchens to improve hygiene standards.

EDUCATION

The National Prison Manual provides for diverse educational facilities for inmates, depending on their aptitude and educational qualification. The education of illiterate young offenders (18-21 years) is considered compulsory. Prisoners who wish to pursue their formal education should be allowed to access books and study material as per rules in each State.

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Adequately trained educational staff and basic facilities such as classrooms and libraries should be provided in every prison. Every State is also expected to formulate and implement a Prison Education Policy. Engagement of inmates in education activities is also considered to be an effective method of maintaining discipline in the prison. Visits by NHRC to various prisons have revealed that basic education is not universally available to women prisoners. Access to higher levels of education is almost entirely missing. Even in cases where libraries exist in jails, they are many times not accessible to women inmates. Education can be an important factor to help women re-integrate successfully in society after release. Every prison should provide educational facilities to women inmates. Where there is a lack of staff, NGOs and local schools and colleges can be roped in to run programmes in prison. In case there are some educated inmates in the prison, they can be encouraged to hold lessons for other inmates. States should also work to link prison education with mainstream education systems so learning may be recognised and continued after release.

SKILLING & VOCATIONAL TRAINING

Opportunities for skilling and vocational training should be made available in all jails. It is considered an essential part of reformation. Every State/UT is to have a clear policy for skill development programmes and vocational training of prisoners. A Board of Skill Development Programme and Vocational Training is to be set up at the prison headquarters under the chairpersonship of Inspector General of Police. Fair and equal wages of women prisoners engaged in this are to be deposited in their bank accounts. The prison administration must ensure that female inmates are paid at par with male inmates. The savings accrued from working in prison are often an important support to women immediately after their release “prison administration must ensure that female inmates are paid at par with male inmates”

Various vocational training-cum-production schemes are currently implemented in jails across the country in skills such as weaving, bakery products, carpentry, tailoring, textiles, printing/book binding, making soft toys, soaps, phenyl, stamp pad ink, detergent powder etc. Some larger prisons have set up prison factories, which produce large scale goods for sale in the market. However, not all skilling and vocational training programmes are well tailored to market needs. Inmates often find it difficult to use many of the skills for employment/self-employment once released from prison. The vocational/skilling options available to

women inmates have also found to be less marketable or financially viable than those available to their male counterparts. Steps should be taken to ensure that women inmates have access to an equitable number of skilling and training options as male inmates.

LEGAL AID

Article 39A of the Indian Constitution provides for free legal aid to the poor and weaker sections of society and ensures justice for all. Article 14 and 22(1) of the Constitution also makes it obligatory for the State to ensure equality before law and a legal system that promotes justice on the basis of equal opportunity of law.

As per the Justice A. N. Mulla Committee, prisoners are entitled to the following rights:

- Right to effective access to information and all legal provisions regulating conditions of detention;
- Right to consult or to be defended by a legal practitioner of prisoner's choice;
- Right to access to agencies such as State Legal Service Boards or similar organizations providing legal services;
- Right to be informed on admission about legal right to appeal, revision, review either in respect of conviction or sentence;
- Right to receive all court documents necessary for preferring an appeal or revision or review of sentence or conviction;
- Right to effective presentation of individual complaints and grievances during confinement in prison to the appropriate authorities;
- Right to communicate with prison

administration, appropriate government and judicial authorities, as the case may be, for redressal of violation of any or all of prisoner's rights and for redressal of grievances.

“There is no justification in aggravating the suffering already inherent in the process of incarceration”

In furtherance of constitutional provisions, the Legal Services Authorities Act was enacted by the Parliament in 1987 to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of society on the basis of equal opportunity. Under the Act, persons in custody are also entitled to free legal services. As per the new National Prison Manual, State governments are to appoint jail-visiting advocates, set up legal aid clinics in every prison and provide legal literacy classes in all prisons to ensure access to legal aid to prisoners.

Safety and reformation of women prisoners should be of utmost importance. It is thus essential that women offenders be guarded against exploitation while in prison. In a number of judgments on various aspects of prison administrations, the Hon'ble Supreme Court has laid down three broad principles:

- A person in prison does not become a non-person.
- A person in prison is entitled to all human rights within the limitations of imprisonment.
- There is no justification in aggravating the suffering already inherent in the process of incarceration.

Visits by NHRC to various prisons have revealed that many prisons do not have a legal aid cell and very few prisoners have accessed legal aid. States should ensure that District and State Legal Service Authorities are linked to prisons to provide free legal aid and all prisoners should be made aware about their rights.

VIOLENCE

As per the National Prison Manual, no male should be allowed to enter the female ward of the prison unless with a legitimate duty, after which he should record the reason for his visit in his record book. There is to be round the clock duty of female head wardens and female warders. Women prisoners should not be made to leave their enclosure under any circumstances other than release, transfer, and attendance at court or under order of the Superintendent for any other legitimate purpose. A female inmate must be allowed to be accompanied with a female relative during transit from one jail to another, or from the jail to the court.²

“All staff assigned to work with women prisoners is to receive training on gender- specific needs and human rights of women”

The process of searching female prisoners at the time of admission is to be carried out with due regard to decency in a private space by a female staff member. However, there are a number of reports where female prisoners have reported being humiliated or violated during this process Incidence of violence including sexual violence by inmates and authorities has been reported from across the country. However, official reports remain underestimated due to fear in prisoners of retaliation as they are forced to stay in the same place as their perpetrators.

“Prison administrations should be extremely strict in dealing with cases of violence against women prisoners”

As per the National Prison Manual, if a case of sexual abuse or other forms of violence faced by a prisoner is brought to light, she must be guided to seek legal recourse and lodge a complaint. A prisoner can make a complaint to the prison officials and in writing in the complaint box. Irrespective of whether she decides to file a formal complaint, she must be given immediate access to specialized psychological support or counselling. Prisoners may also file complaints under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Full respect to the privacy of all complainants should be given prime importance, specifically taking into account the risk of retaliation. Despite these protections, the Hon'ble Supreme Court acknowledged widespread incidence of torture and abuse in prison by both prisoners and authorities most recently in 2015, directing States to install CCTVs in all prisons and encouraging visits by non-official visitors for inspection²⁶.

Prison administrations should be extremely strict in dealing with cases of violence against women prisoners. Urgent steps should be taken to ensure access to legal aid and counselling for all women inmates.

CONTACT WITH THE OUTSIDE WORLD

The Hon'ble Supreme Court has reaffirmed the rights of prisoners to maintain contact with the outside world. As early as 1979, it stated, "visits to prisoners by family and friends are a solace in insulation, and only a dehumanized system can derive vicarious delight in depriving prison inmates of this humane amenity".²⁷

The National Prison Manual makes provisions for inmates to interact with family members, relatives and friends on a fortnightly basis. Inmates are allowed to write and receive letters, meet with people and take phone calls under stipulated guidelines. The number of interviews is to be liberalized for women prisoners and there should further be no limit on incoming letters them. Illiterate/semi-literate women should be provided help in writing letters. Despite these provisions, their implementation is affected by many factors. The social stigma attached to women living in prison is often so severe that female inmates do not receive visits or phone calls very frequently. Further, due to the low number of prisons equipped to house female prisoners, they are often sent away to jails at long distances from their homes, making visits even more difficult. Jail visits by NHRC and the National Commission for Women reveal that many prisons do not have waiting rooms and visiting facilities or they are too small and noisy, thus further hampering this right of prisoners.

“The social stigma attached to women living in prison is often so severe that female inmates do not receive visits or phone calls very frequently.”

There are sometimes no separate visiting rooms for women. The large numbers of male prisoners dominate the general waiting rooms, where female inmates often feel vulnerable. Prison administrations should work to improve visitation conditions for women inmates. The number of phone calls and letters allowed should be increased for women. Further, women should be considered on priority for housing in open jails and lower security facilities where interaction with the outside world is much easier.

