PROBLEMS OF ABUSE OF WOMEN
PRISONERS’ RIGHTS IN INDIA WITH
SPECIAL REFERENCE TO PUNJAB

THESIS

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Bad Condition of Toilets in Ferozepur Jail
Amritsar Central Jail

Mud Chulla available for cooking in jail

Wooden coats available in jail
Library available for women prisoners in an almirah in Amritsar Central Jail

Child suffering from fever in Ferozepur Central Jail
Researcher conducting the interview
Bathinda Central Jail
Male staff providing help to women prisoners to make call to their families
Old Crowded Barracks

Women Prisoners Working in Factory
APPENDIX I
INTERVIEW SCHEDULE

Socio-Economic background
Q1. What is your age?
Q2. Whether you
   (i) Married (ii) Unmarried (iii) Divorcee (iv) Widow (v) Separated
Q3. What is your religion?
   (i) Hindu (ii) Muslim (iii) Christian (iv) Sikh
Q4. Whether you literate or illiterate?
1a). If literate, then what is your academic qualification?
   i) Primary passed (ii) Middle (iii) Matriculate (iv) Senior Secondary (v) Diploma
   holder (vi) Graduate (vii) Post-graduate (viii) Any other.
Q5. Was you employed before the conviction?
   (i) Yes (ii) No
5a). If yes, then what was your occupation?
Q6. What is your husband’s occupation?

Criminal Profile
Q7. What is your crime?
Q8. What is your term of imprisonment?
Q9. What was your relation with the victim?
   i) Relative ii) Family member iii) Neighbour iv) Unknown
   v) Any other, Please specify
Q10. Have you really committed the crime?
    i) Yes ii) No iii) can’t say.
Q11. Why have you committed the crime?
    i) To Revenge ii) in self-defense iii) Accidentally
Q12. How did you commit the crime?
    i) Alone ii) In connivance iii) With weapon iv) Without weapon.
Accommodation
Q13. How many inmates are there in your barrack?
Q14. What types of sleeping facilities are available for women Prisoners?
   i) Bed      ii) Cemented bed     iii) Cot     iv) Floor
Q15. Whether the barracks are
   i) Crowded   ii) Over-crowded   iii) Spacious enough   iv) Spacious

Food
Q16. How many kitchen are there in the Jail?
Q17. What cooking facilities are available in the kitchen?
   (i) Gas      (ii) Store        (iii) Chula
Q18. Who cooks the food?
   (i) Under-trial  (ii) Convict   (iii) Cook
Q19. How many times a day do you get the food and at what time?
   (i) Once      (ii) Twice       (iii) thrice
Q20. Do you get adequate food?
   (i) Yes      (ii) No           (iii) Cant’ say
Q21. What is the scale of the diet/food in?
   (i) Morning  (ii) Afternoon    (iii) Evening
Q22. How do you rate the quality of food?
   (i) Good     (ii) Very good    (iii) Bad      (iv) Very bad    (v) Average
Q23. Are you satisfied with the quality of food?
   (i) Yes      (ii) No           (iii) Can’t say

Children of Women Prisoners
Q24. Do your child getting sufficient diet in jail?
   (i) Yes      (ii) No           (iii) Can’t say
Q25. How many times a day the children of Jail inmates get meal?
   (i) Once      (ii) Twice       (iii) Thrice
Q26. What is the scale of children’s diet?
Q27. Do children get something extra in diet?
Q28. In comparison with non-labouring inmates the scale of diet for labouring and pregnant inmates is
   (i) Lower    (ii) Higher    (iii) Equal

**Medical Help**

Q29. Is there separate Primary health Centre for women prisoners?
   i) Yes    ii) No

Q30. Is there any arrangement for Hospitalization of women prisoners in jail?
   i) yes    ii) No    iii) Can’t Day

Q31. Whether any gynecologist in the Jail?
   i) Yes    ii) No    iii) Can’t say

Q32. If yes, can you easily access the gynecologist?
   i) Yes    ii) No

32a). Before conviction, were you suffering from any disease?
   i) Yes    ii) No    iii) can’t say

Q33. Have you caught any disease in the Jail?
   i) Yes    ii) No

33a). If yes, then name the disease

Q34. How did you catch the disease?

Q35. Is Pre-natal and Post natal help in provided to pregnant women in Jail?
   i) Yes    ii) No    iii) can’t say

If yes, what kind of pre natal and post natal help is being provided?

**Education**

Q36. Is there any library in the Jail?
   i) Yes    ii) No    iii) can’t say

Q37. Is there any study room in the Jail?
   i) Yes    ii) No    iii) Can’t Day

Q38. Do you get any kind of education in the Jail?
   i) Yes    ii) No
Q39. What kind of education do you get in the Jail?
   i) Academic  ii) Vocational  iii) Religious  iv) Any other
Q40. Whether vocational courses are being taught?
   i) Yes  ii) No
40a) if yes, then what type of vocational course are being taught?
   Knitting, Tailoring, Embroidery
   2) Soap, bread, biscuit, and spice making
   3) Handicraft, art craft, and Painting,
   4) Weakling and Spinning
   5) Beauty parlour
Q41. Whether these vocational courses are run by any
   i) NGO  ii) Jail department?
Q42. Are these vocational courses sufficient for rehabilitation of women prisoners
   i) Yes  ii) No  iii) Can’t say

Visit by Higher Authorities
Q43. Do jail authorities provide women prisoner’s clothes?
   i) Yes  ii) No
Q44. Do higher authorities visit women barracks?
   i) Regularly  ii) Occasionally  iii) Rarely  iv) N.A.
Q45. Do higher authorities pay attention to your grievances?
   i) Always  ii) Occasionally  iii) Rarely
Q46. Do they have a word with prisoners to listen their grievances?
   i) Yes  ii) No
Q47. How do they sort out your problems?
   i) Promptly  ii) take sufficient time  iii) Keep on delaying the matter
   iv) You have to complain again and again

Staff-Inmate Relationship
Q48. How is the behavior of warden/matron with women prisoners?
   i) Cordial  ii) Cruel  iii) Rude
Q49. Does warden or matron hurt you physically?
   i) Yes  ii) No  iii) can’t say
Q50. Does warden or matron use abusive language?
   i) Yes  ii) No  iii) can’t say
Q51. Does warden or matron talk to you rudely?
   i) Yes  ii) No  iii) can’t say
Q52. To do you a favour, do they ask anything in return?
   i) Always  ii) Rarely  iii) Occasionally
Q53. Have you ever faced the sexual abuse in the Jail?
   i) Yes  ii) No  iii) can’t say
Q54. How often female constables accompany convicts to courts.
   i) Always  ii) Never  iii) Rarely
Q55. How is the behaviour of women constables towards women prisoners?
   i) Sympathetic  ii) Negligent  iii) Any other
Q56. Is behaviour of women constables satisfactory towards women prisoners?
   i) yes  ii) No  iii) can’t say

**Sanitary Conditions in Jail:**
Q57. How many toilets are there in each barrack?
Q58. Who cleans the toilets?
   i) Convicts  ii) Under-trials  iii) Both
Q59. Whether soap is provided to women prisoners?
   i) Bathing soap  ii) Washing soap  iii) Both
Q60. What quantity of soap is supplied to each women prisoners?
   i) Per week  ii) Fortnight  iii) Per month
Q61. How is quality of the soaps?
   i) Good  ii) Bad  iii) Average
Q62. How are the sanitary conditions in your fail?
   i) Good  ii) Bad  iii) Very bad  iv) Normal
Q63. Does medical officer pay special visit to jail kitchen?
   i) Yes  ii) No  iii) Rarely
63a). Does medical officer inspect and advise on sanitation to ensure hygiene?
   i) Yes   ii) No   iii) Can’t say

Q64. Do you get adequate clean drinking water according to season?
   i) Yes   ii) No

Q65. Is the water supply in jail proper for all chores?
   i) Yes   ii) No

Q66. Do jail authorities provide women prisoner’s sanitary napkins?
   i) Yes   ii) No

Legal Aid:

Q67. Do you know about free legal aid?
   (i) Yes  (ii) No

67a). If yes, have you ever applied for free legal aid

Q68. Have you availed it?
   (i) Yes  (ii) No

68a). If not, what was the reason?

Pay Telephone Facility

Q69. Do telephone facility available for women prisoners?
   (i) Yes  (ii) No  (iii) Cant say

69a). If yes, then how much time is allotted to each women prisoners?

Q70. Do you think this time is adequate/ sufficient?
   (i) Yes  (ii) No

Q71. What do you want to say about telephone facility?
   i) Separate Facility  ii) Increase the time of call  iii) Both

Visit by Family Members

72. Do your family members come to meet you?
   (i) Yes  (ii) No

Q73. If yes, then who come to visit you?
   (i) Parents  (ii) In-Laws  (iii) Both  iv) Family  v) Any other
73a). How much time is given?
Q74. How often do they visit you?
Q75. Do you get support from your family member?
   (i) Yes  (ii) No
Q75a. If yes, then what kind of support you get from your family members?
   (i) Moral  (ii) Financial  (iii) All type of support

Problems in the Jail
Q76. What major problems are you facing in the jail?
Q77. Who is responsible for the problems faced by women prisoners in jail?
   (i) Govt.  (ii) Jail admin  (iii) Both
Q78. Do jail authorities assign you any work or duty?
   (i) Yes  (ii) No  (iii) Can’t say
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Both crime against women and crime by women a serious problem which puts harmful effects on our society. So, need of the hour is to make sincere efforts by the society, policy makers and the law enforcement authorities to prevent the women from becoming ‘victims’ as well as ‘criminals’. For the progress of the society, protection of women is very essential. Various studies have explored both the impact of crime on the lives of women’s as well as the role of women in crime. But as compared to the Crime against women, crime committed by women has not received much attention. Due to neglect of crime committed by women, the women prisoners often receive little attention and hence, their rights are often ignored. Even researcher had no awareness about the (showed no awareness about the) rights of women prisoners before the beginning of the study.

Researcher has chosen this study entitled, “Problem of Abuse of Women Prisoners’ Rights in India With Special Reference to Punjab” in order to know what type of problems are being faced by women prisoners as the result of abuse of their rights in prisons. For this purpose researcher interviewed two hundred twenty six women prisoners confined in seven Central Jails in Punjab with the help of the interview schedule.

The researcher reviewed the nature of crimes committed by the women, punishments imparted to them for such crimes and the existence of the prison system, from ancient period to pre-independence period and till date. In ancient period, women’s crime was seen from moral perspective. Society had established the stringent moral boundaries for women and prescribed the harsh punishments for those who transgressed. The criminal law of ancient period was very severe but great importance was given to punishment because according to Manu it was the only *danda* which regulate the human behavior and because of which a man can enjoy life in society. A general rule regarding impartment of punishment for crime committed by women was that lesser punishment is to be inflicted on them. In the case of all offences women are
to suffer half of the fine in money which is prescribed for a male offender and when the
punishment is death for a male, the punishment for women would be the excision of a
limb. Hence, physical punishments such as cutting of nose, ears, limbs, whipping,
banishment, drowning in water were imparted to the women offenders. Women
offenders were not considered just violators of the criminal code but at the same time
violator of the social mores. Imprisonment was not a usual form of punishment in
ancient India. Although, the prison were existed in ancient period but little information
is available about length of prison sentence.

During the Medieval period, the normal code of punishment was very severe.
The punishment for men and women was same. Punishment was postponed in case a
woman was pregnant and until she recovers from labour. During this period also,
imprisonment was also not usual form of punishment. Imprisonment was imparted
without trial. Prison was in existence but not as existed in present times. Very
harrowing treatment was given to prisoners. Imprisonment was mainly available for the
political offenders and enemy kings etc. The prison conditions were totally
unsatisfactory.

In the beginning of the modern or British period various types of hard
punishments were given to both male and female offenders. Beside those punishments,
two punishments which were very often used by the Britishers were transportation and
imprisonment. Prisons were in existence, but the physical conditions of the prisons were
very unsatisfactory. Numbers of atrocities were inflicted by the British authorities on
the prisoners. Male and female prisoners were confined together. Both male and female
prisoners were employed for labour work on roads and in forests.

Numbers of committees were appointed by the British government to improve
the prison conditions. They enacted the *Prison Act* in 1894 in order to regulate the jail
administration in a uniform manner. From the review of the reports of various
committees and commissions constituted by the Government of India from time to time
such as, All India Jail Manual Committee 1957-59, Mulla Committee 1980-83, National
Expert Committee on Women Prisoners 1986-87, 135th Report of Law Commission on
“Women in Custody” 1989, and the Parliament Committee on Empowerment of
Women 2001-2002 it has been concluded that all these committees analysed the conditions of women confined in various jails in India and found their conditions pathetic and therefore, made a number of concrete recommendations to be adopted by the Government so that conditions of women prisoners can be improved. The Chairman of National Expert Committee on Women Prisoners 1986, Justice Krishna Iyer described the conditions of women prisoners prevalent at that time in the following words; “Women in custody are tragic testimony of judicial futility, statutory impotency and implementation calamity”.

This statement reflects that the conditions of women prisoners in jails were pathetic due to the ignorance or lack of initiatives on the part of the judiciary to improve the conditions of women prisoners in jails. From statutory impotency, he meant that penal statutory laws are silent about how to treat the women prisoners or do not contain the gender-specific treatment programs for women prisoners, the statutory laws are harsh on women prisoners. From implementation calamity, he means that implementation of various recommendations given by various committees is zero or there is no implementation of any suggestions given by various committees regarding the treatment of women prisoners by the Government.

Malimath Committee appointed by the Indian Government in 2003 to bring criminal justice reform expressed its gratitude to the Home Ministry’s vision of comprehensive reforms of the entire criminal justice system. But Reena Kaul¹ criticized the Malimath committee that though this committee claims to have applied its mind to the grave problems faced by the courts, but there is little to suggest that it considered the grave problems faced by the most vulnerable sections of Indian society vis-à-vis the criminal justice system. According to her, there is deafening silence in the Malimath committee report on certain issues like the criminalization of poverty, the crisis in legal aid and the failure of the criminal justice system in protecting the human rights of the poor, dalits, minorities and other vulnerable sections of society.

In order to know the abuse of women prisoners’ rights, it is essential to know what rights are available to women prisoners because without the availability of rights

¹ Reema Kaul, Women and Crime, Omega Publications, New Delhi, 2006
there abuse cannot be possible. Therefore, in order to know what rights are available to women prisoners, researcher analyzes the national, international and regional laws related to prisoners.

From the review of the national laws those dealing with prisons and prisoners, such as, the Prison Act 1894 adopted one hundred twenty years ago by the Britishers, the researcher came out with insight that this act contains few provisions regarding the treatment of women prisoners. This is the central act which provides for the regulations of prisons throughout India. It requires the states to provide separate accommodations to women prisoners from male prisoners, in order to protect women prisoners from torture. Act also requires that the search and examination of women prisoners should be carried by female staff and restrict the exposition of handcuffs, fetters and whipping on women prisoners. But unfortunately, this act lacks the provisions to protect the gender specific needs of women prisoners. Act also lacks provisions relating to institutional correctional programs for the rehabilitation of women prisoners. Thus, with respect to the treatment of women prisoners this act requires fresh look.

Punjab Jail Manual 1996 also contains few separate provisions to prevent torture or harassment of women prisoners in order to protect their inherent dignity, such as, separate accommodation for women prisoners, protection against exploitation, extra diet for pregnant and nursing mothers, prohibition of imposition of handcuffs and chains on women prisoners, right to medical care and treatment but lacks the gender-specific correctional measures such as educational, vocational and work programmes along with the post-release programs for the rehabilitation and reintegration of women prisoners. Similarly, other penal acts such as, the Punjab Good Conduct Prisoners’ (Temporary Release) Rules 1963 and Punjab Prisoners’ (Attendance in Courts) Rules 1966 contains few provisions regarding treatment of women prisoners. It is very unfortunate that Indian Government is still applying one hundred twenty two years old Prison Act 1894.

Police, the chief law enforcing authority plays an important role in the protection of human rights of the citizen by maintaining law and order in society. But it is very sad part that the image of police is not good. Police always treat the male and
female offenders equally. Women offenders have more chances of sexual exploitation and harassment in the police custody due to their gender. Mathura’s case is a best example of custodial sexual violence against the women in India. According to United Nations Special Rapporteur on Torture, custodial violence against women very often includes rapes and other forms of sexual violence, such as treats of rape, touching, virginity testing, being stripped naked, invasive body searches, insults and humiliation of a sexual nature etc. Section 376-D, inserted by the Government of India into the Indian Penal Code 1860 through the Criminal (Amendment) Act, to provide protection to women against custodial sexual abuse, not amounting to rape is really commendable.

The human rights provisions added in the Punjab Police Rules 2011, to prevent the violation of the women prisoners’ rights, to be followed by the police while dealing with the women prisoners is really a praiseworthy step taken by the Punjab Government in this direction. It is submitted that if these rules would be strictly implemented, the abuse of rights of the women prisoners can be prevented to a great extent.

With regard to judicial approach to protect the rights of prisoners in general and of women prisoners in particular, in recent past, it is observed that the Supreme Court after Maneka Gandhi’s\(^2\) case has recognised number of human rights of prisoners available to them beyond liberty under Article 21 of the Constitution. These rights are equally applicable to both male and female prisoners. And according to the Article 141 of the Constitution, Government of India is obliged to safeguard these rights of the prisoners. But it seems that government has failed to safeguard these human rights of prisoners to large extent. With regard to the protection of gender-specific rights of women prisoners, only in Upadyaya’s Case\(^3\) Supreme Court laid down the guidelines for the government to provide pre-natal and post-natal facilities and provisions for children of women prisoners. Except this judgment, there is no other judgment from Supreme Court which obliges the state to provide compulsory treatment to women prisoners for their rehabilitation and reintegration. Punjab prison department also failed to implement the guidelines regarding the pre-natal and post-natal care program and programs for the children of women prisoners. Thus, from this study it is realized that

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\(^2\) AIR 1978 S.C. 597
\(^3\) AIR 2006 S.C. 1946.
there is requirement that Judiciary should recognize the gender-specific needs of women prisoners to protect women prisoners from discrimination regarding their treatment for the purpose of rehabilitation and reintegration into society after release from the prison.

From the Review of the International Conventions, guidelines, rules and provisions it is found that before the adoption of the Universal Declaration of Human Rights, 1948 prisoners were not considered liable to have any rights. It is Universal Declaration of Human Rights which held that prisoners are also human beings and should be treated with humanity and the main purpose of imprisonment should be the reformation and rehabilitation of prisoners.

Besides these basic human rights instruments, the first ever initiative at international level to protect the rights of the prisoners was taken with the adoption of the Standard Minimum Rules for the Treatment of prisoners, in 1955 by the United Nations. These Rules provide the guidance to the member states as how to treat the prisoners. But these Standard Minimum Rules 1955 are not exhaustive and contain few provisions to protect the gender-specific rights of women prisoners, for instance rules require the member states to provide separate accommodation to women prisoners, to provide pre-natal and post-natal care and treatment to pregnant women prisoners, protection against abuse by male prisoners and male officials.

Although United Nations started taking steps to protect the rights of women immediately after its establishment, but the discrimination and violence often perpetuated against women. In order to prevent the discrimination and violence against women, the United Nations took very important step in 1970 and adopted the Convention Against the Elimination of All Forms of Discrimination Against Women, 1970. United Nations also adopted the Declaration on the Elimination of Violence Against Women 1997, in order to guide the member states to prevent every type of discrimination and violence against women, whether she is free or behind bars. Both the convention and the declaration require the states to repeal their discriminatory laws against the treatment of women offenders and prisoners. Further Kyiv Declaration on Women’s Health Rights in Prison 1995 and WHO Guidelines on HIV Injections and
AIDS in Prison provides gender-specific health care needs for women prisoners and guidance as how to take care of HIV-positive women prisoners. Since women are the backbone of the society and the creator of next generation, they need more attention and care.

Although, number of international norms and standards adopted by United Nations relating to prisoners apply equally to male and female offenders but they do not take into account the specific needs of women prisoners. Therefore, in 2010, an important step was taken by the international community regarding the treatment of women prisoners. The United Nations adopted the Standards Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures for the Women Offenders, 2010. These rules has recognized the specific conditions and needs of women prisoners and placed those needs at a level of importance that are equal to those of men. These rules also provide guidance to the prison authorities and the criminal justice agencies including the policy makers, the legislators, the prosecution services, the judiciary and the probation services providers, as how to deal with women prisoners. States parties are bound to incorporate these rules in their domestic laws.

These above stated International standards relating to the prisoners can only be beneficial if states incorporate them in domestic laws. The Constitution of India under Article 51 requires the states to foster respect for international law and treaty obligations in dealing with the organized people with each other. Besides this Directive Principle, the Article 253 and 246 of the Constitution of India provides concern for respecting international law and international treaties and conventions. However, barring treaties which require legislation to be made, the international agreements entered by the union in exercise of its executive power under Article 73 which are not contrary to law are required to be recognised by the municipal courts.

Whereas the legislature and the executive have failed to implement the international rules convention, norms, the Supreme Court of India has intervened to issue directions for the effective enforcement of those rules, standards and conventions.

For example in Prem Shanker Shukla’s case while dealing with the handcuffing of prisoners and other in-humiliation inflicted on persons in custody, the Supreme Court
observed that while discussing the relevant statutory provisions and constitutional requirements courts and counsel must never forget the core principle found in Article 5 of the Universal Declaration of Human Rights 1948 which states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

In Sunil Batra’s case\(^4\) the Supreme Court took note of Article 10 of the International Council of civil and political rights which states that all people deprived of their liberty shall be treated with humanity and with respect for inherent dignity of the human person. The court also opined that the state shall take steps to keep up to the Standard Minimum Rules for the Treatment of Prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact and correctional strategies.

From the review of the Regional Human Rights instruments, it is found that today regional system is a vital part of the international protection human rights, regional sanction can be more effective than international sanctions. There are three major human rights system on the regional basis, that is (i) the European Human Rights System (ii) American Human Rights System, and African Human Rights System. All these three Regional Systems adopted conventions and charter to protect human rights of its citizens at regional level, to implement the human rights provisions contained in basic conventions and charter such as European convention on human rights and fundamental freedom 1953, American convention on Human Rights 1969, African Charter on Human and Peoples Rights 1981 adopted the European Prison Rules 2006. Principles and Best practices for the Protection of Persons Deprived of their Liberty in America 2008, African Charter on prisoners rights 2001. These three specific instruments relating to prisoners also contains few separate provisions, such as, to provide separate accommodation for women prisoners, pre-natal and post-natal care and treatment for pregnant and mother prisoners, sanitary needs of women prisoners, special needs of women prisoners who faced physical, mental and sexual abuse before or during imprisonment, health rights of women prisoners, personal hygiene of women

\(^4\) AIR 1978 S.C. 1675.
prisoners, supervision of women prisoners by female staff, body searches of women by women staff etc.

