

Plight of Women in Indian Prisons

A compilation of facts and figures by CJP

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Various studies done within Indian prisons have concluded that a majority of prisoners are Adivasis, Dalits or from other marginalised communities that are being criminalised. Their social and economic situation makes them vulnerable, being unable to defend themselves legally and financially. This compilation aims to highlight the general issues related to Women Prisoners, the Structural Exclusions within the Prison, Analysing the Monitoring Process, Legal Aid, and Accountability of Jail Staff to procedures laid down in Jail manuals.

Terms of Reference

- Conduct countrywide Public Hearings on Women Prisoners
- Analyse the conditions of Women Prisoners in different states of the Country when measured against National and International Standards
- Analyse the efficacy of monitoring mechanisms of jail conditions of Women in Prison

Status Report: Women Prisoners in India

In the year 2016, over three lakh women were arrested for crimes under the Indian Penal Code (IPC) and Special and Local Laws (SLL). A large number of these women were reportedly 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.[1] In Maharashtra, 1336 women occupied prisons in 2015[2].

Some relevant Facts and Figures

As per the most recent data available from the report Women in Prisons published by the Ministry of Women and Child Development, Government of India, there are 4,19,623 persons in jails in India. Women constitute 4.3% of this figure, numbering a total of 17,834 women. These are the official figures. Of these, 66.8% (11,916) are under-trial 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% of prisoners in 2015 were women.

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 exclusively for women, housing 2,985 female prisoners. Thus, a majority of women inmates are housed in women's

enclosures of general prisons.

Maharashtra

According to latest report from the National Crime Records Bureau (NCRB), Maharashtra has a total 9 central jails with an authorised capacity of 452 women prisoners. However, they accommodate 722 prisoners. There are also 28 District jails with a capacity of 334 prisoners, but that actually accommodate 356 prisoners. The 100 sub-jails have an authorized capacity of 568 prisoners and house 8 prisoners, while one Special jail with an authorized capacity of 3 prisoners actually accommodates 6 prisoners.

There is one women's jail with an authorized capacity of 262 prisoners, but houses 200 prisoners. There are also 13 open jails with an authorized capacity of 100 prisoners but house 44 prisoners. In all, Maharashtra has 154 jails with an authorized capacity of 1,719 women prisoners, but the actual number of inmates is 1,336.

Type of Jails	No	Total Capacity	Occupied
Central Jails	9	452	722
District Jails	28	334	356
Sub Jails	100	568	8
Special Jail	1	3	6
Women Jail	1	262	200
Open Jails	13	100	44

International Rules and Standards governing the Rights of Prisoners

There are various International Rules and Standards governing the Rights of Prisoners. Following are the International Treaties, Rules and Standards directing the model prison conditions.

1. [International Covenant on Civil and Political Rights](#)
2. [Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)
3. [Standard Minimum Rules for treatment of Prisoners \(Standard Minimum Rules\)](#)
4. [Nelson Mandela Rules](#)
5. [Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment](#)
6. [Basic Principles for the Treatment of Prisoners](#)

- Both, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or

Punishment prohibit torture and cruel, inhuman, or degrading treatment or punishment, without exception or derogation.

- The Standard Minimum Rules adopted by U.N. Economic and Social Council in 1957 are one of the most comprehensive sets of guidelines determining the rights of prisoners. They prescribe that the religious beliefs of the prisoner should be respected, prisoners should be provided with wholesome and well-prepared food at usual timings, that at least one qualified medical officer who also has knowledge of psychiatry should be present at every institution etc. There are some special provisions for women prisons like there should be special accommodation for all necessary pre-natal and post-natal care and treatment and where nursing infants are allowed to remain in the institution with their mothers, provision should be made for a nursery staffed by qualified persons.
- The Body of Principles for the Protection of All Persons under Any form of Detention or Imprisonment and the Basic Principles for the Treatment of Prisoners, both lay down general standards to treat prisoners with inherent dignity and value as human beings.

National Rules and Standards governing the Rights of Prisoners in India

The rules of incarceration in India are determined by following laws:

1. Indian Penal Code, 1860.
2. Prison Act, 1894.
3. Prisoners Act, 1900.
4. Identification of Prisoners Act, 1920.
5. Exchange of Prisoners Act, 1948.
6. Transfer of Prisoners Act, 1950.
7. Prisoner (Attendance in Court) Act, 1955.
8. Probation of Offenders Act, 1958.
9. Code of Criminal Procedure, 1973.
10. Repatriation of Prisoners Act, 2003.
11. Model Prison Manual, 2003.
12. Model Prison Manual, 2016.

Earlier, because of the plethora of laws in the country, there was no uniformity in laws, or standards relating to prisons. Hence, the Ministry of Home Affairs brought in the Model Prison Manual aimed at ensuring some uniformity in laws relating to prisons. The Union Ministry of Home Affairs 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.