CHILDREN

Children up to the age of six years are allowed to live with their mothers in prison if no other arrangements for their care can be made. This age limit varies from State to State. As on last count, a total of 1,597 women inmates are living in prison with their 1,866 children.²⁸ The Hon’ble Supreme Court issued guidelines in 2006²⁹ under which children in jail are entitled to food, shelter, medical care, clothing, education and recreational facilities as a matter of right. Before sending a pregnant woman to jail, the concerned authorities must ensure that the jail has the basic minimum facilities for child delivery, pre-natal and post- natal care. Pregnant and lactating women are to be provided with a better diet as well as facilities to boil water and milk. Gynaecological examinations of prisoners are to be performed in District Government Hospitals.

As far as possible, except in the case of high-risk prisoners, arrangements for temporary release are to be made to enable delivery of

children in a hospital outside the prison. Suspension of sentence may also be considered in the case of casual offenders. Further, the birth certificate of the child should not mention the prison as place of birth to protect them against social stigma.

“Spending their formative years in prison can have a severe negative impact on the entire lives of children”

Awareness on child development and basic training on the health care of children is also to be provided to prison staff in order for them to respond appropriately in times of need and emergency. There is a prescribed diet for children, which is to be followed strictly and mothers are to be provided with diapers and other articles needed for the care of their child. All children are also mandated to have access to education and recreational opportunities. The National Prison Manual provides for a crèche and nursery school in every prison where children are present. This is important not only for the proper development of the children but also to allow their mothers to participate in education, skilling and vocational training programmes of the prison. As per a BPR&D report in 2009³⁰, proper facilities for biological, psychological and social growth of the child, crèche and recreational facilities are not available in every prison. NHRC jail visits reveal that in many cases, other than a glass of milk, an adequate special diet for children is not always provided. Once the child crosses the age limit, he/she is to be placed in care of the family of the prisoner or in protective custody at an appropriate children's home. The process of removal of the child from the mother's care must be done with sensitivity towards the needs of the child, and only after ensuring that adequate alternative arrangements for the child have been done. Spending their formative years in prison can have a severe negative impact on the entire lives of children, if not taken care of well. Prison administration should ensure that their facilities are tailored towards children living under their care, and these children should not be made to feel like offenders. Linkages can be established with NGOs, local schools and paediatricians to ensure children living in prison have access to at least basic services.

RE-INTEGRATION IN SOCIETY AFTER RELEASE

The psychological and physical effect of spending arduous time in jail, coupled with the social stigma attached to women prisoners makes it extremely hard for female inmates to re-integrate themselves in society on release. Family ties are often lost and economic independence is a major hurdle. As per the National Prison Manual, sufficient advance notice is to be given to family/friends on release of female prisoners. The Mulla Committee recommends that in order to avoid the stigma of imprisonment, the female escort accompanying the woman must be dressed in ordinary clothes. The Prisons Manual provides for after-care responsibilities of jail authorities to help released inmates integrate into society. This includes utilizing options of home leave, open prisons, halfway houses, community-based programmes etc. to ease transition. In some States, a grant is sanctioned for rehabilitation of released convict prisoners.³¹ However, comprehensive after-care programmes are largely found to be missing. After-care is an essential component in reducing recidivism and ensuring lasting reform in inmates. In the case of released undertrials it is a way to help compensate for the trials inflicted on often-innocent persons while living in prison.

“Family ties are often lost and economic independence is a major hurdle”

FOR RESOLUTION

Despite a number of provisions given on paper for the welfare of women in prison, the reality of a jail is very different. The objective of reformation is often forgotten in favour of discipline and uncalled for violence. The full implementation, in letter and spirit, of existing provisions and adoption of innovative methods will go a long way in improving the prison system. Some recommendations in this regard are detailed below:

ADOPTION & IMPLEMENTATION OF NATIONAL MODEL PRISON MANUAL, 2016 BY STATES

The National Model Prison Manual 2016 is the most recent and contemporarily valid document pertaining to the correctional architecture of our country. It sets out some basic minimum standards for the treatment and welfare of prisoners, and must be adopted by all States as a minimum guideline. It also provides specific measures such as gender sensitive training for all staff dealing with women inmates, which can go a long way in improving the lives of women in prison. Prison Manuals of States should align with these national standards and be implemented strictly across all jails in the area. In May 2017, the Hon'ble Supreme Court directed the Ministry of Home Affairs and States to work towards the implementation of the National Model Prison Manual³² and this has been reiterated in later orders. Adherence to prison manuals is currently considered optional in practice, which should not continue. The Ministry of Home Affairs has proposed the setting up of an Integrated Prison Software System that is to contain data relating to prisoners and prisons. This may be taken up across all prisons expeditiously.

ESTABLISHMENT OF A NATIONAL COMMISSION FOR PRISONS

The Mulla Committee recommended that a National Policy on Prisons must be formulated, to reform and re-assimilate offenders within the social milieu. To further this objective, it recommended the setting up of a National Commission for Prisons to function as a specialized advisory body for all prison and allied matters. The functions of proposed Commission may be to monitor the standards and norms of different categories of prisons, enrol individuals and community groups to serve in the prevention of crime and treatment of offenders, review achievements of State correctional institutions and plan their future organisational and personnel structure in consultation with them, coordinate plans for administrative and operational functioning of prisons with the States/UTs and monitor

their progress in order to have an all-India perspective on prisons. The Commission may work out and finance pilot projects to serve as models for the development of prison administration. It may also publish an annual statistical report relating to prison data. Such a body would serve as an overarching monitoring and reviewing body, and also an advisory body for the development of prisons. It would lead to better coordination between States and a uniform policy on prisons. This would likely bring consistency in services for women inmates across the country. The setting up of this Commission may thus be considered.

REGULAR & THOROUGH INSPECTION OF PRISONS

The National Policy on Prison Reforms and Correctional Administration states “Prisons are hitherto a closed world. It is necessary to open them to some kind of positive and constructive public discernment. Selected eminent public-men shall be authorized to visit prisons and give independent report on them to appropriate authorities.”

In 2015, a total of 41,542 jails inspections were done in the country by medical officials, judicial officials and executive officials.³³ Despite such inspections, the conditions reported from prisons remain dismal. It is suggested that a more robust mechanism for inspections be put in place to conduct independent, timely and regular inspections. The National Prison Manual prescribes that the District Judge should visit every prison in his/her jurisdiction at least once a month and give prisoners the opportunity to represent their grievances in the absence of prison officials. The Board of Visitors should also be activated to ensure regular visits to prisons. The non-official members of the Board including members of the Legislative Assembly, nominee of the State Human Rights Commission and social workers of the District/Sub-Division should be encouraged to visit the prison at least once a month. The Board of Visitors must contain a certain percentage of women members to improve the redressal of grievances specific to women inmates. All official visitors must hold special one-on-one interviews with prisoners away from prison authorities during inspection visits. All reports from official inspection visits by Board of Visitors, DLSAs, State Commission for Women etc. must be shared with District Magistrate, District Sessions Judge, State Legal Services Authority, State Human Rights Commission, State Commission for Women and State Department of Women and Child Development/Social Welfare. State Commissions for Women will follow the comprehensive Prison Visit Proforma as developed by NCW and will regularly submit

online reports in this format. The recommendations of the inspection report must be mandatorily complied with, or in the event of non-compliance, reasons for such non-compliance must be given in a time-bound manner. Such inspection reports and implementation records should be publicly available. A fair and thorough inspection can itself be a very effective tool in improving conditions of prisons and the lives of women living in jail, and this must be carried out regularly and in its true spirit.

ROBUST GRIEVANCE REDRESSAL SYSTEM

The National Model Prison Manual prescribes the creation of a Prisoners' Panchayat to organise events and activities for prisoners as well as provide an avenue to represent concerns and seek redress of grievances. A 'Mahapanchayat' should be held at least once a quarter with the Superintendent in attendance for the redressal of prisoners' grievances and implementation of their suggestions. The practice of fortnightly or weekly 'Nari Bandhi Sabhas' (women prisoners' councils) should also be encouraged.