But during the review of regional human rights instruments relating to prisoners, researcher has not found any specific regional convention, rules or guidelines for the treatment of specific needs of the women prisoners like United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders 2010. Researcher also found that Asian countries too have not formed any regional human rights system in general and to protect the rights of women prisoners in particular.

The study reveals that with regard to judicial approach to protect the rights of prisoners, in recent past, the Supreme Court of India after Maneka Gandhi’s case has recognised number of human rights of prisoners available to them beyond liberty under Article 21 of the Constitution. These rights are equally available to both male and female prisoners. And according to the article 141 of Indian Constitution is Government is obliged to safeguard these rights of the prisoners. But from the present prison conditions it seems that government failed to safeguard these human rights of prisoners with regard to the protection of gender-specific rights of women prisoners, only in Upadyaya’s case Supreme Court laid down the guidelines for the government to provide pre-natal and post-natal facilities and make provisions for children of women prisoners. Except this judgment, researcher has not found any judgment from Supreme Court which oblige the states to provide compulsory treatment to women prisoners and for their rehabilitation and reintegration.

From this study, researcher found that Punjab Government failed to implement the guidelines regarding the pre-natal and post-natal care programs for the pregnant and mother prisoners.

In order to chalk out the treatment programmes for women prisoners the study also touch upon the background of women prisoners it is very essential to know who those women prisoners who committed the crime are. From the analysis of the socio-economic profile of women prisoners, researcher found that majority of women
prisoners were from low and middle class, young, married, illiterate, housewives, belong to Sikh religion at the time of crime.

Traditionally, it was believed that women commit fewer crimes, as compared to men. But from the analysis of criminal profile of women prisoners interviewed for the present study it appears that today women are committing every type of offences. They had committed the crimes both under the Indian Penal Code and Special Local Laws. Three major crimes for which majority of women convicted were murder (35.6%), dowry deaths (21.7%) and crimes under NDPS Act (22.7%). women convicted for drug peddling under NDPS act were from Ferozpur, Bathinda, Jalandhar and Amritsar. Among these women’s large number belongs to Sansi community and they told the researcher that the male members of their community often used the female members of the family for the drug peddling, as females have less chances of detection. Women prisoners told the researcher that they had committed the drug peddling in order to earn easy money due to the unemployment or death of the husband, to serve the family, to fulfill lust for money, in some cases police has implicated the women in false drug cases due to political rivalry.

About the causes behind dowry deaths, the researcher came to know from study as told by women prisoners that extra-marital affair of daughter-in-law and son, non-adjustable nature of daughter-in-law, false blame leveled by daughter-in-law against in-laws are major causes responsible for conviction under dowry death cases. They also told that dowry laws are deterrent and biased against grooms family.

In case of murder out of total 35.6% cases, in 9.3% cases women had committed the murder of their husbands due to pre and extra-marital affair of wife and husband, alcoholic nature of the husband, misbehavior by the husband in front of children in intoxicated state, wife’s greed for property in case of second marriage, etc. About from the victim-offender relationship researcher found that majority of victims were from the women prisoners’ family of procreation that means the family acquired on marriage. They were daughter-in-law, father-in-law, brother-in-law and children. Thus, the study reveals that married women have committed offences against their in-laws.
As regards the term of imprisonment imparted to the women prisoners, it is submitted that today courts are not adopting lenient attitude towards women offenders, as they are busy implicated in serious offences. About the motive behind the commission of crimes, women prisoners told that they did not want to commit the crime but it was the circumstances that force them to commit the crime. Some women prisoners told that police had implicated them in false cases with the help of the money taken from other party to dispute. In majority of cases, women had committed the offences in the association of their own family members.

From the in-depth examination of the conditions available to women prisoners in prisons in jails of Punjab researcher observed that living conditions in jails were not satisfactory to protect the women prisoner’s general and gender-specific needs, due to non-availability to adequate nutritious food, inappropriate sleeping facilities, crowded barracks due to the presence of large number of women under-trials, bad sanitary conditions, supply of low quality toiletries things, impure drinking water, non-availability of health care facilities due to absence of permanent lady doctor, non-availability of appropriate and adequate medicines, non-availability of adequate and clean clothing and bedding and absence of sanitary napkins. General health conditions of most women prisoners were not upto the mark. They were suffering from multiple diseases. Due to shortage of female staff in all central jails, matrons were not able to provide sufficient attention. As a result, problems of women prisoners remain unattended.

About institutional correctional programmes such as classification and segregation, educational, vocational training, productive work programs, wage system, library facility, legal aid services, facilities to maintain contact with family members, relatives, complaint mechanism classification and segregation of women prisoners for both treatment and management purposes researcher observed that all these facilities were absent in all the central jails. Consequently, all categories of women prisoners, under-trials, convicts, young, old, habitual, first offenders were confined together. Thus, all norms whether national or international are being flouted in these jails.
Educational programs were found totally absent for women prisoners. Vocational programs imparted to women prisoners were inadequate for their rehabilitation. Relevant library facilities which can cater to the needs of women prisoners were absent almost in all central jails in Punjab. Most of the women prisoners lack the awareness about the free legal aid services. In those cases where legal aid services were provided to women prisoners by the lawyers due to the small payment given by the government to the lawyers. Majority of women prisoners were not allowed by the female staff to ventilate their suffering and transmit the same to the higher authorities. As a result, the grievances of the women prisoners regarding the abuse of their right in the jail remained unattended. Pay telephone facilities require changes with regard to time of call etc.

Due to the unsatisfactory conditions of the women prisoners in Central jails in Punjab, numbers of problems are faced by the women prisoners such as absence of Classification and Segregation of Women Prisoners restrict the rehabilitation of women prisoners. Inadequate Food for Women Prisoners: inadequate food puts bad effect on their health. Conditions of Children of Women Prisoners Non-availability of Education for Women Prisoners, Inadequate Vocational Training Programmes for Women Prisoners, Absence of Work Programme for Women Prisoners, restrict the reintegration into the society. Inadequate Facilities for “Mulakaat” With Family Members causes various mental problems, such as tension, depression, phobia, suicidal tendencies etc. Due to Poor Sanitation Conditions, Inadequate Clothing and Bedding Facilities Inadequate Toiletries Things for Women Prisoners, Torture Faced by Women Prisoners in Jails, Distortion of Women Prisoner’s Emotions, Problems Due to Inadequate Free Legal Aid Services causes emotional and physical abuse of women prisoners.

From this study researcher found that women prisoner has considered, as both the prison authorities and the State Government liable for the problems faced by them in the jails. According to women prisoners, Government is not provided proper funds and to prison department. On asking what they expect from Government, women prisoners replied that they just want their early release from the jail after expiry of minimum required period of imprisonment.
Analysis of the conditions of women prisoners in central jails in Punjab has revealed that the purpose of imprisonment is still custodial because prisons do not provide institutional correctional programs for the rehabilitation and reintegration of women prisoners. After-care programs were totally absent to rehabilitate women prisoners released from jail in the society who have no family support. It is submitted that both the central and state prison laws do not cater to the needs of women prisoners. When laws are defective no one can expect proper implementation and humane treatment to the prisoners, especially the women prisoners.

SUGGESTIONS

In the light of the above conclusion the following suggestions have been made. If these suggestions are implemented sincerely majority of the problems of women prisoners will be solved.

- In order to prevent the abuse of rights of the women prisoners, first of all it is essential to recognize that women prisoners have gender-specific needs different from men. Government should incorporate gender-specific rules in penal laws to prevent the abuse of their rights.

- There should be co-ordination between three organs i.e. police, judiciary and legislation of the criminal justice system to provide appropriate treatment to women prisoners. Each organ of the criminal justice system should follow human rights provisions while dealing with women prisoners.

- As women’s experience are different and women experience imprisonment differently, present prison laws do not contain adequate provisions for the states to follow with regard to administration and management of women’s prisons and women prisoners. Government should rewrite these prison laws so that women prisoners are not subjected to the same rules as male prisoners.

- All India Model Prison Manual 2003 prepared by the Bureau of Police Research and Development through a wide ranging consultation process involving the major stakeholders in the correction administration in the country. It has since been approved by the Ministry of Home Affairs and circulated to all states and
Conclusion and Suggestions

For revising their own jail manual subject to their state specific facts and circumstances. It is very exhaustive Manual which touches upon all aspects of prison management. So, Centre and states/UTs Governments should adopt and implement this manual by revising their jail manual accordingly.

- As the number of women prisoners is increasing the Government should construct new and separate prisons for women prisoners to solve the problem of overcrowding. These newly constructed jails should provide adequate infrastructure to meet the needs of different categories of the women prisoners.

- In order to bring these changes in prison administration regarding women prisoners, political will is very much essential.

- Government should appoint adequate staff, the custodial and the correctional including lady doctors, nurses, psychologists, welfare officers, social workers, teachers and vocational instructors.

- Old and sick women should be given bread or other appropriate food according to their age which they can easily eat and digest.

- Similarly, Government should implement the guidelines of the Supreme Court to provide pre-natal and post-natal care and treatment to pregnant and mother prisoners.

- Clothing and bedding provided to women prisoners should also be suitable for human use.

- Toiletries provided to women prisoners for their personal hygiene should be of good quality.

- Medical facilities and services should meet the gender-specific needs of the women prisoners.

- Permanent lady doctor should be appointed in all central jails with the appropriate helping staff.

- Women prisons should have its own hospital facility to provide medical care to women prisoners. Hospital should have basic medical facilities such as:
diagnostic lab, X-ray machine, ECG machine, dental unit, ambulance etc. and appropriate staff.

- The young women prisoners not convicted for heinous crimes should be provided educational furlough or educational release. In these educational furlough inmates are allowed to leave the facility to take advantage of educational opportunities. Such release can allow the prisoners to have access to program that are geographically remote from the correctional institution, and to curricula that are too specialized to be of interest to a significant group of inmates.

- Dedicated and honest female staff should be employed to handle the women prisoners.

- Training institutes should be constructed and maintained to provide up to date training to prison officials regarding treatment of women prisoners.

- Liberal remissions should be provided to women prisoners who have not convicted for the heinous crimes.

- There is need to rewrite the Punjab Jail Manual, 1894 in reference to treatment of women prisoners in order to incorporate the provisions of both general international human rights standards and particularly relating to treatment of women prisoners and guidelines issued by the Supreme Court of India.

- Regarding reintegration of the women prisoners after release from the jail, the Government should create job placement services or a guarantee of suitable employment on release because many employers do not want to hire former offenders.

- Reliable NGOs and other voluntary organizations should be associated with the jails in order to provide correctional counseling to women prisoners to facilitate their reintegration in the society.

- Police should follow human rights provisions while dealing with women prisoners.
• Diverse vocational training programs should be provided to the women prisoners. These programs should be job oriented.

• Classification is very essential for the correction, rehabilitation and reintegration of women prisoners. So, suggestions made by various prison reform committees regarding classification of prisoners, both for management and treatment purposes should be implemented. Prison staff should be provided training to classify the women prisoners for treatment purposes. Proper infrastructure should be made available to classify the women prisoners.

• Regarding reintegration of the women prisoners after release from the jail, the government should create job placement services or a guarantee of suitable employment on release because likelihood of employment after release from prison is affected by job discrimination and civil liberties. Many employers simply do not want to hire former offenders. In this regard, NGOs can play an important role by imparting vocational guidance to prisoners.

• The Jail Manual was first written in 1896 during the time, when India was colonized by the British and was reviewed in 1996. However, it still remains a mere copy of the previous one without being modified in keeping with widespread changes which have taken place in the Indian society. There is need to rewrite the jail manual in reference to treatment of women prisoners in order to incorporate the provisions of international human rights standards relating to treatment of prisoners and supreme court of India. It is the high time that the state government should implement recommendations of different committees and judiciary.

• The government should also enact legislation in order to implement the international agreements and conventions to address the gender-specific needs of the women prisoners.

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CHAPTER 4

CONDITIONS OF WOMEN PRISONERS IN PUNJAB: AN EMPIRICAL ANALYSIS

The classical philosophy that the condition of a convict ought not to be made more eligible than that of the poorest class of subjects in a state of innocence and liberty, to give a convicted person a better life than some person not convicted of offences would be unjust to the latter, is replaced by the demand of new penology that the prisoners, whether convicted or awaiting trial, cannot be deprived of their human rights except the right to liberty, because in the words of Alexander Paterson, prisoners are sent to prison as a punishment, nor for a punishment.\(^1\) The punishment which they suffer by being deprived of their freedom affects prisoners’ material possessions because they can earn little or no income while incarcerated, they may lose their job or livelihood, spend their life savings, and have their total lifetime earning capacity affected. It affects the prisoner’s body because he or she is under the control of others and very little freedom exists. Imprisonment may result in actual physical harm, from attacks by correctional officers or other inmates or from illness or injuries left untreated. Prison also attack the psyche by attempts at reformation and through the mental deterioration that occurs because of the negative environment of the prison, should not be further increased by rendering their living conditions irksome as possible.\(^2\) It is essential to provide them with the basic minimum human living conditions, in order to ensure their human dignity, which ensures a clean environment to live in, as well as to provide for a proper utilization of their time.\(^3\) Several international conventions, guidelines and rules exist to ensure human treatment to the prisoners for example, Article 10(1) of the International Covenant of Civil and Political Rights 1966, provides a positive requirement that prisoners should be treated with humanity and with respect for the inherent dignity of the human person. As compared to the male prisoners, women prisoners require special care for the protection of their human rights. Here the

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living conditions within jail for women prisoners has been reviewed in terms of accommodation, nature of barracks, sleeping facilities, food, clothing, bedding, sanitation conditions, water supply, health care facilities, sexual abuse, and staff-inmate relationship.

PART-I

4.1 LIVING CONDITIONS AVAILABLE FOR WOMEN PRISONERS IN CENTRAL JAILS IN PUNJAB

4.1.1 Separate Prisons for Women Prisoners

Due to vulnerability of women prisoner to both sexual exploitation and harassment both Punjab State Policy on Prisons and Prison Act, 1894 requires elaborate the state government that women prisoners should be confined in a separate institutions specifically meant for them. If such arrangements are not possible they should be kept in separate annexes of prisons with proper arrangements¹ in such a manner as to prevent their seeing or communication or holding any interaction with male prisoners. In Punjab, there is only one special women jail situated at Ludhiana to confine the women prisoners. But centrals jails situated in seven districts also provide accommodation to women prisoners.

In all Central Jails, a part of the jail building has been converted into an enclosure/women hostel, especially for women prisoners. So, it can also be said that women prison in Punjab consists of a separate enclosure within the four walls of the central jails of Punjab. Women prisoners are not allowed to move out of the enclosure alone without the prior permission of the prison authorities. She can go out of the enclosure only with the female matron/warden. When they are taken to courts or for Mulaqaats with their relatives, matron always accompanied them to the gates and hand them to the police guards, which includes women constables.

The gates of women enclosures remain locked all the times from both sides. Keys of the outside lock remain with the male guard. No male prisoner or prison staff can enter the women enclosure without the permission of the superintendent of the jail.

4.1.2 Accommodation for Women Prisoners

Accommodation generally implies lodging and housing. In the context of Jail-life, however, it means a place where the prisoners can be confined safely to serve his/her sentence under such living conditions as conducive to correctional treatment and maintenance of basic minimum standards of human dignity. The insufficient accommodation and indiscriminate huddling of prisoners were detrimental not only to the maintenance of discipline or peace in prisons but also to the accomplishment of the correctional objectives of imprisonment. Therefore, total accommodation for the prisoners in a jail or correctional institutions has to be little more than the fair accommodation by all the inmates. A fairly accommodation in prison implies an accommodation which is conducive not only to safe custody of prisoners but also to their correctional treatment and maintenance of basic minimum standards of human dignity. In case of women prisoners, accommodation should have facilities and materials required to meet women’s specific hygiene needs.

Therefore, the *Punjab Jail Manual, 1996* requires the state Governments to provide appropriate or fair accommodation to prisoners in prisons constructed or regulated in such manner as to comply with the requirement of the *Prisons Act, 1894* in respect of separation of prisoners.

Model Prison Manual, 2003 provides that there should be four types of living accommodations for women prisoners such as.

(a) Barracks with accommodation for 20 women prisoners

(b) Dormitory accommodation for four to six women prisoners

(c) Single room accommodation for women prisoners needing privacy for pursuing studies

(d) Cells for segregation of women prisoners for the purpose of security and punishment.

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7 p. 319.
In actual position, in Punjab prisons, barracks are available for accommodation of women, where under-trial and convicted pregnant, old, sick, women prisoners suffering from chronic diseases, children were confined together in these barracks.

Following type of living accommodation available for women prisoners:

**Table 4.1**

**Living Accommodation Available for Women Prisoners**

<table>
<thead>
<tr>
<th>Name of the Jail</th>
<th>Number of Barracks</th>
<th>Number of Women Prisoners</th>
<th>Total Number of Barracks</th>
<th>Total Number of Women Inmates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Old</td>
<td>New</td>
<td>U.T.</td>
<td>C.T.</td>
</tr>
<tr>
<td>Amritsar</td>
<td>2</td>
<td>1</td>
<td>102</td>
<td>57</td>
</tr>
<tr>
<td>Bathinda</td>
<td>1</td>
<td>1</td>
<td>74</td>
<td>37</td>
</tr>
<tr>
<td>Gurdaspur</td>
<td>0</td>
<td>1</td>
<td>71</td>
<td>11</td>
</tr>
<tr>
<td>Ferozepur</td>
<td>1</td>
<td>2</td>
<td>91</td>
<td>41</td>
</tr>
<tr>
<td>Jalandhar</td>
<td>1</td>
<td>0</td>
<td>58</td>
<td>27</td>
</tr>
<tr>
<td>Patiala</td>
<td>1</td>
<td>1</td>
<td>53</td>
<td>44</td>
</tr>
<tr>
<td>Ludhiana</td>
<td>2</td>
<td>1</td>
<td>114</td>
<td>104</td>
</tr>
</tbody>
</table>

Source: Information As Provided by the Jail Officials at the Time of Data Collection.

4.1.3 Nature of Barracks

Over-crowding simply means that the number of prisoners exceeds the official prison capacity, number of prisoners exceeds when the justice system sends more people to prison and for longer periods than the prison capacity allows. Therefore, the major causes of over-crowding in prisons can be attributed partly to large number of under-trait and partly due to inadequate capacity of prisons to accommodate all the persons required to be sent to prisons. Prison over-crowding is a very serious problem.\(^8\)

The United Nations Committee Against Torture has also identified, “serious overcrowding”, as one of the poor prison conditions that affect the health of both inmates and wardens. The Special Rapporteur on Torture has noted the impact of overcrowding on health, stating that, “overcrowding exacerbates the inability of the staff to provide adequate health care to the detainees. It also makes it difficult to prevent the spread of infectious diseases”. Overcrowding was included among the environmental factors described by the Special Rapporteur as “health-damaging conditions” that “effectively subjects inmates to disease. The Special Rapporteur on health has also expressed concern that “prison conditions—such as overcrowding, lack of privacy tend to exacerbate mental disabilities.”

Commission on Crime Prevention and Criminal Justice 2009, in thematic discussion on “Penal Reform and the Reduction of Prison Overcrowding, including the provisions of legal aid in criminal justice system”, held that “overcrowding in penal institutions had become a global human rights, health and security issue for offenders, their families and their communities. United Nations Rapporteur on Torture condemns prison overcrowding. Rapporteur estimated that there are 10 million prisoners worldwide and this population is placing an enormous financial burden on states. Rapporter held that overcrowding in prison amounts to ill-treatment or torture.¹⁰

4.1.3.1 The Regulatory Measures

To prevent the overcrowding in the jails the Punjab Jail Manual, 1894 requires the prison department that when the population of jail is approaching the maximum number for which there is accommodation, the Inspector General and Superintendent of Police should be informed, with a view to having some of the convicts transferred or arrangements made for their temporary shelter outside, as the case may be.¹¹

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¹⁰ UN Rapporteur Condemns Prison Overcrowding, Oct. 22, 2013, Watchdog, retrieved from www.rferl.org/content/UN-mendez-prisoinrights/25145087 as visited on 3-3-2014.
Table 4.2

Actual Number of Women Prisoners at the Time of Data Collection

<table>
<thead>
<tr>
<th>Name of Jail</th>
<th>Sanctioned Strength of Women Inmates</th>
<th>Actual strength of Women Inmates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amritsar</td>
<td>100</td>
<td>159</td>
</tr>
<tr>
<td>Bathinda</td>
<td>100</td>
<td>111</td>
</tr>
<tr>
<td>Ferozepur</td>
<td>100</td>
<td>136</td>
</tr>
<tr>
<td>Gurdaspur</td>
<td>70</td>
<td>82</td>
</tr>
<tr>
<td>Jalandhar</td>
<td>70</td>
<td>85</td>
</tr>
<tr>
<td>Ludhiana women Jail</td>
<td>150</td>
<td>228</td>
</tr>
<tr>
<td>Patiala</td>
<td>100</td>
<td>97</td>
</tr>
<tr>
<td>Total</td>
<td>690</td>
<td>898</td>
</tr>
</tbody>
</table>

Source: Information as Provided by the Jail Authorities at the time of Data Collection.

Data given in the table 4.2 shows that except patiala central jail in all others jails, the actual number of women inmates was higher than the sanctioned strength of the women inmates. The problem was more severe in ludhiana special women jail, amritsar and ferozepur central jail.

Figure 4.1: Actual Number of Women Inmates in the Central Jails
Table 4.3

Nature of Barracks According to Women Prisoners

<table>
<thead>
<tr>
<th>Status of Barracks</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crowded</td>
<td>60</td>
<td>27.80</td>
</tr>
<tr>
<td>Over-crowded</td>
<td>96</td>
<td>44.40</td>
</tr>
<tr>
<td>Spacious</td>
<td>60</td>
<td>27.80</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

About the nature of barracks, data given in the table 4.3 shows that 49.4 percent women prisoners held the barracks were over-crowded, these women prisoners were from Amritsar, Jalandhar, Ferozepur central jails, 27.8 percent of them held the barracks crowded, same percentage of women prisoners, whereas 27.8 percent held the barracks spacious.

