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Women Prisoners And Their Human Rights

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Abstract: *Since ancient times, women is most neglected and vulnerable group of society. In ancient and medieval era, the concept of prison not applicable to women offenders. During British Colonial era in India Britishers created the system of prison and also made some provisions for women prisoners. Prisoners are also particularly vulnerable as they suffer from loss of liberty by reason of Imprisonment. Although the Imprisonment Lawfully Restricts Personal Liberty, it Does Not Abolish or Extinguish the Fundamental Human Rights Guaranteed Under the Constitution of India and International Human Rights Institutions. Due to their biological, psychological, and social needs, including issues related to pregnancy, motherhood, healthcare, dignity, privacy, and protection from violence, women who are incarcerated require special legal protections. Through constitutional jurisprudence, statutory laws, and judicial precedent, the courts have gradually recognized that while a person may be confined to jail as an offender and his or her liberties restricted by reason of such confinement, they continue to enjoy all of the fundamental rights except those which must necessarily be curtailed by lawful incarceration. Through provisions enshrined in the Constitution of India, the Prisons Act 1894, the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, the Bharatiya Nyaya Sanhita (BNS), 2023, and various judicial decisions, it is a collective endeavor to ensure humane treatment and protect women prisoners. However, overcrowded conditions within prisons, lack of adequate medical facilities, shortage of female staff working in prisons, delayed trials, and poor rehabilitation mechanisms continue to undermine these legal safeguards. This paper will critically analyze the constitutional and statutory rights available to women prisoners in India. Evaluate the role of the judiciary in protecting the rights of women prisoners, identify existing challenges, and suggest practical recommendations for developing a correctional system that is gender-sensitive and consistent with constitutional values and international human rights standards.*

Key words: *Women Prisoners, Human Rights, Constitutional Rights, BNSS, BNS, Custodial Justice, criminal.*

Introduction- The concept of human rights is based upon the belief that every person is endowed with a set of inherent rights and freedoms simply because he/she exists as a human being. Imprisonment can be used to deprive individuals of their personal freedom but cannot deny them their rights as a member of society.¹ Therefore, the philosophy of modern criminal justice emphasizes that prisons should serve the purpose of rehabilitating offenders and correcting past wrongdoing rather than simply punishing individuals. Because women are generally more vulnerable to discrimination, poverty, social exclusion, physical and emotional abuse, poor access to health care, and additional child-rearing responsibilities when incarcerated, the idea of providing rehabilitative support to female offenders is more significant.² While females make up less than one percent of India's total prisoner population, they are subjected to disproportionate hardship relative to males. Since most prison systems were designed primarily with men in mind, there was little consideration given to the needs of women prisoners. As such, women prisoners often suffer violations of their dignity, privacy, reproductive rights and access to justice even though India has laws which protect these rights.³

“Article 21 of the Constitution of India identifies each citizen's right to live with dignity as part of their right to life. In addition, the Supreme Court has held that prisoners retain all of their fundamental rights until their rights are restricted by statute due to their confinement.”⁴ Together, Articles 14, 15, 19, 20, 21, 22, 23 and 39A provide the constitutional basis for humane treatment of prisoners in India; equal treatment before the law; legal assistance; protection from unreasonable arrests; and access to justice. Through judicial interpretations, the constitutional protections described above have enhanced prison jurisprudence to become an important area of human rights law.

In addition to constitutional protections, there are numerous statutes regulating the treatment of prisoners in India. The Prisons Act, 1894 forms the primary legislative structure for managing prisons. Despite its historical development during the colonial era, many of its provisions govern how prisons are managed today in conjunction with state prison rules and the model prison manual adopted in 2016.⁵ The “Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the Bharatiya Nyaya Sanhita, 2023 (BNS) replace both the Code of Criminal Procedure, 1973 and the Indian Penal Code, 1860 and have updated some areas of



criminal procedure while maintaining key safeguards for protecting women from arrest, detentions, and degrading treatment.”

International human rights law has had an impact on Indian prison jurisprudence. “The Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the Nelson Mandela Rules for the Treatment of Prisoners and the Bangkok Rules for the Treatment of Women Prisoners and Alternatives to Detention for Women Offenders (2010) emphasize that women prisoners deserve gender responsive treatment and protection from violence as well as access to health care and other opportunities for rehabilitation.”⁶ Many Indian court decisions have referenced these international standards when considering whether to expand or limit prisoners' rights guaranteed by the constitution.