The Prisons Manual also provides for the setting up of a Grievance Redressal System in every prison, with complaint boxes to be prominently installed, especially accessible to female prisoners. A Grievance Redressal Committee is to examine the complaints twice every week. An additional complaint box should also be in place for serious complaints such as sexual abuse, torture etc. which only Board of Visitors can open. A register can be placed at an accessible spot in the prison for submitting grievances. Apart from the prisoner herself, her legal adviser or family members should be allowed to make complaints regarding her stay in prison. In case the lady medical officer notices signs of torture during medical examination, she may, with the consent of the woman prisoner, raise a complaint on her behalf. Prisoners should also be able to represent their grievances verbally or in writing during visits by Board of Visitors, DLSA, State Commissions for Women, District Magistrate etc.

Prisons that house women inmates must have a senior female officer as part of the Grievance Redressal Committee, which should examine complaints in an unbiased manner. Women prisoners should have a chance to raise their concerns to the Superintendent during weekly parades. In managing the grievance redressal mechanism, steps should be taken to avoid the risk of retaliation, and to ensure that the complaints are not censored.

SPECIAL PROCEDURE FOR ARREST OF WOMEN

The Cr PC contains certain special provisions for the arrest of women – the arrest of women after sunset and before sunrise (except with the prior permission of Judicial Magistrate First Class) is prohibited and a female arrestee is mandated to only be searched by a female officer with due regard to decency. However, there are additional areas that need to be covered explicitly by the law. The police official arresting the woman should ideally be dressed in plain clothes and not their uniform so as to reduce the stigma associated with incarceration.

Provisions should also be made for the custody of minor children of the woman at the time of arrest. She must provide in writing the name and details of the person with whom she wishes her minor children to stay during her period of incarceration, and this must be complied with strictly. In case where no family/friends are available to care for the child and he/she cannot accompany the mother to prison, the child should be appropriately placed in a Child Care Institution.

PREGNANCY & CHILDBIRTH IN PRISON

In case of pregnant prisoners, the provisions of the National Model Prison Manual must be followed strictly to make arrangements for temporary release for delivery of children in a hospital outside the prison. Suspension of sentence may be considered in the case of casual offenders. Information about a woman's pregnant status should also be made to the Court that has ordered the detention, to enable the Court to grant bail (where appropriate) or modify the detention order as deemed necessary. The birth certificate of the child born to a woman in prison should never mention the prison as place of birth to protect them against social stigma. Pregnant and lactating women should be provided with special diet as per the National Prison Manual. Mothers in postnatal stage should also be allowed separate accommodation to maintain hygiene and protect their infant from contagion, for at least a year after childbirth. Further, instruments of restraint, punishment by close confinement or disciplinary segregation should never be used on pregnant or lactating women.³⁴

Pregnant and lactating women should receive advice on their health and diet under a programme to be drawn up by a qualified health practitioner. Inmates should not be discouraged from breastfeeding their children. Medical and nutritional needs of women prisoners who have recently given birth whose babies are not with them in prison, women who have undergone abortion or have had a miscarriage should also be included in

treatment and nutrition programmes. Women prisoners must have access to urine pregnancy test kits within prison, as per their requirement, free of cost. Pregnant women must also be provided information and access to abortion during incarceration, to the extent permitted by law. Pregnant women must be given the option to take up work during their pregnancies and in the post-natal phase if they so choose. Work provided to them must be suited to their health conditions.

Aadhar cards must be made for all inmates, especially for mothers and infants to enable them to become beneficiaries of various government welfare schemes.

CHILDREN OF WOMEN PRISONERS

When deciding on the prison to which the woman is to be sent, regard should be had to her caretaking responsibilities if she has a child, and as far as possible, the woman must be given the choice of selecting the prison. Children must be kept in the prison in a manner that they are not made to feel like offenders. Administration should ensure that the facilities provided are tailored towards children living under their care. NGOs, schools and paediatricians can be engaged to ensure that children in prisons have access to basic facilities of education, day care, recreation and a healthy lifestyle. To the extent possible, prison administration shall strive to create a suitable environment for children's upbringing, which is as close as possible to that of a child outside prison. E.g. airy rooms with adequate natural light, minimum security restrictions, outdoor play area, opportunity to socialize with peers outside prison if not available within prison etc. The Board of visitors shall inspect these facilities at regular intervals. Women prisoners whose children are in prison with them shall be provided with the maximum possible opportunities to spend time with their children. Children should receive a special diet and be regularly examined by a Lady Medical Officer at least once a month to monitor their physical growth and condition of physical and mental health. They should have access to a Lady Medical Officer as per their need. Children, whether living in prison or visiting, should never be treated as prisoners. The prison staff must display sensitivity, respect and dignity when searching children. Body cavity searches should never be applied to children. Ideally, no child shall be admitted into or retained in prison if he/she has attained the age of six years. The best interest of the child should be the determining criteria to determine whether and for how long they should stay with their mothers in prison.

Prior to or on admission, women with caretaking responsibilities for children should be

permitted to make arrangements for those children including the possibility of a reasonable suspension of detention, taking into account the best interests of the child.

In case where no family/friends are available to care for the child and he/she cannot accompany the mother to prison, the child should be appropriately placed in a Child Care Institution. It must be ensured that children of the same woman prisoner are housed together in alternative care. The prison administration must ensure that the child be placed in a manner that she/he can interact with the mother regularly at least once a week.

Children must be removed from the mother's care with utmost sensitivity, and only after making adequate arrangements for his/her stay. A register recording particulars of guardians/persons in whose custody the children of women prisoners are kept must be maintained. It should also be ensured that the inmate could take custody of her child from the Child Care Institution on her release from prison. In case of foreign nationals, removal and alternative arrangements should only be done in consultation with their consular representatives.

Prison administration should ensure that links between inmates and children outside prison are maintained throughout her incarceration. The place of interaction between inmates and their children living outside prison should be one where easy conversation can take place, in a positive environment, where physical contact is possible between mother and child. Overnight visits for minor children living outside prison to maintain a bond with their mothers must be allowed at least once every quarter. A separate area with a positive homely environment must be provided within the prison for purpose of this stay with the mother. Prisons should provide educational scholarships for women inmates' children above 6 years. E.g. In Tihar Jail, Delhi, children of inmates who are from Delhi are provided educational scholarship of Rs. 3,500 for one child and Rs. 6,000 for two children per month, subject to conditions like income etc. This could be replicated in other states as well.

BETTER LIVING ARRANGEMENTS

State prison manuals must be updated and strictly implemented to provide basic entitlements to all women prisoners including appropriate living quarters, bedding, toilets, outside area etc. Prisons can be linked to local Swachh Bharat initiatives, if needed, to construct more bathrooms and toilets and carry out repairs for better hygiene.

The prison doctor or competent public health body should regularly inspect and advise the Superintendent on the quantity, quality, preparation and service of food; hygiene and cleanliness of the institution and the prisoners; sanitation, temperature, lighting and ventilation of the prison; and suitability and cleanliness of the prisoners' clothing and bedding. The Superintendent should take into consideration the advice and reports provided and take immediate steps to give effect to the same. Women prisoners sentenced to six months imprisonment or below should be issued 3 sets of clothing, 2 towels and 3 sets of customary undergarments. This number will increase to 5 sets of clothing, 3 towels and 5 sets of customary undergarments for women sentenced to over six months. Inmates should be able to choose type of clothing from a set of options as per preference. At a minimum this should include saree with blouse and petticoat, kurta with salwar and dupatta, shirt with trouser/long skirt in light colours, but not necessarily white.