4.1.4 Adequate Sleeping Facilities for Women Prisoners

All Accommodations provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic context to air, minimum floor space, lighting, heating and ventilation.12

Table 4.4

Response of Women Prisoners Regarding Sleeping Facilities

<table>
<thead>
<tr>
<th>Sleeping Facilities Provided</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bed</td>
<td>16</td>
<td>7.40</td>
</tr>
<tr>
<td>Cemented bed</td>
<td>19</td>
<td>8.80</td>
</tr>
<tr>
<td>Floor</td>
<td>181</td>
<td>83.80</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Regarding sleeping facilities, data given in the table 4.4 shows that, majority of women prisoners 83.8 percent stated that they had to sleep on the floor, 8.8 percent

12 Rule 10, SMRs 1955.
stated that they had to sleep on cemented beds only, 7.4 per cent women held that bed are available for them. These 7.4 percent women were from Amritsar jail. Only is Amritsar jail few beds were available for the women prisoners in a newly constructed barrack. These wooden cots were provided to women inmates in 2006 with the help of the charitable institutions and financial grants given by the local Member of Parliament.

4.1.5 Women Prisoners’ Right to Adequate Food

Food service is one of correctional focal concern because of its ostensible relation to the health and welfare of inmates. Additionally, the quality of food plays an important role in the morale and adjustment of the inmates.\textsuperscript{13} Therefore, every prisoner should be provided by the administration at the usual hours with food of nutritional value, adequate for health and strength of wholesome quality and well prepared and served, as well as “drinking water whenever he needs it”.\textsuperscript{14} Food should be served to prisoners in clean, hygienic and covered places.\textsuperscript{15} The failure to provide safe and adequate food and drinking water has been found to contribute to violations of international law in all human rights systems.\textsuperscript{16}

4.1.5.1 The Regulatory Measures

The Punjab Jail Manual, 1996 contained the detailed description of the food that is to be made available to all prisoners. Manual lays down that every convict who does not maintain himself when not lawfully subject to punishment by penal diet, or placed on special diet, on medical grounds by proper authority, daily receive the scale of diet provided for prisoners of the class to which be belongs\textsuperscript{17} and food should ordinary be issued in three meals as follows: early morning meal-half the bread, half the vegetables ghee and the whole of the dal, midday meal-the parched or boiled gram, evening meal-the remainder of the bread and oil with the whole of the vegetables.\textsuperscript{18} The

\textsuperscript{14} Rule, 20.
\textsuperscript{15} Rule 67 of \textit{Mulla Committee Report}, 1982-83.
\textsuperscript{17} Para 831-832 of the \textit{Punjab Jail Manual}, 1996.
\textsuperscript{18} \textit{Id}, Para 810-811.
food must also meet the medical, religious and cultural needs of prisoners.\(^{19}\) Food to ordinary prisoners should be issued in three meals. In order to ensure the good quality of food to prisoners, manual requires the medical officer and the superintendent of the jail to examine the food regularly and if food found defective in quality, they should make a note of the fact in his journal.

Manual provides that nursing mothers admitted to Jail with her child must receive, in addition to the ordinary diet sanctioned for a female prisoner.\(^{20}\)

**Table 4.5**

Response of Women Prisoners Regarding the Quality of Food

<table>
<thead>
<tr>
<th>Quality of Food</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>21</td>
<td>9.70</td>
</tr>
<tr>
<td>Bad</td>
<td>58</td>
<td>26.90</td>
</tr>
<tr>
<td>Very bad</td>
<td>20</td>
<td>9.30</td>
</tr>
<tr>
<td>Average</td>
<td>117</td>
<td>54.20</td>
</tr>
<tr>
<td>Very Good</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

![Figure 4.2: Quality of Food provided to Prisoners](image)


142
The findings in the table 4.5 suggest that 7.9 percent women prisoners held the quality of food very bad, 26.9 percent of them considered the food as bad. Majority of women prisoners 54.2 percent held the food as average, whereas only 11.1 percent as good. No women prisoners considered the food as very good.

Table 4.6

Response of Women Prisoners Regarding their Satisfaction with the Quantity and Quality of Food

<table>
<thead>
<tr>
<th>Quality of Food</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>31</td>
<td>14.40</td>
</tr>
<tr>
<td>No</td>
<td>171</td>
<td>79.20</td>
</tr>
<tr>
<td>Can’t say</td>
<td>14</td>
<td>6.50</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.3: Satisfaction with the Quality and Quantity of Food

Data given in the table 4.6 reveals that overwhelming majority of women prisoners 79.2 percent showed their dissatisfaction with the quality and quantity of food
whereas only 14.4 percent held their satisfaction with the quality of food given to them in jail.

4.1.6 Clothing and Bedding for Women Prisoners

Clothing as a component of the right to adequate standard of living is a human right. Providing clean and sufficient clothing and bedding to inmates is essential for maintaining humanitarian prison conditions and also to ensure good hygiene by preventing the spread of contagious diseases in prison\textsuperscript{21}. Under \textit{Punjab Jail Manual, 1996} it is the responsibility of the superintendent to provide clothing and bedding to convicted criminals and civil prisoners and every convicted prisoner, who is not able to maintain himself/herself. The existing scale of clothing and bedding for women prisoners is as prescribed in the manual is.\textsuperscript{22}

\textbf{Winter Wear}

1. Dasuti Salwar \hspace{1cm} 2  
2. Dasuti Chaddars \hspace{1cm} 2  
3. Napkins \hspace{1cm} 2  
4. Dasuti \hspace{1cm} 2  
5. Blanket coat with \hspace{1cm} 1  
6. Belt Raai or Blankets \hspace{1cm} 3  
7. Cotton Sheets \hspace{1cm} 2

All these above stated articles of clothing, bedding and equipments should be of standard pattern.\textsuperscript{23}


\textsuperscript{22} Para 862 of the \textit{Punjab Jail Manual, 1996}.

\textsuperscript{23} \textit{Id.} Para 879(c)
Table 4.7
Response of Women Prisoners to Question “Do Jail Authorities Provide Clothes to Women Prisoner’s?”

<table>
<thead>
<tr>
<th>Clothes</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>3</td>
<td>1.40</td>
</tr>
<tr>
<td>No</td>
<td>213</td>
<td>98.6</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figures given in table 4.7 reveals that out of 216 women prisoners, 97.2 per cent women prisoners were not given clothes by prison authorities as prescribed by the prison manual, whereas very small number 2.8 per cent women prisoners held that clothes were given to them by the prison authorities. They were given only “unstitched khadar cloth.” In actual practice they are given one Dhari and one blanket, quilt is given to only very poor women prisoners as told by prisoner.

4.1.7 Women Prisoners’ Right to Clean Drinking Water

Water is very important for life. No life can exist without water. But in order to live a disease free life water should be clean.

According to Manual, every place where prisoners are located either by day or night should be provided with a sufficient supply of drinking water. The vessels used for holding or conveying drinking water should be covered, cleaned out daily and used for no other purpose. Therefore, in order to provide clean and sufficient water to prisoners, Manual requires the additional medical officer to examine periodically the quality and quantity of drinking water. In order to provide clean drinking water to prisoners Manual provides that the water of all jail wells/tube wells which is used or likely to be used at any time for drinking or culinary purposes, must be analyzed quantitatively by the chemical examiner on or about the 5th January of each year.

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25 Id, Para 173.
26 Id, Para 914.
Beside drinking water, suitable arrangements should also be made to provide water for other purposes such as bathing etc.\textsuperscript{27}

**Table 4.8**

**Response of Women Prisoners Regarding Availability of Adequate Clean Drinking Water**

<table>
<thead>
<tr>
<th>Drinking Water</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>153</td>
<td>70.80</td>
</tr>
<tr>
<td>No</td>
<td>63</td>
<td>29.2</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

According to data given in table 4.8 about the availability of adequate clean drinking water, 70.9 percent women prisoners reported about the availability of adequate clean drinking water, whereas 29.2 percent reported about the non-availability of adequate clean drinking water for them in the jail.

**Table 4.9**

**Response of Women Prisoners Regarding Proper Supply of Water for all Activities**

<table>
<thead>
<tr>
<th>Water Supply</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>171</td>
<td>79.2</td>
</tr>
<tr>
<td>No</td>
<td>45</td>
<td>20.8</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Data in table 4.9 regarding the proper supply of water for all activities, 79.2 percent women prisoners acknowledged the proper supply of water for all activities, whereas 20.8 per cent did not acknowledged the proper supply of water for all activities.

These 20.8 percent women prisoners were from Bathinda and Ferozepur central jails. They had to store the water in plastic bottles for emergency.

\textsuperscript{27} Rule 915 of SMRs 1955.
4.1.8 Sanitary Conditions in the Jails

Poor sanitation conditions create problems of health in prisons. Therefore in order to have good sanitary conditions in jails, prisoners should have ready access to sanitary facilities that are hygiene and respect privacy.\(^\text{28}\) The sanitary installations should be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.\(^\text{29}\) For their personal hygiene, they should provide such toilet facilities as are necessary for health and cleanliness. In case of women prisoners, the accommodation should have facilities and materials required to meet women’s specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.\(^\text{30}\)

Table 4.10

<table>
<thead>
<tr>
<th>Soap</th>
<th>No. of Respondents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bathing/Washing</td>
<td>99</td>
<td>45.8</td>
</tr>
<tr>
<td>Toothpaste/Brush</td>
<td>50</td>
<td>23.1</td>
</tr>
<tr>
<td>Both</td>
<td>55</td>
<td>25.5</td>
</tr>
<tr>
<td>No Response</td>
<td>12</td>
<td>5.6</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Data given in the table 4.10 reveals that 45.8 per cent women prisoners held that prison authorities gave them only washing and bathing soap. According to 23.1 percent only toothpaste and brush, whereas according to 25.5 percent prison authorities gave them both washing & bathing soap and toothpaste & brush, 5.6 per cent had no awareness about it.


\(^{29}\) Rule 12 of the SMRs, 1955.

\(^{30}\) Rule 5 of the BKR, 2010.
Table 4.11

Response of Women Prisoners Regarding the Quality of Toiletries Things

<table>
<thead>
<tr>
<th>Quality of Soap</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>Bad</td>
<td>176</td>
<td>81.50</td>
</tr>
<tr>
<td>Average</td>
<td>34</td>
<td>15.70</td>
</tr>
<tr>
<td>No Response</td>
<td>6</td>
<td>2.80</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.4: Quality of Toiletries Things given to Prisoners

Data in the table 4.11 about the quality of toiletries things indicates that out of total 216 women prisoners 81.5 percent women prisoners reported the quality of toiletries which include soap (both bathing and washing) tooth paste, brush) as bad, 15.7 percent reported them as average, whereas 28 percent women prisoners refused to say anything about the quality of toiletries.
Table 4.12
Response of Women Prisoners Regarding Sanitary Conditions in the Jail

<table>
<thead>
<tr>
<th>Sanitary Conditions</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>2</td>
<td>0.90</td>
</tr>
<tr>
<td>Bad</td>
<td>168</td>
<td>77.80</td>
</tr>
<tr>
<td>Very bad</td>
<td>8</td>
<td>3.70</td>
</tr>
<tr>
<td>Normal</td>
<td>31</td>
<td>14.40</td>
</tr>
<tr>
<td>No Response</td>
<td>7</td>
<td>3.20</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.5: Sanitary Conditions in the Jails

Figures given in table 4.12 regarding sanitary conditions in the jail shows that majority of women prisoners 77.8 percent rated the sanitary conditions as bad, 14.4 percent rated as normal, 3.7 per cent as very bad, 0.9 per cent rated the sanitary conditions good, whereas 3.2 percent refused to tell anything about it.
Table 4.13
Response of Women Prisoners to Question “Who Cleans the Toilets?”

<table>
<thead>
<tr>
<th>Cleans the Toilets</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convicts</td>
<td>190</td>
<td>88.0</td>
</tr>
<tr>
<td>U.T.</td>
<td>3</td>
<td>1.4</td>
</tr>
<tr>
<td>Both</td>
<td>15</td>
<td>6.9</td>
</tr>
<tr>
<td>No response</td>
<td>8</td>
<td>3.7</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Data given in the table 4.13 reveals that 88 percent women prisoners held that toilets were cleaned by the convicts, 31.4 percent held that under-trials also cleaned the toilets, whereas 6.9 percent accepted that both under-trails and convicts cleaned the toilets. Turn wise, 3.7 per cent refused to say anything about it.

Table 4.14
Response of Women Prisoners to Question “Whether Sanitary Napkins are given to Them or Not?”

<table>
<thead>
<tr>
<th>Sanitary Napkins</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>nil</td>
<td>nil</td>
</tr>
<tr>
<td>No</td>
<td>159</td>
<td>73.6</td>
</tr>
<tr>
<td>No Response</td>
<td>57</td>
<td>26.4</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

According to data given in the table 4.14 about 73.6 percent women prisoners revealed that prison authorities did not provide sanitary napkins to women prisoners, whereas 26.4 per cent had no knowledge about it.

4.1.9 Women Prisoners Right to Health

Health is a state of complete physical, mental and social well being and not merely the absence of disease or infirmity. Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity. When punishment of imprisonment is compounded by the deprivation of
medical care, the resulting punishment in excess of the sentence imposed by the trial court may constitute cruel and unusual punishment.\textsuperscript{31}

The contemporary concept of right to “the highest attainable standard of health” is taken from the constitution of the World Health Organization in 1946. According to the preamble of the WHO Constitution, “The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic and social condition”. As such, according to the WHO right to health is a universal, and therefore entitled to all persons whether inside or outside of prison.

The language of right to health contained in WHO formed the basis for subsequent international instruments that enshrine the right to health.\textsuperscript{32}

Within the United Nations, the first treaty to guarantee the right to health is the International Covenant on Economic, Social and Cultural Rights which establishes “the right of everyone to the enjoyment of the highest attainable standards of physical and mental health.”\textsuperscript{33} The right to health is not to be understood as a right to be healthy. The United Nations Committee on Economic and Social, Cultural Rights interprets the right to the enjoyment of the highest attainable standards of health as one contains both freedoms and entitlements. The freedoms include the right to control one’s health and body, including sexual and reproductive freedom, and right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation by contrast, health entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.\textsuperscript{34}

Besides this, the right to health as an inclusive right extends not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of water, medical care, the resulting punishment in excess of the sentence imposed by the trial court may constitute cruel and unusual punishment.\textsuperscript{31}


\textsuperscript{33} \textit{Ibid.}

\textsuperscript{34} Health in Prison: Realizing the Right to Health, retrieved from www.penalreform.org. as visited on 11-05-2013.
safe drinking food, nutrition and housing, healthy occupational and environmental conditions, and access to health related education and information, including on sexual and reproductive health.\textsuperscript{35}

The health rights of prisoners are expressed in number of instruments specifically deals with the treatment of prisoners. United Nations basic principles for the treatment of prisoners states, ‘Prisoners shall have to access to the health services available in the country without discrimination on the grounds of their legal situation.’\textsuperscript{36} Similarly, the United Nations principles of medical ethics relevant to the role of health personnel, particularly physicians in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment requires that ‘health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.’\textsuperscript{37}

In order to ensure that the actions of the health professionals working in prisons can be conducted solely in the interest of the health of their patients, Geneva declaration recommended a 3-step approach to be followed by the states for this purpose:\textsuperscript{38}

1. Widen the training and information, particularly in the fields of medical law and ethics, of all personnel implicated with health issues in prison, to allow identification of situation of dual loyalty and improve management of the patients’ interest. Clarify roles and missions of all professional bodies working in prison and foster mutual respect.

2. Strengthen the involvement of the supervising health care authorities, professional societies and medical ethics committees.

3. Separate judicial and penitentiary tasks from health care, place the latter under the responsibility of the health authority.

\textsuperscript{35} Ibid.

\textsuperscript{36} Principle 9.

\textsuperscript{37} Health in Prison: Realizing the Right to Health, retrieved from www.penalreform.org, as visited on 11-05-2013.

Another method of ensuring that prisoners have access to an appropriate quality of health care is by providing close links between prison-administered health services and public health. The Moscow Declaration on Prison Health as a Part of Public Health (WHO Regional Office for Europe, 2003) elaborated on some of the reasons why close working relationships with public health authorities are so important.  

- Penitentiary populations contain an overrepresentation of members of the most marginalized groups in society, people with poor health and chronic untreated conditions, drug users, vulnerable people and those who engage in risky activities such as injecting drugs and commercial sex work.  
- The movement of people already infected with or at high risk of disease to penitentiary institutions and back into civil society without effective treatment and follow-up gives rise to the risk of the spread of communicable diseases both within and beyond the penitentiary system. Prevention and treatment responses must be based on scientific evidence and on sound public health principles, with the involvement of the private sector, nongovernmental organizations and the affected population.  
- The living conditions in most prisons of the world are unhealthy. Overcrowding, violence, lack of light, fresh air and clean water, poor food and infection-spreading activities such as tattooing are common. Rates of infection with tuberculosis, HIV and hepatitis are much higher than in the general population.  

Although women and men in prison face similar health problems, but there is a significant difference in nature, intensity and complexity of the problems faced by women prisoners.

Women often have specific needs related to menstruation, menopause and sexual health. Such gender-specific needs require attention from nurses and medical practices trained in women health, including gynecology. Pregnant women have special

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health and nutritional needs and women who are pregnant whilst in prisons are no exception. They need appropriate pre-natal and post-natal facilities and medical care to monitor their pregnancies in addition to proper exercise, appropriate maturity clothing and pregnancy aids such as pregnancy pillows. They also require information and education about pregnancy, counseling, and support during and after their pregnancies. In addition, pregnant women who are HIV positive and breastfeeding women have additional health and nutritional requirements.  

On the other hand the mother prisoners also suffer a higher degree of emotional trauma caused by the separation from their children. Older women also have unique healthcare needs. They both in society at large and in correctional facilities typically need more health care than their younger counterparts, female prisoners undergoing menopause have to suffer from intense stress and emotional disorder.

Recognizing the special health care needs of women prisoners, the All India Committee on Jail Reforms, 1982-83 recommended that “there should be a separate ward for women in prison hospitals. If there is no such hospital ward they should be treated in their own barracks by a lady doctor and attended by the female staff.”

Similarly The National Expert Committee on Women Prisoners, 1986 Suggested that “medical, diagnostic and care facility must be available to inmates routinely and by female doctor, where full or part-time women medical staff are ill-afforded, local female doctors from government health facilities must be inducted to serve the prisoners as visiting consultants”. The committee further suggested that “schools of medicine should also be required to place women medical interns in persons for specified periods.

According to a study conducted about the health status of the prisoners in a central jail of south India, 2013, that in the walls of the jails, the lack of adequate health

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41 Ibid.
42 Ibid
44 Ibid.
facilities amounts to society inflicting punishment twice once by incarceration and a second time by illness. The second punishment has the potential to get inflicted on the family of prisoners. For example in case of a prisoner in US prison, his undetected tuberculosis get ultimately transmitted to his wife and two children one of whom died. Reforming the delivery of prison health care is one of the most important aspects of improving human rights compliance. Therefore, knowing the burden and type of morbidities among them will help the policy planners and administrators in taking actions to minimize the disease burden in this group and also to help in reintegration of prisoners into main stream of society following their discharge from prison. The prevalence of infectious and parasitic diseases is may be due to inadequate chlorination of water, lack of sanitation, and poor personal hygiene. The population of the prisoners harbours diseases that are determined both by the environment from which they come and in prison in which they live. If inmates are not treated adequately in jails they will return to community further burdening the existing health care facilities of the country.

4.19.1 The Regulatory Measures

With respect to the health care in jails the manual provides for a hospital or proper place for reception for sick prisoners in every prison. There should be one whole time medical officer for every jail which has a population of 500 and in case it exceeds 500, additional medical staff may be provided. Medical examination of every prisoner should be made once in three months by the medical officer or the assistant medical officer. The pharmacist shall be responsible for the correct and a proper dispensing of medicines and ensuring that almiras are securely locked. If medical officer found any women pregnant he shall report such circumstances to the superintendent. Manual does not contain any provision to provide gender-specific health care facilities to women prisoners.

47 Id, Para 173.
48 Id, Para 147(3).
The Prison Act, 1984 require that prisoners at the time of their entry in prison be asked about their health, particularly relating to tuberculosis and AIDS etc. and the treatment which they have undergone for the disease, so that such prisoners apart from being given special treatment may be segregated from the rest of the inmates.\footnote{Section 37, 39-A, 39-B and 39-C of the Prison Act, 1984.}

The United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, 2010 contained elaborate provisions which require the prison authorities to provide gender-specific health care, mental health care HIV prevention, treatment, care and support, preventive health care services, substance abuse treatment suicide and self-harm preventing.\footnote{Rule, 10-18.} According to Standard Minimum Rules, 2010 the gender-specific health care services provided to women prisoners in the jail should be at least equivalent to those available in the community.

Beside these provisions, the Kyiv Declaration, mentioned in the previous chapter also contains detailed provisions to provide gender-specific health care to women prisoners.

Here the researcher has made an effort to know from the women prisoners about status of gender-specific health facilities available for them in the prison.

**Table 4.15**

**Distribution of Women Prisoners Suffering from Disease before Conviction**

<table>
<thead>
<tr>
<th>Disease</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>65</td>
<td>30.10</td>
</tr>
<tr>
<td>No</td>
<td>148</td>
<td>68.50</td>
</tr>
<tr>
<td>Can’t Say</td>
<td>3</td>
<td>1.40</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>
Figure 4.6: Women Prisoners Suffering from Disease before Conviction

Data given in the table 4.15 on asking whether they were suffering from any diseases before conviction, out of total 216 women prisoners, majority of women prisoners 68.5 percent held that they were not suffering from any disease, 39.1 percent accepted that they were suffering from disease before conviction, whereas 1.4 percent were not sure about it.

Table 4.16

Distribution of Women Prisoners “Who Caught Disease in the Jail”.