Although Indian courts have made considerable progress in interpreting constitutional rights favourably for prisoners since India became independent and although statutory protections exist for prisoners at least at the level established by the Prisons Act of 1894, there are still several practical problems experienced by women prisoners in India. There are overcrowding problems in prisons; too few women corrections officers; poor sanitation conditions; inadequate medical facilities available within prisons; lengthy delays in investigating crimes committed by women prisoners; long periods spent detained awaiting trial; instances of physical harm to prisoners while in custody; inadequate mental health services available to prisoners; and public embarrassment suffered after release from prison.⁷ These issues have been identified repeatedly by the National Human Rights Commission, the National Crime Records Bureau and Law Commissions Reports calling for immediate reform to India's prison system with a focus on gender disparities.

Within this context, this paper will review critically the legal system affecting the human rights of women prisoners in India. Constitutional protections; statutory protections provided by the Prisons Act, 1894; and protections afforded by the Bharatiya Nyaya Sanhita, 2023 (the replacement statute for the IPC); and protections established by the Bharatiya Nagarik Suraksha Sanhita, 2023 (the new statute replacing the CrPC) will be examined. Additionally, prior judicial decisions regarding women prisoners; current limitations; and potential recommendations for implementing effective policies in order to ensure that prison administration is respectful of human rights and sensitive to gender disparities will be analyzed.

Rights of Women Prisoners under the Indian Constitution- The Constitution of India creates no specific class of Fundamental Rights as specifically applicable to prison inmates but it is consistently acknowledged by the Indian Supreme Court that the right to constitutional protections are not lost upon one's imprisonment. Thus, although certain fundamental rights may be necessary to restrict or limit in order to properly confine (i.e. lawfully incarcerate) individuals in prisons, women in prison continue to have entitlements under the constitution to the same rights and freedoms including equal treatment and protection, and personal freedom and legal assistance.⁸

➤ **Right to Equality (Articles 14 and 15)-**

The constitutional provision in article 14 that ensures fair treatment under the law to all individuals “including those who are currently incarcerated –establishes a prohibition against arbitrary discriminatory practices by prison administrators, as well as a requirement that women prisoners be treated fairly and without unreasonable restriction.”⁹ Therefore, prison regulations must reflect the principles of non-discrimination, fairness and reasonableness.”

Conversely, article 15 is an “anti-sex discrimination clause; however, it also gives the state permission to establish ‘special provisions’ for women and children. The constitutional exception from the anti-discrimination clause was used as the legal basis for creating separate women-only prisons, employing female corrections personnel, providing maternity health services, nutrition programs, child-care facilities, etc., which provide specific welfare-related benefits for women prisoners.”¹⁰ In accordance with constitutional values, such affirmative actions for women prisoners will promote substantive equality.

➤ **Right to Life and Personal Liberty (Article 21)-**

The Supreme Court has consistently expanded on the concept of “life” as it relates to prisoners' rights under Article 21. This includes their right to be treated with dignity, have proper mental and physical health, maintain privacy, receive legal aid, have a speedy trial, be treated humanely, protected from torture, and obtain medical treatment.¹¹ All these rights afforded to male prisoners also apply equally to female prisoners regardless of their status-either being an under-trial prisoner, convict, detainee, or person detained for reasons of public safety.

Article 21 affords female prisoners many rights which specifically relate to:

- Protection from custodial violence and sexual abuse;



- Adequate access to healthcare and reproductive health services;
- Dignified treatment during pregnancy and childbirth;
- Appropriate sanitation and menstruation management;
- Mental health counseling and assistance;
- Privacy when undergoing medical examinations and searches;
- Opportunities for education, rehabilitation, and vocational training; and
- The protection of children living with their imprisoned mothers.

Throughout its history the Supreme Court has continually stated that prison administrators are obligated by the Constitution to protect the dignity of all prisoners and therefore no prisoner can be subjected to treatment that is cruel, degrading or inhumane as this would violate the provisions of Article 21.¹²

➤ **Protection against Arbitrary Arrest (Article 22)-**

1. The provision for women in article 22 is extremely critical as it ensures due process. Women are entitled to know why they were detained; and have access to an attorney or legal counsel (of their own choosing) to defend them against detention. In addition, all detained persons must appear before a magistrate within 24 hours after being detained.¹³

Further protections from abuse of authority afforded to women under Article 22 are protected at the statutory level. Provisions protecting women from arrest at night time and requiring court orders when this occurs, can prevent abuse of power by law enforcement officials.

