
BEYOND THE SENTENCE: PRISON OVERCROWDING AND THE LIMITS OF STATE PUNISHMENT FOR WOMEN PRISONERS IN INDIA

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ABSTRACT

Indian penal jurisprudence treats the prison sentence as a bounded, judicially calibrated event, yet conditions of confinement routinely exceed what courts have ordered, nowhere more starkly than for women prisoners. As of December 2022, around 23,772 women were lodged in Indian jails, of whom 76.33% were undertrials,¹ a population presumptively innocent yet subject to custodial deprivation as severe as that of convicts. Employing doctrinal analysis alongside a statistical review of NCRB and NHRC data, this paper argues that overcrowding functions as an unlegislated, unaccounted-for supplementary punishment. This is produced by the near-absence of gender-specific infrastructure, only 16 States/UTs operate exclusive women's jails 34 facilities nationwide, capacity 7,080² forcing most women into general jails not built for female occupancy. Occupancy rates for women in these general jails reached 81.1%, against 60.1% in dedicated women's jails, with states such as Uttarakhand recording female occupancy as high as 166.5%.³ The paper traces how this deficit cascades into compounding harms inadequate prenatal and reproductive healthcare, failures in menstrual hygiene provisioning under the Model Prison Manual, 2016⁴ and custodial conditions for the 1,537 women housed with 1,764 children in 2022, most of them undertrials⁵ alongside heightened vulnerability to institutional abuse, drawing on NCRB data recording 275 registered cases of custodial rape between 2017 and 2022 under Section 376(2) IPC.⁶ (Section 64 of BNS) read against constitutional guarantees under Art 14 and 21 and precedents such as *Sunil Batra versus. Delhi Administration*⁷ and *Rama Murthy versus. State of*

¹ Nat'l Crime Records Bureau, Ministry of Home Affairs, Gov't of India, Prison Statistics India 2022, at 45 (2023).

² Id. at 12 (data on the number and capacity of exclusive women's jails across States/UTs).

³ Id. at 46–47 (state-wise occupancy rates for women prisoners in exclusive women's jails and general jails).

⁴ Bureau of Police Research & Development, Ministry of Home Affairs, Gov't of India, Model Prison Manual for the Superintendence and Management of Prisons in India ch. 24 (2016).

⁵ Prison Statistics India 2022, *supra* note 1, at 48 (data on women prisoners lodged with children).

⁶ Nat'l Crime Records Bureau, Ministry of Home Affairs, Gov't of India, Crime in India 2022 (data on cases registered under § 376(2), Indian Penal Code, 2017–2022).

⁷ *Bharatiya Nyaya Sanhita*, No. 45 of 2023, § 64, India Code (2023) (successor provision to § 376(2) of the Indian Penal Code, 1860, in force from July 1, 2024).

Karnataka,⁸ the paper contends these are not discrete welfare deficits but symptoms of one structural failure a punishment architecture built without reference to the female body.

Keywords: Prison Overcrowding, Women Prisoners, Undertrial Detention, Prison Reform, Custodial Sexual Violence, Gender-Responsive Penology.

I. Introduction

Under Indian criminal law, a prison sentence is a clearly defined legal event lasting several years, determined by the perpetrator, the crime committed, and the sentencing objectives of rehabilitation, retribution, and deterrence. The concept of proportionality, present in sentencing theory since colonial times and strengthened by years of constitutional interpretation, presumes that the penalty an offender receives aligns with the punishment assigned by a judge. Nonetheless, when studied in practice, this assumption crumbles. Prisoners in Indian jails often endure difficulties that neither the courts meant to impose nor the laws sanctioned, arising from issues like severe overcrowding, lack of infrastructure, and bureaucratic apathy. For female inmates, the gap between the official sentence and the actual experience holds more importance, as their custodial environments are influenced by an institutional structure that is, historically and administratively, indifferent to gender.

