



6. Behind Bars: SDGs' Reflection on Incarcerated Women in India

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Abstract

This study embarks on a journey to explore the nexus between the Sustainable Development Goals (SDGs) and the legal protections and conditions afforded to women prisoners in India. Beginning with a focused interpretation of the SDGs, especially Goals 1 to 6, 8, 10, and 16, the discourse advances into a meticulous review of India's prison laws relevant to female inmates. Integral to the research is the analysis of judgments that have played a transformative role in carving the rights landscape for these incarcerated women. The present paper detail the SDGs, particularly those emphasizing gender justice, Investigate the nuances of Indian prison laws as they relate to women and scrutinize pivotal judgments that have influenced the rights of incarcerated women in India. Beyond offering a synthesis of SDGs and Indian legal tenets, the research fills a knowledge gap by spotlighting how global goals intersect with domestic legalities concerning female prisoners. It serves as a compass, pointing out areas where India's legal tapestry either aligns with or diverges from these universal benchmarks. Ultimately, this paper bolsters the dialogue on the importance of upholding and enhancing the rights of women prisoners within the broader framework of gender justice and equality in the Indian context.

Keywords: Sustainable Development Goals, Women Prisoners, Indian Laws, Gender Justice, Prison Reforms.

1. INTRODUCTION

The treatment of women prisoners within the Indian legal system has long been a point of contention and concern. When juxtaposed against international norms and standards, it becomes evident that this is a subject requiring in-depth scrutiny¹. In recent years, the Sustainable Development Goals (SDGs) articulated by the United Nations have emerged as pivotal in guiding nations on pathways to equitable development and justice². These guidelines not only offer a framework for broader societal progress but also intimate the treatment and rights of specific groups, such as women prisoners. This research endeavors to use the SDGs as a reference point, drawing a comprehensive picture of how India's treatment of its female prison population either aligns with or deviates from these international benchmarks.

1.1. Understanding the Sustainable Development Goals (SDGs)

In a significant move towards establishing a more balanced and equitable world, member nations of the United Nations, in 2015, came together to endorse a set of 17 SDGs³. These weren't just broad-brush aspirations but a meticulously chalked-out plan addressing multifaceted challenges that nations grapple with, encompassing issues from poverty alleviation to curbing environmental degradation.

Apart from Goals 1 to 6, 8, 10, and 16, central to our research are two pivotal goals: Goal 5 and Goal 16. Goal 5 aims squarely at achieving gender equality, addressing the numerous



disparities faced by women and girls globally. It underscores the imperative of eradicating discriminatory practices and ensuring women's equal rights to resources and opportunities⁴. Goal 16, on the other hand, is an overarching call for promoting peaceful and inclusive societies, providing access to justice for all, and building transparent, accountable institutions⁵. While the SDGs set a global benchmark, their true essence and impact lie in their application within individual nation-states, given each country's unique socio-political and cultural milieu. This is precisely where our research anchors itself, seeking to understand how these international norms find resonance in the Indian context, particularly concerning its female prison population.

2. OVERVIEW OF INDIAN PRISON LAWS PERTAINING TO WOMEN

India, with its rich legal tapestry and history, has always strived to protect the rights and interests of its citizens, regardless of their position within the societal structure. This endeavor extends to the marginalized and vulnerable, including incarcerated women. The prison laws of India have undergone significant evolution, echoing the broader national commitment to human rights, gender sensitivity, and equitable justice.

Historically, prisons in India have been largely governed by laws enacted during the British colonial era, notably the Prisons Act of 1894⁶. But with changing times, increased awareness about women's rights, and evolving jurisprudence, there has been a conscious effort to cater to the unique needs and challenges faced by women prisoners⁷. The plight of women in prisons is intricately tied to broader societal attitudes, gender prejudices, and deep-rooted cultural norms. Their position, already complicated by the punitive nature of incarceration, is further accentuated by issues such as pregnancy, motherhood, and the overarching societal lens through which women prisoners are often viewed⁸.

This overview seeks to dissect the maze of Indian prison laws as they pertain to women, tracing the legislative landscape, identifying key statutory provisions, and highlighting how these laws intersect with the broader contours of gender justice and equality. From constitutional guarantees to specific legislative enactments and landmark judicial decisions, Indian prison laws offer a nuanced framework to ensure that the rights of women prisoners are upheld, their dignity is protected, and their unique needs are addressed. As we delve deeper, we will uncover the layers of protection offered by the Indian legal system and how it aspires to balance punitive measures with rehabilitative ideals, particularly for women behind bars⁹.