<table>
<thead>
<tr>
<th>Disease caught in the Jail</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>116</td>
<td>53.70</td>
</tr>
<tr>
<td>No</td>
<td>88</td>
<td>40.70</td>
</tr>
<tr>
<td>No Response</td>
<td>12</td>
<td>5.60</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Data given in the table 4.16 reveals that 53.7 percent gave the positive response, which means that they caught disease in the jail, 40.7 percent did not catch any disease in the jail, whereas 5.6 percent refused to say anything about it.
Table 4.17
Response of Women Prisoners Regarding Gynecological Care in the Jail

<table>
<thead>
<tr>
<th>Gynecological care in the Jail</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>No</td>
<td>190</td>
<td>88.0</td>
</tr>
<tr>
<td>No Answer</td>
<td>26</td>
<td>12.0</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figures in the table 4.17 specify that according to 88.0 percent women prisoners they were not getting any gynecological care, whereas 12.0 percent had no knowledge about it.

Table 4.18
Response of Women Prisoners Regarding Existence of Separate Health Centre for them

<table>
<thead>
<tr>
<th>Separate Primary Health Centre</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>No</td>
<td>213</td>
<td>98.60</td>
</tr>
<tr>
<td>No Response</td>
<td>3</td>
<td>1.40</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Data given in the table 4.18 about primary health care centre in the jail for women prisoners reveals that 98.6 percent women prisoners stated that no separate primary health centre available for them, whereas 1.4 percent had no knowledge about it.
Table 4.19

Response of Women Prisoners Regarding Facility of Hospitalization in Case of Emergency

<table>
<thead>
<tr>
<th>Arrangement for Hospitalization in Jail</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>No</td>
<td>212</td>
<td>98.10</td>
</tr>
<tr>
<td>No Response</td>
<td>4</td>
<td>1.90</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.7: Facility of Hospitalization in Case of Emergency

About facility of hospitalization in case of emergency, data given in the table 4.19 shows that according to 98.1 percent women prisoners there was no such facility in the jails, whereas 1.9 percent gave no response because they were new in the jail and had no knowledge about it.
Table 4.20
Response of Women Prisoners Regarding Availability of Appropriate and timely Medicines according to Disease

<table>
<thead>
<tr>
<th>Medicines</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>197</td>
<td>91.20</td>
</tr>
<tr>
<td>No Response</td>
<td>19</td>
<td>8.80</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.8: Availability of Appropriate and timely Medicines according to Disease

About the availability of an appropriate and timely medicine, data given in the table 4.20 specify that 91.2 percent women prisoners responded that prison authorities did not provide them appropriate and timely medicine according to disease. Few medicines were given for all ailments, whereas 8.8 percent refused to say anything about it due to afraid from the prison authorities.
Table 4.21

Response of Women Prisoners regarding Sexual Abuse Faced by them in the Jail

<table>
<thead>
<tr>
<th>Sexual Abuse</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>No</td>
<td>198</td>
<td>91.67</td>
</tr>
<tr>
<td>Can’t say</td>
<td>18</td>
<td>8.33</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

About the sexual abuse, data given in the table 4.21 reveals that 91.7 percent accepted that they had never faced any sexual violence or threat from male or female prison staff or from co-inmates, whereas 8.3 percent women prisoner know the reality but they refused to say anything directly. According to them there is no compulsion, but if anyone wants she can do with her own choice. Same sex relationship was common among the some women prisoners which put wrong impression on the small children when they saw anything like it suddenly according to women prisoners.

4.1.10 Behavior of Female Staff towards Women Prisoners

The two most important groups of people in a prison are the prisoners and the staff who look after them. The key to well managed prisons is the nature of the relationship between these two groups. Among the Prison officers and Staff the prison guard known as warders/Matron constituted the lowest rank of the prisons administrative and custodial hierarchy. They are the staff who came closet to the prisoners, for they spent most of their time in surveillance over the inmates.\(^{51}\) Their attitudes have important bearing upon the re-socialization of the prisoners. If such attitude is hostile towards the prisoners, then their reformation and ultimate re-socialization in the community becomes very difficult.\(^{52}\) Therefore, here the researcher made the efforts to know the behavior of warder/matron towards women prisoners.

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Table 4.22

Number of women Staff Available to Handle Women Convicts and Under-trials at the Time of Data Collection

<table>
<thead>
<tr>
<th>Name of the Jails</th>
<th>Number of Female Staff(Matron/Warder)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amritsar</td>
<td>10</td>
</tr>
<tr>
<td>Bathinda</td>
<td>3</td>
</tr>
<tr>
<td>Ferozepur</td>
<td>6</td>
</tr>
<tr>
<td>Gurdaspur</td>
<td>2</td>
</tr>
<tr>
<td>Jalandhar</td>
<td>3</td>
</tr>
<tr>
<td>Ludhiana</td>
<td>10</td>
</tr>
<tr>
<td>Patiala</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>39</td>
</tr>
</tbody>
</table>

Source: Information as provided by the women prisoners and prison staff.

Data in the table 4.22 shows that there were only 39 matrons to handle 898 women inmates.

Table 4.23

Response of Women Prisoners Regarding the Behavior of Warden/Matron with Women Prisoners

<table>
<thead>
<tr>
<th>Behaviour of Warden/Matron</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cordial</td>
<td>164</td>
<td>75.90</td>
</tr>
<tr>
<td>Cruel</td>
<td>9</td>
<td>4.20</td>
</tr>
<tr>
<td>Rude</td>
<td>13</td>
<td>6.00</td>
</tr>
<tr>
<td>No Response</td>
<td>30</td>
<td>13.90</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>
Figure 4.9: Behavior of Warden/Matron with Women Prisoners

Data given in the table 4.23 shows that 75.9 percent considered the behaviour of warden/matron cordial, 4.20 percent considered the behavior of warden/matron cruel and 6.00 percent considered the behaviour of warden/matron rude towards them, whereas 13.9 percent women prisoners refused to say anything about it.

Table 4.24

Response of Women Prisoners to Question “Does Warder or Matron Ever Hurt you Physically?”

<table>
<thead>
<tr>
<th>Hurt by Matron</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>15</td>
<td>6.90</td>
</tr>
<tr>
<td>No</td>
<td>189</td>
<td>87.50</td>
</tr>
<tr>
<td>Can’t Say</td>
<td>12</td>
<td>5.60</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>
Data given in the table 4.24 shows that out of 216 women prisoners 87.5 percent reported that matron/warden had never hurt them physically, only 16.9 percent acknowledged physical hurt by warden/matron, whereas 5.6 percent refused to say anything against warden/matron.

Table 4.25
Response of Women Prisoners Regarding Use of Abusive Language by Warder/Matron for Them

<table>
<thead>
<tr>
<th>Abusive language</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>36</td>
<td>16.70</td>
</tr>
<tr>
<td>No</td>
<td>167</td>
<td>77.30</td>
</tr>
<tr>
<td>Can’t Say</td>
<td>13</td>
<td>6.00</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Data given in the table 4.25 reveals that 73.3 percent reported that warden/matron had never used abusive language against them, 16.7 percent accepted that warden/matron always used abusive language for them, whereas 6 per cent were indifferent. They did not want to say anything against warden/matron due to their fear.

Table 4.26
Response of Women Prisoners to Question “Does Matron Talk to you Rudely?”

<table>
<thead>
<tr>
<th>Rudely Behaviour by Warder/Matron</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>57</td>
<td>26.40</td>
</tr>
<tr>
<td>No</td>
<td>148</td>
<td>68.50</td>
</tr>
<tr>
<td>Can’t Say</td>
<td>11</td>
<td>5.10</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figures given in the table 4.26 reveals that out of total 216 women prisoners 68.5 percent held that warden/matron never talk rudely with them. According to 26.4 per cent they often talk rudely with them, whereas 5.1 percent refused to say anything about it.
Table 4.27
Response of Women Prisoners to Question “Do Warder/Matron Ask Anything in Return?”

<table>
<thead>
<tr>
<th>Demand of Favour by Warder/Matron</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>14</td>
<td>6.50</td>
</tr>
<tr>
<td>Rarely</td>
<td>114</td>
<td>53.30</td>
</tr>
<tr>
<td>Occasionally</td>
<td>69</td>
<td>31.90</td>
</tr>
<tr>
<td>No Response</td>
<td>18</td>
<td>8.30</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.10: Demand of Favour by Matron/Warder

According to data given in the table 4.27, 53.3 percent disclosed that warden/matron rarely demands anything from them. According to 6.5 percent warden/matron always demands any service or thing in exchange of any favour from them.
According to 31.9 percent warden/matron demands occasionally means when their family members visits them or when they went on parole or came back after spending ‘Chutti’ whereas 8.3 percent refused to tell anything about them.

**FINDINGS**

From the above analysis the researcher come out with following findings about the living conditions available to women prisoners.

- About the nature of barracks large number of women prisoners (44.4%) reported the barracks were overcrowded.
- Majority of women prisoners (83.8%) told that they slept on floor.
- Majority of women prisoners (54.2%) stated the quality of food average.
- Majority of women prisoners (79.2%) showed their dissatisfaction for the food given to them in the jail.
- Majority of women prisoners (98.6%) mentioned that prison authorities did not provide them clothing and bedding as prescribed by the jail manual.
- Majority of women prisoners (70.8%) accepted the availability of clean drinking water in the jails.
- Majority of women prisoners (79.2%) told that they were getting sufficient water for all activities.
- Majority of women prisoners (88%) revealed that toilets were cleaned by the convicts only.
- Large number of women prisoners (45.8%) stated that they were getting only bathing and washing soap once or twice in six months.
- Overwhelming majority of women prisoners (81.5%) stated the quality of toiletries things bad.
- Majority of women prisoners (77.8%) stated the sanitary conditions bad in the jail.
- Majority of women prisoners (68.5%) were not suffering from any disease before conviction.
- Majority of women prisoners (53.7%) were suffering with multiple diseases in the jail.
• Majority of women prisoners (98.6%) were not getting any gynecological care.
• Majority of women prisoners (98.6%) told that there was no separate health centre for them.
• According to majority of women prisoners (98.1%) there was no facility of hospitalization in case of emergency in the jail.
• Majority of women prisoners (91.2%) were not getting appropriate and timely medicine.
• Majority of women prisoners (91.6%) told that they had never faced any sexual abuse in the jail.
• About the behavior of warden/matron, majority of women prisoners (75.9%) acknowledged their behavior cordial towards them.
• Majority of women prisoners (87.5%) told that warden/matron had never hurt them physically.
• Majority of women prisoners (77.7%) told that warden/matron never talked to them rudely.
• Majority of women prisoners (53.3%) revealed that warden/matron rarely demand anything (means anything or service) from them.

PART-II

4.2 REHABILITATION AND REINTEGRATION OF WOMEN PRISONERS

The reformation theory of punishment and the idea of rehabilitation of offenders gained momentum since the close of the 19th Century with the rise of the positive school of criminology which shifted the attention of the criminologists from crime to the criminal.53 Positive theorists, Cesare Lombroso, Enrico Ferri, and Raffaele Garafolo, were the important advocates of this ideology of rehabilitation. According to them emphasis should be placed on the relationship between qualities in the offender as an individual and the rational choice of a treatment strategy designed to reduce his/her criminality.54

Rehabilitation is defined as an internal change that results in a cessation of the targeted negative behavior. It may be achieved by inflicting pain as a learning tool (behavior modification) or by other interventions that are not painful at all, for example, self-esteem groups, education, or religion. Rehabilitation assumes that crime resembles diseases in that some malign process operates within the individual to deprive the “sick” offender of control over his behavior. The goal of treatment is to overcome this pernicious agent—physical, chemical, intra-psychic, genetic interpersonal, or social.

Re-integration The re-integration requires the primary attention on the preparation of the offender for the performances of roles and assumption of the obligations appropriate for personally satisfying and socially acceptable participation in community life. The concept of community is involved in the restructuring of the prison into a community including inmates and an orientation of all corrections towards life in free society. The re-integration holds special promise for relating the organization of the correctional institutions to preparation of inmates for community re-entry and to coordination of institutional programs with correctional work in the community.

Today rehabilitation of offenders and their successful reintegration into the community are among the basic objectives of the criminal justice process. This is clearly acknowledged in both international human rights law as well as the United Nations standards and norms, many of which directly relevant to the rehabilitation and social integration of offenders. The International Covenant on Civil and Political Rights, propounded by United Nations in 1966, to which India is a party, has clearly brought out that the penitentiary system shall comprise treatment of prisoners the essential aim of which should be their reformation and social rehabilitation.

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57 *Id.*, p. 141.
*Punjab Jail Manual 1996* also contains provisions which have laid the emphasis on transferring the prison into correctional homes by providing reforms and rehabilitative treatment to the prisoners rather than punishing them by merely detaining in jails. According to the Manual, the prime objective of the jail department should be to make arrangement to reform or re-assimilate offenders in the social milieu by giving them appropriate correctional treatment.\(^6^0\) Even the Supreme Court of India, set its seal on the restorative, as against the retributive, the healing as against the hurting approach to convicted humans. In *Mohammed Giassuddin vs. State of Andhra Pradesh*\(^6^1\) the Supreme Court dealt at length on the mode of treatment of criminals and other allied matters and held that “criminality is curable deviance” in prisons”. It is thus plain that crime is pathological aberration, that the criminal can ordinarily be redeemed, that the state has to rehabilitative rather than revenge. Thus today State has the responsibility to rehabilitate rather than revenge.\(^6^2\)

Although women face many problems upon release are similar to those of men, but intensity and multiplicity of their post-release needs can be very different. Women may likely to suffer particular discrimination after release from prison, due to social stereotypes. They might be rejected by their families and may lose their parental rights. If they have left a violent relationship, women will have to establish a new life, which is likely to entail economic, social and legal difficulties, in addition to the challenges of transition to life outside prison. The risk of losing their accommodation and employment upon detention is also higher for women, and women prisoners are confronted with increased stigmatization as in most societies they contravene prevailing role models for their sex. Therefore, they are likely to have particular support requirements in terms of housing, reunification with their families and employment, and will need assistance which is gender-specific.\(^6^3\) Generally the pre-release preparation

\(^{60}\) Para 4 of the *Punjab Jail Manual, 1996.*

\(^{61}\) AIR 1977 SC 1926


and post-release support policies and programmes are structured around the needs of men and rarely address the gender-specific needs of women prisoners.\textsuperscript{64}

While speaking on the problems faced by women prisoners on release from jail in society, the All India Jails Committee 1983 revealed that: “Women offender in India face peculiar problems of rehabilitation during their post-release period. Indian social custom make women ex-offenders more vulnerable to suspicion and rejection. The stigma of having been in prison has much more adverse consequences for women than for men. The social system imposes many limitations on them and considers them as outcasts. Much thought, therefore, be given to the problem of rehabilitation of women offenders both economically and socially.\textsuperscript{65}

Therefore, rehabilitation programmes should be designed and made available in prisons specifically for women prisoners, taking into account their gender-specific needs, aiming to address the underlying factors that led to their offence and to cope with the challenges they face as women in prison.\textsuperscript{66}

The distinct considerations that should apply to women prisoners are acknowledged by the recently adopted United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders 2010. These rules are relevant to the integration of women offenders into the community.\textsuperscript{67} According to these rules prison authorities should “utilize the options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.\textsuperscript{68} Rules also called for additional support following release should be provided to release women prisoners who need psychological, medical, legal and practical help to ensure their successful social reintegration, in cooperation with

\textsuperscript{64} Ibid.
\textsuperscript{65} S.K. Bhatacharya, Female convicts and Social Defence in Leelamona Devasia and V.V. Devasia, \textit{Female Criminals and Female Victims: An Indian Perspectives}, DATTONS Publishers and Publishers Distributors, Nagpur, 1987, p. 263.
\textsuperscript{66} Ibid.
\textsuperscript{68} Rule 45.
services in the community. Thus, it has become necessary for the jail administration to provide adequate and efficient arrangements to provide these facilities and services to women prisoners. Classification and segregation, education, vocational training, contact with outside world, visit by higher authorities, free Legal Aid, work programme for women prisoners, correctional counseling, after-care programmes, recreational facilities and services are important interventions which plays an important role in the facilitation of rehabilitation and re-integration of women prisoners after release from the jail. Therefore, here researcher has made an effort to know from the women prisoners who were surveyed whether these facilities and services were available to them or not.

4.2.1 Classification and Segregation of Women Prisoners

Enforced idleness and the demoralizing influence of the maximum security prisoners have resulted in two major movements in corrections: One course of action has been to continually upgrade living conditions and humanitarian treatment within the security. The second action involves the introduction of “classification”, a term borrowed from psychology, into the imprisonment process. The advent of classification marks a substantial shift from imprisonment to correction as a good for the prisons.

The purpose of classification varies among institutions, but generally it serves to provide assistance in management and assistance in treatment planning.

According to the criminologists and penologists the scientific methods should be employed for the classification of criminals according to individual, physical, and social features of criminality. Research would establish criteria for grouping offenders into diagnostic categories upon which appropriate treatment measures would be taken.

While dealing with the problem of classification and segregation of female prisoners, the National Expert Committee on Women prisoners 1986 suggested that in existing prisons where women are in sufficient number a proper classification system must operate which should include medical, criminological and social assessment of the

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69 Rule 47.
71 Id, p. 145.
inmate and serve as a basis for specialized and segregated care, treatment, employment, training, education and rehabilitation of the inmates. In existing prisons with fewer inmates, scientific correctional care must be there even if physical segregation is not possible. The classification system should be introduced compulsory in all prisons and custodial institutions. It should be used as the continuous programming and monitoring device rather than a one-time activity.\textsuperscript{73}

4.2.1.1 The Regulatory Measures

\textit{Punjab Jail Manual, 1996} provide the classification of prisoners for the purpose of separation. According to Manual, the different categories of prisoners should kept in separate institutions or parts of the institutions, taking into account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment.\textsuperscript{74}

Thus: (1) Under trails should kept separate from the convicts, (2) Habitual from Non-Habitual, (3) Young should be kept separate from adults, (4) Persons imprisoned for debt and other civil prisoners should be kept separate from persons imprisoned by reason of crime.\textsuperscript{75}

In order to facilitate the classification of prisoners Jail Manual further requires that each jail shall be equipped with a reception centre and having the five cells, open working shed and an office to receive newly admitted prisoners and classification committee. The objectives of the reception centre are to keep the newly admitted prisoners for a fortnight with a view to segregate them on medical groups, their sex, behaviour and mental health so that appropriate rehabilitation and reformation training could be imparted to them.\textsuperscript{76}

The classification committee should consist of correctional offices/social workers/educational officers with superintendent of the concerned jail as its chairman. The committee should meet regularly to classify newly admitted prisoners within a week and interview them for training and treatment solving problems/adjustment and

\begin{itemize}
\item \textsuperscript{73} Report of the National Expert Committee, 1986-87, p. 100.
\item \textsuperscript{74} Para 495 of the \textit{Punjab Jail Manual, 1996}.
\item \textsuperscript{75} Para 496 of the \textit{Punjab Jail Manual, 1996}.
\item \textsuperscript{76} Para 369(1) of the \textit{Punjab Jail Manual, 1996}
\end{itemize}
should maintain progress report of each inmate, so that on the basis of this report, the classification committee may reclassify the offenders.  

At the international level, the United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-Custodial Measures, 2010 about classification and individualized treatment of Women Prisoners, requires prison authorities to develop and implement classification methods addressing the gender specific needs and circumstances of women prisoners to ensure appropriate and individualized planning and implementation towards those prisoners’ early rehabilitation, treatment and reintegration into society. Women sentence plan which include rehabilitative programmes and services should match their gender-specific needs.

**Actual Practice**

(i) But unfortunately, classification of women prisoners is totally absent. The women prisoners are neither classified on the basis of their age, condition of health, criminal record and necessity of their treatment nor they are segregated on the basis of their offence such as under-trials are not kept separate from convicts, habitual are not separated from non-habitual offenders, civil prisoners from criminal prisoners etc.

### 4.2.3 Women Prisoners Right to Education

Education is the one of the key aspect of the important rehabilitation role of prisoners and has an important, even if often indirect, role to play in many of the other rehabilitative processes in which a prisoner can engage while in prisons. It is not just a means of keeping the prisoner occupied. Education has capacity to form a steeping stone in the pathway towards inclusion for prisoners, who face social exclusion often before they enter the prison as well as after they leave.

The Foremost international organization to tackle the global questions of prisoner’s education is United Nations. The United Nations Human Rights framework is primarily enshrined in two documents of relevance to education in prison. First is the

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78 Rule 40.

79 Rules 41(c).

Universal Declaration of Human Rights 1948. Declaration speaks directly to the fundamental right to education. It states that everyone has a right to education.  

Second human right document is the International Covenant on Economic, Social and Cultural Rights 1966. In Article 13 and 14 of the covenant, the right of all to education is mentioned specifically. Under Article 13 all States parties recognize the right of everyone to education and that education should be directed to “the full development of the human personality.”  

Beside these general human rights provisions, specific human rights instruments relating to treatment of the prisoners also provides that:

- All prisoners should have the right to take part in cultural activities and education aimed at the full development of the human personality.
- Provisions should be made for the further education of all prisoners capable of profiting thereby, including religious instructions in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it.
- So far as practicable, the education of prisoners shall be integrated with the educational system of the country, so that after their release they continue their education without difficulty.

The Economic, Social Council of the United Nations also adopted a resolution on prison education. Through this resolution, Council asked the member states to promote the prison education that would contribute significantly to crime prevention, re-socialization of prisoners and reduction and; considered the increase use of alternatives to imprisonment and measures for social resettlement of prisoners.  

