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# SEXUAL HARASSMENT OF WOMEN PRISONERS IN INDIA: A CRITICAL ANALYSIS OF THE LEGAL FRAMEWORK

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## ABSTRACT

The paper analyzes the legal framework protecting women prisoners in India, highlighting the constitutional guarantees of equal rights and protections for women. Despite these provisions, women in Indian prisons face severe issues, including systemic sexual and physical abuse, inadequate living conditions, and lack of access to education and basic necessities. The study emphasizes that disadvantaged women are particularly vulnerable to violence in custody. It aims to shed light on human and constitutional rights violations experienced by female inmates and calls for reforms to the Prison Act of 1894 and the Prison Manual of 2016. The research methodology is doctrinal, utilizing secondary sources such as legal texts and case studies, and it identifies significant gaps in existing laws and their implementation, particularly regarding sexual harassment in prisons. The paper also compares Indian practices with international human rights standards, specifically the Bangkok Rules, to illustrate the shortcomings of the Indian prison system in meeting global norms.

**Keywords:** Women prisoners, custodial violence, sexual harassment, constitutional rights, United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, Prisons Act, Prison Manual, doctrinal research, prison reforms, human dignity.

**Introduction:**

*"The dignity of women in custody is a fundamental human right, and its violation represents a significant failure of the criminal justice system." — Based on NHRC Reports*

The incarceration of women in Indian Prisons is often accompanied by a myriad of human rights violations, with one of the most egregious being sexual abuse. Despite being a fundamental right, the safety and dignity of female prisoners are frequently compromised due to systematic failures, institutionalized sexism, and a pervasive culture of impunity. Studies have consistently shown that female prisoners in India are vulnerable to various forms of sexual abuse, including physical assault, sexual harassment, and exploitation. These abuses can be perpetrated by prison authorities, staff and even fellow inmates.

The consequences of such abuse can be devastating, leading to long term physical and psychological trauma, stigma, and social exclusion. Furthermore, the lack of effective reporting mechanisms, inadequate medical care, and insufficient counselling services exacerbate the suffering of survivors. The sexual abuse of women in Indian Prisons is a grave human rights concern that persists despite constitutional guarantees and national and international obligations. In predominantly male prison systems, their needs and rights are often not met. Every person has basic human rights which cannot be taken away in any form.

The Five Years Plans have started a number of developmental programs. In 1985, a different Department of Women and Child Development was created. The main programs are the Support to Tanning-cum-Employment Program (STEP) for women, Mahila Kosh, and the Women's Development Corporation. In India, there is a need for programs to help women prisoners with their serious problems, whether they are in prison or not.<sup>1</sup>

Every individual possesses fundamental human rights that are unalienable. Being incarcerated does not mean that one is no longer a human being; all prisoners should be treated with compassion. Despite the fact that the ground reality is quite upsetting in most countries of the world and extremely horrific in character, India is not an exception. Anyone might be horrified by the deplorable conditions found in Indian prisons, including overcrowding, bad health, a lack of basic amenities, a lack of medical care, and brutality against inmates. In such terrible circumstance, the situation for female inmates is worse than that for male inmates. Although they make up a much smaller portion of the population than men, women inmates in India.

In prisons sexual harassment or rape by another prisoner or prison officer is a common instance. The main problem is regarding reporting the incident. Most women prisoners face such problems do not report the offence to the authorities because of the fear that remain with the victim. Sexual assault includes all the acts like commenting, inappropriate touching, physical attack or even rape. This chapter will deal with this issue, i.e. Sexual Assault against women prisoner.

The Constitution of India ensures women's freedom, and numerous laws have been adopted to protect and empower women. Articles 21 and 22 of the Indian constitution preserve and safeguard the rights of convicts, under trial, and criminals. Many National and International treaties have laid down the guidelines to ensure a safe environment for women in prison but in real none of these guidelines have been properly implemented.