Women in their post-natal phase must be given separate accommodation for one year after delivery to maintain a certain standard of hygiene and to protect the child from infections and other diseases. Also, sick women prisoners must be kept isolated for health purposes. To ensure better living conditions, improved mental health of inmates and easier re-integration in society after release, the Mulla Committee Report suggestion should be implemented for constructing self-contained family units for a group of 8-10 women, equipped with facilities such as a kitchen, garden area, common room, common bathroom etc. Here, women can function as a family unit, by doing their own cooking and cleaning. Prison rules and practices that treat prisoners in a dehumanized way should be abolished. For example, rules that require prisoners to abstain from singing or laughing,³⁵ that consider it an offence to refuse to eat food,³⁶ or those that allow prisoners to wear sandals only upon the sanction of the Superintendent, all need reconsideration.³⁷

IMPROVEMENT OF HEALTH & NUTRITION

Comprehensive health screening of women must be done on admission, with due regard to their right to privacy, dignity and confidentiality, including their right to refuse screening. This will help in identifying health issues, providing adequate treatment and in preparing an individualised health and diet plan for the inmate. Routine tests must be done periodically thereafter. Telemedicine and jail collection of samples for routine testing may be done. There should be comprehensive medical check-ups on an annual basis, regular medical check-ups on a monthly basis and access to a lady medical officer at all times for check-up, testing, treatment etc. as needed by the inmate. Papanicolaou tests and screening for breast and gynaecological cancer should be done for women on a regular basis. In case

lady medical officer is not available, prisoner will be transferred to the nearest medical facility where a lady doctor is available. Physicians should have daily access to prisoners who are sick, injured or suffering from other mental or physical health issues. Coverage of jails by interns or final-year medical students may also be done once a week to ensure medical services to women prisoners. Women with mental health issues must be transferred to appropriate institutions rather than keeping them in prisons. Inmates should have access to female counsellors/psychologists at least on a weekly basis or as frequently as needed by them. First-time offenders must especially be counselled on admission, to prevent recidivism. Sterilized sanitary pads should be issued free of cost to women prisoners as per their requirements with no maximum limit. Inmates can also be trained to produce low cost sanitary napkins for use in prisons, as well as for sale outside. Further linkages can be established with NGOs that distribute free sanitary napkins, if needed. Contraception should be available in prison, taking into account that contraceptive pills are not only used to prevent pregnancy, but also to treat other gender specific conditions, such as painful menstruation. In case a prisoner falls seriously ill, her family/legal representative should be informed about her illness and removal to hospital for treatment. Medical support must be extended to women inmates even after release to ensure continuity of care. Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits. Adequate equipment and space should be provided for this purpose. Surprise inspections must be done to check that dietary rules are being followed. Quantity and quality of food should be checked. The system of purchasing cereals/pulses of the cheapest rate wherever in vogue, should be discontinued.³⁸ Fortified food and nutrition supplements must be introduced to meet the nutritional requirements of all women. Some level of automation can be introduced in the kitchen to improve hygiene. Information about preventive measures for HIV, STDs or other gender-specific diseases must be provided. This could also be done through peer-based education. The prison staff must undergo mandatory training in gender-specific needs of women, first aid and basic medicine to tackle emergencies and minor issues effectively.

BETTER EDUCATION, VOCATIONAL TRAINING & SKILLING FACILITIES

Educational facilities must be provided to women inmates. In case of shortage of staff, linkages with NGOs and local schools and colleges can be established. Educated inmates may be encouraged to teach other illiterate inmates. Prison education must be linked with mainstream education systems so that learning in prisons may be recognised and continued post-release. Some large prisons such as Tihar and Sabarmati are well known for their jail factories producing a variety of products made by inmates. This not only helps inmates earn money, but also improves the perception about prison inmates in society at large. Such facilities should be replicated across the country as it will not only give women inmates a productive daily activity to help them psychologically, but also

ensure a level of financial autonomy for them once they are released. They can later use their earnings and skills from prison to support themselves better in the outside world. Government schemes such as DAY-NRLM, DAY-NULM, Skill India and Digital India as well as CSR and NGO programmes can be linked to the prison system to ensure delivery of quality services and opportunities for post-release employment. Female inmates should be provided with the same skilling opportunities as men. Marketability and profitability must be considered before selecting the modules. Women must also be encouraged to take up non-traditional vocations such as electrical work, mobile and laptop repairs, carpentry etc. NGOs and CSR initiatives can be engaged to run programmes in prison and for placement after release.

ADDRESSING VIOLENCE

Body searches must be conducted as per clearly formulated guidelines. While searching women prisoners, the least intrusive mode should be adopted as considered appropriate in the situation. The type of search to be conducted should be communicated clearly to the inmate and reason for the same should be explained. In case of strip searches, they should be conducted in two distinct steps with upper body and lower body examined one after the other to avoid complete nudity at a given time. Body cavity searches should be avoided, as far as possible. CCTV cameras must be used with due regard to the dignity and privacy of women prisoners. Alternatives to physical and invasive search procedures, such as body screeners and metal detectors can be considered for use with due regard to safety and health of inmates. A written record should be kept of the type and frequency of searches for all inmates, which should be available for examination by official visitors. All staff involved in the custody, interrogation and treatment of prisoner must be sensitised on gender-issues, human rights and sexual misconduct. NGOs and State Commissions for Women can be engaged to conduct workshops for the same in prison. Adequate female staff must be appointed to tackle incidents of violence. Prison administration must deal with cases of violence with strictness and taking into account the risk of retaliation. Undertrials and convicts must be housed separately to prevent violent episodes between inmates.

LEGAL AID & AWARENESS

District and State Legal Service Authorities must be linked to prisons. All legal rights of the prisoner must

be explained to them on admission in a language they can understand. Continuous awareness must be provided to inmates about their rights and remedies under the law through workshops and adequate linkages with NGOs, State Commissions for Women, law colleges etc. They must be encouraged to visit legal aid cells. Legal aid work must be incentivised to encourage more lawyers to take it up. Some women inmates may also be trained as Para Legal Volunteers to help other inmates in knowing their rights and providing them with legal support. Inmates must be given adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider, without delay, interception or censorship and in full confidentiality. Consultations may be within sight, but not within hearing, of prison staff. Denial of meeting with the lawyer should never be used as a disciplinary measure by the prison staff on the prisoner's misconduct. In cases where prisoners do not speak the local language or have sensory disabilities, the prison administration shall facilitate access to the services of an independent competent interpreter. Lok Adalats may be held in prisons for delivery of speedy justice especially in cases of petty or non-violent offences. Video-conferencing with lawyers may be provided with proper monitoring mechanisms in place, to ensure that the prisoner does not feel alienated from the system. To this end, mechanisms such as keeping an attendance log for the use of video conferencing facilities by lawyers, and decisions to renew Legal Aid panel membership being dependent on evaluation on such metrics should be put in place. Inmates must be allowed to keep all their case-related documents with themselves to know the progress of their case and be able to effectively participate in the legal process. States must curb the malpractice of legal aid lawyers demanding money from inmates for taking up their cases with stern action.

SPECIAL PROVISIONS FOR FOREIGN NATIONALS

Inmates who are foreign nationals are inherently at a more vulnerable position. They face issues not just due to their gender-specific needs, but also because of language barriers, lack of ties in the country and the difficulty in adjusting to the culture and society of a foreign land. Their respective consulates/embassies must be informed about details of their incarceration and contact must be established with the inmates appropriately.

Foreign inmates must be provided with translators to help them communicate with prison officials and other inmates for easy understanding of rules and procedures and to communicate their grievances and complaints easily. For effective post-release transition and psychological wellbeing, it is essential for them to be able to communicate with their families/friends regularly. Video-conferencing facilities through new technological tools may be provided to facilitate such communication. Foreign prisoners may also be provided

with added food provisions to meet their dietary requirements. Children of foreign nationals must be removed from their mothers' care with utmost sensitivity and only after consultation with their consular representatives.

RECRUITMENT OF ADEQUATE STAFF

There is a need to appoint sufficient prison staff, especially female staff, for the effective functioning of prisons, and for providing basic facilities to women inmates. As a temporary measure, prisons may be linked to female doctors, gynaecologists, ANMs, counsellors, teachers and other local NGOs to ensure women inmates are not bereft of basic services.