This paper interrogates the gap. It argues that prison overcrowding, far from being a neutral administrative failure, operates as a gendered enhancement of punishment one that disproportionately burdens women with harms including inadequate prenatal and reproductive healthcare, compromised menstrual hygiene and sanitation, deficient conditions for mothers living with young children, an under documented mental-health crisis, an absence of gender-specific healthcare infrastructure, and heightened vulnerability to institutional abuse, neglect, and custodial sexual violence. The paper proceeds in three movements: first, it maps the empirical scale of the problem using the most recent official data; second, it traces the structural and historical causes of persistent overcrowding; and third, it advances a doctrinal argument that these conditions constitute an unlegislated enlargement of punishment in violation of Art 14 and 21 of the Constitution.

⁸ Sunil Batra v. Delhi Admin., (1978) 4 S.C.C. 494 (India).

II. Statement of Problem

India's prisons have operated above rated capacity for decades. The National Crime Records Bureau's most recent published report, *Prison Statistics India 2023*, records a national occupancy rate of 120.8%, an improvement over the 131.4% recorded in 2022 but still indicative of a system holding roughly one-fifth more inmates than it was built for.⁹ Occupancy is starkly uneven across States: Delhi prisons operate at close to 200% of rated capacity, while Telangana shows the lowest recorded occupancy at 72.8%.¹⁰ Undertrials persons whose guilt has not been judicially determined constituted 73.5% of the national prison population in 2023, down marginally from 75.8% in 2022, meaning nearly three of every four persons in Indian custody have not been convicted of any offence.¹¹

Within this population, women occupy a numerically small but structurally significant position. As of December 2022, total of 23,772 women were lodged in Indian jails, of whom 76.33% (18,146) were undertrials a figure marginally higher than the undertrial share among male prisoners, suggesting that women are, if anything, likely to be held in pre-trial detention relative to their proportion of the convicted population.¹² Women constituted only 4.1% of total prison population in 2023,¹³ minority status that has direct infrastructural consequences: because women are numerically marginal within a system designed around aggregate, male-majority capacity planning, gender-specific facilities remain chronically underdeveloped. Only 16 States and Union Territories operate exclusive women's jails, comprising 34 facilities nationwide with a combined sanctioned capacity of 7,080¹⁴ a capacity that could not, even at full utilisation, house the national female prison population. The consequence is that the majority of women prisoners are lodged in general jails alongside separate women's enclosures, where occupancy reached 81.1%, compared to 60.1% in dedicated women's institutions, with individual States recording far higher figures Uttarakhand at 166.5% and Bihar at 146.8%.¹⁵

These figures establish the empirical predicate for the argument that follows overcrowding is not a marginal or occasional condition but the structural norm within which Indian women

⁹ Nat'l Crime Records Bureau, Ministry of Home Affairs, Gov't of India, *Prison Statistics India 2023* (2025)

¹⁰ Id. (state-wise occupancy data for Delhi and Telangana).

¹¹ Id. (national undertrial percentage, 2023); *Prison Statistics India 2022*, supra note 1 (2022 figure).

¹² *Prison Statistics India 2022*, supra note 1.

¹³ *Prison Statistics India 2023*, supra note 10.

¹⁴ *Prison Statistics India 2022*, supra note 2.

¹⁵ *Prison Statistics India 2022*, supra note 3.

serve their sentences, whether as convicts or, disproportionately, as undertrials awaiting a determination of guilt that the Constitution presumes should not, in itself, occasion punishment.

III. Review of Literature

A. Books

Kiran Bedi, *It's Always Possible: Transforming One of the Largest Prisons in the World*, Sterling Publishers (1998)¹⁶ Bedi's first-hand narrative of managing Tihar jail details the regular humiliation and dignitary damage that female convicts endure in conditions of severe overcrowding. In order to show percentage figures, translate into real custodial experience, this paper uses her testimony as qualitative confirmation of the quantitative NCRB occupancy data.