In order to give effect to the above provisions, education and training for prisoners has gained currency in many countries. In South Africa, prison education is

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81 Article 26 of the *Universal Declaration of Human Rights, 1948*.
83 Principle 6 of *Basic Principle for the Treatment of Prisoners, 1990*.
84 Rule 77(1) of SMRs, 1955.
85 *Id*, Rule 77(2).
not seen as a constitutional right, but also a foundation stone for rehabilitation. But America is such a Country where the importance of prisoners’ education has been recognized for 200 years. Norway and Sweden are such countries which have elaborate legislation specifying the purpose of prison education as a preparation for re-entry into society and requiring prisons both to provide educational and cultural activities, and to give education the same degree of importance as work.\(^{87}\)

Like other countries, in India it has been realized that prisoners need education for their re-socialization in the society. Recently like other countries, realizing the importance of education for prisoners, rehabilitation, Model Prison Manual 2003, has laid down the separate elaborate provisions on education for male and female prisoners because as compared to the male prisoner, prison education has special significance for the women prisoners due to exclusion faced by them after release from the prison.\(^{88}\)

Similarly, the National Policy on Prison Reforms and Correctional Administration drafted by Bureau of Police Research and Development 2007 held that as far as practicable, the education for prisoners should be integrated with their rehabilitation without much difficulty. Educational programmes should also be related to after-care programmes. Education programmes for prisoners should consist of: Physical and Health Education, Academic Education, Social Education, Moral Education, Vocational Education, Cultural Education.\(^{89}\)

The National Expert Committee on women prisoners, 1986-87 also opined that both education and work are of proven value to prisoners and have an intrinsic role to play in the reclamation process not only during incarceration but also in the prisoner’s rehabilitation after release. The Committee further pointed out that it is lack of education and work opportunity that are often responsible for women initial arrest as well as her deviance and custodialization.\(^{90}\)

The United Nations Standard Minimum Rules for Treatment of Prisoners provides that special and compulsory education must be provided to all prisoners, and

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87 Ibid.
88 Id, p. 322.
89 Id, p. 205-206
so for as practicable the education of prisoners must be integrated with the educational system of the country so that after their release they may continue education without difficulty. SMRs for treatment of women prisoners do not contain any provision about education both academic and vocational, work program, wages system.

National Expert Committee on Women Prisoners 1986-87 also uniformly endorses the need for intensive female literacy and education program to be conducted in prison. According to the committee education is an important ‘enabling’ factor as for as women are concerned, and that, irrespective of their custodial status and classification, they must compulsory enroll in the prison educational program. Here the research has made the efforts to know from the women prisoners’ availability of educational programs in the jail.

Table 4.28
Response of Women Prisoners Regarding Educational Programs in the Jail

<table>
<thead>
<tr>
<th>Education</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>No</td>
<td>213</td>
<td>96.60</td>
</tr>
<tr>
<td>No Response</td>
<td>3</td>
<td>1.40</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100.00</td>
</tr>
</tbody>
</table>

Figure 4.11: Educational Programs in the Jail

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91 Rule 77 (1) (2).
Data given in the table 4.28 regarding the educational programmes for women prisoners show that according to 96.6 percent women prisoners, no educational programs were available for them, whereas 1.4 percent women prisoners refused to say anything about it. No women prisoner revealed that educational programmes were available for them.

4.2.4 Vocational Training

Vocational training is an important component of the institutional treatment to provide correctional treatment to the inmate in the controlled atmosphere of the prison. Vocational training helps a prisoner acquire sufficient knowledge of any systematized trade so that she can stand on her own feet after release. Thus, the ultimate aim of this institutional training is the rehabilitation of inmates back into society.93

<table>
<thead>
<tr>
<th>Vocational Courses</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>150</td>
<td>69.40</td>
</tr>
<tr>
<td>No</td>
<td>60</td>
<td>27.80</td>
</tr>
<tr>
<td>No Response</td>
<td>6</td>
<td>2.80</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Table 4.29
Response of Women Prisoners Regarding Whether Vocational Training Programs are available in the Jail or not?

Figure 4.12: Vocational Training Programs in the Jail

It is clear from the data given in the table 4.29 that 69.4 percent women prisoners reported that vocational programs were available for them, 27.8 percent mentioned that no vocational programme were available for them, whereas 2.8 percent women prisoners told that they had no knowledge about it.

**Table 4.30**

**Response of Women Prisoners Regarding Sufficiency of Vocational Courses for their Rehabilitation**

<table>
<thead>
<tr>
<th>Sufficient Courses</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>35</td>
<td>16.20</td>
</tr>
<tr>
<td>No</td>
<td>96</td>
<td>44.40</td>
</tr>
<tr>
<td>Can’t say</td>
<td>85</td>
<td>39.30</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

![Pie chart showing the response of women prisoners regarding sufficiency of vocational courses](chart.png)

**Figure 4.13: Sufficiency of Vocational Courses for their Rehabilitation**

Researcher sought to know from women prisoners about sufficiency of vocational training program which was being imparted to them for their rehabilitation. Data given in the table 4.30 reveals that out of total 216 women prisoners, 44.4 percent considered the vocational programs insufficient for their rehabilitation, 16.2 percent considered the vocational programme sufficient for their rehabilitation, whereas 39.30
percent were not sure whether these vocational programs can be sufficient or not for their rehabilitation, 24.5 percent women prisoners did not give the reply.

4.2.5 Library for Prisoners

Libraries in the community are a source of education, information and recreation as well as centre of cultural development. Similarly library in prison can provide the following benefits for prisoners.

Prisoners often have a lot of time to fill, and they can choose to use this time constructively learn new skills, improve existing knowledge and skill, make a contribution to others, or prepare themselves for a successful life after from prison. The library is often a motivator for such activities, providing the inmates with material that meet their interests and help them to survive and cope within the prison and on the outside.94

The prison that house long-term inmates and provide both academic and vocational educational program, in such prisons, the library plays an important role as a formal education support centre by providing class-relating material, extra copies of text-books and collecting information for research and teacher assignments.

Prison always a very stress full environment for both staff and inmates. It is a noisy and crowded with little privacy sometimes a person just needs a place for privacy, relaxation and contemplation. This is when the library becomes a welcome personal retreat centre nobody feels the inmate what to do or read, and he can exercise his own free choice, even the choice of doing nothing.

In order to keep informed about happenings in their communities and to prepare themselves for release and employment, the inmates can also use the library as the community information centre.95

95 Ibid.
National Human Rights Commission has been seized with the question of the nature and extent of reading material to which prisoners should have access and after careful considerations of the matter, it laid down the following guidelines, to be followed and used by the competent authorities, in all states and union territories, to modify the existing rules and practices prevailing in prisons wherever they might be at variance with these guidelines. The commission drafted guidelines that as:

(i) Prisoners have a right to life with dignity even while in Custody, they should be assisted to improve their skills with a view to promoting their rehabilitation in society and becoming productive citizen any restriction imposed on a prisoners in respect of reading material must be reasonable.

(ii) Every prison should, accordingly have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners should be encouraged to make full use of it. The material in the library should be commensurate with the size and nature of the prison population.

(iii) Further, diversified programs should be organized by the prison authorities for different group of inmates, special attention being paid to the development of suitable recreational and educational material for women prisoners and educational and cultural background of the women prisoners should be kept in mind while developing such programs.96

4.2.5.1 The Regulatory Measures

Punjab Jail Manual, 1996 provides that libraries will be maintained in all jails for the use of prisoners and the rules pertaining to such libraries will be posted in the room where the library is kept.97

Standard Minimum Rules for the Treatment of Prisoners, 1955 provides the “Every Institution should have a library for the use of all categories of prisoners adequately stocked with both recreation and institutional books, and the prisoners shall be encouraged to make use of it.

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96 Retrieved from nhrc.nic.in as visited on 12-5-2013.
Table 4.31
Response of Women Prisoners Regarding Availability of Separate Library/Study Room for Them

<table>
<thead>
<tr>
<th>Library in the Jail</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>34</td>
<td>15.70</td>
</tr>
<tr>
<td>No</td>
<td>179</td>
<td>82.90</td>
</tr>
<tr>
<td>No Response</td>
<td>3</td>
<td>1.40</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Data in the table 4.31 about the availability of separate library/study room reveals that 82.9 per cent women prisoners reported that no library or study room available for them. According to 15.7 percent women prisoners library/separate study room available for them. These women were from Amritsar central jail only in Amritsar central jail some books were available which kept in an almira, Whereas 1.4 percent women prisoners did not give the reply.

4.2.7 Free Legal Aid Services for Prisoners

The constitution of India emphasizes on the equality of justice. The preamble of the constitution secures to all its citizens, social, economic, and political justice. Article 14 of the constitution makes it clear that state should not deny to any person equality before law or the equal protection of law within the territory of India. The goal of equal justice can be achieved only when every individual has easy access to the courts to get wrong done to her remedied and has opportunity to defend himself effectively, because “nothing rankles more in the human heart than a broading sense of injustice” when only the rich can enjoy the law, as a doubtful luxury, and the poor, who need it most, cannot have it because its expenses puts it beyond their reach. Therefore, in order to provide equal justice to all individuals without any discrimination, the state by 42nd Amendment, 1976 of the constitution added a new article 39-A “Equal Justice and Free Legal Aid” to Directive Principle of the State Policy Provides for free legal Aid.98

---

“The state should secure that the operation of the legal system promotes justice, on a basis of equal opportunities, and shall, in particular provide free legal aid, by suitable legislation or schemes, or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

United Nations Principle and Guidelines on the Access to Justice in the Criminal Justice System has defined the term “Legal Aid” as includes legal Advice, assistance and representation for victims and for arrested, prosecuted and detained persons in the criminals. Justice process, provided free of charge for those without means. Furthermore, “Legal aid” is intended to include the concept of legal education, access to legal assistance and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes.99

According to the Legal Services Authority Act, 1987 “Legal services” includes the rendering of any service in the conduct of any case or other legal proceedings before any court or other authority or tribunal and the giving of advice on any legal matter. Under Article 39-A of the constitution, the State Government cannot avoid its constitutional obligation to provide free legal (aid to an accused person) service to a poor accused by pleading financial or administrative ability. The state is under constitutional mandate to provide free legal aid to an accused person who is unable to secure legal services on account of indigence and whatever is necessary for this purpose has to be done by this state.100

4.2.7.1 Prisoner’s Right to free legal (Aid) services

As regards prisoners right to free legal aid, the supreme court of India decide the ambit of free legal aid to the prisoners in the light of ‘reasonable, fair and just’ procedure in article 21 as expounded in Maneka Gandhi’s case.101

The court emphasized the great need that prisoners in jail had for free legal aid because ‘prisoners both men and women, regardless of means are peculiarly

handicapped class. The marked cells which confine them walls off from the world outside. Legal remedies, civil and criminal are often beyond their physical or even financial reach unless legal aid is available within the prisons. The Supreme Court further in Sheela Barse v. State of Maharashtra102 expressed serious concern about the plight of prisoners who are unable to afford legal counsel to defend themselves. It observed that the lack of access to a lawyer was responsible for individual rights against harassment and torture not being enforced. Stressing the urgent need to provide legal aid not only to women prisoners but to all prisoners whether they were under-trials or were serving sentences, the Court said that an essential requirement of justice is that every accused person should be defended by a lawyer. Denial of adequate legal representation is likely to result in injustice, and every act of injustice corrodes the foundations of democracy and rule of law.

Regarding availability of free legal aid for women prisoners, in Sheela Barse vs. State of Maharashtra, court declared that the legal assistance in case of female prisoners must be same as in regard to male prisoner.103

National Legal Service Authority appointed under the Legal Service Authorities Act, 1987 in order to exercise powers and perform the functions conferred on, or assigned to the central authority under this act, has called upon the state legal services authorities to set up legal aid cells in jails so that the prisoners lodged therein are provided prompt and efficient legal aid to which they are entitled by virtue of Section 12 of the Act.104

At International level, the United Nations principle and guidelines on access to legal aid in the criminal Justice system, adopted at the 21st session of the UN commission on crime prevention and criminal justice, provides guidance to states on the fundamental principles on which a legal aid system in criminal justice should be based and to outline the specific elements required for an effective and sustainable national legal system. It provides that in order to implement the right of women to have access to

103 Ibid.
legal aid, state should take appropriate measure such as introducing an active policy of incorporating a gender perspective into all policies, laws, procedure, programme, and practices relating to legal aid to ensure gender equality and equal and fair access to justice, including by taking active steps to ensure that female lawyer are available to represent female offenders.\textsuperscript{105}

Speaking on women prisoner’s right to legal aid, the national expert committee held that free legal aid at state expense is the fundamental right of every woman in custody. Legal aid includes access to medical justice, rehabilitative justice and informational justice in additional to procedural justice. Legal aid is to be provided not only during trial but also in the pre-trial and post conviction stage. All women in custody must be informed of their rights in custody including their right to demand legal aid in need.\textsuperscript{106}

In order to enforce the women prisoners’ right to legal aid, committee suggested that legal aid boards should devise and implement schemes to prevent custodial injustices. Legal aid committees and legal aid clinics based in law colleges must be encouraged and permitted to extend legal services to women in custody. There should be increased representation of women in the legal aid machinery. Legal aid workers deputed to women’s institutions should be preferably women.\textsuperscript{107}

<table>
<thead>
<tr>
<th>Table 4.32</th>
<th>Response of Women Prisoners Regarding Awareness about Free Legal Aid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free Legal Aid</td>
<td>No. of Prisoners</td>
</tr>
<tr>
<td>Yes</td>
<td>33</td>
</tr>
<tr>
<td>No</td>
<td>166</td>
</tr>
<tr>
<td>No Response</td>
<td>17</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
</tr>
</tbody>
</table>


\textsuperscript{107} Ibid, p. 331.
4.2.8 Contact with the Outside World

Although prisoners lose the right to freedom of movement and association as a result of imprisonment, but they retain other rights, one of the most important right that prisoners retain is that of contact with their families, as well as being a right for the family members who are not in prison. They retain the right of contact with their father or mother, son or daughter, brother or sister who has been sent to prisons.\textsuperscript{108}

In addition to social support for prisoners which are maintained and strengthened by contact with the family members, are also helpful in minimizing misconduct during incarceration and promoting successful re-entry at its end. Contact with the family members also prevent the re-offending among the prisoners.\textsuperscript{109}


\textsuperscript{109} Ibid.
4.2.8.1 The Regulatory Measures

There are three ways through which women prisoners can maintain their contact with the outside world: (1) Visiting (2) Letters (3) Telephone


In order to facilitate the contact with family members, manual provides prisoners right to have an interview with her relatives or friends and to write a letter once a week during the term of imprisonment.\textsuperscript{110}

But all these interviews or communications cannot hold without the permission of the superintendent of the jail. Time and day at which interviews will be held fixed by the superintendent. The time allowed for an interview should to be exceed 30 minutes ordinarily but may be extended by the superintendent.\textsuperscript{111} Every interview should take place in a special part of the jail appointed for this purpose or near the jail.\textsuperscript{112} All these interviews are takes place in the presence of a jail officer in order to prevent any irregularity. Interviews can be terminated at any time if there exist any sufficient cause. Search of prisoners is also done before or after an interview.\textsuperscript{113}

In comparison to men, separation from the family is a crucial issue for incarcerated women prisoners because women prisoners suffer both guilt and stress when separated from their families due to imprisonment. Stress factor for women in prison arising out of their family role include fear of the effects their absence will have on their children’s development generally and the lack of contact with their children enhance the anxiety among the women prisoners. Women prisoners also suffer a more severe range of social exclusion problems due to their status in the society than men. Therefore, contact with the family members is more necessary for women prisoners during imprisonment.\textsuperscript{114}

\textsuperscript{110} Para 469 of the \textit{Punjab Jail Manual, 1996.}
\textsuperscript{111} Para 475.
\textsuperscript{112} Para 476.
\textsuperscript{113} Para 477-480.
Model Prison Manual, 2003 provides that every prisoner should allowed reasonable facilities for seeing or communicating with, her family members, relatives, friends and legal advisors for the preparation of an appeal or for procuring bail or for arranging the management of her property and family affairs. The interview room will have fiber glass partition with intercom facilities, so that the prisoners can have a peaceful interview. The interview room should be divided into cubic and should have sound-proofing materials covering its walls and ceiling. Interview with female prisoners should, if practicable, take place in the female enclosure/ward.

Prisoners must be allowed under necessary supervision to communicate with the family and reputable friends at regular intervals, both by correspondence and by receiving visits and special attention should be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interest of both.

About contact with the outside world Standard Minimum Rules for the Treatment of Women Prisoners, 2010 provides that women prisoners’ contact with their families, including their children, their children’s guardians and legal representatives should be encouraged and facilitated by all reasonable means. Where possible, measures should be taken to counter balance disadvantages faced by women detained in institutions located far from their homes. Visits involving children should take place in conducive environment. Visits involving extended contact with children should be encouraged where possible.

Therefore, Standard Minimum Rules for the Treatment of Prisoners provides that in order to facilitate the strong bonding between women prisoners and their families and their re-integration into the society after imprisonment, prison staff should facilitate and encourage women prisoner’s contact with their families, including their children, their children’s guardians and legal representatives, where possible measures should be taken to counterbalance disadvantages faced by women detained in institutions located far away from their home.

115 p. 113.
116 p. 117.
117 Rule 37 and 79 of SMRs, 1955.
118 Rule 8
Table 4.33

Response of Women Prisoners Regarding “Do their Family Members Come to Meet Them?”

<table>
<thead>
<tr>
<th>Visit by Family Member</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>180</td>
<td>83.30</td>
</tr>
<tr>
<td>No</td>
<td>36</td>
<td>16.70</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.15: Visit by Family Members

Data given in the table 4.33 revealed that 83.3 percent women prisoners accepted that their family members came to visit them, whereas according to 16.7 percent no one came to meet them.
Table 4.34
Response of Women Prisoners Regarding “Who Come to Visit Them?”

<table>
<thead>
<tr>
<th>Relation</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parents</td>
<td>35</td>
<td>16.20</td>
</tr>
<tr>
<td>Both</td>
<td>5</td>
<td>2.30</td>
</tr>
<tr>
<td>Family</td>
<td>131</td>
<td>60.6</td>
</tr>
<tr>
<td>No Response</td>
<td>9</td>
<td>4.20</td>
</tr>
<tr>
<td>Total</td>
<td>180</td>
<td>83.3</td>
</tr>
</tbody>
</table>

Data given in the table 4.34 regarding “Who come to visit them” indicates that 83.3 percent women prisoners who maintained contact with the outside world, out of them 60.6 percent received visits from the members of family of procreation, 16.2 percent received visits from the members of family of orientation, 2.3 percent received visits from the members of both families, whereas 4.2 percent refused to disclose who came to meet them.

Table 4.35
Response of Women Prisoners to Question “Do You Get Support from Your Family Members”?

<table>
<thead>
<tr>
<th>Support from Family</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>168</td>
<td>77.80</td>
</tr>
<tr>
<td>No</td>
<td>48</td>
<td>22.20</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>
Data given in the table 4.35 about support from family members show that 77.8 percent women prisoners acknowledged the support from their family members, whereas 22.2 percent stated that they did not get any support from their family members.

**Table 4.36**

**Response of Respondents Regarding Kind of Support from Their Family Members**

<table>
<thead>
<tr>
<th>Kind of Support</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moral</td>
<td>50</td>
<td>23.20</td>
</tr>
<tr>
<td>Financial</td>
<td>6</td>
<td>2.80</td>
</tr>
<tr>
<td>All type of support</td>
<td>112</td>
<td>51.90</td>
</tr>
<tr>
<td>Total</td>
<td>168</td>
<td>100</td>
</tr>
</tbody>
</table>

Data given in the table 4.36 reveals that 168 women prisoners who have support from their family members out of them, 23.2 percent had received only moral support, 2.8 had received the financial support, whereas 51.9 percent had received both moral and financial from their family members.
4.2.9 Pay Telephone Facility

Like other method of communication, telephone services are enormously important to prisoners separated from family, friends etc. by the fact that of incarceration. Telephone access is particularly crucial for the significant percentage of the incarcerated population with limited literacy skills.

**Table 4.37**

Response of Women Prisoners Regarding Availability of Pay Telephone Facility

<table>
<thead>
<tr>
<th>Telephone Facility</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>215</td>
<td>99.5</td>
</tr>
<tr>
<td>No</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

It is clear from the figures given in the table 4.37 that 99.5 percent women prisoners were availing pay telephone facility, only 0.5 per cent was not allowed to make the call to her family member because she was from Pakistan and due to security reason she was not allowed to make a call to her family member living in the Pakistan.

**Table 4.38**

Response of Women Prisoners Regarding Sufficiency of Time of Call

<table>
<thead>
<tr>
<th>Adequate</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>33</td>
<td>15.30</td>
</tr>
<tr>
<td>No</td>
<td>173</td>
<td>80.10</td>
</tr>
<tr>
<td>No Response</td>
<td>10</td>
<td>4.62</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>
Figure 4.17: Sufficiency of Time of Call

According to data given in table 4.38, 80.1 percent women prisoners disclosed their dissatisfaction for the time given them to make a call to their family members, 15.3 percent revealed their satisfaction, whereas 4.6 percent women prisoners refused to give their opinion about the time of call whether they are satisfied or not, according to them they were happy whatever was available.

Table 4.39

<table>
<thead>
<tr>
<th>Opinion of Women Prisoners Regarding Pay Telephone Facility</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Privacy</td>
<td>24</td>
<td>11.10</td>
</tr>
<tr>
<td>Increase the time of call</td>
<td>100</td>
<td>46.30</td>
</tr>
<tr>
<td>Both</td>
<td>65</td>
<td>30.10</td>
</tr>
<tr>
<td>No Response</td>
<td>27</td>
<td>12.50</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>
Data given in the table 4.39 about suggestion of women prisoners regarding pay telephone facility reveals that 46.3 percent women prisoners suggested that time of call should be increased because in such short time they were not able to talk properly with their family members, 11.1 percent suggested privacy of women prisoners should be maintained for this they suggested that separate telephone booth should be available for both male and female prisoners because in the presence of male prisoners or male jail staff they feel hesitation, not able to talk openly with their family member after all if they are prisoners they are still human beings, 30.1 percent suggested both privacy and increase in the time of call, whereas 12.5 percent refused to say anything about the pay telephone facility because they were satisfied.