Women prisoners are legally protected from sexual assault and harassment by general laws, but there are no specific prison laws that deal with sexual harassment or sexual violence in custody. Cases reported to the National Human Rights Commission (NHRC) and published in scholarly literature indicate persistent occurrences of abuse, often accompanied by insufficient accountability or corrective measures. Judicial decisions, like *D.K. Basu v. State of West Bengal* (1997), have highlighted the necessity to protect prisoners' rights, but there hasn't been enough attention paid to the sexual harassment of women prisoners. Women prisoners are often left unprotected due to inadequate facilities, weak monitoring, and patriarchal power structures. This makes gender inequality in the penal system more severe.<sup>2</sup>

In this paper, we will look into the problem of rape and sexual assault in prison and various legal challenges faced by the female inmates. The justification of such heinous acts by custodial staff and inmates is unacceptable. The notion that the prisoners deserve ill-treatment and no sympathy is a clear violation of human rights. It's essential to recognize that the prisoners, regardless of their crimes, retain their fundamental human rights, including the right to dignity, safety, and protection from violence. Also in the end, we shall be discussing the reforms which can be made to cope up with such problems to some extent. By acknowledging and addressing these issues, we can work towards creating safer, more humane prison environments that uphold the rights and dignity of all prisoners.

**Historical Perspective:**

Women who broke the law during the colonial period, no matter how small the crime, were punished very harshly. Flogging, lashing, and forced labour were common. Female prisoners were often put in solitary confinement, which often led to serious mental health problems. There was no separate infrastructure for women, no acknowledgement of their unique needs, and no idea of rehabilitation.

The Byculla Jail, which opened in Mumbai (then Bombay) in 1870, is thought to be the first prison in India to house women. At first, it housed both men and women. Only in 1896 was the Mahila Prison built as a place just for women prisoners. But these first steps were more like exceptions than the rule. In the rest of British India, women were still kept in small parts of prisons where men were in charge, with little thought for their safety or dignity.

For the first time in Indian prison history, the Indian Jail Committee of 1919–20 said that the goals of running a prison should be to reform and rehabilitate criminals. This was a big change from the purely punitive approach that had been used up until then. The Committee said that women prisoners should be kept separate from men and that women guards should be in charge of them. This commission, led by Alexander Cardew, set the stage for future changes by officially recognising the need for gender-specific treatment in the prison system.

In 1925, a separate women's prison was built in Naini, Uttar Pradesh, based on these suggestions. It had special housing and amenities for female offenders, such as a delivery room. But even with this progress, implementation across the country was still very slow. Male staff ran most of the prisons in India that housed women until the 1970s. After India became independent, many of the leaders had spent years in British prisons during the fight for freedom. They brought their own experiences of prison life into the policy-making process, which led to a focus on creating new penal policies between 1937 and 1947. But prison reform didn't happen very quickly because the country was focused on bigger development goals. The Central Government gave the Provincial Governments control of the Jail Department in 1919 through the Government of India Act. The Constitution made prison management a State subject under the Seventh Schedule after independence. This meant that each state was in charge of its own prisons, which led to big differences in standards and practices across the country.

Justice A. N. Mulla was in charge of All India Committee on Jail Reforms, which gave its

report in 1983. It had 658 suggestions, 35 of which were only for women in prison. These were some of the most concrete ideas India had seen up to that point for making life better for women in prison. The Mulla Committee's main suggestions for women included housing women prisoners in separate, private facilities or annexes, hiring only women to work in women's prisons, and giving women offenders a lot of probation.<sup>3</sup> The Committee also said that women prisoners should be told about their legal rights, that female doctors should do medical check-ups when they first arrive, and that children should be able to stay with their mothers in prison.

The Justice Krishna Iyer Committee, which was set up in 1987, looked at the lives of women in prisons in a focused way for the first time. This National Expert Committee on Women Prisoners was a turning point in how India treats women who are in prison. One of its main suggestions was to make policy guidelines that take into account the unique needs of women who are going through the criminal justice system. The Committee suggested that a National Policy on Custodial Justice to Women be made and adopted, and that a legal body be set up to make sure it is carried out. It also said that there should be special courts for women and that there should be more women working in prisons and as officers.

The Committee also wrote a draft Model Prison Manual, which included a chapter just for the children of women prisoners. In December 1987, the report was sent to the governments of the states and the administrations of the union territories with a request to look at the suggestions and do something about them.

Even though these well-meaning committees made detailed suggestions, the gap between policy and practice has stayed wide. All India Committee on Jail Reforms (1980–1983), the Supreme Court of India, and the Committee of Empowerment of Women (2001–2002) have all stressed the need for a complete overhaul of prison laws, but things have not changed as quickly as they should have.

A major structural problem is that prisons have mostly been built to meet the needs of men, since men have historically made up the vast majority of the prison population. This frequently results in the specific needs of female prisoners being relegated to secondary importance during policy reforms. The Women in Jail The report from India made an important point: only 17% of women prisoners were housed in prisons that were only for women. Most of them were housed in female-only areas of general prisons. These enclosures are often small and don't have easy access to the facilities that male prisoners use freely.