B. Journal Articles

Manisha Kamthan, "Women Prisoners in India: Tracing Gender Gaps in Theorising Imprisonment," *Forensic Research & Criminology International Journal*, 6(6), 470–478 (2018).¹⁷ Kamthan argues that penology evolved as a male- normative profession, tracing the historical exclusion of women from Indian penal philosophy. In order to support section 7 of prisons act 1894 was gender- blind by design rather than by accident, this paper draws on her genealogy of that exclusion.

Ipsita Sapra, "Healed Walls, Unhealed Wounds: Why Prison Reforms Fail Women Offenders in India?."¹⁸ The study by Sapra investigates why the recommendations made by successive prison reform committees regarding female offenders have not resulted in long-lasting institutional transformation. Mulla and Krihna Iyer committee recommendations are still unenforced due to lack of enforceable legal statute rather than lack of documentation.

C. Reports

Ministry of Women and Child Development, Government of India, *Women in Prisons*

¹⁶ Kiran Bedi, *It's Always Possible: Transforming One of the Largest Prisons in the World* (Sterling Publishers 1998).

¹⁷ Manisha Kamthan, *Women Prisoners in India: Tracing Gender Gaps in Theorising Imprisonment*, 6(6) *Forensic Rsch. & Criminology Int'l J.* 470 (2018).

¹⁸ Manisha Kamthan, *Women Prisoners in India: Tracing Gender Gaps in Theorising Imprisonment*, 6(6) *Forensic Rsch. & Criminology Int'l J.* 470 (2018).

(2018)¹⁹ Based on field visits and state-level data collection, this official report lists health, hygiene and childcare problems throughout Indian women's prisons. The healthcare and hygiene deficiencies are corroborated by this study which uses it to show that the harm is recorded at the level of union government policy rather than only deduced from occupancy figures.

Law Commission of India, Report No. 268: *Amendments to Criminal Procedure Code, 1973 — Provisions Relating to Bail* (2017)²⁰ This shows that the reason many women in jail are waiting for their trials is because the courts are taking too long not just because the jails do not have enough space. The main issue is that the courts are moving slowly which is causing a lot of women to be stuck in jail waiting for their trials and this is a part of the problem of undertrial accumulation, in India's jails.

Bureau of Police Research & Development, *Model Prison Manual* (2016).²¹ Reviewed as the tool for gender-specific jail standards, It is used in Sections V–VII as a benchmark to measure actual conditions and as proof that the advisory nature of the Manual leads to non-compliance. The Manual's non-binding character is seen as a reason for not following its guidelines. This instrument is key in understanding gender- custodial standards. It serves as a reference point for evaluating conditions. The Manual's advisory character is an issue causing non-compliance.

IV. Research Problem

Indian criminal jurisprudence treats imprisonment as a legally bounded consequence of conviction, proportionate and limited to what a court has ordered. In practice, women prisoners experience conditions that routinely exceed this boundary. Women constituted only 4.1% of India's prison population in 2023,²² yet remain confined mostly in general jails never designed for female occupancy, with occupancy reaching 81.1% against 60.1% in the few dedicated women's facilities that exist.²³ Within this population, 76.33% were undertrials²⁴ persons whose guilt is legally undetermined, yet who bear hardships including inadequate prenatal care, compromised menstrual hygiene, custodial child-rearing without support, an under

¹⁹ Ministry of Women & Child Dev., Gov't of India, *Women in Prisons* (2018).

²⁰ Ministry of Women & Child Dev., Gov't of India, *Women in Prisons* (2018).

²¹ Ministry of Women & Child Dev., Gov't of India, *Women in Prisons* (2018).

²² Prison Statistics India 2023, *supra* note 10.

²³ Prison Statistics India 2022, *supra* note 3.

²⁴ Prison Statistics India 2022, *supra* note 1.

documented mental-health burden, and heightened vulnerability to institutional abuse and custodial sexual violence.²⁵

This paper's research problem is that this framing under-theories the harm: it does not ask whether these conditions, in aggregate, alter the legal character of punishment itself turning a judicially bounded sentence into something the State never lawfully authorized. The problem is not only that Indian prisons are overcrowded, but that overcrowding may function as an unaccounted-for, gender-differentiated enlargement of punishment that constitutional and penological frameworks have not been made to confront directly.