4.2.11 Conjugal Visits

There is another form of visitation employed in many foreign countries, is the so-called conjugal visits. Conjugal visits are those visits which permits prisoners and their spouses to be alone together in some suitable private facility, were originally introduced in Mexican prisons. They have been experimented within the USA, Sweden and other countries. These visits are intended to help keep a marriage intact during the incarceration of one of the spouses by permitting the parties to maintain some type of normal sexual relationship. It tends to reduce problems of homosexuality and makes the inmates more cooperative, easier to manage, and lessen isolation from the outside community lest they lose these visiting privileges.\(^{119}\) Whereas opponents to conjugal visits argue that it put much emphasis on the physical aspects of marriage, unfair to unmarried inmates, decreases the intensity of punishment of convicts. But unfortunately such visits are not allowed in Punjab central jails.\(^{120}\)

4.2.12 Work for Women Prisoners

One when life is inconceivable without action, work becomes essential part of human existence. The work that human beings do provides meaning to their life, not


because it helps them to earn livelihood, but it helps them achieve physical and psychological contentment.\footnote{121}{S.P. Srivashtava, \textit{The Indian Prison Community}, Pustak Kendra Lucknow, 1977, p. 72.}

Howard, and after him Bentham, Elizabeth Fey, and other reformers, emphasized the importance of work for prisoners. Assigning suitable work programmes to the prisoners constitute an important ingredient of correctional endeavour of the prison authorities. Work programme not only keep the inmates meaningfully busy in productive activities but also empower them to be rehabilitative in the community after their release by way of learning some useful vocational trade through work programmes.\footnote{122}{B.N. Chattoraj, \textit{Children's of Women Prisoners in Indian Jail}, Lok Nayak Jayaparakash Narayan National Institute of Criminology and Forensic Science, Ministry of Home Affairs, New Delhi, 2006, p. 137.}

The XII\textsuperscript{th} International Penal and Penitentiary Conference held at Hague in 1950 suggested ‘work’ as the best alternative for channelizing the potential of prisoners for a useful purpose. Keeping the prisoners engaged in productive work would be helpful for their physical and mental fitness it will also infuse self-confidence among them and they can think of returning to society as a law biding citizen. The greatest advantages of putting inmates to work as suggested by the penitentiary conference are that the wages earned by the prisoner can be utilized for supporting their family and dependents. Thus it would save the entire family of the prisoner from inside the prison itself. In short, work would be beneficial to inmates and at the same time remunerative to the state. It is further suggested that the working conditions of prisoners should be at per with free workers so that the values of human dignity are respected and prisoners are adequately compensated for the injuries sustained or professional sickness suffered by them during work. Referring to the Justice Mulla committee report 1983, the Supreme Court observed that it contains a lot of very valuable suggestions as:

“All prisoners under sentence should be required to work subject to their physical and mental fitness as determined medically. Work is not to be conceived as additional punishment but as a means of furthering the rehabilitation of the prisoners,
their training for work, the forming of better work habits, and of preventing idleness and disorder.\textsuperscript{123}

Speaking on the importance of work for women prisoners the national expert committee on women in detention held that in women rehabilitation, employment training has a pivotal role. Consequently work in prison has to be given such potential economic worth and utility that all women in custody are willing to engage in work programs. Where economics of scale require, the work programme for women should be integrated with the male prison’s industries in the sense of becoming feeder operations. Any choice of trades taught to women must take into account their present and potential use for engendering self-confidence as well as self-reliance. No work must be done without pay, and prison staff utilizing prisoners for personal work must be penalized. Neither cast nor sex should be utilized as basis for allotting work to inmates. Any objectionable and prejudicial reference in the Jail manual or in the rule and acts governing work conditions in prison should be removed.\textsuperscript{124}

4.2.12.1 The Regulatory Measures

\textit{Model Prison Manual, 1996} mentioned that work programmes should be treated as essential feature of the correctional programmes. Every state should have a clear policy for work programme and should be incorporated in the prison manual/rules and recommended to set up A “board of work programme and vocational training”, under the chairmanship of inspector general of prisons at the prison headquarters in order to plan and implement programmes of work to provide funds to run these programmes and many more.\textsuperscript{125}

Therefore, while appreciating the importance and utility of work programmes for the prisoners, an attempt has been made to ascertain the status of work from women prisoners allotted to them by jail authorities and to examine whether this work in jail is helpful for their rehabilitation and re-integration or not.

\begin{flushleft}
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\begin{flushleft}
\textsuperscript{124} Report of the National Expert Committee, 1986-87, p. 164.4-164.5.
\end{flushleft}

\begin{flushleft}
\end{flushleft}
Table 4.40

Distribution of Women Prisoners According to Work/Duty Assigned to Them.

<table>
<thead>
<tr>
<th>Work or Duty</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>150</td>
<td>69.40</td>
</tr>
<tr>
<td>No</td>
<td>57</td>
<td>26.40</td>
</tr>
<tr>
<td>No Response</td>
<td>9</td>
<td>4.20</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100.00</td>
</tr>
</tbody>
</table>

Figure 4.18: Work Assigned to Women Prisoners

Data given in the table 4.40 reveals that 69.4 percent women prisoners pointed out that they were allotted work cum vocational training like tailoring, embroidery. Work includes sanitary job within barracks, kitchen work, duties near the gate, maintaining attendance registers by literate women and some other miscellaneous work, 26.4 percent reported that they were not assigned any work, 4.2 percent refused to say anything about it.
4.2.13 Visits by Higher Authorities

Prisons are hitherto a closed world. As ordinary members of the society cannot enter the prisons in order to discover as what goes on behind high walls and fences of a prison. So it is necessary that, all prisons and places of detention should be subject to a system of inspections which is independently of the authority responsible for administering those prisons in order to supervise the strict observance of relevant laws and regulations, shall be visited regularly by qualified and experienced persons appointed by, and responsible, to a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.\(^{126}\)

In order to achieve these purposes, the prison Act, 1894 provides for the framing of rules for the appointment and guidance of visitors of prisons. Accordingly, Punjab Jail Manual, 1996 para 41 also empowers the government to appoint official and non-official. Visitors to jail, under the non-official category, the state govt. can appoint the local members of the state legislative assembly eminent social workers, psychiatrists, psychologists, and such other people who have interest in correctional work, as non-official visitors for each of their Jails.\(^{127}\)

In addition to non-visitors officials, the important officials of the district like commissioners of divisions, district and session judge, chief judicial magistrates subdivisional magistrate, by inspector general of police, superintendent of police civil surgeon, director social welfare can be appointed by the state government as the official visitors by virtue of the office held by them with respect to the prisons in that district.

These official and non-official visitors together constitute a board of which district magistrate is the ex-officio chairman. Their main functions are to visits jails periodically, examine the food, inspect barracks, cells, wards, workshed other, building

\(^{126}\) Principle 29(1) of Body of Principle for the Protection of all Persons under any form of Detention or Imprisonment, 1998.

and jail registers and records, attend to requests of prisoners regarding their care and welfare.\textsuperscript{128}

Such visits by official and non-officials bear the following benefit for the prisoners.

- Frequent visits by official visitors ensure that the provisions of the prison manuals are implemented and that there are no violations of human rights.
- It gives the prison inmates periodic interface with the civil society.
- It helps to resolve those problems faced by the inmates, which might get overlooked by the regular prison officials in the rush of the day-to-day work.
- Also helps to reduce the possibility of the indicative attitude of the jail authorities and help the prisoners to get suitable treatment.
- It provides an opportunity to judges to observe the impact of a particular punishment on the criminal.\textsuperscript{129}

Among the official the District Magistrate has been given extra power to inspect and visit every jail situated within the limits of his district once in a month and satisfy himself that the provisions of the prison act, 1894, and all rules, regulations, directions and orders made or issued there under, applicable to such jail, are duly observed and enforced. And while performing these duties, the district magistrate must remember that in this capacity he is a judicial officer and not an executive head and must function as such independently of the prison executive. Receive complaints from individual prisoners and enquire into them immediately. If he is too preoccupied with urgent work, paragraph 42 enables him to debute a magistrate sub ordinate to him to visit and inspect the jail. What is important is that he should meet the prisoners separately if they have grievances. The presence of warders or officials will be inhibitive and must be avoided. He must ensure that his enquiry is confidential although subject to natural justice and does not lead to reprisals by Jails officials. All orders issued by him shall be immediately complied with since obedience is obligated in para 44(2). In the event of

\textsuperscript{128} Ibid.
non-compliance he should immediately inform government about such disobedience and advise the prisoner to forward her complaint to the high court under article 226 together with a copy of her own report to help the high court to exercise its Habeas Corpus power.  

As per Jail Manual, the Inspector General has been entrusted with the duty of visiting and inspecting every jails as per as possible, at least once in each year with a view to satisfying himself that the provisions of the prison act, 1894 and all rules regulations, directions and orders made or issued under, applicable to such Jail are duly obeyed and enforced and that the management of each jail is in all respects efficient and satisfactory. Further, a copy of minutes required under para 25 and 26 with matters which should, in the opinion of the inspector-general be brought to the notice of the government, shall be forwarded by the inspector general to the state government.  

Complaint and Inspection Procedure every prisoner must have the right to make a complaint regarding his or her treatment and, unless the complaint is evidently frivolous, to have it dealt with promptly and, if requested, confidentially.

If necessary, the complaint may be lodged on behalf of the prisoner by his or her legal representative or family.  

If a complaint is rejected or not responded to in a timely manner, the complainant shall be entitled to bring it before a judicial or other authority.  

Here the researcher made the efforts to know from the women prisoners about the visits paid by higher authorities to women annexure. Higher authorities include district magistrate, district and session judge, deputy commission, director general of prisons, inspector general of prisons and superintendent.

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132 Rule 36, SMRs 1955.
Table 4.41
Response of Women Prisoners Regarding Visits Paid by Higher Authorities to Women Barracks

<table>
<thead>
<tr>
<th>Visit by Higher Authorities</th>
<th>No. of Respondents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regularly</td>
<td>55</td>
<td>25.5</td>
</tr>
<tr>
<td>Occasionally</td>
<td>11</td>
<td>5.1</td>
</tr>
<tr>
<td>Rarely</td>
<td>84</td>
<td>38.9</td>
</tr>
<tr>
<td>N.A.</td>
<td>42</td>
<td>19.4</td>
</tr>
<tr>
<td>No Response</td>
<td>24</td>
<td>11.1</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.19: Visits Paid by Higher Authorities

Data in the table 4.41 shows that according to 38.7 percent women prisoner’s higher authorities rarely visits the women annexure, 25.5 percent reported that higher authorities regularly visits the women annexure, 19.4 percent disclosed that higher authorities did not visit women annexure, 11.1 per cent had no knowledge whether they paid visits to women or not.
Table 4.42

Response of Women Prisoners Regarding “Do Higher Authorities have a Word with Women Prisoners to Listen their Grievances”

<table>
<thead>
<tr>
<th>Word with Prisoners</th>
<th>No. of Respondents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>28</td>
<td>13.0</td>
</tr>
<tr>
<td>No</td>
<td>168</td>
<td>77.7</td>
</tr>
<tr>
<td>No Response</td>
<td>20</td>
<td>9.3</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.20: Higher Authorities have a Word with Women Prisoners to Listen their Grievances

Data given in the table 4.42 regarding interaction between higher authorities and women prisoners shows that majority of women prisoners 77.7 percent explained that higher authorities came, inspect the barracks and ask the under-trials if they have any quarries or complaint, never ask anything from convicts, only 13 percent women prisoners acknowledged the interaction between women prisoners and the higher authorities, whereas 9.3 percent refused to say anything about it.
Table 4.43

Response of Women Prisoners Regarding “How do they Sort out Your Problems”

<table>
<thead>
<tr>
<th>Solution of their Problems</th>
<th>No. of Respondents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Promptly</td>
<td>7</td>
<td>3.2</td>
</tr>
<tr>
<td>Take sufficient time</td>
<td>12</td>
<td>5.6</td>
</tr>
<tr>
<td>Keep on delaying the matter</td>
<td>5</td>
<td>2.3</td>
</tr>
<tr>
<td>They have to complain again and again</td>
<td>46</td>
<td>21.3</td>
</tr>
<tr>
<td>Can’t say</td>
<td>146</td>
<td>67.1</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Here the women prisoners were asked about solution of their problems by the higher authorities.

Data given in the table 4.43 shows that 21.3 percent women prisoners explained that they have to complain again and again to higher authorities, 5.6 percent reported that higher authorities took sufficient time to solve their problems, 2.3 percent held that higher authorities keep on delaying the solution of their problems, only 3.2 percent women prisoners accepted that Higher authorities promptly solve their problems, Whereas majority 67.1 percent disclosed that they never made complaints about their problems to higher authorities because of fear from jail authorities.

(i) Matron always put pressure on them as not to complain about anything to higher authorities otherwise challan will be filled against them and they will be shifted to Ludhiana central prison.

Second, their “Chutti”, available to women prisoner, after spending required years in the prison, will be delayed.

Except women prisoners confined in Ludhiana jail, other prisoners confined in other central jails do not want to be shifted to Ludhiana jail because

(i) If they are shifted to Ludhiana jail their families, friends and relatives have to face a lot of difficulties, like an additional expenditure for the relatives especially whey they comes to meet them.

(ii) Wastes one working day for a relative or family members.
(iii) As a result they will deprived of raw food, dry ration and fruits etc.

(iv) Even judges often said that they cannot do anything for the convicts.

**Table 4.44**

**Distribution of Women Prisoners According to Problems Faced by Them**

<table>
<thead>
<tr>
<th>Problems</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food</td>
<td>5</td>
<td>2.40</td>
</tr>
<tr>
<td>Medicine</td>
<td>59</td>
<td>27.30</td>
</tr>
<tr>
<td>Sanitary</td>
<td>61</td>
<td>28.20</td>
</tr>
<tr>
<td>Living conditions</td>
<td>91</td>
<td>42.10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>216</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

**Figure 4.21: Major Problems Faced by Women Prisoners in the Jail**

Data given in the table 4.44 shows that the sanitary problems were perceived by 28.2 percent and non-availability of medicines was perceived by 27.3 percent women prisoners, 2.3 percent perceived food as major problem, whereas 42.1 percent women prisoners perceived overall living conditions within the jail as the major problems faced by them in the jail.
Table 4.45
Response of Women Prisoners to Question “Who is Responsible for the Problems Faced by Them in Jail?”

<table>
<thead>
<tr>
<th>Responsible</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government</td>
<td>38</td>
<td>17.60</td>
</tr>
<tr>
<td>Jail Department</td>
<td>37</td>
<td>17.10</td>
</tr>
<tr>
<td>Both</td>
<td>79</td>
<td>36.60</td>
</tr>
<tr>
<td>Can’t Say</td>
<td>62</td>
<td>28.70</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Figure 4.22: Responsibility for the Problems Faced by Women Prisoners in the Jail

Data given in the table 4.45 reveals that 17.6 percent women prisoners considered the government responsible for the problems faced by them in the jail, 17.1 percent pointed out the jail (department) authorities responsible for the problems being faced by them, 28.7 percent held the both government and jail department responsible for
the problems being faced by them, whereas 36.6 percent were indifferent as they were not sure about who is more responsible among both authorities.

From the analysis of the responses of women prisoners surveyed for the study about the availability of rehabilitation and re-integration programs, the researcher retrieved the following findings.

- Majority of women prisoners (96.6%) revealed that no educational programmes were available for them.
- Majority of women prisoners (69.4%) reported that vocational training was imported to them in jails. These women were from Amritsar, Ludhiana, Ferozepur, Bathinda and Patiala. In these jails vocational training was confined to some traditional type’s course such as cutting, tailoring, embroidery and beauty parlour.
- Large number of women prisoners (44.4%) revealed that these vocational courses were not sufficient for their rehabilitation and re-integration.
- Majority of women prisoners (82.9%) accepted the absence of library and separate study room for women prisoners.
- About the awareness about free legal aid, majority of women prisoners (76.9%) accepted that they had no awareness about free legal available in the jail.
- Overwhelming majority of women prisoners (99.5%) accepted that they were availing pay telephone facility in order to establish contact with their family members, relatives and friends.
- Majority of women prisoners (80.1%) told that they were not satisfied with the time given to make call to their relatives and family members.
- Large number of women prisoners (46.3%) suggested to increase the time of call.
- Majority of women prisoners (83.3%) acknowledged that their family members came to visit them.
- Majority of women prisoners (66.6%) accepted that they received visits from the members of family of procreation.
• About the support, majority of women prisoners (77.8%) acknowledged the support from their family members.
• Majority of women prisoners (51.9%) revealed that they were getting all types of support (moral and financial) from their family members.
• On asking about the problems in the jail, the large number of women prisoners (42.1%) considered the living conditions available in the jail insufficient for their rehabilitation.
• On asking whom they considered responsible for the problems faced by them in the jail, most of the women prisoners (36.6%) attributed both the government and jail department for their problems.
• Majority of women prisoners (69.4%) reported that work was assigned to them by the jail authorities in the jail.
• Large number of women prisoners (38.9%) revealed that higher authorities rarely visit women annexure.
• Majority of women prisoners (77.7%) told that higher authorities did not talk to them. They only asked the under-trials if they have any problem regarding their cases, whether anyone needs free legal aid etc.
• Majority of women prisoners (68.5%) mentioned that they never made any complaint to higher authorities about their problems because matrons often told them not to say anything about anything to the higher authorities. So, due to fear from matrons they often said everything is going ok.

PART III

4.3 PROBLEMS FACED BY WOMEN PRISONERS DUE TO ABUSE OF THEIR RIGHTS

The main objective of this study was to find out the problems faced by women prisoners as the result of abuse of their rights available to them in prisons in Punjab. In order to achieve this objective, researcher interviewed the 216 women prisoners’ confined in seven Central Jails of Punjab and gathered the information about the availability and non-availability of the rights. While making inquiry about the
availability of rights, special attention has been given to living conditions, programs, and facilities essential for the rehabilitation and re-integration of women prisoners after release from the jails into the society. Part three of this chapter contains discussion about the reasons along with the problems are being faced by women prisoners due to those reasons.

4.3.1 Physical Structure of Prisons

Among the seven central jails of Punjab, the physical state of Ferozepur, Jalandhar, Gurdaspur, Patiala central jails buildings were unsatisfactory. In all the Central jails, except newly constructed barracks, old barracks were in a very pitiable condition. At the time of data collection from the Central Jail Ferozepur, researcher found out the space between old and new barracks full of muddy rain water. There is need to renovate the old barracks in all the central jails. Secondly, the space available was inadequate due to increase in number of both under-trials and convicted women prisoners. Due to shortage of space to keep their belongings at proper place, all women prisoners keep their belongings under their heads or near their sleeping place. Conditions of sleeping berths in old barracks were not good. Sleeping berths were broken. In newly constructed barracks, sleeping berth were absent. It was told by the women prisoners that to adjust the growing number of both under-trial and convict women, government adopted the policy not to construct the sleeping berths. So, all women inmates use to sleep on floor as disclosed by the women prisoners and prison officials. Women prisoners told the researcher that due to sleeping on floor they were suffering from back pain. Even sometimes insects bit them while sleeping. According to them, in winters, it becomes unbearable to sleep on the cold floor especially for old, pregnant and feeding mothers. Majority of women had considered the barracks crowded. Therefore, due to the over crowdedness of the barracks, they did not get sufficient space for sleeping and unable to move freely in the barracks. In order to get sufficient place they often fight with each other. Hence, physical structure of jails was not suitable to meet the specific needs of women prisoners.
4.3.2 Absence of Classification and Segregation of Women Prisoners

Classification and segregation of women prisoners was not done as per the requirements of the Punjab Jail Manual, 1996. Researcher found the following reasons:

1. Non-availability of suitable space
2. Non-availability of treatment programme
3. Non-availability of proper staff for reception centre and classification committee
4. Increase in number of women prisoners
5. Lack of proper will to provide treatment to prisoners

As a result, all kinds of women prisoners such as under-trials, convicts, young, middle, old, habitual, suffering from chronic diseases, prostitutes were kept at the same place. Some under-trial women told the researcher that as they were not held convicts by the court, but still they have to stay with the convicts, which put very bad influence on them. Government should construct separate barracks and wards as prescribed by the Model Prison Manual, 2003 to accommodate different types of women prisoners so that they can get appropriate treatment in the jails. Non-classification of women prisoners as per the provisions of the jail manual obstructs their treatment for the purpose of reformation and rehabilitation.

4.3.3 Food for Women Prisoners

Food plays an important role in prisoner’s life. In actual practice, as told by women prisoners, two meals were given to them. One in the morning at 6 a.m. and second meal in the evening at 3 p.m. tea is also given two times in the morning and in the evening. Morning meal usually consists of five or six chapattis and one bowl dal. Evening meal also consisted the same diet. Except Amritsar and Ludhiana Central Jails, in other central jails due to absence of separate kitchen, food for women prisoners come from male kitchen which was cooked by the male prisoners at night and distributed among women prisoners in the morning. About the food, women prisoners told that chapattis were often half cooked, burnt, of very big size, very hard not suitable for eating. About dal, they told daily one dal was given to them. Dal is often full of stones and insects. Vegetable was very rare. Women prisoners told the food given in jail was not suitable for human consumption. Old women were not able to eat hard chapattis. No special diet was given to old and breastfeeding women prisoners. Women prisoners,
who were totally dependent on jail food, remained ill. Majority of women prisoners considered the quality of food average and showed their dissatisfaction with the food given to them in the jail. They considered the food average not bad because as told by women prisoners’ that as the food was cooked by the males, out of these males some were related to them as son, father, husband, brother, lover. If they told anything bad against the food, it might be possible that the prison authorities will use torture against them. Women prisoners were allowed to cook the food. They get raw, uncooked food and dry rations, vegetables, fruits from their families every month. Mud Chullas and Angithis were provided to them in an uncovered open area to cook the food. Women prisoners cooked the food in groups. For fuel they use the dry chapattis. Besides chapattis they purchase the wood from canteen at the higher rates. Old women, who were not able to cook their food for themselves, often take the help of the poor women whom no one comes to meet, and were given food in exchange of their services. One women prisoner told me that their family members often said that “Itna hmara pure periwar ka khercha nahi hai jitna tum logo ka hai”. Thus, different types of women prisoners such as old, pregnant, breastfeeding mothers were not provided required food in the jails as prescribed by the Punjab Jail Manual, 1996. The non-availability of good quality of the food puts bad effect on women prisoners’ health.

4.3.4 Conditions of Children of Women Prisoners

One major problem is about children of women prisoners and dependents because women are responsible for the dependents and their children in the families as well as in the extended families by detaining them, it is not merely their life which is affected, but it affect others who are dependent on them.

By recognizing the women’s responsibility of motherhood and to enable them to discharge that function, the criminal justice system has recommended that the dependent young children of the offender mother in prison.\(^{134}\)

Female prisoners are allowed to keep their children with them until it is four or with approval of the superintendent even upto 6 years of age if she so desires. Upon reaching the age of six years, the child may be handed over to a relative or guardian as

per the wishes of the female provided such relative or guardian is willing to take care of the child. In case no relative or guardian is forthcoming, the case of the child may be reported to the nearest magistrate concerned who shall make necessary arrangements for the case of such child. If no friend or relative be found willing to take care of the child, the district magistrate shall either place the child in an institution or entrust it to some respectable person until child attains an age to earn a livelihood. The children in prison must provide diet according to age, as prescribed in the manual, extras shall be given only on the advice of the medical officer.