Some of the important guidelines mentioned in Model Prison Manual 2016 published by Ministry of Home Affairs, Government of India are:

1. To ensure safety of woman prisoners there should be at least one women's jail in each and every state.
2. Enclosures for women prisoners should have all the requisite facilities with reference to their special needs, such as pregnancy, child birth and family care, health care and rehabilitation etc.

3. Female prisoners should be granted equal access to work, vocational training and education as male prisoners.
4. A register shall/should be maintained in every place of imprisonment where the details regarding a woman prisoner's identity, their reason for imprisonment, day, and hour of their admission and release and details of children of women prisoners shall be entered.
5. No male prisoner shall be permitted to enter the female ward of any prison at any time unless he has legitimate duty to attend therein. No male shall enter it at all by night except in an emergency, and even then only along with a female officer.
6. All staff assigned to work with women prisoners shall receive training relating to the gender specific needs and human rights of women including on sexual misconduct and discrimination.
7. Photographs, footprints, fingerprints, and measurements of women prisoners shall be done in the presence and with the assistance of women prison officers.
8. Daily visits and night inspection rounds shall be made by women prison officers.
9. Women prisoners shall be searched by women wardens and such searches shall not be conducted in the presence of any male.
10. On admission to prison, women prisoners shall be medically examined by a lady medical officer.
11. When a woman prisoner is found or suspected to be pregnant at the time of admission or later, the lady Medical Officer shall report the fact to the superintendent and send for gynaecological examination.
12. As far as possible, arrangements for temporary release will be made to enable a prisoner to deliver her child in hospital outside the prison. Births in prison shall be registered at the local birth registration office.
13. Children up to six years of age shall be admitted to prison with their mother if no other arrangements for keeping them with relatives or otherwise can be made. The children of women prisoners living in the prison shall be given proper education and recreational opportunities.
14. Adequate health facilities shall be provided to children of women prisoners. Pregnant women prisoners should be prescribed a special diet.
15. Every prisoner should receive food everyday at prescribed times, and according to the scale laid down.
16. Adequate clothing should be provided to women prisoners and their children.
17. Proper accommodation should be provided to women prisoners that shall meet basic requirements of health.
18. Every woman prisoner should be provided with the opportunity to access education, and recreational, cultural programmes, and vocational training should be organised for them.
19. To ensure access to justice for all, timely legal aid services should be provided to needy prisoners at State expenses as prescribed by the State government.
20. In a prison for convicted women prisoners, there shall be one post of a lady Superintendent.

Challenges faced by Women in Prisons

As discussed above, there are numerous clearly defined Rights of Prisoners. However, the implementation of most of the conditions is found missing in prisons today. The following are the major problems faced by women in prisons in the country, with special focus on

Maharashtra.

Prison Staff

- There is a lack of female staff in prisons in the country. In Maharashtra the sanctioned number of jail staff was 5,064 in 2015, whereas only 3,976 people were employed in the jails, of which 713 were women.
- The lack of female staff in women prisons often leads to male staff becoming responsible for female inmates. This is highly undesirable since women inmates need gender-specific services that should be provided by female staff.

Sanitation and 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 is a lack of sufficient water, which exacerbates the low levels of sanitation and hygiene, as against the minimum standard estimate of 135 liters per inmate by the Manual.
- In Byculla jail, 81 women inmates were hospitalized last year due to alleged food poisoning caused by the unhygienic environment in the prison. The women complained of nausea, vomiting and diarrhea.

Accommodation

- National and International Guidelines prescribe decent human living standards for prisoners. 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.
- The Minimum Standards Rules further direct that dormitories should be carefully provided to people suitable to live with each other and windows where prisoners live or work shall be large enough to enable the prisoners to read or work by natural light.
- Over-crowding is one of the key problems plaguing the prisons in the country. The national average occupancy was reported at 114.4% in 2015. 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.
- In Maharashtra, however, over-crowding is not a problem, with the total capacity being 1719, occupied by 1336 women.

Health

- The right to health includes providing healthcare that is available, accessible, acceptable and of good quality. In many cases, female wards in hospitals and lady Medical Officers, especially gynecologists, 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 2015, of which 48 deaths were considered to be of natural causes and three deaths occurred due

to committing suicide. In Maharashtra, 4 deaths were due to natural causes.

Legal Aid

- 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 that prisoners have access to legal aid.
- Visits by members of the National Human Rights Commission (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 of their rights.

Violence

- Incidents of violence, including sexual violence by inmates and authorities, have been reported from across the country. However, official reports underestimate the prevalence of violence, because prisoners fear retaliation, as they are forced to stay in the same place as their perpetrators.
- In 2017, Manjula Shetye was allegedly beaten to death in Byculla jail by prison staff.[3]

Children

- Children up to the age of six are allowed to live with their mothers in prisons if no other arrangements for their care can be made. In Maharashtra, the total number of women with children is 82, and the total number of children is 88.
- As per a 2009 BPR&D report, 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.

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Notes

[1] Women in Prisons Report published by Ministry of Women and Child Development, India in June 2018.

[2] NCRB's Crime in India Statistics, 2015

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