V. Research Questions

RQ1: What is the scale and gendered distribution of prison overcrowding in India, and how does it disproportionately affect women given the near-absence of exclusive women's carceral infrastructure?

RQ2: What legislative and administrative factors the State List allocation of prisons, the advisory status of the Model Prison Manual, and unimplemented committee recommendations explain the persistence of this gendered overcrowding?

RQ3: How does overcrowding compound gender-differentiated harms, including prenatal care, menstrual hygiene, custodial motherhood, mental health, gender-specific healthcare, and custodial sexual violence?

RQ4: Can overcrowding's cumulative gendered effect be characterised as an unlegislated enlargement of punishment violating Articles 14 and 21 and the proportionality principle of Indian sentencing jurisprudence?

RQ5: What legal mechanisms enforceable minimum standards or statutory conversion of advisory instruments would extend constitutional limits on State power to conditions of confinement, not merely to the sentence itself?

VI. Research Objectives

- To empirically map the scale and gendered distribution of prison overcrowding in India, using the most recent NCRB data to establish that women prisoners are disproportionately confined

²⁵ Crime in India 2022, *supra* note 6.

within infrastructure never designed for female occupancy.

- To identify the structural and legislative causes of this persistence, including the State List allocation of prisons and the non-binding status of gender-specific reform instruments.
- To document how overcrowding compounds specific harms for women, including prenatal care, menstrual hygiene, custodial motherhood, mental health, and vulnerability to custodial sexual violence.
- To develop a doctrinal argument that this cumulative harm violates Articles 14 and 21 by constituting an unlawful, gender-differentiated expansion of punishment.
- To present enforceable legal measures that would widen the constitutional restrictions on the State's punitive advantage to include the actual conditions of confinement as well as the punishment itself.

VII. Research Methodology

In addition to the doctrinal methodology used in the study, there is also different type of statistical methods used. The doctrine part of this study emphasizes on art. 14 and 21 of the Indian Constitution, prison acts (such as the Prisons Act of 1894 and the Model Prisons and Correctional Services Act of 2023), judicial opinions concerning the rights of inmates, and international conventions on the treatment of women convicts. Comparison of the National Human Rights Commission report, the Law Commission of India report, and the latest editions of Prison Statistics India and Crime in India reports of the National Crime Records Bureau enables to measure the empirical extent of damage.

As there is a recognized deficiency in the official records of jails, in the 2023 edition of jails statistics in India could be published only in September 2025. This means that the purpose of this analysis, the latest official figures are being used, but there could be changes since then.

VIII. Structural and Historical Causes: How Overcrowding Happened

The continuance of overcrowding is not due to resource scarcity but the product of identifiable structural and historical causes. First, India's foundational prison statute, the Prisons Act, 1894, was drafted as a colonial instrument of custodial discipline rather than rehabilitation and was

gender-blind in its design: it made no distinct provision for women's health, hygiene, or custodial childcare needs, a silence subsequent reform has only partially addressed. Second, prison administration in India is constitutionally allocated to the States in Entry 4, List II of the Seventh Schedule,²⁶ producing fragmented and uneven implementation of Union-level reform recommendations, since the Union government's role is confined to advisory model legislation rather than binding directive.

Third, successive committees have identified the structural sources of overcrowding and reform. The Prisons Act, of 1894, India Code (1894).²⁷ mended reform without securing durable implementation. The Mulla Committee, constituted in 1980, recommended the separation of undertrials from convicts, improved staffing, and adequate correctional funding,²⁸ while the Justice V.R. Iyer Committee, constituted in 1987 specifically to examine the situation of women prisoners, recommended increased recruitment of female staff, protection against custodial sexual abuse, and expanded legal aid and vocational training for women inmates.²⁹ Both sets of recommendations remain substantially unimplemented four decades later, as the persistence of the very conditions they targeted undertrial overcrowding, inadequate female staffing, custodial sexual violence demonstrates.