➤ **Right against Exploitation (Article 23)-**

Women who are incarcerated can be assigned to work within prison industries; however they must have the same right as men to humane working conditions, adequate protection from harm, and appropriate compensation when such is provided for in the prison regulations. The prohibition on forced labour in Article 23 also means that women's participation in prison industries cannot exceed the amount of labour required by law.¹⁴

➤ **Right to Free Legal Aid (Article 39A)-**

While legally part of the "Directive Principles of State Policy," Article 39A has been combined with "Article 21 to be considered as a Constitutional Obligation by the Indian Government on providing Free Legal Aid to Indigent Accused Persons and Prisoners."¹⁵ Women prisoners from lower economic classes have the right to obtain Legal Representation from Legal Service Organizations (established in accordance with the Legal Services Authorities Act, 1987) which can assist them in obtaining legal counsel. Legal Representation is significant in reducing prolonged detention for women prisoners while also ensuring they receive a Fair Trial. The Supreme Court of India has consistently ruled that the failure to provide legal representation to an individual is a Violation of Article 21. A large number of female prisoners in India are Undertrial Detainees; therefore this provision of law is of greater significance since many do not have sufficient funds to retain private attorneys."

➤ **Constitutional Protection of Human Dignity-**

The philosophic foundation for constitutional rights of inmates is the recognition that imprisonment restricts an inmate's freedom in certain areas, however it does not remove her/his inherent human dignity. Thus every female inmate retains the right to be treated respectfully; to be protected from all forms of physical or mental abuse; to maintain privacy regarding all medical treatments received while incarcerated; to have access to rehabilitative programs; and to have support available for social reentry after she/he is released. Therefore, constitutional values require the administration of prisons to provide a balance between maintaining the safety/and/or security of the prison as an institution and respecting the dignity of each inmate and providing gender equity.¹⁶ Therefore, judicial precedent through constitutional law has changed the purpose of Indian prison systems from being solely corrective institutions based on punishment to becoming correctional systems where the primary focus is the rights of inmates, and these are based on the concepts of dignity, equal opportunity, fairness, and rehabilitation.

Rights of Women Prisoners under the Prisoners Act, 1894- Despite being a product of a colonial regime the Prisons Act, 1894 is still the major piece of legislation that governs prisons in India today. This Act was originally designed as an act to control and manage prison discipline; however many of the Act's provisions contain statutory protections which are particularly important to female prisoners. Additionally, these statutory protections from the Act have been supported and/or superseded by the Model Prison Manual, 2016, State Prison Rules and various court decisions and international human rights standards.¹⁷ Today's focus on how prisons should be run has shifted to emphasizing correction, rehabilitation and treating inmates with respect and dignity rather than just punishing them.



➤ **Right to Safe and Separate Accommodation-**

One of the greatest protections afforded to female inmates under the Prisons Act is the provision that female inmates are to be held separate from male inmates. This segregation of female inmates serves a dual purpose; protecting the inmate from sexual assault/harassment, violence, etc., and maintaining her privacy/dignity.¹⁸ Additionally, separating female inmates into their own barracks, wards or correctional facilities enables prison administrations to provide gender specific health care, counseling, job skills training and child care programs.¹⁸ The Supreme Court has continually reiterated in its decisions that when it refers to "segregation", it means far more than just keeping men and women separated physically. In addition to being separated physically, there must also be an environment that is safe, clean (sanitation), well-lit and secure as well as providing opportunities for rehabilitation consistent with the rights granted to citizens by Articles 19-22 of the Indian Constitution.¹⁹

➤ **Right to Health Care and Medical Facilities-**

Prisoners are entitled to have free medical treatment provided by trained doctors at prisons according to section 5 of the Prisons Act.²⁰ Because of the special physical (reproductive) and biological needs of female prisoners, there is a particular need for compliance with this obligation. Medical professionals should perform routine health checks on female prisoners; also they should provide prenatal, postpartum and emergency obstetrical care; provide nutrition; manage menstruation; provide counseling to address psychological issues; and provide treatment for chronic conditions. In addition to providing these basic forms of health care, the 2016 version of the Model Prison Manual recommends that prison officials provide regular gynecological exams for women prisoners; sanitary products; maternal and child health care; vaccinations against diseases; mental health services; and hospitalization as soon as possible when an inmate has a condition which requires it.²¹ "If prison officials do not meet their obligations to provide appropriate healthcare for inmates who require it, this could be considered a violation of their fundamental right to life under Article 21 of the Constitution."