2.1. Current Statutory Rights and Protections

The rights of women prisoners in India have been shaped by a combination of constitutional provisions, statutory enactments, and administrative guidelines. While the Constitution of India does not outline explicit rights for prisoners, there are specific rights mentioned which, when interpreted expansively, extend to incarcerated individuals, including women.

- 1) **Constitutional Provisions:** The Indian Constitution, primarily through Articles 14, 15(3), 21, 16, 39(a), 39(b), 39(c), and 42, offers broad protections that cater to everyone, including women prisoners. For instance, Article 21, which ensures the right to life and personal liberty, has been interpreted to extend to a right to live with dignity, encompassing decent living conditions in prisons.



- 2) **Statutory Framework:** The legislative framework that directly governs the administration and condition of prisons includes:
- i. Prisons Act, 1894
 - ii. Prisoners Act, 1900
 - iii. The Prisoner (Attendance in Courts) Act, 1955
 - iv. Prisons Rules, 1968
 - v. Prisoners Leave Rules, 1989
 - vi. And many other state-specific regulations, like the Madhya Pradesh Prison Rules of 1968.

All these legislations and rules have provisions detailing the rights of prisoners, including those that pertain specifically to women. For example, the necessity of separate facilities for female inmates, provisions related to the treatment of pregnant inmates, and more.

- 3) **Model Prison Manuals:** The Model Prison Manuals of 1960, 2003 and 2016 serve as guidelines, detailing standards and practices for prison administration. They list out the minimum standards for correctional facilities and deal with a range of issues, from the basic rights of prisoners to their health and rehabilitation.

2.2. Judicial Interpretations and Landmark Cases on Women Prisoners' Rights

In its ongoing commitment to safeguarding the rights and dignity of its citizens, the Apex Court of India has played an instrumental role in shaping the legal narrative around prison reforms. By examining and interpreting the provisions of the Constitution and various statutes in the light of evolving societal norms, the Court has been a beacon of hope for those incarcerated. The rights of prisoners, especially women, have been particularly emphasized in the Court's jurisprudence. Let's delve into some of the landmark judgments and interpretations:

- i. **Prisoners' Right to Fundamental Rights:** In the seminal case of *State of Maharashtra vs. Prabhakar Panduranga*¹⁰, the Supreme Court reaffirmed that prisoners, by virtue of their human existence, don't shed their fundamental rights at the prison gate. The judgment set a precedent that paved the way for further pronouncements ensuring prisoners' rights.
- ii. **Right to Compassionate Treatment:** The case of *Sunil Batra vs. Delhi Administration*¹¹ became notable when the Apex Court emphasized the humane treatment of inmates, stressing that they should be treated with compassion and not subjected to unnecessary harshness.
- iii. **Right Against Torture & Against Iron Fetters:** The Court, in *Charles Sobaraj vs. Supdt. Central Jail Tihar*¹², vehemently condemned the use of torture and the practice of putting iron fetters on prisoners, marking a significant shift towards a more humane prison system.
- iv. **Right Against Solitary Confinement:** In another landmark judgment, the same case of *Sunil Batra vs. Delhi Administration*¹³, the Court voiced its concerns against the perils of solitary confinement, highlighting its potential to infringe upon a prisoner's mental and psychological well-being.
- v. **Right to Speedy Trial:** This fundamental right, rooted in the concept of justice, was highlighted in cases like *Hussainara Khatoon vs. State of Bihar*¹⁴ and *A.R.*



- Antulay v. R.S. Nayak*¹⁵, underscoring the principle that justice delayed is justice denied.
- vi. **Right to Legal Aid:** The case *M.H. Hoskot vs. State of Maharashtra*¹⁶ reaffirmed the indispensable right of prisoners to legal aid, ensuring that economic constraints don't impede one's pursuit of justice.
 - vii. **Special Treatment for Women and Child Prisoners:** Recognizing the unique challenges faced by women in prisons, the case of *Sheela Barse vs. State of Maharashtra*¹⁷ stressed the importance of special provisions and care for female inmates and their dependent children.
 - viii. **Right to be Interviewed:** The Apex Court, in *Prabha Dutt vs. Union of India & Ors.*¹⁸, acknowledged the prisoners' right to be interviewed, ensuring their communication with the external world and safeguarding their freedom of speech and expression.
 - ix. **Right to Wages for Prison Labour:** The case *State of Gujarat vs. Hon'ble Prison Labour High Court of Gujarat*¹⁹ shed light on the labor rights of prisoners, emphasizing fair wages for their work.
 - x. **Right Against Handcuffing:** Another progressive judgment was laid down in *Prem Shanker Shukla vs. Delhi Administration*²⁰, where the Court denounced the indiscriminate use of handcuffs, asserting it as a violation of personal liberty and human dignity.
 - xi. **Rights of Women Prisoners and Their Dependent Children:** Recognizing the vulnerabilities of women prisoners and their children, the case *R. D. Upadhyaya vs. State of Andhra Pradesh & Ors.*²¹ highlighted the state's responsibility to ensure appropriate facilities, care, and rehabilitation mechanisms.