Fourth, judicial delay continues to swell the undertrial population faster than capacity is added. The Law Commission of India, in 268th Report, recommended systemic reform of bail provisions under the Code of Criminal Procedure, 1973, to reduce reliance on pre-trial detention,³⁰ yet undertrials continued to constitute nearly 3 quarters of the prison population as of 2023.³¹ Finally, the principal instrument of gender-specific reform, the Model Prison Manual, 2016, remains advisory rather than binding,³² and its 2023 successor, the Model Prisons and Correctional Services Act, has been adopted unevenly across States since its introduction,³³ leaving the gender-specific protections it contains dependent on State-level political will rather than enforceable as a matter of right.

²⁶ India Const. Seventh Sched., List II, Entry 4.

²⁷ The Prisons Act, No. 9 of 1894, India Code (1894).

²⁸ Ministry of Home Affairs, Gov't of India, Report of the All India Committee on Jail Reforms (Mulla Committee) (1983).

²⁹ Ministry of Home Affairs, Gov't of India, Report of the Committee on Women Prisoners (Justice V.R. Krishna Iyer Committee) (1987).

³⁰ Law Commission of India, Report No. 268, *supra* note 21.

³¹ Prison Statistics India 2023, *supra* note 10.

³² Model Prison Manual, *supra* note 4.

³³ The Model Prisons and Correctional Services Act, 2023, Ministry of Home Affairs, Gov't of India.

IX. Gendered Impact: Beyond the Sentence

The infrastructural & administrative defects traced above do not remain as is ; they translate into concrete, compounding harms experienced by women prisoners across the period of their confinement.

Women in prison are treated with the same rights to reproductive health services as those not imprisoned or institutionalized, which include provisions under the Medical Termination of Pregnancy Act, 1971. Nonetheless, in practice, they face further, custodially unique challenges to receiving prenatal care, including postponed access to prenatal appointments and inadequate nutritional support throughout pregnancy.

These challenges are worsened in overcrowded facilities lacking maternity wards or specialized medical personnel, as well as sanitation and menstrual hygiene. Despite the Model Prison Manual, 2016³⁴ requiring the provision of sanitary materials and adequate sanitation facilities for female inmates, the implementation has been inconsistent. Overcrowding facilities with already limited sanitation infrastructure worsen these issues, directly impacting the health and dignity of the inmates.

Mothers live with young children. As of 2023, 1,318 women prisoners were housed with 1,492 dependent children, of whom 1,049 women were themselves undertrials³⁵ a modest decline from the 1,537 women and 1,764 children recorded in 2022³⁶ but a persistent phenomenon, nonetheless. Children housed under the Model Prison Manual's threshold age share their mothers' custodial conditions: overcrowded cells, inadequate sanitation, and limited access to outdoor space or pediatric care despite bearing no legal culpability whatsoever.

Mental health. The scale of undocumented psychological harm among Indian prisoners is significant: NCRB's Prison Statistics India 2023 records 5,160 inmates nationally as mentally ill, while a parallel analysis by the Supreme Court's Centre for Research and Planning places the figure at 16,503 for the same year³⁷ a more than three-fold discrepancy suggesting substantial underreporting within official statistics. With nearly one mental-health professional

³⁴ The Model Prisons and Correctional Services Act, 2023, Ministry of Home Affairs, Gov't of India.

³⁵ Prison Statistics India 2023, *supra* note 10.

³⁶ Prison Statistics India 2022, *supra* note 5.

³⁷ Prison Statistics India 2023, *supra* note 10; Supreme Court of India, Centre for Research and Planning, analysis of mental illness among prison inmates (2023) (as reported in national press coverage of the Centre's findings).

available per 23,000 inmates nationally,³⁸ The system possesses a nominal capacity to identify or treat custodial psychological degeneration, a deficiency likely affecting women disproportionately given the additional burdens of separation from children, custodial pregnancy, and heightened exposure to institutional abuse.