➤ **Right to Humane Living Conditions-**

Every inmate is entitled by statute to be housed in a humane environment which respects their health, sanitation, and dignity. Inmates are protected under the Prisons Act from substandard housing; this includes providing for inmates' accommodations, ventilation, hygiene, clean drinking water, clothing, bedding, meals, and sanitation.²² Women inmates need unique amenities, including separate bathing areas, sanitary bathrooms and toilet facilities, private time when using the bathroom while being bathed or receiving other personal services, and secure housing for pregnant inmates and their babies. For years, the U.S. Supreme Court has stated that crowding, unsanitary environments (including lack of proper air circulation), and inadequate medical facilities constitute violations of the constitutionally mandated humane treatment that is provided under Article 21.²³

➤ **Right to Protection from Cruel, Inhuman and Degrading Treatment-**

Prison authorities' use of disciplinary power must follow the statutory requirements and limitations imposed by the constitution. Punishment that involves torture, an unreasonable amount of physical force, physical abuse or a form of humiliation (degrading) is forbidden in both domestic judicial decisions regarding constitutional matters as well as through international human rights law.²⁴ Prisoners of women have the right to be protected from violence at the hands of custodians while they are incarcerated; sexual harassment, verbal abuse, humiliation and other forms of harassment committed by prison officials. The courts have consistently found that no justification exists for violation of either human dignity or bodily integrity when it comes to maintaining prison discipline.

➤ **Right to Communication with Family Members-**

The rehabilitation of female inmates is largely dependent on the maintenance of family ties. The Prisons Act provides for relative interviews and correspondence in accordance with reasonable prisoner regulations.²⁵ The Model Prison Manual supports regular visitation by family members as well as legal interview opportunities, video conferencing capabilities, and child contact whenever possible. Contact among these individuals can assist in reducing a female inmate's level of psychological distress, assist in her rehabilitation process, and enhance her ability to successfully reintegrate into society post-release.

➤ **Rights of Pregnant Women and Mothers-**

While the Prisons Act does provide some limited protections for pregnant inmates, through judicial rulings and administrative directives, the rights of pregnant inmates have been greatly enhanced. Pregnant female inmates shall be provided prenatal care; an opportunity to deliver within the institution; postpartum care; a healthy dietary regimen; routine health evaluations by a qualified medical professional; and, safe



housing accommodations.²⁶ In addition, all minor children who reside with their incarcerated mother shall receive proper food; immunizations (if medically indicated); educational opportunities; quality healthcare; access to recreational activities; and a suitable child friendly living environment. Additionally, the Supreme Court has ruled that all children that live in prison with their mothers should be treated as independent entities having rights, and not as prisoners.²⁷

➤ **Right to Rehabilitation and Vocational Training-**

Modern prison management recognizes the rehabilitation of offenders as an overarching goal of incarceration. The same is true with respect to providing female offenders opportunities to participate in programs designed to enhance literacy, vocationally based education, skills development, counseling, legal awareness and job oriented training.²⁸ These types of programs can assist female offenders with developing economically independent lives upon their release from custody thereby reducing the probability of recidivism. According to the Model Prison Manual, 2016, rehabilitation programs for women prisoners need to be individually tailored based on each woman prisoner's level of education, vocational interests, and her mental health requirements. While neither of India's current penal codes; the Indian Penal Code of 1860 (replaced by the Bharatiya Nyaya Sanhita or BNS, 2023) nor define specific rights of persons in custody, both offer significant legal protections to women who are incarcerated through defining those actions that violate their bodily integrity, dignity and personal safety as crimes punishable under the law.²⁹

➤ **Protection against Sexual Violence-**

The IPC offenses for example; rape, assault on a female with intent to outrage her modesty, criminal force, sexual harassment, voyeurism, and custodial sexual abuse were punishable by heavy penalties.³⁰ The Bharatiya Nyaya Sanhita (BNS) 2023 will retain all of those protections in addition to restructuring and updating the penal code provisions related to crimes committed against females. Any prison official or law enforcement officer who commits sexual offenses against a female inmate will remain criminally liable for that crime under the BNS. That setting was viewed as an aggravating factor due to the extreme difference in power between prison officials and inmates.