Table 4.46

<table>
<thead>
<tr>
<th>Name of the jails</th>
<th>Number of children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amritsar</td>
<td>39</td>
</tr>
<tr>
<td>Bathinda</td>
<td>0</td>
</tr>
<tr>
<td>Ferojepur</td>
<td>17</td>
</tr>
<tr>
<td>Gurdaspur</td>
<td>2</td>
</tr>
<tr>
<td>Jalandhar</td>
<td>0</td>
</tr>
<tr>
<td>Ludhiana</td>
<td>28</td>
</tr>
<tr>
<td>Patiala</td>
<td>7</td>
</tr>
<tr>
<td>Total</td>
<td>93</td>
</tr>
</tbody>
</table>

Source: Information provided by the prison staff at the time of data collection

The data in the table 4.47 shows that at the time of data collection, 93 children were present in seven central jails in Punjab.

The conditions of children were not good in the jails. Except dry milk and biscuits or fruits on alternative days, no other diet supplements were given to children in the jail. Women who had children with them in jail were given three extra chapattis for children. Nothing special was given in diet to children beyond these things. Breast

136 Para 821.
feeding mothers were also not given anything extra in diet. Researcher observed that some internee women who had no relative outside to provide them money did not give the dry milk to children but collect the milk in a container and then sold it to other women prisoners in order to earn some money. Researcher observed the children were wandering from one corner of the jail to other corner bare foot. They were wearing torn cloths. Children born in the jails looked at outsiders with a suspicious eye full of anger, as if they were asking why they were confined in jails without any fault. They also want to enjoy their childhood. Researcher felt very pity for those children. These children were not ready to befriend with anyone except their mother. No facilities were available to provide formal or elementary education to the children above three years. No play ground was available for the children. Thus, researcher founded that the children in jail were very depressed and in a pitiable condition. There was no pediatrician available in any jail to provide special treatment to a child at the time of sickness. Jail hospitals were not properly equipped for providing treatment to children in case of sickness. They sleep with their mothers in crowded barracks. There was no separate accommodation for the children who live with their mothers in the jail because child is considered as a personal liability of her mother not of the jail authorities or the state. Crèche facility for taking care of the children was not in existence in all the central jails. Thus, the state of living condition for children was not at all satisfactory. Such conditions affect the growth, survival and development of the children and denied the children their basic rights.

4.3.5 Problems Faced by Women Prisoner Due to Absence of Medical Facilities

Researcher was told that due to non-appointment of the permanent lady doctors women prisoners faced many problems such as gynaecological and physical diseases. There was a single male doctor in the jail for both male and female prisoners. Women prisoners often felt hesitation and could not explain their health problems to the doctor. Even doctors did not show interest in their problems. Regular medical check up was not done of women prisoners. In few jails, gynaecologist from government hospital visits once a week to provide treatment to pregnant women prisoners not to other. Majority of women prisoners complained that they did not have access to specialists such as gynaecologist. Few medicines were given for all ailments. Mostly they were given pain-
relievers. Number of health staff was inadequate. Basic medical facilities like diagnostic lab, X-ray machine, ECG machine, dental unit, were absent in jails. In case of emergency, women prisoners were sent to the government hospital. At the time of data collection few jails that were under study did not have the facility of ambulance. One officer from one of the central jail told the researcher that ambulance is standing from long time in non-working condition. They had told the prison department many times but no action was taken. He said they want to perform their duties but government did not provide them adequate resources. During data collection, in one of the central jail, researcher saw a lady suffering from some illness. Other inmates told the matron about her illness many times. Every time matron said that she had informed the doctor. But when the condition of that lady became very severe, then matron called the pharmacist because doctor was not available at that time in the jail. But pharmacist was not able to understand her sufferings. Other women prisoners told that she needed the medicine ALPLEX, which was often given to women prisoners and they had become habitual. But the matron said “yeh aurat nakhre kardi hai, isnu kuch nai hua, aive nekhre kerdi rehndi hai”. When the pharmacist was unable to understand her problem he told the matron to give her ALPLEX. A lot of discrimination were faced by the poor, illiterate and ignorant women prisoners in access to health care facilities. Only clever women were able to get some treatment from doctors.

Due to lack of medical arrangement such as accommodation, equipment and staff, the health condition of women prisoners was very worst. They were suffering from the multiple diseases. Some women prisoners told the researcher that they had asked the prison authorities for spectacles. There was another incident which also tells about inadequate health facilities in the jail. In Amritsar central jail, one woman prisoner who was above fifty years suffering from gynaecological problem came to researcher and started explaining her problem to researcher. Initially researcher was unable to understand her problem then other woman told me what she was saying. On hearing this researcher told her that she is not a doctor. But she replied that other women prisoners told her that researcher is a doctor. Then researcher told her that according to prison authorities one gynaecologist regularly visit the women prisoners, then why she had not told the doctor about her problem then she said no doubt she
came, but her behavior was not cordial towards all women prisoners. A lot of discrimination faced by the old, illiterate, poor and ignored women prisoners. No one bothers about their problems. Even they without the permission of the matrons could not speak to the doctor. Only clever women prisoners who always remain in the service of matrons get their health problems treated to some extent, others remain waiting for their term. One woman suffering from AIDS told the researcher that instead of providing proper treatment, jail authorities had lost her reports and not sent her to take the medicines. She had missed her medicine. Due to non-availability of medicines her condition was deteriorating day by day. Hence, it can be said that health facilities and services for women prisoners in Punjab jails are ill-equipped, under-staffed, under-resourced and also isolated from other national health services. Women prisoners mentioned that due to non-availability of adequate healthcare facilities and services they were suffering from joint pains, back pains, weak eye sight, dental problems, indigestion, skin problems, low energy levels, breathlessness, loss of appetite, nausea, hyperacidity, physical weakness, hypertension, migraine, pre-menopausal systems, gynecological problems etc. Hence, women prisoner’s health care needs are not addressed and met in a timely, effective and efficient manner.

4.3.6 Non-availability of Education for Women Prisoners

Education is one of the basic human rights. It is vital for human development. It is also a mean to emancipate people from abuse, unemployment and poverty. Prison education is part of correctional administration. Prison education can serve as a second chance for inmates who had previously been under motivated or had been denied proper education. As compared to men, women prisoners require education urgently due to social status, stigma, economic deprivation and vulnerability to exploitation and harassment. But as told by women prisoners, no facilities for imparting any kind of education were available in the jail. One women prisoner double M.A. from Amritsar central jail told that she was working as teacher to impart education to women prisoners, but now due to bad health she was not able to teach the prisoners. Except her, no teacher was available in the jail. In Ludhiana jail, the art and craft teacher told the researcher that after the retirement of teacher, the post of teacher was lying vacant. Jail minister had abolished the post of the teacher. There was neither adequate staff nor
proper infrastructure and other facilities available to impart education to women prisoners.

4.3.7 Inadequate Vocational Training Programmes for Women Prisoners

Vocational training plays an important role in the rehabilitation and re-integration of women prisoners. Except Gurdaspur and Jalandhar central jail, the vocational training was imparted to women prisoners in other central jails as told by the prison authorities. In Amritsar central jail one hall has been earmarked especially to impart vocational training to women prisoners. Guru Nanak Dev University, Amritsar and India vision foundation has been associated with the Amritsar central jail to impart vocational training to women prisoners. Certificate course in dress designing had been started by the Department of Adult Education, Guru Nanak Dev University. The university had appointed a full time instructor for this purpose. India vision foundation had also appointed an art and craft teacher for women prisoners. These vocational courses are started under vocational training border area project by Punjab State Social Welfare Board. Beside Amritsar and Ludhiana central jails, in Feroozepur, Patiala and Bathinda, teachers came from local government polytechnic institute to impart the vocational training to women prisoners. They stay in the campus for hardly one or two hour. Vocational training in these jails are confined to traditional types such as cutting, tailoring, embroidery and beauty parlour. Women prisoners told that these courses were not imparted to them in a proper manner. Neither these jails had the proper infrastructure required to impart vocational training to them nor did prison authorities provide them required material to learn these courses. Women prisoners told that teacher provide guidance to those women who already have knowledge about these courses. They did not encourage other women to learn these courses. From one central jail some women prisoners told that in order to show that women prisoners were imparted vocational training, vocational instructor enroll the names of required number of women prisoners and provide the certificates, but did not teach them anything. Instead of imparting the training to women prisoners, instructors often sale the material to women prisoners at the higher prices. According to women prisoners these vocational courses are not sufficient for their rehabilitation but can be helpful for their rehabilitation if the government provide required infrastructure, material, dedicated and
honest staff along with the motivation about the benefits of these courses for women prisoners. So, there are a lot of efforts required on the part of the government to provide vocational training to women prisoners in real terms.

4.3.8 Inadequate Facilities for “Mulakaat” With Family Members

Majority of women prisoners revealed that they had support from their family members, financial as well as moral, which means that women prisoners were not considered burden by their family member. Their families love them and ready to accept them back, except the poor women prisoners who have no one outside. Visits from the family members, relatives and friends also increase the chances of women prisoners to integrate successfully into the community upon release and less likely to re-offend. In order to encourage such visits to women prisoners from their family members, the prison authorities should provide the suitable infrastructure and facilities to maintain contact with their families. Unfortunately, single mulakaat room was available for both male and female prisoners to have interview with their family members and the relatives. The condition of the mulakaat room was very deplorable in all the central jails. Secondly, in the presence of large number of male prisoners, women prisoners were not able to talk properly with their family members who came far away to meet them. Thirdly, matron always started shouting to end the mulakaat before the thirty minutes. Such conditions always prevent the women prisoners to enjoy their right to mulakaat with their families properly. There is no privacy in the interview room, as many persons are allowed to interview prisoners simultaneously. In reality, the present mulakaat system in jails in Punjab is outdated. It should be changed. Inter-jail mulakaat were also allowed once a week for women prisoners who have their husbands or first degree blood relatives lodged in the jail.

4.3.9 Problems Due to Poor Sanitation Conditions

Although majority of the women prisoners did not make any complaint about the supply of water for drinking, bathing and washing purposes, but researcher noticed from Ludhiana, Bathinda, Jalander and Ferozepur central jail held that no filter and R.O. system was fitted with the water cooler to provide clean drinking water to the women prisoners. In Jalander central jail the water cooler was fitted in the bathroom.
Few educated women from Ludhiana central jail told the researcher that water was infectious with some chemicals due to the situation of the central jail near the industrial area. They also told that number of women prisoners were suffering from skin diseases due to unclean drinking water but they were not aware about this fact.

4.3.10 Inadequate Clothing and Bedding Facilities

Clothing and bedding was not supplied to the women prisoners as per the scale fixed by the manual in order to meet the basic needs of the prisoners. Women prisoners showed the blankets stored in non-working toilets. About the quality of these blankets they said due to poor quality, blankets caused them irritation, so they did not use them. In Patiala central jail researcher saw the quilts given to poor women prisoners were in very bad condition. Researcher felt very awkward when prisoners told that the jail authorities provide such quilts to poor women prisoners.

4.3.11 Inadequate Toiletries Things for Women Prisoners

The toiletries things for the personnel hygiene of women prisoners were also not given as per the provisions of the Punjab Jail Manual, 1996. Women prisoners showed the researcher the toothpaste, toothbrush, washing and bathing soap given to them by the prison authorities. Washing soap was hard like the stone. About bathing soap, they did not use it for bathing because it causes them irritation and skin diseases. Due to the non-availability of the phenyl, they wash the toilets with bathing soap and the toothpaste with their hands covered with polythene. Women prisoners from one of the central jail told the researcher about the availability of big heap of discarded toothpaste and toothbrush behind the barrack.

4.3.12 Torture Faced by Women Prisoners in Jails

Although women prisoner were not forced for sexual favour in the jails but few women prisoners told the researcher that women prisoners can establish sexual relationship if they want. One well educated women prisoner from one of the central jail told the researcher about one matron whose medical was not done at the time of appointment. That matron was a transgender, appointed on some other women’s 10th certificate. That matron used to establish sexual relation with women inmates. Matron
had performed the marriage with one under-trial woman. At the time of search, matron often touches the private parts of both young ladies and unmarried girls again and again and pressed their breasts. That woman prisoner told the researcher that when that matron was employed at Ludhiana she used to supply girls outside the jail. One day when that matron came to give SIM card to one under-trial with whom she performed the marriage, was caught and suspended. She used to supply the artificial sec objects to inmates and asked them to use. Many women prisoners complained against that matron to the prison authorities. According to her, that matron is still working in sub-jail.

4.3.13 Distortion of Women Prisoner’s Emotions

Not only the jail officials but the jail minister also plays with the emotions of the women prisoners. At the time of data collection from the Ludhiana jail, women prisoners from Ludhiana central jail told the researcher that jail minister made an announcement that on “Karva Chauth” all the women inmates who have their husbands in the same jail, will be allowed to meet on the “Karva Chauth” evening. On hearing this news all married inmates whose husbands were confined in the near central jail, made a lot of preparations but in reality they were not allowed to meet their husbands. When those women asked the lady superintendent why they were not allowed to meet their husbands, on this superintendent said that she had made all the arrangements but the superintendent of male central jail told that he had no adequate force to facilitate women prisoners meeting with their husbands. Next day when a news reporter came to conduct the interviews of the women inmates to know their meeting with their husband and what jail department provided them on the “Karva Chauth” superintendent madam asked one women prisoner to say everything in the favour of the jail authorities. Women prisoners asked the researcher why ministers made such announcements if they could not fulfill them. They have no right to play with their emotions although they are prisoners. Such incidents cause emotional abuse of women prisoners which is more dangerous than the physical abuse. It should be prevented in order to reform and rehabilitate women prisoners.
4.3.14 Absence of Work Programme for Women Prisoners

Work programmes not only keep the prisoners busy in productive activities but also empower them to be rehabilitative in the community after their release by way of learning some useful vocational trade through work programmes but unfortunately women prisoners were not involved in any work programme due to the absence of any productive work. Except Ludhiana jail where few women prisoners were participating in the work programme.

Due to the absence of the work programme for women prisoners they often employed in the following work which includes sanitary jobs within barracks, kitchen work, duties near the gate, maintaining attendance registers by literate women and some other miscellaneous work. Women prisoners were not provided the work programmes as per the requirements of the Punjab Jail Manual, 1996.

About wages, women prisoners told wages were not given them as prescribed under the manual. Few women told that prison authorities gave them 50 or 100 rupees after six or more months.

4.3.15 Problems Due to Inadequate Free Legal Aid Services

Women prisoners were also not getting adequate legal aid services in the jails. Although the prisoners have the right to free legal aid but unfortunately they were not getting satisfactory legal aid services in the jail. Women prisoners who were availing legal aid told the researcher that although government has provided them lawyers but they were not satisfied with their services because lawyers never discussed their cases with them, lawyers did not listen them carefully, they often demand money from them, lawyers did not fight their cases seriously, they did not provide right information about case to women prisoners, sometime lawyers took money from opposite party.

4.3.16 Absence of appropriate Complaint Mechanism for Redressal of Grievances

Policy and legislation alone will not ensure that the rights of women prisoners are realized. Responsive complaint mechanisms can help to ensure that the required
policies and legislation are implemented. But unfortunately no responsive complaint mechanism is available to women prisoners in central jails in Punjab. In fact, women prisoners were told by the matrons, not to say anything to the higher authorities, if they do so, action will be taken against them. Even judges often ask under-trials if they have any problem regarding their cases. They never asked the convicts about their problems. If somehow any convict made effort to tell her problem to judge, judges often replied that they cannot do anything for the convicts. Judges never made personal efforts to inquire about the treatment of women prisoners. About the visits by the higher authorities, women prisoners said that they visit the jails only for the sake of formality. Hence, it seems that the higher authorities are not performing their duties as per the provisions of the *Punjab Jail Manual, 1996*. As a result grievances of the women prisoners remain unaddressed.

4.3.17 Absence of After-Care Programs for Women Prisoners

Perhaps the worst effect of imprisonment so far the offender is concerned is the stigma incurred by a prison sentence. This stigma is more for women prisoners than the male prisoners. Indeed it is this factor which makes the punishment such a powerful deterrent to the ordinary citizen. As Oscar wilde complained, society is really ashamed of its own actions, and shuns those whom it has punished, as people shun a creditor whose debt they cannot pay. Indeed prisoners often complain that their real punishment begins when they leave prison. Mere treatment in institutions does not help in ultimate rehabilitation of offenders. It cannot bridge the gap between the institutional experience and the stigma society attaches to the released inmates. So the total punishment for crime never ends at the end of imprisonment. It continues as a life-long record and sometimes it becomes difficult for an offender to go back to the community as a decent citizen inspite of his sincere and genuine desire to live honestly. In many areas of community life a discharged prisoner finds himself handicapped. His problems are multifarious—psychological, social, economic, legal and like. It is therefore, of vital

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importance to develop after-care post release program/services as an essential requisite in the correctional field.

The All India Jail Manual Committee 1957-59 emphasized the importance of after-care services and recommended that these services should be developed as an essential requisite in the correctional field.

Justice Kirshna Iyer has described the importance of after-care for women prisoners in the following words: “After-Care is integral to custodial justice even as intensive care procedure and post-operative vigilance are relevant for the patient’s recovery, beyond mere surgery.”  

One author (Broadsky, 1975) notes that women need more post release training and support services than men, but receive less. Beyond realistic job training, women often need counselling in improving their parental abilities and family relationship.

Unfortunately, in Punjab, jail system do not have programs to meet the special needs of women prisoners after their release back to the society. There is need to formulate after-care programs that can help to reduce the societal alienation and social stigma attached with women prisoners. There is practically no voluntary agencies associated with prisons which can help the released women from jail to find out work and to rehabilitate themselves in the society.

4.3.18 Lack of Recreational Facilities for Women Prisoners

Recreation is considered to be a mainstay of prison’s life. Only television with cable, radio/stereo, and newspaper were available as recreational facilities for women prisoners. In central jails as the Mandir and the Gurudwaras were located in male prison, women prisoners were not allowed to visit them. Women prisoners were not allowed to go out of their annexure for recreational facilities. But in free time they create and play the games.

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4.3.19 Pay Telephone Related Problems

Pay telephone facility was introduced in 2009 in all the Central Jails in Punjab. Majority of women prisoners accept that they were availing this facility. They were given 2 minutes and have to pay 5 to 10 rupees. Most women prisoners complained that their call was always disconnected before the completion of given time period. Except Ludhiana jail, single STD booth was available for both male and women prisoners. Due to the presence of the male staff they could not properly talk with their family members.
PART I

3.1 SOCIO-ECONOMIC PROFILE OF WOMEN PRISONERS

The socio-economic profile of women prisoners who were surveyed for this study has been observed in terms of following variables:

(i) Age
(ii) Religion
(iii) Marital Status
(iv) Educational Background
(v) Employment Status
(vi) Husband’s occupation (at the time of crime).

Socio-economic status of an individual plays a significant role in the formulation of one’s attitude and opinion about that individual. Besides these reasons social-economic status of a person also influence the official response to law violators. The information about socio-economic profile of women prisoners helps to put forward the reasons which forced the women to commit the crime.

3.1.1 Age of Women Prisoners at the Time of Crime

Age is an important factor in the causation of crime\(^1\). Individually age means not only a length of time, but also a socio-economic and political status and activity, different ways of living, personal characteristics, conflicts and aims of a changeable nature and a certain amount of contentment, success or failure. In sum, it means a diversity of attitudes and reactions to the daily challenges of life.\(^2\) Age since the dawn of scientific criminology, has been identified as the most important criminological variable. Two noted criminologists Guerry and Quetelet had also declared that age is the

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factor that has the greatest impact on crime. Quelete wrote that of all the causes which influence the development of propensity, age is unquestionably the most energetic. The age distribution of crime makes possible a better understanding of crime as a social phenomena and permits projections which undoubtedly have a policy-making value.\(^3\)

Here, the age distribution of women prisoners were examined in order to know of which age group women prisoners have large tendency to commit the crime.

**Table 3.1**

*Age-Wise Distribution of Women Prisoners*

<table>
<thead>
<tr>
<th>Age Status</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>21-30</td>
<td>48</td>
<td>22.2</td>
</tr>
<tr>
<td>31-40</td>
<td>66</td>
<td>30.6</td>
</tr>
<tr>
<td>41-50</td>
<td>49</td>
<td>22.7</td>
</tr>
<tr>
<td>51-60</td>
<td>32</td>
<td>14.8</td>
</tr>
<tr>
<td>61-70</td>
<td>19</td>
<td>8.8</td>
</tr>
<tr>
<td>71 and above</td>
<td>6</td>
<td>0.9</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

**Figure 3.1: Age of women prisoners**

\(^3\) *Ibid.*
Data in the table 3.1 shows that out of 216 total women prisoners, 22.2 percent belongs to 21-30 age group, 30.6 percent to 31-40 age group, 22.7 percent to 41-50 group, 14.8 percent to 51-60 age group, 8.8 percent to 61-70 age group and only 0.9 percent women prisoners either 71 yrs or above.

Thus, above analysis revealed that large number of women prisoners 30.6 percent belongs to age group of 31-40 yrs and small number of women prisoners 0.9 percent belongs to 71 or above age group. Hence, it can be said that 31-40 age group women have greater tendency to commit the crime as compared to the rest of the age group women.

3.1.2 Religion of Women Prisoners

Religion is a universal social institution that is present in all the societies and at all historical periods. Durkheim defines the religion as a “unified system of beliefs and practices related to sacred things, that is to say, things set apart and forbidden. About religion Malinowki quoted that religion plays an important role in the life of individual, community and society. Religion is a mode of action as well as system of beliefs.

The social sciences from their very inception have included religion as a sociological, psychological or social psychological variable that is studied both as a dependent and independent variable in society along with other social behaviors and institutions. In criminology, religion has been treated primarily as independent variable with variations in delinquency, crime and deviance as the dependent variables.