Lack of medical care tailored to specific genders. The mentioned shortcomings are not seen as isolated incidents; instead, they reflect an on-going system whose healthcare infrastructure was never made with attention to female physiology or reproductive requirements. This represents a structural shortcoming rather than a mere unintentional error, and overcrowding worsens it by spreading inadequate medical staff over populations that surpass the designated capacity.

X. Constitutional and Judicial Framework

The constitutional foundation for evaluating these harms lies in Art 14³⁹ and 21⁴⁰ of the Constitution. In *Sunil Batra versus Delhi Administration*⁴¹, a five-judge Constitution Bench rejected the 'hands-off' doctrine that had historically insulated prison administration from judicial scrutiny, holding that fundamental rights do not 'flee the person as he enters prison,' though they may suffer such shrinkage as incarceration necessarily entails.⁴² The Court held that any affliction or abridgement beyond what is necessary for lawful incarceration constitutes an infraction of liberty that cannot be sustained unless justified by fair, reasonable, and non-arbitrary procedure satisfying Art 21⁴³. This principle applies with equal, if not greater, force to overcrowding-induced harms: conditions such as inadequate prenatal care, denied hygiene provisioning, and heightened exposure to custodial sexual violence are neither necessary incidents of lawful imprisonment nor procedurally justified, and therefore fall squarely within the category of unconstitutional 'punitive effect' that *Sunil Batra* proscribes.

The companion judgment, *Sunil Batra (II) versus. Delhi Administration*,⁴⁴ extended this reasoning to mandate the separation of undertrials from convicts and to condemn custodial sexual and physical abuse as a violation of Art 21 dignity.⁴⁵ In *Rama Murthy versus State of*

³⁸ Centre for Research and Planning, *supra* note 39.

³⁹ India Const. art. 14

⁴⁰ India Const. art. 21.

⁴¹ *Sunil Batra v. Delhi Admin.*, *supra* note 8.

⁴² *Sunil Batra v. Delhi Admin.*, *supra* note 8.

⁴³ *Sunil Batra v. Delhi Admin.*, *supra* note 8.

⁴⁴ *Sunil Batra v. Delhi Admin.*, *supra* note 8.

⁴⁵ *Sunil Batra v. Delhi Admin. (II)*, (1980) 3 S.C.C. 488 (India).

Karnataka,⁴⁶ the Supreme Court addressed overcrowding, understaffing, and deficient prison conditions directly as constitutional concerns, directing the State to undertake systemic reform of prison administration.⁴⁷ In *D.K. Basu versus State of West Bengal*,⁴⁸ the Court laid down binding safeguards against custodial violence and affirmed the State's accountability for abuse occurring within its custody, reasoning directly applicable to custodial sexual violence against women prisoners.⁴⁹ And in *Hussainara Khatoon versus. Home Secretary, State of Bihar*,⁵⁰ the Court recognized the right to a speedy trial as an Article 21 entitlement, condemning prolonged undertrial detention as itself a form of unauthorized punishment.⁵¹

Read together, this jurisprudence establishes a doctrinal principle this paper terms the punishment-boundary doctrine that the constitutionally lawful content of imprisonment is limited to what is necessary for custody and security, and that any additional suffering imposed through institutional neglect exceeds the boundary of lawful punishment and requires independent constitutional justification, which chronic overcrowding cannot supply.

XI. International Standards as Interpretive Aids

Indian courts have always consistently treated international humanrights instruments as interpretive aids to Article 21 of COI, even though not directly enforceable as domestic law. The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) specifically require State parties to provide gender-specific healthcare, including prenatal and postnatal care, and to accommodate the needs of women with dependent children in custody.⁵² The Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) similarly mandate that prison conditions must not aggravate the suffering inherent in the deprivation of liberty.⁵³ India's persistent gap between these standards and domestic practice provides an external benchmark against which the constitutional violation identified in this paper can be measured, reinforcing rather than

⁴⁶ *Rama Murthy v. State of Karnataka*, supra note 9.