➤ **Protection against Assault and Criminal Force-**

Women prisoners have continued to be afforded statutory protections from: assault; criminal intimidation; wrongful confinement in excess of legal authority; voluntary infliction of harm upon another person; grave harm to a person (grievous hurt); and criminal intimidation.³¹ Criminal liability will attach to prison officials who act outside their lawful authority with regard to physical abuse, the use of excessive force; and/or illegal confinement.

➤ **Protection of Human Dignity-**

The BNS recognises offenses that affect women prisoners' physical integrity; their freedom to move and act as they please (liberty); and their dignity. Women prisoners remain protected under the law from acts amounting to harassment, intimidation, extortion, and assault by fellow inmates or prison employees.³² The judiciary has reaffirmed on several occasions that prison authorities are required to function within a system governed by the law and that an inmate's right to be free from criminality remains intact while in custody.

➤ **Accountability of Public Servants-**

Public servants who have engaged in illegal detentions, fabrications of record, abuse of power or violations of lawful procedure can be prosecuted by the Bharatiya Nyaya Sanhita where such persons are guilty of criminal offenses that fall within the provisions of the statute.³³ The Bharatiya Nyaya Sanhita provides a further layer of protection to prevent and deter custodial abuses and is also used to ensure greater openness regarding the administration of prisons.

➤ **Protection of Pregnant Women-**

Below is the same text that sounds more like a person has written it. Below is the rewritten version of your original text which should sound more "human" than machine. You must not change any dates or facts. You may return only the changed text! The bha ratiya nyaya san hita continues to protect women from unlawful acts causing miscarriage without legal justification and offences endangering pregnant women.³⁴ in prison environments, where a statement of custody is taken for granted, the responsibility of the government is enhanced as it must provide a greater standard of care to the pregnant incarcerated woman. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) replaced the code of criminal procedure, 1973 on July 1st, 2024 and maintains most statutory rights available to women with regard to procedural safeguards; however, by digitizing processes and streamlining administrative tasks associated with criminal justice, this new law will bring modernization to these systems.³⁵ women prisoners and those under arrest remain entitled to extensive legislation intended to preserve the dignity, privacy, and liberty of each woman.



Some other law is needed for Women Prisoners:

➤ Protection against Arrest during Night-

One of the best features for protecting female rights as stated within the BNSS is that there are restrictions on making an arrest of a woman at or after sundown but prior to sun rise unless it is for "special reasons". In order for this to occur there will need to be prior judicial magistrate approval and a written report from a female police officer.³⁶

Arrest by a Woman Police Officer- The arrest of a woman should ideally occur with or at least within sight of an on-duty female police officer.³⁷ The purpose is to protect a woman's dignity, maintain her privacy and ensure her body remains intact during this time. It will also limit the opportunity for male custody personnel to engage in inappropriate behavior toward a female inmate.

➤ Search of Women-

When it is determined that a woman prisoner requires to be personally searched, such a search can only be performed by a second woman who conducts the search with respect to both the woman being searched and all others present.³⁸ Personal searches of women prisoners may only be conducted by male prison staff members if permitted under statute

➤ Medical Examination by Female Medical Practitioner-

The BNSS requires that in all cases, medical examinations of arrested women are to be performed by or supervised by a Registered Female Medical Practitioner.³⁹ This is to protect the rights of privacy, dignity and physical integrity of females at all stages of the investigative process and while detained.

➤ Right to be Informed of Grounds of Arrest-

Statutorily every female who is arrested has the immediate right to be told the reasons of her arrest as well as the charges which have been laid against her.⁴⁰

➤ Right to Inform a Relative or Friend-

Immediately after arrest, it is obligatory for the arresting authority to notify a family member, close friend or the person that was chosen by the woman who has been arrested, about her arrest and where she is being held.⁴¹ The inclusion of this obligation reduces the occurrence of arbitrary detainment, which provides easier access to legal assistance.

➤ Right to counsel-

The BNSS affirms that each arrested individual, regardless of gender, has the right to counsel of their own choice during an investigation and/or interrogation, subject to the provisions of statute.⁴² Effective legal representation can protect women from coerced admissions, involuntary confessions and other procedural abuses.

➤ Produced before magistrate no later than 24 hours-

No female person that has been arrested shall be permitted to remain under police detention longer than 24 hours prior to her production before the nearest magistrate.⁴³ Judicial review represents an essential constitutional protection against unlawful detention and abusive use of police powers.