These landmark decisions underscore the Supreme Court's commitment to ensuring that the rights of prisoners, particularly women, aren't diluted within the prison walls. They emphasize the balance between punitive justice and the ideals of rehabilitation and human dignity.

2.3. Rights of Women Prisoners: International Perspective

Worldwide concerns about the prison system and inmate treatment have led to various national laws and international treaties, particularly for women prisoners, culminating in several key conventions and agreements.

Foundational Treaties and Declarations:

- i. **Universal Declaration of Human Rights (UDHR), 1948:** As the name suggests, UDHR lays down the fundamental human rights that every individual is entitled to, irrespective of their status. The UDHR has set the baseline for various conventions that followed, recognizing the inherent dignity of all members of the human family.
- ii. **International Covenant on Civil and Political Rights (ICCPR), 1966:** This pivotal covenant aims to ensure the protection of civil and political rights. It provides a comprehensive list of rights, including those of prisoners, to ensure they're treated with humanity and respect.



- iii. **Declaration on Protection from Torture, 1975:** Explicitly focusing on the prevention of torture, this declaration asserts the need for protection against any act of torture and other cruel, inhuman, or degrading treatment.
- iv. **European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment:** Particularly relevant to member states of the Council of Europe, this convention seeks to prevent all forms of maltreatment in places of detention.
- v. **U.N. Standard Minimum Rules for the Treatment of Prisoners, 1955:** This document is of paramount significance as it sets the basic standards expected in the treatment of prisoners, emphasizing their welfare and rights.
- vi. **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984:** This global convention strives to eliminate all forms of cruel, inhuman, or degrading treatment, further solidifying the commitment against torture.

Special Focus on Women Prisoners:

While the above conventions apply to all prisoners irrespective of gender, recognizing the specific vulnerabilities and needs of women inmates, the United Nations introduced the **U.N. Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Criminals (the Bangkok Rules) in 2010**. These rules are historic in nature, marking the first time that explicit regulations were laid out for female offenders and their dependent children.

3. SDGS AND THEIR INTERSECTION WITH INDIAN PRISON LAWS

In the quest for a sustainable future, the United Nations introduced the Sustainable Development Goals (SDGs) in 2015, aiming to address global challenges, including those related to gender, equality, and justice. India, as one of the signatories, is both a benefactor and a torchbearer in this initiative. Within the vast expanse of the SDGs, the realms of gender and justice hold notable significance, especially in the context of prison laws. This segment delves into how Indian prison laws intersect with these globally recognized goals, shedding light on existing alignments, gaps, and potential pathways for harmonizing national statutes with global ideals.

The intersection of gender and incarceration is intricate and deeply rooted in various societal norms and structures. Using the lens of the Sustainable Development Goals (SDGs), one can better understand the experiences of women prisoners:

- 1) **Goal 1 - No Poverty:** Women offenders are often cornered by the vicious cycle of poverty. The phenomenon of the 'feminisation of poverty' suggests that impoverished women are more susceptible to incarceration. Economic hardships may force them into criminal activities or make them vulnerable to exploitation. Within prison walls, their economically disadvantaged background often translates to a lack of resources or external support.
- 2) **Goal 2 - Zero Hunger:** For incarcerated women, hunger takes a unique form. Beyond the generic challenges of accessing nutritious food, there are gender-specific needs, especially for pregnant or breastfeeding inmates. The commodification of food in the



context of scarcity also increases the vulnerability of women prisoners to exploitation and abuse.