⁴⁷ *Rama Murthy v. State of Karnataka*, supra note 9.

⁴⁸ *Rama Murthy v. State of Karnataka*, supra note 9.

⁴⁹ *D.K. Basu v. State of West Bengal*, (1997) 1 S.C.C. 416 (India).

⁵⁰ *Hussainara Khatoon v. Home Sec'y, State of Bihar*, (1980) 1 S.C.C. 81 (India).

⁵¹ *Hussainara Khatoon v. Home Sec'y, State of Bihar*, (1980) 1 S.C.C. 81 (India).

⁵² United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), G.A. Res. 65/229, U.N. Doc. A/RES/65/229 (Dec. 21, 2010).

⁵³ United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175 (Dec. 17, 2015).

substituting for the domestic doctrinal argument.

XII. Overcrowding as Unlegislated Enlargement of Punishment

The central theme of this paper is to combine the empirical and doctrinal analyses above into a single jurisprudential claim that prison overcrowding, in its gendered operation, constitutes an unlegislated enlargement of punishment imposed by executive neglect rather than judicial or legislative authorization. Sentencing in Indian criminal law is premised on proportionality a calibrated relationship between offence and consequence, determined by a court applying legislatively defined parameters. When institutional conditions impose additional physical suffering, additional psychological suffering, and additional risk of violence, the resulting punishment differs in both kind and severity from what any court intended or any statute prescribed.

It carries a specific doctrinal consequence: because the additional suffering is neither judicially sanctioned nor legislatively authorised, it cannot be justified under the 'procedure established by law' standard that Art 21 demands following *Maneka Gandhi v. Union of India*'s expansion of that phrase to require fair, just, and reasonable procedure.⁵⁴ Overcrowding-induced harm therefore is not merely regrettable; it is presumptively unconstitutional, and the burden falls on the State to demonstrate that such conditions are unavoidable rather than the product of remediable administrative failure a burden the persistence of unimplemented Mulla and Krishna Iyer Committee recommendations across four decades suggests the State cannot discharge.⁵⁵

XIII. Recommendations & Conclusion

1. Judicial enforceability of existing standards. Convert the Iyer Committee's recommendations and the gender-specific provisions of the Model Prison Manual, 2016, from advisory guidance into judicially enforceable minimum standards, monitored through periodic mandamus proceedings rather than left to voluntary State compliance.

2. Strengthened Undertrial Review Committees. Mandate quarterly review of women undertrials specifically, given their disproportionate share of the confined female population.

⁵⁴ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

⁵⁵ See Mulla Committee Report, *supra* note 30; Krishna Iyer Committee Report, *supra* note 31.

3. Uniform adoption of the Model Prisons and Correctional Services Act, 2023. Tie Central financial incentives to State-level compliance, reducing the administrative fragmentation caused by the Entry 4, List II allocation of prisons to the States.
4. Independent gender audit of prison infrastructure. Institute for a judicially supervised audit of healthcare, hygiene, and mental-health provisioning, with public reporting requirements modelled on the NHRC's existing monitoring role.
5. External investigation of custodial sexual violence. Route complaints from women prisoners to a non-departmental investigative authority, removing the structural conflict of interest inherent in internal departmental inquiry.

Prison overcrowding in India is conventionally analysed as a problem of administration a matter of insufficient capacity to be resolved through incremental infrastructural investment. This paper has argued that, for women prisoners, overcrowding operates instead as a jurisprudential failure: a condition that transforms lawful, judicially bounded imprisonment into an unlegislated and unconstitutional enlargement of punishment. The empirical record demonstrates that this is not an occasional or exceptional failure but the structural condition under which Indian women currently serve their sentences. Reversing this condition requires courts, legislatures, and prison administrations to recognize that the constitutional limits on State punitive power do not end at sentencing but extend to every day of confinement that follows it.