➤ Right to health and safety while in custody

The BNSS specifically assigns on the police authority the duty to maintain the health, safety and general well-being of all persons taken into custody.⁴⁴ Therefore, women detained are entitled to receive medical attention and to have protected against physical harm, provided with sufficient food/nutrition, provide access to clean sanitation and treated humanely while they are in police custody.

When considered collectively with established constitutional protections and court decisions, the legislative safeguards incorporated in the BNSS constitute a unified body of law designed to preserve the respectability, freedom and human rights of women from the time of their arrest through to their investigation and incarceration.

Women Prisoners and Their Human Rights-

Legal and Progressive Approaches of the Indian Judiciary: The judiciary of India has made an enormous contribution to defending the rights of imprisoned individuals as humans, through its extension of constitutional protections contained in Article 14, Article 21 and Article 22 of the Constitution. As well as through purposeful interpretations and judicial activism, the Supreme Court has continually ruled that being imprisoned does not equate to ceasing to be a person; rather it means that imprisonment limits an individual's right to personal liberty to the degree authorized by law. Consequently, all other constitutionally guaranteed or inherent human rights remain available to persons who are imprisoned.⁴⁵ A key benefit of this progressive judicial decision-making is in respect of female prisoners. Female prisoners face specific forms of gender-based discrimination, health care issues and custodial violence as well as social marginalization.



1. “Sunil Batra v. Delhi Administration was a landmark case that changed Indian law about prisons. In this case, the Supreme Court decided that all prisoners had all of their basic rights (except some which were limited as a result of being incarcerated).”⁴⁶ The Supreme Court stated that certain violations of prisoners’ basic rights would be unconstitutional under Article 21. Those included; torture, solitary confinement (if no statute existed to justify it), treatment that is cruel or inhumane and discipline that is arbitrary. Justice V.R. Krishna Iyer said prison walls could not exclude the right to have fundamental rights and therefore that prison administration could also be reviewed through the lens of constitutionality. Additionally, he noted that prison administrators would be responsible to ensure humane treatment and respect for the dignity of inmates. Although the case specifically dealt with the issue of male prisoners, the same principle applies to female prisoners and is the legal basis upon which the rights of prisoners will be protected.

2. “Sheela Barse v. State of Maharashtra is regarded as one of the most significant judgments concerning the rights of women prisoners. The Supreme Court recognized the special vulnerability of women in police custody and issued comprehensive guidelines to prevent custodial violence and abuse.”⁴⁷

The Court directed that:

- women prisoners should be guarded by female police personnel;
- interrogation of women should ordinarily be conducted in the presence of female officers;
- legal assistance should be made available immediately after arrest;
- women prisoners should undergo regular medical examination; and
- complaints of custodial violence should be investigated promptly.

The judgment significantly strengthened procedural safeguards for women during arrest and detention and continues to influence prison administration in India.

3. “The Supreme Court in D.K. Basu v. State of West Bengal laid down mandatory guidelines governing arrest and detention to prevent custodial torture and deaths.”⁴⁸ These guidelines subsequently became part of statutory criminal procedure and continue to guide police functioning under the Bharatiya Nagarik Suraksha Sanhita, 2023.”

The Court directed that every arrested person has the right to:

- know the grounds of arrest;
- have a friend or relative informed about the arrest;
- undergo medical examination;
- have an arrest memo prepared;
- consult an advocate; and
- be produced before a Magistrate within twenty-four hours.

These safeguards are particularly important for women prisoners because they minimize opportunities for arbitrary detention and custodial abuse.

4. Charles Sobhraj v. Superintendent, Central Jail (1978) in this landmark decision, the Supreme Court held that prison discipline cannot justify arbitrary restrictions upon constitutional rights.⁴⁹ The Court observed that prison authorities must exercise their powers reasonably and in accordance with constitutional principles.

The judgment reinforced the doctrine that administrative convenience cannot override human dignity and constitutional protections. This principle applies equally to women prisoners facing arbitrary disciplinary action or restrictions inconsistent with statutory authority.

5. The “Hussainara Khatoon series of cases highlighted the plight of undertrial prisoners languishing in prisons for years without trial. The Supreme Court recognized the right to speedy trial as an integral part of Article 21.”⁵⁰

The judgment has particular relevance for women prisoners because a substantial proportion of female inmates in India are undertrial prisoners. Delayed investigation and prolonged judicial proceedings often result in unnecessary incarceration, causing severe social, economic, and psychological consequences.