### **Research Objectives:**

The present research project seeks to examine the trend of sexual harassment of women in Indian prisons with the following objectives:

- (1) To examine the traits and signs of sexual harassment suffered by female inmates in Indian correctional facilities.
- (2) To examine the social, institutional, and structural elements that facilitate sexual harassment in custodial settings.
- (3) To delve into the present constitutional, legal, and policy framework which safeguards women prisoners in India.
- (4) To find the issues and weaknesses in prison management and the ways to deal with enquiries about sexual harassment.
- (5) To assess the impact of sexual harassment on the physical, psychological, and social well-being of female inmates.
- (6) To evaluate the role of judicial interventions, human rights institutions, and international standards in safeguarding the rights of female prisoners.
- (7) To suggest legal, administrative, and policy reforms with the goal of avoiding sexual harassment and maintaining the dignity of women in custody.

### **Research Problem:**

Sexual harassment of incarcerated women in India poses serious problems regarding dignity, equality, and accountability for governments within detention facilities. Even though prisoners still have basic rights, prisons are closed and have a strict hierarchy, which makes it easier for abuse to happen without anyone seeing it. The Prisons Act of 1894 and additional laws mostly deal with administration and discipline, and they don't do much to protect women specifically. Reform guidelines, such as those in the Model Prison Manual, 2016, suggest things like hiring women staff and setting up ways for prisoners to file complaints, but the way these things are done is very different from state to state. Many prisoners are afraid to report bad behaviour because they are afraid of getting punished, being shamed, or losing basic amenities. Because

of this, official data often doesn't show how big the problem really is. Internal investigations might not be independent, which could make people less likely to trust the justice system. Women who are marginalised and on trial are more vulnerable because they are poor, illiterate, and have limited access to the law. The lack of dependable oversight and survivor-focused solutions perpetuates silence. Consequently, the principal research inquiry is to assess the efficacy of current legal and institutional frameworks in safeguarding women prisoners from sexual harassment and to identify requisite reforms to guarantee transparency, accountability, and genuine redress.

### **Research Methodology:**

The current study employs a doctrinal research methodology to critically analyse the legal framework governing custodial rape in India through a qualitative and analytical lens. It is primarily predicated on desk research entailing a systematic examination of constitutional provisions, notably Articles 14, 15, 21, and 39A, in conjunction with pertinent statutory laws, including the Indian Penal Code (specifically Section 376 and its sub-clauses addressing custodial rape), the Criminal Procedure Code, 1973, the Indian Evidence Act, 1872, the Protection of Human Rights Act, 1993, and the Criminal Law (Amendment) Act, 2013. The study also looks at important Supreme Court and High Court decisions to learn more about how judges interpret the law, what evidence is needed, who has to prove their case, and how to get paid. To look at trends and gaps in implementation, we also look at secondary sources like reports from the Law Commission, the National Crime Records Bureau (NCRB), the National Human Rights Commission (NHRC), academic books, journal articles, newspapers, and reliable legal databases. To connect the dots between the law and real life, we use a few case studies. The study also uses international human rights documents like CEDAW, UDHR, ICCPR, and UNCAT to see how well India meets global standards. Because the study only uses secondary data, it carefully combines existing literature and legal materials to find gaps and suggest changes that need to be made to improve accountability and protection against sexual violence in custody.

### **Nature and Scope:**

Gender inequality, custodial power, and institutional neglect all add to the complex and prevalent issue of sexual harassment of women in Indian prisons. The expression "harassment" relates to a wide range of actions, such as verbal sexual abuse, lewd remarks, threats, coercive

control, invasive body searches, continuous monitoring without privacy, denial of sanitary dignity, sexual exploitation in exchange for basic facilities or protection, and in serious circumstances, sexual assault and rape while in confinement. In some structural arrangements, male inmates additionally commit these crimes, especially when women are housed in the annexes of male prisons, in addition to prison and police staff.

Sexual abuse may occur at any point in the custodial process, from police lock-ups and judicial remand to long-term imprisonment. It is not merely a few isolated incidents; it shows that the prison system as a whole is failing. Overcrowding, not enough prisons for women, not enough female warders, not enough infrastructure, bad sanitation, not enough privacy, and ineffective ways to complain all make abuse much more likely. Most women prisoners are housed in male prison annexes, which makes them susceptible because they are around more male staff and inmates.