RE-INTEGRATION MEASURES & AFTER-CARE PROGRAMME

Interviews, letters and visitation conditions for women inmates should be relaxed to encourage them to maintain contact with the outside world. The number of phone calls and letters should be increased for women. Since women prisoners often come from a history of domestic abuse and violence, they must be properly consulted as to who is allowed to visit them in prison.

On release, support is necessary for women prisoners to integrate well in society. The prescription in National Model Prison Manual for a comprehensive after-care programme should be implemented. Under this, support should be provided for various aspects of post-imprisonment life including subsistence money, provision of food, continuity of healthcare being received in prison, housing, getting employment or starting a cottage industry, marriage, prevention of harassment by local police etc. Provisions must also be added to support women in regaining child custody and in providing them with appropriate documents and identification papers to help them find suitable employment and residence.

Voluntary women's organisations should be encouraged to work in collaboration with government agencies on various projects, including organising release of women on bail and establishment of After-Care Homes for released prisoners.³⁹ Released Prisoners' Aid Society should be set-up in every district, to provide single-window assistance for rehabilitation of released women prisoners. Counselling to the family members and employers of the woman inmate must be provided to adequately receive the woman after release. The female escort accompanying women to their homes after release must be

dressed in ordinary clothes to avoid stigma. Prison administration should liaise with local police to ensure that released persons are not harassed. At least one voluntary association can be designated in each district to help with post-release integration of prisoners. For better contact with the political and social system of the country, convicts imprisoned for petty offences must be given the right to vote, to enable them to participate in the democratic process of the country.

TIMELY RELEASE OF UNDERTRIALS

All States should activate the provisions available for release of undertrials on an urgent basis. Prisoners wanting to appeal for their release should be facilitated to start this process through the legal aid cells in prison. Undertrial Review Committees must be operationalised effectively. The cases of those women to whom bail has been granted, but who are unable to furnish sureties due to lack of family support must be brought up by the DLSA regularly in the quarterly meetings of the Undertrial Review Committee. A maximum time frame may be decided for release of women prisoners after bail is granted but surety is not produced. Amendment should be made in Section 436A of CrPC to allow earlier release of female prisoners on completion of one-third of their maximum possible sentence. Awareness should be generated among the general public so family members/relatives of undertrials may also assist inmates in securing an early release.

NON-CUSTODIAL MEASURES

Alternative punishments to imprisonment should be given priority, especially in the case of non-heinous and non-violent crimes committed by women. Within the prison system too, women should be preferred for incarceration in open jail facilities and decisions regarding early release and parole should be taken more favourably towards women. The condition under Section 433A of the CrPC, which does not allow a person to be released until he has served out at least 14 years of his sentence, in cases where he has been sentenced to life imprisonment for an offence in which death is a punishment, or where his death sentence has been commuted to life imprisonment should not apply to women.⁴¹

Imprisonment must be used as a last resort. Non-custodial measures such as community service, housing in shelters run by independent agencies, admission to rehabilitation facilities etc. should be considered for women offenders. Mechanisms such as bail, plea-bargaining, free legal aid, non-penal fines, probation etc. can be considered to help avoid

incarceration of women. Alternatives of conditional discharge, victim-offender mediation and other such measures may be considered. Community-based correction programmes can have very positive results on the reform of women offenders at a fraction of the human and financial cost of imprisonment. This can also help women maintain ties with their families, employers etc. so as to not entirely uproot them from their social networks.

CONCLUSION

The number of women in prison in India is steadily growing. A number of issues plague the lives of women in prison, many of whom are undertrials. Prisons are not effectively serving their reformatory purpose. There is thus an urgent need to understand the issues of women in prison, recognise their rights and ensure these rights are fulfilled. While there are a number of progressive rules laid down for the welfare and fair treatment of prisoners, particularly women, this does not always translate into practice. Women face issues related to lack of female staff, inadequate and cramped accommodation, low levels of sanitation and hygiene, insufficient services to address physical and mental health needs, deficient nutrition, negligible educational opportunities and often unusable skill and vocational training. Many women who live with their children do not receive appropriate educational, health and recreational services to raise them well. These issues coupled with a lack of legal aid in prison, limited contact with the outside world and high incidence of violence by inmates and authorities further exacerbate the situation for women. Their re-integration in society after release is thus also a huge challenge. As more women enter the prison system, it is essential to make appropriate changes in services, processes and infrastructure to cater to their particular needs. Prisons remain closed to the outside world, thus making it further difficult to ensure good conditions. It is important to allow independent and regular inspections so adherence to rules is improved. Prison administrators and all staff dealing with women prisoners should mandatorily undergo gender sensitive training, which will help them make better decisions with regard to women in prison. They must also be sensitive towards the needs of women belonging to minority communities, disabled women and foreign nationals so as not to discriminate against them in any manner. A genuine and responsive grievance redressal mechanism should be put in place to help address the violation of rights in prison and give inmates a method to have a dialogue with the administration. By improving conditions within prison, providing better support on release and most importantly keeping women out of formal prison systems as far as possible, the issue of female criminality in India can be better dealt with. Comprehensive and result-oriented research⁴² must be encouraged in this field which shall have a positive impact on policy formulation and programme development, which will help in responding to the social reintegration needs of women offenders more effectively. This study may be used as a primer to understand the condition of women in prison, and the concerned authorities should take the recommendations forward. This study has been an attempt to build

understanding on the areas for improvement within the prison system. The reader will likely agree that there is a definitive need to reform the largely male-centric prison system so as to make it effective to house and reform women prisoners. Policy makers and administrators may use this study as background reading while taking decisions on prison reform

SUMMARY OF RECOMMENDATIONS

Adoption and Implementation of the National Model Prison Manual, 2016 by all States

Prison Manuals of States should align with national standards and be implemented strictly across all jails in the area. Adherence to prison manuals is currently considered optional in practice, which should not continue. The process of setting up the Integrated Prison Software System must be completed expeditiously. Establishment of National Commission for Prisons. Set up National Commission for Prisons as per recommendation of All India Committee on Jail Reforms (1980- 1983).

Independent, Regular & Thorough Inspections

Independent, timely and thorough inspections must be conducted regularly. The Board of Visitors should also be activated to ensure regular visits to prisons. The non- official members of the Board including members of the Legislative Assembly, nominee of the State Human Rights Commission and social workers of the District/Sub-Division should be encouraged to visit the prison at least once a month. The Board of Visitors must contain a certain percentage of women members to improve the redressal of grievances specific to women inmates. All reports from official inspection visits by Board of Visitors, DLSAs and State Commission for Women must be sent to District Magistrate, District Sessions Judge, SLSA, State Human Rights Commission, State Commission for Women and State Department of Women and Child Development/Social Welfare. The recommendations made in the reports must be mandatorily complied with, or the reasons for non-compliance must be given in a time-bound manner. Such reports and the recommendation records should be publicly available. State Commissions for Women will follow the comprehensive Prison Visit Proforma as developed by NCW and submit online reports on this.

Robust Grievance Redressal Mechanism

A mahapanchayat should be held atleast once a quarter with the Superintendent in attendance for the redressal of prisoners' grievances and implementation of their suggestions. The practice of fortnightly or weekly 'nari bandi sabhas' (women prisoners' councils) should also be encouraged. An additional

complaint box should be in place for serious complaints such as sexual abuse, torture etc. which can be opened only by Board of Visitors. A register should be placed at an accessible spot in the prison for submitting grievances. Apart from the prisoner herself, her legal adviser or family members should be allowed to make complaints regarding her stay in prison. In case the lady Medical Officer notices signs of torture during examination, she may, with the consent of the woman prisoner, raise a complaint on her behalf. Prisoners should be able to represent their grievances verbally or in writing during visits by Board of Visitors, DLSA, State Commissions for Women, District Magistrate etc., without the presence of prison staff. All official visitors must hold special one-on-one interviews with prisoners away from prison authorities during inspection visits. The Board of Visitors must ensure representation of female members. Prisons that house women inmates must have a senior female officer as part of the Grievance Redressal Committee, which should examine complaints in an unbiased manner. Women prisoners should further have a chance to raise their concerns to the Superintendent during weekly parades. In managing the grievance redressal mechanism, steps should be taken to avoid the risk of retaliation and to ensure that the complaints are not censored.