- 3) **Goal 3 - Good Health and Well-being:** Prisons often fall short in providing comprehensive healthcare, especially tailored to women's needs. This gap becomes evident when considering reproductive health, mental health issues arising from trauma, or the unique physiological needs of women.
- 4) **Goal 4 - Quality Education:** The gender disparity in education and vocational training is stark inside prisons. Women prisoners generally receive fewer opportunities for skill development or education, which hampers their rehabilitation and reintegration into society post-release.
- 5) **Goal 5 - Gender Equality:** India's justice framework often deepens pre-existing gender imbalances. For incarcerated women, this manifests as:
 - **Roots of Crime:** Domestic abuse or economic hardships frequently push many women into criminal activities.
 - **Economic Hurdles:** Gaining access to legal help becomes daunting due to gender-driven economic challenges.
 - **Facility Design Flaws:** Prisons, largely modeled for men, fail to address women-specific needs, impacting their overall well-being.
 - **Post-Incarceration Struggles:** Re-entering society is riddled with obstacles, emphasizing the need for tailored rehabilitation.
- 6) **Goal 6 - Clean Water and Sanitation:** While water and sanitation are universal issues in many prisons, women prisoners face the added burden of managing menstrual hygiene. Lack of access to sanitary products and appropriate facilities for menstrual management amplifies the health risks and adds to their discomfort.
- 7) **Goal 8 - Decent Work and Economic Growth:** Economic vulnerabilities, like unemployment or underemployment, often propel women into criminal activities. Once incarcerated, the disparity continues. Women are often sidelined when it comes to work opportunities or vocational training inside prisons, limiting their chances of economic independence post-release.
- 8) **Goal 10 - Reduced Inequality:** Discrimination based on gender, race, or economic status is magnified within the prison system. Women, especially from minority communities, often face a double disadvantage, enduring gender-based discrimination on one hand and racial or economic biases on the other.
- 9) **Goal 16 - Peace, Justice, and Strong Institutions:** Prisons should be paragons of justice and peace. For a prison system to be truly just, it must cater to the unique challenges faced by its female population. In the context of India, female inmates often grapple with:
 - **Judicial Hurdles:** The dual issues of prison overcrowding and protracted pre-trial durations impede the course of swift justice.
 - **Lack of Transparency:** The less visible operations within prison walls amplify worries of potential rights breaches, with women at increased risk.



- **Safety Dilemmas:** Women continually face potential dangers, either from prison personnel or co-inmates.
- **Unjust Demands:** Inmates under financial strain are sometimes coerced into paying for fundamental amenities.

In essence, while the SDGs are broad in their scope, examining them in the context of women prisoners brings to light the multi-layered challenges these women face. Addressing these challenges requires systemic reforms that not only transform prison conditions but also address the root societal causes leading to the incarceration of women.

4. CONCLUSION: PAVING THE PATH FOR A GENDER-EQUITABLE CORRECTIONAL SYSTEM IN INDIA

In our journey through the intricate corridors of India's prison system, particularly concerning female inmates, we observed a panorama of both challenges and opportunities. At the outset, our exploration was rooted in a comprehensive understanding of the Sustainable Development Goals (SDGs) set forth by the United Nations. These global aspirations, especially when juxtaposed against India's prison framework, offer a profound perspective on what justice should look like.

Our deep dive into India's legislative provisions concerning incarcerated women highlighted a stark difference between the stated rights and their real-life manifestations. On paper, our laws are laden with promises of justice, protection, and rehabilitation. Yet, in the daily life of many women prisoners, these rights remain elusive. Significant judicial verdicts, some landmark in nature, have intermittently intervened, attempting to bridge the chasm between ideal legal frameworks and the ground reality. These judgments, while ensuring constitutional guarantees, also underscore the need for continuous legal introspection and reform.

An exploration of the international arena provides valuable insights. The rights and protections afforded to women prisoners globally, as per international conventions and standards, set a benchmark that India should aspire to achieve, if not surpass.

The nexus between the SDGs and India's penal system forms the crux of our deliberation. Goals concerning Gender Equality and the establishment of robust and just institutions emerge as focal points. Although India has made commendable strides in certain areas, there remains an undeniable gap in fully aligning with these internationally recognized objectives.

Moving forward, our legal landscape must undergo introspection and evolution. Mere amendments might not suffice; a reinterpretation of existing laws, viewed through the lens of gender sensitivity and international best practices, is imperative. Adhering to the SDGs isn't just a matter of international commitment. It's about reimagining and reconstructing a correctional ecosystem that is responsive to the unique challenges faced by women. In essence, the quest is not just for gender-neutrality but for a system that is acutely aware, understanding, and nurturing towards the particular needs and rights of incarcerated women. As legal professionals and educators, our role is not just to critique but to champion this change.

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¹⁰ 1966 AIR SC 424

¹¹ 1980 AIR 1579

¹² 1978 AIR 1514

¹³ [1978] 4 S.C.C. 494

¹⁴ 1979 AIR 1360

¹⁵ 1988 AIR 1531

¹⁶ AIR 1978 SCC 1548, (1978) 3 SCC 544

¹⁷ 1983 AIR 378

¹⁸ 1982 SCR(1) 1184

¹⁹ (1998) 7 SCC 392

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