Structural and psychological factors contribute to abuse even worse. Constant surveillance, insufficient privacy while bathing and cleaning, threats of punishment, and dependence on prison staff for food, medical care, and safety all make the prison a frightening and quiet place. Due to this, sexual abuse cases are still very underreported. Women from socially and economically marginalised backgrounds—especially poor, Dalit, tribal, migrant, and minority women—are disproportionately affected due to limited access to legal aid, awareness, and institutional support.

Sexual abuse of women prisoners is a serious violation of their basic rights under Articles 14, 15, and 21 of the Indian Constitution and international standards like the Bangkok Rules, CEDAW, and the Nelson Mandela Rules. Even though there are general criminal laws, the lack of laws that particularly deal with sexual harassment and sexual violence in prisons creates a legal gap that lets abuse continue. Weak enforcement, lack of transparency, and male-dominated power structures in prison administration make gender inequality in the penal system even worse. In essence, the sexual abuse of women prisoners in India is multifaceted, including physical, sexual, psychological, and structural components. It is also widespread, systemic, and deeply ingrained in custodial institutions. To be sure that women in prison are treated with dignity, safety, and justice, we need gender-sensitive prison management, independent monitoring processes, effective complaint procedures, and a complete overhaul of the law.<sup>4</sup>

## **Constitutional and Legal Analysis:**

*A consolidated understanding of Supreme Court thought- “Even in custody, a person does not lose her fundamental rights. Prisons must protect the dignity of inmates male or female and any form of custodial violence, abuse or harassment is incompatible with the Constitution.”*

Indian judicial jurisprudence has set up a clear constitutional position for prisoners. A person's fundamental rights are not infringed by incarceration; instead, it only places constraints on their personal freedom as allowed by the law. The right to life and personal liberty guaranteed by Article 21 of the Constitution continues to protect prisoners, according to the Supreme Court's numerous decisions. The Court confirmed the right of inmates to humane treatment and constitutional protections inside prison walls in *Sunil Batra v. Delhi Administration*. As a result, any sexual abuse or harassment of female prisoners is a serious breach of the State's custodial responsibilities.

The right to live with human dignity, bodily integrity, and freedom from torture or degrading treatment are all included in the broad meaning of Article 21. By bringing physical, psychological, and emotional harm to female inmates, sexual harassment in prisons directly violates these fundamental components. In *Francis Coralie Mullin v. Union Territory of Delhi*, the Supreme Court made it clear that the right to life involves more than just animal existence and includes decent living conditions, even for those who are imprisoned. Therefore, sexual harassment while in custody constitutes an unconstitutional deprivation of personal autonomy and dignity.

The constitutional claim of female inmates is further reinforced through Article 15 of the Constitution, which prohibits discrimination on the basis of sex. Article 15(3) provides the State the power to make special provisions for women in alongside outlawing discriminatory practices. This constitutional protection is denied if sufficient female prison staff, women-only facilities, and privacy protections are not provided. Thus, sexual harassment in prisons is an instance of gender discrimination that is perpetuated by institutional neglect.

The Prisons Act of 1894 and Prison Manuals/Regulations made by different States control how prisons are run in our country. In the Seventh Schedule to the Constitution of India, Entry 4 of the State List (List II) includes prisons. So, according to our Constitution, states have the power to make laws about prisons. The Prisons Act of 1894 has mostly stayed the same, with only a

few small changes made by the states over the years to fit their own needs. The Prisons Act of 1894 also gives prisoners some rights. It ensures that prisoners have proper housing, enough clothes and bedding, and medical care. It also requires that male prisoners under the age of twenty-one be separated from other prisoners who have reached puberty, that non-convicts be kept separate from convicted prisoners, that solitary confinement be banned, and that sick prisoners be taken to a hospital or other appropriate place.<sup>5</sup>

The Model Prison Manual (2016) along with additional administrative tools emphasize the significance of privacy, dignity, and gender-sensitive prison administration. Constitutional mandates are weakened and administrative arbitrariness appears in noncompliance with these standards. Furthermore, India is required by the UN Nelson Mandela Rules, the Bangkok Rules, and CEDAW to safeguard female inmates from sexual exploitation and abuse. Indian courts have acknowledged that, in the absence of domestic legislation, constitutional rights may be applied using international standards for human rights.