Special Procedure for Arrest of Women

The police official arresting the woman should ideally be dressed in plain clothes and not their uniform to avoid stigma. Prior to or on admission, women with caretaking responsibilities for children should be permitted to make arrangements for those children including the possibility of a reasonable suspension of detention, taking into account the best interests of the children. The children of the woman arrested must be left in the custody of the person with whom the woman wishes her child to be, during the period of her incarceration. The name and details of such person must be given in writing by the woman, and this must be complied with strictly. In case where no family/friends are available to care for the child and he/she cannot accompany the mother to prison, the child should be appropriately placed in a Child Care Institution. It must be ensured that children of the same woman prisoner are housed together in alternative care.

Searching with Dignity and Privacy

Clear guidelines and policies must be made to define the conditions and modalities of body searches. While searching women prisoners, the least intrusive mode should be adopted as considered appropriate in the situation. The type of search to be conducted should be communicated clearly to the inmate and reason for the same should be explained. Strip searches should be conducted in two distinct steps with upper body and lower body examined one after the other to avoid complete nudity at a given time. Body cavity searches must be avoided as far as possible. Alternatives to physical and invasive search procedures, such as body screeners and metal detectors can be considered for use with due regard to safety and health of inmates. The use of CCTV cameras must be consistent with the dignity and privacy of women prisoners. A written record should be kept of type and frequency of searches for all inmates, which should be available for examination by official visitors. All staff involved in the custody, interrogation and treatment of prisoner must be sensitised on gender-issues, human rights and sexual misconduct. NGOs and State Commissions for Women can be engaged to conduct workshops for the same.

Pregnancy and Childbirth in Prison

Strict compliance with the Model Prison Manual 2016 must be ensured to make arrangements are made for temporary release for delivery of children in hospital outside the prison. Suspension of sentence may also be considered in case of casual offenders. Information about a woman's pregnant status should also be made to the Court that has ordered the detention, to enable the Court to grant bail (where appropriate) or modify the detention order as deemed necessary. The birth certificate of a child born to a woman in prison should not mention the prison as place of birth to protect them against social stigma. Pregnant/lactating women, or women who have recently undergone abortion or miscarriage, should receive a special diet. They must also receive advice on their health and diet under a programme to be drawn up by a qualified health practitioner. Medical and nutritional needs of women prisoners who have recently given birth whose babies are not with them in prison, shall be included in treatment programmes. Inmates will not be discouraged from breastfeeding their children. Instruments of restraint, punishment by close confinement or disciplinary segregation shall never be used on pregnant and lactating women. Mothers in postnatal stage should be allowed separate accommodation to maintain hygiene and protect their infant from contagion, for at least a year after childbirth. Women prisoners must have access to urine pregnancy test kits, as per their requirement, free of cost. Pregnant women must be provided information and access to abortion during incarceration, to the extent permitted by law. Pregnant and lactating women must be given the choice of taking up work subject to suitability to their health so as to ensure their income generation is not entirely halted.

Children of Women Prisoners

Children, whether living in prison or visiting, will never be treated as prisoners.

To the extent possible, prison administration shall strive to create a suitable environment for children's upbringing which is as close as possible to that of a child outside prison. E.g. airy room with adequate natural light, minimum security restrictions, outdoor play area, opportunity to socialize with peers outside prison if not available within prison etc. The Board of visitors shall inspect these facilities at regular intervals.

Women prisoners whose children are in prison with them shall be provided with the maximum possible opportunities to spend time with their children.

Children shall be provided a special diet and regularly be examined by Lady Medical Officer at least once a month to monitor their physical growth and condition of physical and mental health.

They should have access to the lady Medical Officer as per their need.

The prison staff must display sensitivity, respect and dignity when searching children. Body cavity searches should never be applied to children.

Ideally, no child shall be admitted into or retained in prison if he/she has attained the age of six years. Best interest of the child should be the determining criteria to determine whether and for how long they should stay with their mothers in prison.

It should be ensured that links between such child and mother are maintained throughout her incarceration. A register recording particulars of guardians/persons in whose custody the children of women prisoners are kept must be maintained. It should be ensured that the child is returned to her care on her release from prison.

Removal of the child from prison shall be done with utmost sensitivity only when alternative suitable arrangements have been made for his/her stay. In case of foreign nationals, removal and alternative arrangements should only be done in consultation with their consular representatives. Overnight visits for minor children living outside prison to maintain a bond with their mothers must be allowed at least once every quarter. For this purpose, a separate area with a positive homely environment must be provided within the prison for purpose of this stay with the mother. Ensure that children in protective custody should be allowed to meet their mothers at least once a week.

The place of interaction between inmates and their children living outside prison should be one where easy conversation can take place, in a positive environment, where physical contact is possible between the mother and the child.

Prisons should provide educational scholarships for children above 6 years of women inmates. (E.g. In Tihar Jail, Delhi, children of inmates who are from Delhi are provided educational scholarship of Rs. 3500 for one child and 6000 for two children per month, subject to conditions like income etc. This could be replicated in other states as well.)

Living with Dignity

State prison manuals must be updated and strictly implemented to provide basic entitlements to all women prisoners including appropriate living quarters, bedding, toilets, outside area etc.

Link prisons to Local Swachh Bharat initiatives, if needed, to construct more bathrooms and toilets and to carry out repairs.

Women prisoners sentenced to six months imprisonment or below should be issued 3 sets of clothing, 2 towels and 3 sets of customary undergarments. This number will increase to 5 sets of clothing, 3 towels and 5 sets of customary undergarments for women sentenced to over six months. Inmates should be able to choose type of clothing from a set of options as per preference. At a minimum this should include saree with blouse and petticoat, kurta with salwar

and dupatta, shirt with trouser/long skirt in light colours, but not white.

Based on the seriousness of crime and especially for long term inmates, selected inmates can be organised to live in self-contained units of 8-10 prisoners to provide them a kind of family living experience, with inmates doing their own cooking and cleaning.

Steps should be taken to ensure that undertrials are housed separately from convicts.

It must be ensured that in the case of overcrowding, the excess numbers of prisoners are to be transferred to another institution/camp, as mandated by the Model Manual.

Prison staff must be sensitised towards the needs of women belonging to minority communities, disabled women and foreign nationals to prevent any kind of discrimination against them.

A female inmate must be allowed to be accompanied with a female relative during transit from one jail to another, or from the jail to the court.

Prison rules and practices that treat prisoners in a dehumanized way should be abolished. For example, rules that require prisoners to abstain from singing or laughing, that consider it an offence to refuse to eat food, or those that allow prisoners to wear sandals only upon the sanction of the Superintendent, all need reconsideration.

Maintaining Hygienic Conditions

The prison doctor or competent public health body shall regularly inspect and advise the Superintendent on:

- quantity, quality, preparation and service of food
- hygiene and cleanliness of the institution and the prisoners
- sanitation, temperature, lighting and ventilation of the prison
- suitability and cleanliness of the prisoners' clothing and bedding

The Superintendent shall take into consideration the advice and reports provided and shall take immediate steps to give effect to the same. The system of purchasing cereals/pulses of the cheapest rate wherever in vogue, should be discontinued

Sufficient water at a minimum of 135 litres per person shall also be made available for the use of women prisoners and their children, and those prisoners, in particular, who are involved in cooking and those who are pregnant, breastfeeding or menstruating. (Already in the manual. We have reiterated it in the women's chapter.)

Automation of certain processes can be introduced in kitchens to improve hygiene standards.