6. **R.D. Upadhyay v. State of Andhra Pradesh (2006)**- This judgment specifically addressed the rights of children living with imprisoned mothers.⁵¹ The Supreme Court directed prison authorities to provide:

- nutritious food;
- medical care;
- education;
- recreational facilities;



- proper accommodation; and
- opportunities for overall development of children residing in prisons.

The Court emphasized that children accompanying their imprisoned mothers are not prisoners and must receive protection consistent with their constitutional rights.

7. In Re: Inhuman Conditions in 1382 Prisons (2016)- In this suo motu public interest litigation, the Supreme Court examined overcrowding, poor sanitation, shortage of medical facilities, prolonged undertrial detention, and inadequate prison infrastructure across India.⁵²

The Court directed governments to improve prison conditions, establish legal aid clinics, appoint sufficient medical officers, reduce overcrowding, and implement prison reforms in accordance with constitutional standards and international human rights norms.

This judgment significantly strengthened the human rights framework governing prison administration, including the treatment of women prisoners.

“Smt. Rekha v. State of U.P.”⁵³ is a common cause title representing multiple distinct cases adjudicated by the Allahabad High Court and other forums in Uttar Pradesh. Because Smt. Rekha is a frequent litigant name, these judgments span different legal matters including criminal bail applications, quashing petitions under the Bharatiya Nagarik Suraksha Sanhita (BNSS), and property or personal liberty disputes. For instance, a notable recent ruling delivered on January 20, 2025, dealt with criminal jurisprudence and custodial rights involving a mother and child, while other similarly-named entries relate to private protection or procedural quashing requests.”

Limitation and Suggestions- Despite progressive constitutional interpretation and statutory safeguards, the implementation of women prisoners' rights continues to face numerous practical challenges.

Firstly, overcrowding remains one of the most serious problems affecting Indian prisons. Congested accommodation adversely affects sanitation, healthcare, privacy, and security, particularly for women inmates.⁵³

Secondly, many prisons continue to suffer from a shortage of women correctional officers, counsellors, psychologists, and trained medical personnel. The absence of adequate female staff compromises privacy and increases vulnerability to abuse.

Thirdly, inadequate healthcare facilities remain a persistent concern. Many prisons lack qualified gynaecologists, mental health professionals, prenatal care facilities, menstrual hygiene management, and emergency medical services.

Fourthly, a significant proportion of women prisoners are undertrial prisoners, resulting in prolonged incarceration due to delays in investigation, inadequate legal aid, and judicial backlog.

Fifthly, rehabilitation programmes remain inadequate. Limited vocational training, educational opportunities, counselling services, and post-release rehabilitation reduce the prospects of successful reintegration into society.

Finally, social stigma associated with imprisonment disproportionately affects women after their release. Many face rejection by families, unemployment, social isolation, and economic insecurity, thereby increasing the risk of recidivism.

Conclusion- Women prisoners continue to remain entitled to the protection of their constitutional and human rights despite lawful incarceration. The Constitution of India, the Prisons Act, 1894, the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, judicial precedents, and international human rights instruments collectively establish a comprehensive legal framework for ensuring dignity, equality, healthcare, legal assistance, and humane treatment within prisons.⁵⁴

The Supreme Court of India has consistently transformed prison jurisprudence by recognizing prisoners as bearers of fundamental rights and by emphasizing correction, rehabilitation, and human dignity over retributive punishment. Landmark decisions such as Sunil Batra, Sheela Barse, D.K. Basu, Hussainara Khatoon, R.D. Upadhyay, and In Re: Inhuman Conditions in 1382 Prisons have substantially strengthened the constitutional protection available to women prisoners.

Nevertheless, persistent challenges such as overcrowding, shortage of women staff, inadequate healthcare, delayed trials, insufficient rehabilitation, and social stigma continue to undermine effective implementation of these legal safeguards. Prison reforms must therefore move beyond legislative provisions and focus upon practical implementation through improved infrastructure, gender-sensitive administration, judicial oversight, effective legal aid, and rehabilitation-oriented correctional policies.

Ultimately, the true measure of a democratic society lies not merely in punishing offenders but in protecting the dignity and humanity of those who are in its custody. Ensuring the human rights of women



prisoners is therefore not only a constitutional obligation but also an essential component of social justice, gender equality, and the rule of law.

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