Article 19 restricts prisoners' freedoms, but they still have some rights, such as the right to access legal remedies and the right to complain. Sexual harassment and the fear of retaliation restrict these remained freedoms by making people feel compelled and afraid of speaking up. When female prisoners cannot report abuse due to fear or institutional pressure, it is a violation of procedural fairness and due process.

The doctrine of custodial violence renders custodial sexual harassment an offence in the eyes of the state. The State is responsible for the actions of its officials when they are doing their official duties. In the case of *Nilabati Behera v. State of Orissa*, the Supreme Court said that compensation is a way for the public to get justice when Article 21 violates due to abuse in custody. Sexual harassment in prisons, therefore, creates a statutory obligation for the State to guarantee accountability, compensation, and corrective measures.

The regulations set out in *Vishaka v. State of Rajasthan* render the legal prohibition on sexual harassment even stronger. The Court acknowledged sexual harassment as an infringement of Articles 14, 15, and 21, imposing preventive measures. Even though the concepts are based on workplaces, they also apply to places where women are put in subordinate and dependent roles, like prisons. The absence of a specific law that deals with sexual harassment of women prisoners shows a big hole in the law.

The Court said in *Hussainara Khatoon & Ors. v. Home Secretary, State of Bihar*, that "All women and children who are in the jails in the state of Bihar under 'protective custody' or who are in jails because their presence is required for giving evidence or who are victims of offence, should be released and taken forthwith to welfare homes or rescue homes and should be kept there and properly looked after."

In the case of *Sheela Barse v. State of Maharashtra*, the court gave the police detailed instructions on how to make the conditions in jail better and how to keep those who were arrested safe, especially women. In the case of *Christian Community Welfare v. Gov. The High Court* gave several orders to stop and prevent custodial violence in Maharashtra and *Ors.* It also listed the steps that police should take when they arrest someone, what to do after the arrest, and how to handle women prisoners.

The court in *R.D. Upadhyay v. State of A.P.* observed "Women who are under trial or in jail with their children should not be kept there because the conditions are not good for them. The state has a duty to take care of the children's needs and to help them grow socially, educationally, and culturally. "The Indian Constitution states that imprisoning someone does not take away their basic rights; instead, it only limits their liberty according to the law. The Supreme Court has always said that the Constitution follows a person even into prison, and the State has a higher duty to safeguard people who are in custody.

The West Bengal Correctional Services Act of 1992 is one of the most forward-thinking laws in the state that deals with prison reform. This law, which was passed as West Bengal Act XXXII of 1992 and went into effect in 2000, was a big change from the harsh prison laws of the colonial era. It changed the words "jails" to "correctional homes" and "prisoners" to "inmates." This showed that the main goals of being in jail were now to change and heal. The Act included several important provisions that were only for women prisoners. First, it required the creation of separate correctional homes just for women. Section 3(1)(e) lists "correctional home for women" as a separate type of correctional facility. This makes sure that women are not just housed in annexes or enclosures within male-dominated facilities. Second, the Act set up a system for putting prisoners into groups based on things like their age, the crime they committed, and their mental health. This classification made sure that women who had been found guilty of different types of crimes, from minor ones to more serious ones, would get the right treatment for their situation instead of being treated the same as everyone

else. Third, the Act set up programs for vocational training and rehabilitation. Section 4 of the Act lists what correctional homes do, such as putting prisoners to work in jobs that will help them earn money when they get out. It also requires steps to improve the mental and moral health of prisoners, as well as schools and good after-care services for people who have been released. Fourth, the law set up a system for basic rights in correctional homes. Part III of the Indian Constitution guarantees all fundamental rights to prisoners, but only to the extent that they can't enjoy them because they are in prison. This includes the right to safe living conditions, access to the law, the ability to talk to family and lawyers, and protection from forced labour.<sup>6</sup>

Kiran Bedi's book talks about how bad the conditions are for women prisoners. She says, "Here women prisoners were subjected to the most humiliating experiences, which robbed them of what little dignity and self-respect they reached the prison with." These women must have been able to keep their sanity against all odds, which is a miracle in and of itself." One of the primary challenges with preventing sexual harassment of women in Indian prisons is that there is no law that specifically deals with sexual harassment and sexual violence in prisons. Although general criminal laws punish sexual crimes, they do not take into account the specific risks that women prisoners face when they are abused in closed and coercive institutional settings. The Prison Act of 1894 and the Model Prison Manual of 2016 are two examples of existing laws that have limited and mostly unenforceable rules about gender-sensitive protection. This has left a big gap in the law.