Health & Sanitation

Medical examinations of all prisoners must be done periodically with due regard to dignity and privacy, their right to medical confidentiality, including their right not to share information and not undergo screening for their reproductive health history. There should be comprehensive medical check-ups on an annual basis, regular medical check-ups on a monthly basis and access to a lady medical officer at all times for check-up, testing, treatment etc. as needed by the inmate. Papanicolaou tests and screening for breast and gynaecological cancer should be done for women periodically.

Physicians shall have daily access to prisoners who are sick, injured or suffering from other physical or mental health issues.

Coverage of jails by interns or final-year medical students may also be done once a week to

ensure medical services to women prisoners.

Inmates should have access to female counsellors/psychologists at least on a weekly basis or as frequently as needed by them

In case lady medical officer is not available, prisoner will be transferred to the nearest medical facility where a lady doctor is available.

Fortified food and nutrition supplements must be introduced to meet the nutritional requirements of women.

Foreign prisoners may also be provided with added food provisions to meet their dietary requirements.

Sterilized sanitary pads should be issued free of cost to women prisoners as per their requirements with no maximum limit.

Train women prisoners to produce low cost sanitary napkins for use in prisons, as well as for sale outside.

Linkages may be established with NGOs, if needed, to distribute sanitary napkins in jails free of cost.

Contraception should be available in prison, taking into account that contraceptive pills are not only used to prevent pregnancy, but also to treat other gender specific conditions, such as painful menstruation.

Telemedicine and jail collection of samples for routine testing may be done.

Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits. Adequate equipment and space should be provided for this purpose.

In case a prisoner falls ill, her spouse/other relatives should be informed about her illness and removal to a hospital for treatment.

Separate accommodation must be provided to prisoners for health purposes.

Information about preventive measures for HIV, STDs or other gender-specific diseases must be provided. This could also be done through peer-based education.

The dealing staff must undergo mandatory training in gender-specific needs of women, first aid and basic medicine to tackle emergencies and minor issues effectively.

Medical support must be extended to women inmates even after release to ensure continuity of care.

Mental Health

Inmates should have access to female counsellors/psychologists at least on a weekly basis or as frequently as needed by them.

First-time offenders must especially be counselled on admission, to prevent recidivism.

Steps should be taken to ensure that women prisoners with mental health issues are transferred to appropriate facilities rather than being kept in prison.

Maintaining Contact with the Outside World

The prison inmates shall be awarded opportunity as prescribed in the rules, to have a reasonable contact including visits, telephone contact, electronic communication contact, interviews

through video conferencing and correspondence with the family inside the prison. In case of women prisoners, these privileges shall not be made contingent on her good conduct.

The number of phone calls and letters allowed should be increased for women.

Since women prisoners often come from a history of domestic abuse and violence, they must be properly consulted as to who is allowed to visit them in prison.

Video conferencing facilities must be provided to foreign inmates for contact with their family.

When deciding on the prison to which the woman is to be sent, regard should be had to her caretaking responsibilities if she has a child, and as far as possible, the woman must be given the choice of selecting the prison.

Women prisoners convicted for petty crimes should be given the right to vote so as to not completely divorce them from the larger political process of the country.

Education

Educated inmates may be encouraged to teach other illiterate inmates. Prison education must be linked with mainstream education systems so that learning in prisons may be recognised and continued post-release.

Skilling & Employment

Female inmates should be provided with the same skilling opportunities as men. Marketability and profitability must be considered before selecting the modules.

The participation of women prisoners in non-traditional employment should be encouraged.

E.g. Laptop and Mobile repairing, computer data entry, etc.

Government skilling programmes can be leveraged to provide services within prison premises.

Linkages may be established with NGOs and CSR initiatives to run programmes in prison and for placement after release.

Jail factories should be set up in jails, to enable prisoners to make products that may be sold in the market.

Link Government schemes such as DAY-NRLM, DAY-NULM, Skill India and Digital India as well as CSR and NGO programmes to the prison system to ensure delivery of quality services and opportunities for post-release employment

Legal Aid & Awareness

States should ensure that District and State Legal Service Authorities are linked to prisons to provide free legal aid.

Inmates must be provided adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider, without delay, interception or censorship and in full confidentiality. Consultations may be within sight, but not within hearing, of prison staff. Denial of meeting with the lawyer should never be used as a disciplinary measure by the prison staff.

In cases in which prisoners do not speak the local language or have sensory disabilities, the prison administration shall facilitate access to the services of an independent competent interpreter. Foreign inmates must be provided with translators to help them communicate with prison officials, lawyers and other inmates for easy understanding of rules and procedures and to communicate their grievances and complaints easily.

Inmates must be allowed to keep all their case-related documents with themselves to know the progress of their case and be able to effectively participate in the legal process. Lok Adalats may be held in prisons for delivery of speedy justice especially in cases of petty or non-violent offences. Video-conferencing with lawyers may be provided with proper monitoring mechanisms such as keeping an attendance log for the use of video conferencing facilities by lawyers, and decisions to renew Legal Aid panel membership being dependent on evaluation on such metrics.

Some women inmates may be trained as Para Legal Volunteers to support other inmates in understanding their case details and their entitlements.

All legal rights of the prisoner will be explained to them on admission in a language they can understand.

Awareness must be provided to inmates about their rights and remedies under the law through workshops and adequate linkages with NGOs, State Commissions for Women, law colleges etc. They must be encouraged to visit legal aid cells.

Legal aid work must be incentivised to encourage more lawyers to take it up.

States must curb the malpractice of legal aid lawyers demanding money from inmates for taking up their cases with stern action.

The respective consulates/embassies of foreign nationals must be informed about details of their incarceration and contact must be established with the inmates appropriately.

Reintegration in Society

A comprehensive after-care programme covering employment, financial support, regaining of child custody, shelter, counselling, marriage assistance, continuity of health care services etc. shall be put in place for women prisoners.

Voluntary women's organisations should be encouraged to work in collaboration with government agencies on various projects, including organising release of women on bail and establishment of After-Care Homes for released prisoners.

Released Prisoners' Aid Society should be set-up in every district, to provide single-window assistance for rehabilitation of released women prisoners.

Counselling of family members and employers must be done to adequately receive the woman after release.

Prison authorities should liaise with local police to ensure released prisoners are not harassed by them due to the attached stigma.

The police personnel arresting women offenders, as well as the female escorts accompanying women to their homes on release must be dressed in ordinary clothes and not their uniform, to avoid stigma.

At least one voluntary organisation should be designated in each district to help with integration of released prisoners.

Provisions must also be added to support women in regaining child custody and in providing them with appropriate documents and identification papers to help them find suitable employment and residence.

Aadhar cards must be made for all inmates, especially for mothers and infants to enable them to

become beneficiaries of various government welfare schemes.

Release of Undertrials

All States should activate the provisions available for release of undertrials on an urgent basis. Undertrial Review Committees must be operationalised effectively.

The cases of those women to whom bail has been granted, but who are unable to furnish sureties due to lack of family support must be brought up by the DLSA regularly in the quarterly meetings of the Undertrial Review Committee.

Prisoners wanting to appeal for their release should be facilitated to start this process through the legal aid cells in prison.

Bail should be granted to women undertrials if they have spent one-third of their maximum possible sentence in detention.

A maximum time frame may be decided for release of women prisoners after bail is granted but surety is not produced.

Awareness should be generated on the rights of undertrials so family members/relatives of undertrials may also assist them in securing an early release.

Non-Custodial Measures

Alternative punishments to imprisonment (such as community service, housing in shelters run by independent agencies, admission to rehabilitation facilities etc.) should be considered for women offenders should be given priority, especially in the case of non-heinous and non-violent crimes committed by women. Imprisonment should be considered as a last-mile measure.

The condition under Section 433A of the CrPC, which does not allow a person to be released until he has served out at least 14 years of his sentence, in cases where he has been sentenced to life imprisonment for an offence in which death is a punishment, or where his death sentence has been commuted to life imprisonment should not apply to women.

Mechanisms such as bail, plea-bargaining, free legal aid, non-penal fines, probation etc. can be considered to help avoid incarceration of women.