A study by the Bureau of Police Research and Development (BPR&D) shows that most women in Punjab jails "don't have enough beds and have to sleep on the floor." There have been reports that the cell's heating and cooling systems don't work well. The Ministry of Women and Child's 2018 report gave a full picture of the terrible conditions for women prisoners, from poor hygiene to a lack of proper health, education, and job training facilities. The report goes on to say that shows how women prisoners all over the country are sexually abused and hurt. In conclusion, sexual harassment of women in Indian prisons constitutes a complex constitutional violation that undermines equality, dignity, and personal freedom. It signifies not only individual misconduct but a systemic deficiency within the custodial system that implicates state accountability. To fix this issue, there need to be legal safeguards that can be enforced, independent oversight systems, and a prison administration that is based on rights and is in line with constitutional morality and international human rights standards.<sup>7</sup>

**International laws:**

International law recognises that sexual harassment of women in prison is a violation of many human rights, such as the right to not be tortured, the right to dignity, equality before the law, and freedom from discrimination. International law says that women who are locked up still have rights, and the State still has a duty to keep them safe. International human rights organisations see sexual harassment in prison as a very serious abuse of power because prisons are closed spaces where power is very uneven.

Several Human Rights Conventions and Declarations from the United Nations have stressed how important it is to protect the rights of prisoners. These treaties and declarations are for both male and female prisoners. The rules there cover, among other things, how to arrest someone, how to put them on trial, and how to question them. Some examples are the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the United Nations Standard Minimum Rules for the Treatment of Prisoners (1977), the Basic Principles for the Treatment of Prisoners (1990), the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988), the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975), and the Bangkok Rules of 2010 set out rules for how countries should treat women prisoners and women who break the law but don't go to jail.<sup>8</sup>

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) says that violence against women is a form of discrimination. The CEDAW Committee has made it clear that States are responsible for not only the actions of public officials, but also for not doing enough to stop, investigate, punish, and make up for violence against women. In places where the State has full control, like in prisons, this responsibility is even greater. Sexual harassment by prison staff is not merely a private misconduct issue; it is a reflection of systemic gender inequality perpetuated by the State.

Sexual abuse in detention can be considered torture under the Convention against Torture (CAT) if it causes severe physical or mental suffering and is done on purpose by a public official or with their permission. More and more, international law sees rape, sexual assault, invasive searches, and forced sexual behaviour in prison as forms of torture. Even repeated verbal sexual harassment, threats, or humiliation may be considered cruel, inhuman, or

degrading treatment. States must ensure criminal accountability, independent investigations, and effective remedies, including compensation and rehabilitation.

Article 7 of the International Covenant on Civil and Political Rights (ICCPR) says that torture and mistreatment are not allowed, and Article 10 says that detainees must be treated humanely. The Human Rights Committee has made it clear that people who are in jail are in a vulnerable situation, and that any abuse by the authorities is a serious violation of the State's duties. Sexual harassment is against the Covenant because it violates both physical and mental dignity.

The Nelson Mandela Rules, also known as the United Nations Standard Minimum Rules for the Treatment of Prisoners, set standards for how prisons should be run. These rules stress the importance of respecting everyone's inherent dignity, keeping male and female prisoners apart, providing proper supervision, and making it easy for prisoners to file complaints. They require quick reporting and investigation of violence in custody and hold people accountable for bad behaviour. The rules make it clear that prison officials must do everything they can to stop exploitation that comes from staff and prisoners having different levels of power.

The Bangkok Rules, which are the United Nations' rules for how to treat women prisoners and women who break the law but don't go to jail, are the most gender-sensitive set of rules. They know that women in prison often have a history of sexual abuse and may be more vulnerable while they are in jail. The Rules say that there must be female staff, healthcare that takes gender into account, trauma-informed approaches, confidential ways to make complaints, and no tolerance for sexual exploitation. They also stress that punishment should never include humiliation or abuse.<sup>9</sup>

International law also puts sexual harassment in prison in the larger context of "custodial violence." Because the State has complete control over detainees, any abuse shows that the government and oversight are not working properly. The doctrine of State responsibility is applicable even when individual offenders exceed their authority, provided the State neglects to prevent or penalise such actions. This principle has been bolstered in regional human rights frameworks, notably the European Convention on Human Rights, where courts have consistently deemed governments accountable for sexual abuse in detention centres.