Within the prison system too, women should be preferred for incarceration in open jail facilities and decisions regarding early release and parole should be taken more favourably towards women.

Alternatives of conditional discharge, victim-offender mediation and other such measures may be considered.

Hire Adequate Staff

Appoint sufficient prison staff, especially female staff for providing basic entitlements to woman prisoners.

As a temporary measure, linkages may be established with female doctors, gynaecologists, ANMs, counsellors, teachers and other local NGOs to provide basic services to women inmates.

Total Civil Convicts

(1)	(2)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	
1	ANDHRA PRADESH	0	0	0	1	0	1	5	0
2	ARUNACHAL PRADESH	0	0	0	0	0	0	0	0
3	ASSAM	0	0	0	0	0	0	13	0
4	BIHAR	0	2	0	0	0	0	23	0
5	CHHATTISGARH	0	0	0	0	0	0	19	0
6	GOA	0	0	0	0	0	0	4	0
7	GUJARAT	0	0	0	0	0	1	14	0
8	HARYANA	0	0	0	0	0	4	26	0
9	HIMACHAL PRADESH	0	0	0	0	0	0	6	0
10	JAMMU KASHMIR	0	0	0	0	0	0	1	0
11	JHARKHAND	0	5	0	0	0	0	5	0
12	KARNATAKA	0	0	0	0	0	5	7	0
13	KERALA	0	0	0	0	0	0	6	0
14	MADHYA PRADESH	0	0	0	1	0	7	37	0
15	MAHARASHTRA	0	2	0	0	0	0	31	2
16	MANIPUR	0	0	0	0	0	0	0	0
17	MEGHALAYA	0	0	0	0	0	0	0	0
18	MIZORAM	0	0	0	0	0	0	15	0
19	NAGALAND	0	0	0	0	0	0	0	0
20	ODISHA	0	1	0	0	2	2	19	0
21	PUNJAB	0	0	0	1	0	0	121	1

22	RAJASTHAN	0	0	0	1	0	1	27	0
23	SIKKIM	0	0	0	0	0	2	2	0
24	TAMIL NADU	0	0	0	0	0	1	13	5
25	TELANGANA	0	6	0	0	0	11	22	0
26	TRIPURA	0	0	0	0	0	0	2	0
27	UTTAR PRADESH	0	7	0	0	0	0	94	0
28	UTTARAKHAND	0	7	0	0	0	1	21	0
29	WEST BENGAL	0	0	0	0	0	0	89	0
	TOTAL (STATES)	0	30	0	4	2	36	622	8
30	A & N ISLANDS	0	0	0	0	0	0	0	0
31	CHANDIGARH	0	0	0	0	0	0	2	0
32	D & N HAVELI	0	0	0	0	0	0	0	0
33	DAMAN & DIU	0	0	0	0	0	0	0	0
34	DELHI	0	0	0	5	0	0	38	0
35	LAKSHADWEEP	0	0	0	0	0	0	0	0
36	PUDUCHERRY	0	0	0	0	0	0	0	0
	TOTAL (UTs)	0	0	0	5	0	0	40	0
	TOTAL (ALL-INDIA)	0	30	0	9	2	36	662	8

Source: Prison Statistics India, 2015 (NCRB)

ANNEX

Sl. No.	State/UT	No. of Convict Women Prisoners with Children	No. of Children	No. of Under-trial Women Prisoners with Children	No. of Children	No. of Detenues Women Prisoners with Children	No. of Children	No. of Other Women Prisoners with Children	No. of Children
1	2	3	4	5	6	7	8	9	10
1	ANDHRA PRADESH	7	7	22	23	0	0	0	0
2	ARUNACHAL PRADESH	0	0	1	1	0	0	0	0
3	ASSAM	8	10	30	34	3	3	14	0
4	BIHAR	13	22	122	153	0	0	0	0
5	CHHATTISGARH	23	25	60	66	0	0	1	0
6	GOA	0	0	0	0	0	0	0	0
7	GUJARAT	6	6	16	16	0	0	0	0
8	HARYANA	17	23	23	23	0	0	0	0
9	HIMACHAL PRADESH	2	2	3	3	0	0	0	0
10	JAMMU & KASHMIR	0	0	8	8	0	0	0	0
11	JHARKHAND	14	21	100	115	0	0	0	0
12	KARNATAKA	8	10	6	6	0	0	0	0
13	KERALA	0	0	5	6	0	0	0	0
14	MADHYA PRADESH	48	64	93	111	0	0	0	0
15	MAHARASHTRA	18	20	64	68	0	0	0	0
16	MANIPUR	0	0	1	1	0	0	0	0
17	MEGHALAYA	0	0	0	0	0	0	0	0
18	MIZORAM	1	1	5	5	0	0	0	0
19	NAGALAND	0	0	0	0	0	0	0	0
20	ODISHA	9	15	69	78	0	0	0	0
21	PUNJAB	23	28	31	31	0	0	0	0
22	RAJASTHAN	15	16	32	34	0	0	0	0
23	SIKKIM	0	0	0	0	0	0	0	0
24	TAMIL NADU	4	5	6	6	0	0	0	0
25	TELANGANA	20	22	26	28	0	0	0	0
26	TRIPURA	0	0	0	0	0	0	0	0
27	UTTAR PRADESH	72	79	291	334	9	9	0	0
28	UTTARAKHAND	3	4	7	9	0	0	0	0
29	WEST BENGAL	60	66	99	121	0	0	47	0
	TOTAL (STATES)	371	446	1120	1280	12	12	62	
30	A & N ISLANDS	0	0	0	0	0	0	0	0
31	CHANDIGARH	1	1	0	0	0	0	0	0
32	D & N HAVELI	0	0	0	0	0	0	0	0
33	DAMAN & DIU	0	0	0	0	0	0	0	0
34	DELHI	2	3	29	30	0	0	0	0
35	LAKSHADWEEP	0	0	0	0	0	0	0	0
36	PUDUCHERRY	0	0	0	0	0	0	0	0
	TOTAL (UTs)	3	4	29	30	0	0	0	
	TOTAL (ALL-INDIA)	374	450	1149	1310	12	12	62	

Source: Prison Statistics India, 2015 (NCRB)

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¹ SC Order in Re - Inhuman Conditions in 1382 Prisons dated 5th February 2016. W.P.(C) No.406 of 2013

² <http://mha1.nic.in/PrisonReforms/pdf/PrisonAdmin17072009.pdf>

³ SC Order in Re - Inhuman Conditions in 1382 Prisons dated 5th February 2016. W.P.(C) No.406 of 2013

⁴ SC Order in Re - Inhuman Conditions in 1382 Prisons dated 2th May 2017. W.P.(C) No.406 of 2013

⁵ UN General Assembly adopted Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) in 2010 (Available at: https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)

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Rule 21.15(iii), Model Prison Manual, 2016.

³⁶ Rule 21.09 (xxiii), Model Prison Manual, 2016.

³⁷ Rule 6.54, Model Prison Manual, 2016.

²⁵ Law Commission of India, Women in Custody (135th Report 1989) para 2.28

²⁶ SC Judgement in Shri Dilip K. Basu vs State of West Bengal & Ors dated 24th July 2015. W.P.(Cr) No. 539 of 1986

¹⁹ UNHRC Report of the Special Rapporteur on the right to mental health (2017) 13-14, A/HRC/35/21 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/076/04/PDF/G1707604.pdf?OpenElement>> accessed 26 May 2018; Committee on Economic, Social and Cultural Rights, 'General Comment No. 14: The Right to the Highest Attainable Standard of Health' (Art. 12) (11 August 2000) E/C.12/2000/4 <<http://www.refworld.org/pdfid/4538838d0.pdf>> accessed at 5 June 2018; UNHRC Report on the Health systems and the right to the highest attainable standard of health, (2008) A/HRC/7/11 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/105/03/PDF/G0810503.pdf?OpenElement>> accessed 26 May 2018