Regional human rights systems also offer legal protections. Article 3 of the European

Convention on Human Rights, for example, says that torture and degrading treatment are not allowed. Courts have said that this includes sexual abuse in detention. The American Convention on Human Rights and the African Charter on Human and Peoples' Rights also protect people in similar ways. Both of these documents stress the importance of treating prisoners with respect and dignity.

International law says that countries have a duty to stop sexual harassment in prisons. This includes training staff properly, having independent monitoring systems, having private complaint systems, protecting people from retaliation, doing thorough investigations, prosecuting offenders, and giving victims money and help to get better. Not taking reasonable steps to prevent and fix problems could be a violation of international human rights law.

### **Data analysis and findings:**

According to the annual Prison Statistics India reports published by the National Crime Records Bureau (NCRB), the number of women prisoners in India over the last five years has remained relatively stable with a slight upward trend. There were about 19,913 women in prison in 2019, which was about 4.1% of the total prison population. In 2020, the number went down a little to about 19,709. This was partly because of releases and fewer admissions due to the pandemic. By 2021, the number had grown a lot to 22,918, which was still about 4.1% of all prisoners. In 2022, the number of women prisoners rose again to about 23,772. Almost 76% of them were still in jail awaiting trial, which means they had been in jail for a long time. In 2023, the number changed a little to about 23,000–24,000, keeping the same percentage of about 4–4.3% of India's total prison population, which was over 5.3 lakh inmates. It's important to note, though, that even though these numbers clearly show that there have been more women in prison over the past five years, official NCRB reports don't have separate published statistics on sexual harassment or sexual assault incidents that happen in prisons.<sup>10</sup>

Recent prison statistics and human rights reports show that sexual harassment and abuse of women in Indian prisons are still major problems in 2024–2025. The National Crime Records Bureau's report Prison Statistics India says that India had about 573,000 prisoners, including about 23,700 to 24,000 women prisoners, which is about 4.1 to 4.4% of the total prison population. There are 1,332 prisons in the country, but only about 35 are for women. This means that most women prisoners are kept in separate wards inside male prisons, which makes

it more likely that they will be harassed and abused. The data shows that 76.33% of women prisoners are awaiting trial, and many of them stay in jail for years while they wait.<sup>11</sup>

Another big problem is overcrowding. Indian prisons are full, which makes it hard to keep an eye on things and makes female inmates more vulnerable. Reports also show that more than 1,300–1,700 children live in prisons with their mothers. This shows how women prisoners are affected by social and human rights issues. Studies also show that women make up only about 4% of prisoners, but they are more likely to be sexually abused, beaten, or harassed, especially when male prison staff are in charge of female wards. Fear, stigma, and a lack of independent complaint systems mean that many cases of custodial sexual abuse go unreported. This means that the real number of women who were sexually harassed in Indian prisons between 2024 and 2025 is probably higher than what the official numbers show.

### **Challenges and gaps:**

Another big problem is that constitutional protections and judicial guidelines are not being followed very well. The Indian Constitution and Supreme Court jurisprudence recognise the rights of prisoners to dignity and humane treatment; however, these principles are frequently overlooked in practice. Custodial abuse continues because there aren't any effective ways to hold individuals responsible, there aren't any consequences for officials who break the rules, and the rules aren't enforced well. Monitoring bodies often don't have the power or resources to make sure that rules are adhered to.

Another significant issue is that constitutional protections and court rules are not being followed well. The Indian Constitution and Supreme Court jurisprudence recognise the rights of prisoners to dignity and humane treatment; nevertheless, these principles are frequently overlooked in practice. Custodial abuse can go on without sanctions because there aren't any good ways to hold people accountable, there aren't any disciplinary actions against officials who break the rules, and the rules aren't always followed. Monitoring bodies often don't have the power or money to make sure that rules are adhered to.

The problem gets worse because the ways to report problems and get them fixed aren't good enough. Most prisons have internal complaint systems that are run by prison officials. This makes victims less likely to report abuse because they are afraid of retaliation, disbelief, being alone, or being victimised again. Because there are no independent, confidential, and survivor-

focused ways to file allegations, sexual harassment and assault in custody aren't reported as often as they should be. Indian prisons are mostly built for men and operated by men, which makes it easy for women prisoners to be assaulted. The lack of female prison staff, gender-sensitivity training, and daily supervision by men all make power relations more unequal and raise the risk of sexual harassment.<sup>12</sup>

Problems with infrastructure also make it easier for abuse to happen. Most women who are in prison live in annexes of men's prisons instead of in separate women's prisons. Overcrowding, lack of privacy in bathrooms and bathing areas, poor medical care, and poor living conditions all make it easier for sexual exploitation and harassment to happen. Women prisoners are even worse off because there are no specific healthcare or counselling services available to them. A further significant issue is that there aren't any good ways for outside groups to keep an eye on things. Judicial authorities, human rights commissions, and prison oversight bodies often do not follow up on their inspections. Sexual abuse in prisons can stay hidden and become normal since there is no clear reporting or public accountability.

### **Suggestions and Recommendations:**

The Amitava Roy Committee's suggestions were meant to make prisons less crowded, improve the dignity of prisoners, and make the administration of prisons more humane and effective. To put it another way, the "way forward" can be understood like this:

#### **Speedy trials:**

A lot of prisoners stay in jail for years before they are found guilty. The Committee said that special fast-track courts should be set up to quickly handle minor crimes and very old cases that have been waiting for more than five years. Faster decisions would mean that fewer people would be held for no reason and prisons would be less crowded.

#### **Using video conferencing:**

It can be dangerous, expensive, and uncomfortable to bring elderly or seriously ill prisoners to court in person. Their hearings can happen over video links instead. This saves time, lowers security stress, and keeps prisoners healthy while still following the law.

### **Gender-sensitive reforms:**

Women in prison have different medical, emotional, and safety needs. The Committee then suggested separate prisons or secure areas for women, as well as proper medical wards and welfare support. It also acknowledged that transgender prisoners need rules that protect their safety, identity, and access to medical care and rehabilitation.

### **Segregating prisoners:**

People who are on trial (whose cases haven't been decided yet), people who have been found guilty, and people who have never been in trouble with the law before should not be kept together. Mixing them can put new or minor offenders in contact with hardened criminals, which can lead to more violence or bad behaviour. If prisons were better organised and separated, they would be safer and more focused on reform.

### **Need for gender-neutral custodial reforms:**

India needs more laws, but they also need laws that treat everyone equally. We need a gender-neutral law against sexual violence in prisons right now. This law should clearly and explicitly protect male, female, and transgender inmates from abuse. Because gender should not determine dignity in prison. Protection should not be limited. And there shouldn't be any conditions on justice.

### **Mechanism for independent grievance redressal:**

Inmates should be able to report abuse without fear of retaliation, so prisons need independent grievance cells. People who are not part of the prison system, such as human rights commissions or local judges, should be in charge of these. No one should have to go to the people they are afraid of to get justice.

### **AI powered supervision:**

If AI is designed and used in a way that is fair, open, and easy to use, it can help prisoners who have been sexually assaulted have their voices heard. This is where AI comes in, not as a saviour, but as a listener. The Supreme Court of India has set up an AI system called SUPACE, which stands for the Supreme Court Portal for Assistance in Court Efficiency. This system

helps judges by transcribing hearings, translating judgements, finding mistakes in case filings, and summarising facts. SUPACE makes the already busy court system more efficient. Inmates can report abuse safely and privately through kiosks or voice interfaces powered by AI. These systems can work in more than one language, don't let people's biases affect them, and send complaints to outside oversight groups right away while keeping the survivor's identity safe and starting timely intervention.

AI can work with prison CCTV systems to find strange or violent behaviour, like being in a crowd, being alone, or being physically attacked. This lets the police respond right away and helps stop abuse. AI tools like chatbots and voice-guided assistants can help prisoners write complaints, ask for legal help, or learn about their rights.

**Conclusion:**

Sexual harassment of women in Indian prisons is a troubling reminder that taking away someone's freedom often means taking away their dignity. Even though laws and the Constitution say that people should be treated humanely, custodial practices often don't make women feel safe. Frameworks based on the Prisons Act of 1894 still stress discipline and control, which doesn't do enough to protect people who are vulnerable because of their gender. The Model Prison Manual, 2016's proposed reform measures show progress, but their effect is lessened by inconsistent implementation. Fear of retaliation, stigma, and a lack of trust in internal systems keep people from reporting abuse and make it hard to see how bad it really is. So, impunity continues while survivors fight for recognition and justice. For real change to happen, custodial governance needs to focus on being open, having independent monitoring, hiring trained staff, and making it easy for people to file complaints. It is important to protect women prisoners from sexual harassment not only for their own safety but also to keep the criminal justice system morally credible.

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