Over the last five decades there has been growing interest in the nature of the relationship between religion and crime. In general, researcher has sought to determine if being more or less religious has anything to do with why people do or do not break the law. Recently the Johnson and Jung examined 270 reports in the literature on religion and crime and found that approximately 90 percent of the studies (244 of 270) find an inverse or beneficial relationship religion and some measures of crime and

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4 Anand Sirohi and Jairam Kansal, et. al., *Encyclopaedia of Academic Sociology*, Donald Publishers and Distributors, New Delhi, 2009, p.188.
5 Ibid.
7 *Id*, p. 117.
delinquency. Only 9 percent of the studies (24 of 270) found no association or reported mixed findings, whereas only two studies found the religion was positively associated with a harmful outcome.\(^8\) He further demonstrated that the greater the religious beliefs, customs, practices, activities, and engagement with religious groups the lower the probability of crimes and deviance; religious beliefs and involvement constitute “protective factor” among at risk or vulnerable groups who experience pro-crime and delinquency influences in their families, neighborhoods, or communities.\(^9\) As compared to men, women who are more religious, they are more likely to fear supernatural sanctions and feel shame and embarrassment, associated with deviance, bounded to conventional society in terms of attachment, commitment, involvement, and beliefs; exercise high self-control, cope with life’s strains or stressors and their resultant negative emotions in a legitimate, non-deviant manner.\(^10\)

Here the researcher has made an effort to know to which religion women prisoners belongs.

**Table 3.2**

<table>
<thead>
<tr>
<th>Religion</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sikh</td>
<td>114</td>
<td>52.8</td>
</tr>
<tr>
<td>Hindu</td>
<td>92</td>
<td>42.6</td>
</tr>
<tr>
<td>Muslim</td>
<td>6</td>
<td>2.8</td>
</tr>
<tr>
<td>Christian</td>
<td>4</td>
<td>1.8</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

\(^8\) *Id.*. p. 120.


Figure 3.2: Religion of Women Prisoners

Religion-wise distribution of women prisoners in table 3.2 reveals that out of total 216 women prisoners, 52.8 percent women prisoners belong to Sikh religion, 42.6 percent to Hindu religion, whereas 2.8 percent and 1.9 percent belong to the Muslim and Christian religion respectively. Large number of women prisoners belongs to Sikh religion. It may be because Sikhs are the major community of the Punjab state. The difference between women prisoners from Sikh and Hindu religion is not much large.

3.1.3 Marital Status of Women Prisoners

Marriage is perceived as a system of roles of a man and a woman whose union has been given social sanction as husband and wife. Marriage is also a link between the family of orientation and the family of procreation.\textsuperscript{11} It is often said that marriage plays significant role in women’s life. Marriage means that she enters into a new world where a lot of expectations are made from her. Numbers of responsibilities are given to her and every time it is expected that she should fulfill all these expectations without any complaint from both sides parental as well as from in-laws. Some time some unfortunate women were not able to cope with all these expectations due to non-cooperative behavior of family member and husbands and thus become either victims or

offenders of the circumstances. In order to know, Is it true that marriage plays an important role in woman’s life? Researcher has made an effort to know from the women prisoners their marital status at the time of crime.

**Table 3.3**

Marital Status of Women Prisoners at the Time of Crime

<table>
<thead>
<tr>
<th>Married Status</th>
<th>No. of prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married</td>
<td>161</td>
<td>74.5</td>
</tr>
<tr>
<td>Widow</td>
<td>48</td>
<td>22.2</td>
</tr>
<tr>
<td>Divorcee</td>
<td>5</td>
<td>2.3</td>
</tr>
<tr>
<td>Unmarried</td>
<td>2</td>
<td>1.0</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

Data given in the table 3.3 regarding the marital status of women prisoners at the time of crime shows that majority of women prisoners 74.5 percent were married, 22.2 percent were widow, 2.3 were divorcee and only 0.9 percent were unmarried at the time of commission of crime. Hence, majority of crimes were committed by the married women prisoners (74.5 percent) as compared to widow, divorcee or unmarried womens’.
3.1.4 Educational Status of Women Prisoners

Education, as popularly understood, mean the process or product of formal training in schools or class rooms. In a broader sense, education includes all of the life experiences which shape a person’s attitudes and behaviour. Education is generally accepted as a factor contributing to the regularity of behaviour. Education plays an important role in every person’s life. Education is very essential for women. Educated women can become economically independent and therefore can protect her from various types of exploitation. As today it is said that crime is committed by both the educated and uneducated women, so here the researcher has made an effort to know the educational status of women prisoners to find out which category of women (literate or illiterate) showed the higher tendency to commit the crime.

Table 3.4

<table>
<thead>
<tr>
<th>Educational Status</th>
<th>No. of Respondents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illiterate</td>
<td>125</td>
<td>57.9</td>
</tr>
<tr>
<td>Literate</td>
<td>91</td>
<td>42.1</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100.00</td>
</tr>
</tbody>
</table>

Figure 3.4: Literacy Rate among Women prisoners
Data given in the table 3.4 contains information regarding the distribution of women prisoners according to literacy rate among them. It indicates that majority of women prisoners 57.9 percent were illiterate, and 42.1 percent were literate at the time of crime. Hence, illiterate women have showed the higher tendency to commit the crime.

**Table 3.4(a)**

**Educational Level of Literate Women Prisoners**

<table>
<thead>
<tr>
<th>Qualification</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to Middle</td>
<td>47</td>
<td>21.7</td>
</tr>
<tr>
<td>Up to Secondary</td>
<td>28</td>
<td>13.0</td>
</tr>
<tr>
<td>Graduate</td>
<td>7</td>
<td>3.2</td>
</tr>
<tr>
<td>Post-graduate and Other</td>
<td>9</td>
<td>4.2</td>
</tr>
<tr>
<td>Total</td>
<td>91</td>
<td>42.1</td>
</tr>
</tbody>
</table>

**Figure 3.4 Educational Levels of Women Prisoners**
The figures given in the table 3.4 (a) further reveals that out of 42.1 percent literate women prisoners, 21.7 percent had education up to middle, 13.0 percent up to secondary, only 3.2 percent were graduate, and 4.2 percent were postgraduate or diploma holder respectively. Thus, among the literate women prisoners, those women who have education up to secondary were more involved in crime, whereas graduate and postgraduate women were less inclined towards crime.

3.1.5 Employment Status of Women Prisoners

In order to know the economic status of women prisoners’ occupation of both the women prisoners and their husbands are considered.

Occupation refers to a set of activities which a person performs in order to earn livelihood. Occupation is an important determinant of one’s economic status. Lower and upper economic status of a person depends upon his/her occupational activity. Question often arises

Do people of lower economic status commit more crime than people of higher economic status? Studies of the economic status of criminals have indicated that the lower economic class has a much higher crime rate than the upper economic class. Herman Mannheim has brought into focus the importance of economic factors in the causation of crime. According to him, poverty contributes both directly and indirectly to the commission of crime. However, Poverty alone may not be a direct cause of all the economic crimes but it does produce the other conditions most conducive to crime such as feeling of frustration, inadequacy and emotional insecurity which often plays a dominant role in giving rise to the criminal tendency. It may also be highlighted that a number of theories relating to the causation of crime are based on the Marxist theory emphasizing that all human behavior is determined by economic factors. William Aldrain Bonger also adopted the same approach in explaining the phenomena of crime. He opined that the criminal was a product of the capitalistic system which created selfish tendencies. In such a system each person tries to get the maximum from others in return of the minimum from him/her. Thus, Bonger identifies many evils in the capitalist system which are responsible for the spread of criminal behavior.¹²

Table 3.5

Employment Status of Women Prisoners before Conviction

<table>
<thead>
<tr>
<th>Employed</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>96</td>
<td>44.4</td>
</tr>
<tr>
<td>No</td>
<td>113</td>
<td>52.3</td>
</tr>
<tr>
<td>No Response</td>
<td>7</td>
<td>3.3</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

According to the data given in the table 3.5, 52.3 percent women prisoners reported that they were not employed before conviction, they were housewives, 44.4 percent had employment at the time of crime, whereas 3.3 percent women prisoners did not give the response.

Table 3.5 (a)

Occupation-Wise Distribution of Women Prisoners

<table>
<thead>
<tr>
<th>Occupation</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government or Private Job</td>
<td>20</td>
<td>9.2</td>
</tr>
<tr>
<td>Self Employed/Business</td>
<td>19</td>
<td>8.8</td>
</tr>
<tr>
<td>Daily Wager</td>
<td>49</td>
<td>22.7</td>
</tr>
<tr>
<td>Others</td>
<td>8</td>
<td>3.7</td>
</tr>
<tr>
<td>Total</td>
<td>96</td>
<td>44.4</td>
</tr>
</tbody>
</table>
Figure 3.6: Occupation of Women Prisoners before Conviction

Table 3.5(a) contains information about occupation of employed women prisoners which reveals that out of 44.4 percent employed women prisoners, 22.7 percent were working as daily wagers, 9.2 percent were doing either government or private job, 8.8 percent were self employed and rest 3.7 were employed in other occupations. Out of employed women prisoners majority were working as daily wagers at the time of crime.

3.1.6 Occupation of Husbands of Married Women Prisoners

Table 3.6

<table>
<thead>
<tr>
<th>Occupation of the Husband</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daily Wager</td>
<td>56</td>
<td>25.9</td>
</tr>
<tr>
<td>Agricultural or Industrial Labour</td>
<td>33</td>
<td>15.3</td>
</tr>
<tr>
<td>Government or Private job</td>
<td>21</td>
<td>9.7</td>
</tr>
<tr>
<td>Petty business</td>
<td>32</td>
<td>14.8</td>
</tr>
<tr>
<td>Illicit occupation/NRI</td>
<td>4</td>
<td>1.8</td>
</tr>
<tr>
<td>Unemployed</td>
<td>6</td>
<td>2.8</td>
</tr>
<tr>
<td>Unknown</td>
<td>9</td>
<td>4.2</td>
</tr>
<tr>
<td>Total</td>
<td>161</td>
<td>74.5</td>
</tr>
</tbody>
</table>
Figure 3.7: Occupation of Husbands of Women Prisoners’

Data given in the table 3.6 shows that, 25.9 percent women prisoners’ husbands were working as daily wagers, 15.3 percent as an agricultural or industrial laboures, 14.8 percent’s were doing petty business, 9.7 percent’s were doing either government or private job, 1.8 percent’ husband were either NRI or involved in illicit occupation, 2.8 percent’s husband’s were unemployed and 4.2 percent women prisoners had no information about their husband’s occupation at the time of crime.

Following findings were retrieved by the researcher from the analysis of the socio-economic profile of women prisoners that

- Majority of women prisoners (30.6%) were from the middle age group.
- Majority of women prisoners (52.8%) were found to be belong to Sikh religion.
- Large numbers of crime were committed by the married women prisoners (74.5%) as compared to the unmarried, widows and divorcees.
- Illiterate women prisoners (57.9%) have showed the higher tendency to commit the crime as compared to the literate women prisoners.
- Out of the literate women prisoners, (21.7%) women who had education upto middle standard were more inclined to crime.
• Majority of women prisoners (52.3%) were housewives at the time of crime.
• Out of employed women prisoners, majority (22.7%) were working as the daily wagers at the time of crime.
• Large number of married women prisoners (25.9%) husbands were working as the daily wager at the time of crime.

PART II

3.2 CRIMINAL PROFILE OF WOMEN PRISONERS

Female crime, by definition, refers to the crime committed by women. Historically, women’s crime has not been treated with the same seriousness as men’s crime and men has always been seen as the “real” offenders. This perception is attributed to the fact that women generally commit few crimes than men and women’s crime tend to be less serious in nature.

In order to understand the problems arise from the imprisonment of women it is first necessary to gain an understanding of women’s criminality, that is, the nature and extent of female crime.

Therefore, Criminal profile of women prisoners who were surveyed for the purpose of this study analyzed in terms of:

(i) Crimes Committed by Women Prisoners
(ii) Term of Imprisonment
(iii) Victim-Prisoner Relationship
(iv) Acceptance to Crime
(v) Reason for Commission of the Crime,
(vi) Pattern of Crime (Whether the crime was committed alone or in group)

By studying the female crime an insight can be gained into the factors that might cause the female to deviate from the path of normal, acceptable, and law abiding behavior. By examining the female crime, possible solution and preventive measures in

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15 Ibid.
dealing with the female crime can be developed. Examination of female crime can also aid and assist in rehabilitative measures for the female criminals.\footnote{Ibid.}

### 3.2.1 Crimes Committed by the Women Prisoners’

Crimes committed by the women prisoners are divided into two parts:

(i) Offences committed under Indian Penal Code.

(ii) Offences committed under Special Local Laws.

Offences committed under Indian Penal Code are further divided into two parts:

1. Offences committed against Person in which physical harm done to the victims.
2. Offences against Property/Documents/Property Marks in which both economic and bodily harm done to the victims.

#### Table 3.7

**Type of Crimes Committed by Women Prisoners**

<table>
<thead>
<tr>
<th>Type of crimes</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Offences Against Person</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Murder (302 IPC)</td>
<td>77</td>
<td>35.6</td>
</tr>
<tr>
<td>Dowry Death (304-B)</td>
<td>47</td>
<td>21.7</td>
</tr>
<tr>
<td>Abetment to Suicide (306 IPC)</td>
<td>8</td>
<td>3.7</td>
</tr>
<tr>
<td>Attempt to Murder (307 IPC)</td>
<td>7</td>
<td>3.3</td>
</tr>
<tr>
<td>Attempt to Commit Suicide (309 IPC)</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Causing Miscarriage without Women’s Consent (313 IPC)</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Voluntarily Causing Grievous Hurt (326 IPC)</td>
<td>2</td>
<td>0.9</td>
</tr>
<tr>
<td>Kidnapping and Abduction in Order to Murder (364 IPC)</td>
<td>3</td>
<td>1.4</td>
</tr>
<tr>
<td>Kidnapping, Abducting or Inducing her to Marry (366/376 IPC)</td>
<td>6</td>
<td>2.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>152</strong></td>
<td><strong>70.3</strong></td>
</tr>
<tr>
<td><strong>Offences Against Property/ Relating to Documents &amp; Property Marks</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cheating (420 IPC)</td>
<td>5</td>
<td>2.3</td>
</tr>
<tr>
<td>House Trespass (452 IPC)</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Theft (378)</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Counterfeiting Currency or Bank Notes</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Robbery (390 IPC)</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>9</strong></td>
<td><strong>4.2</strong></td>
</tr>
<tr>
<td><strong>Special Local Laws</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NDPS</td>
<td>49</td>
<td>22.7</td>
</tr>
<tr>
<td>Indian Passport Act</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Arms Act</td>
<td>1</td>
<td>1.0</td>
</tr>
<tr>
<td>s. 138, Negotiable Instrument Act.</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Medical Termination of Pregnancy Act</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td><strong>15(3)MCI</strong></td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>55</strong></td>
<td><strong>25.5</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>216</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
Figures given in the table 3.7 pointed out that majority of women prisoners 74.5 percent committed the offences under Indian Penal Code, 25.5 percent committed the offences under special local laws. Out of 74.5 percent women prisoners who had committed offences under Indian Penal Code 35.6 percent committed murder, 21.7 percent committed dowry deaths, 3.7 percent committed abetment to suicide, 3.3 percent committed attempt to murder, 2.8 percent involved in kidnapping, abducting or inducing her to marry, 1.4 percent committed kidnapping and abduction in order to murder, 1.0 percent voluntarily causing grievous hurt and rest 1.0 percent were convicted for attempt to commit suicide and causing miscarriage without women’s consent and 4.2 percent committed the offence against property, relating to documents and property marks.

Further in the category of property offences, out of total 4.2 percent women prisoners convicted for property offences, 2.3 were involved in cheating with other person, 1.9 percent committed the house trespass, theft, robbery and consisting of fake currency notes.

In the category of offences under special local laws, out of 25.5 percent women prisoners convicted for the offences under special local laws, 22.7 percent committed
the offences under Narcotic Substance and Prohibited Substances Act (NDPS), rest 2.9 percent committed the offences under Indian Passport Act, Arms Act, Negotiable Instrument Act, Medical Termination of Pregnancy Act and under Sec. 15(3) of Medical Council of India. The nature of crimes committed by the women prisoners implied that the majority of women prisoners had committed the crime under Indian Penal Code.

3.2.2 Term of Imprisonment

Table 3.8
Distribution of Women Prisoners according to their Term of Imprisonment

<table>
<thead>
<tr>
<th>Term of Imprisonment (In Years)</th>
<th>No. of Prisoner</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1</td>
<td>5</td>
<td>2.3</td>
</tr>
<tr>
<td>1 to below 5</td>
<td>30</td>
<td>13.9</td>
</tr>
<tr>
<td>5 to below 10</td>
<td>39</td>
<td>18.1</td>
</tr>
<tr>
<td>10 to below 15</td>
<td>54</td>
<td>25.0</td>
</tr>
<tr>
<td>15 to below 20</td>
<td>3</td>
<td>1.4</td>
</tr>
<tr>
<td>20 and Imprisonment for Life</td>
<td>85</td>
<td>39.3</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>
Data given in the table no. 3.8 specify that out of total 216 women prisoners who were interviewed, 39.3 percent were sentenced for 20 years and life imprisonment, 1.4 percent were convicted for within 15 to 20 yrs, 25 percent convicted for within 10 to 16 yrs, 13.9 percent convicted for below 5 yrs and 2.3 percent were awarded punishment less than 1 yr.

3.2.3 Victim-offender Relationship

Looking at the victim-offender relationship which also directs attention to the social interaction between victim and offender as a factor preceding a crime and to the way in which victims’ sometimes present opportunities to potential offenders by making themselves vulnerable\(^\text{17}\) In order to know the victim-offender relationship, Victim-offender relationship is divided into five parts:

(i) Victims from Prisoner’s Family of Procreation
(ii) Victim from Prisoner’s Family of Orientation
(iii) Relatives
(iv) Others (v) strangers

<table>
<thead>
<tr>
<th>Table 3.9</th>
<th>Victim-Offender Relationship</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relation of Prisoner with the victim</td>
<td>No. of Prisoners</td>
</tr>
<tr>
<td><strong>Family of Procreation</strong></td>
<td></td>
</tr>
<tr>
<td>Daughter-in-law</td>
<td>49</td>
</tr>
<tr>
<td>Husband</td>
<td>20</td>
</tr>
<tr>
<td>Mother-in-law</td>
<td>3</td>
</tr>
<tr>
<td>Father-in-law</td>
<td>3</td>
</tr>
<tr>
<td>Sister-in-law</td>
<td>11</td>
</tr>
<tr>
<td>Brother-in-law</td>
<td>4</td>
</tr>
<tr>
<td>Children</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>96</strong></td>
</tr>
<tr>
<td><strong>Relative</strong></td>
<td></td>
</tr>
<tr>
<td>Brother’s wife</td>
<td>1</td>
</tr>
<tr>
<td><strong>Others</strong></td>
<td></td>
</tr>
<tr>
<td>Neighbor</td>
<td>30</td>
</tr>
<tr>
<td>Villager</td>
<td>4</td>
</tr>
<tr>
<td>Patient</td>
<td>2</td>
</tr>
<tr>
<td>Landlord/tenant</td>
<td>4</td>
</tr>
<tr>
<td>Student</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>41</strong></td>
</tr>
<tr>
<td>Stranger</td>
<td>51</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>216</strong></td>
</tr>
</tbody>
</table>

From the table 3.9 it is found that 44.4 percent victims were from the family of Procreation, 26.4 percent victims were neither from family of procreation nor from family of orientation, they were neighbors’, villager, patient, landlord/tenant or students, whereas 31.0 percent were the strangers.

Further out of 44.4 percent member of family of procreation, in 22.7 percent cases victims were daughter-in-law, in 9.3 percent cases victims were husbands, in 9.3 percent cases victims were mother-in-law (1.4 percent), father-in-law (1.4 percent), sister-in-law (5.1 percent), brother-in-law (1.8 percent) and in 2.8 cases victim were children.

In 0.5 percent case victim was from the family of orientation was brother’s wife and in 5.0 cases victim was either from the side of family of procreation or family of orientation.

In the category of other victims, out of 26.4 percent victims, in 13.9 percent cases victims were neighbours, 1.8 percent victims were villagers, 1.0 percent victim were patient, 1.8 percent victims were either landlord or tenant, in 0.5 percent victim was the student.

3.2.4 Acceptance to Crime

Table 3.10

<table>
<thead>
<tr>
<th>Commission of Crime</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>7</td>
<td>3.20</td>
</tr>
<tr>
<td>No</td>
<td>114</td>
<td>52.80</td>
</tr>
<tr>
<td>No Response</td>
<td>95</td>
<td>44.00</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>
Figure 3.10: Acceptance of crimes by women prisoners

About the acceptance to crime, data given in the table 3.10 shows that 52.8 percent women prisoners responded that they did not commit the crime, 3.2 percent accepted the commission of crime, whereas 44.0 percent women prisoners refused to say anything whether they had committed the crime or not.

3.2.5 Reasons for Commission of Crime

Table 3.11

Distribution of Women Prisoners According to Reason of Crime

<table>
<thead>
<tr>
<th>Reason for Crime</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>In self-defense</td>
<td>2</td>
<td>0.90</td>
</tr>
<tr>
<td>Accidentally</td>
<td>43</td>
<td>19.90</td>
</tr>
<tr>
<td>No Response</td>
<td>171</td>
<td>79.20</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

About the motive behind the commission of crime, data in the table 3.11 specify that majority of women prisoners 79.2 percent refused to say anything about the motive, 19.9 percent women prisoners held that crime was committed accidentally, they had no intention to commit the crime. Only 0.9 percent accepted that they committed the crime in self defense.
3.2.6 Pattern of Crime

Table 3.12

Distribution of Women Prisoners According to Help in Crime

<table>
<thead>
<tr>
<th>Method of Crime</th>
<th>No. of Prisoners</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alone</td>
<td>52</td>
<td>24.1</td>
</tr>
<tr>
<td>In Association</td>
<td>154</td>
<td>71.3</td>
</tr>
<tr>
<td>No Response</td>
<td>10</td>
<td>4.6</td>
</tr>
<tr>
<td>Total</td>
<td>216</td>
<td>100</td>
</tr>
</tbody>
</table>

About the pattern of crime it is clear from data given in above table 3.12 that the majority of women prisoners, 71.3 percent committed the crime in the company of others which means that in 71.3 percent women prisoners played the role of accomplices with the main culprit, 24.1 percent women prisoners committed the crime alone which means that in 24.1 percent cases they were main culprits, whereas 4.6 percent women prisoners refused to tell whether the crime was committed individually or in the company of others.

FINDINGS

From the above analysis of the criminal profile of women prisoners the researcher retrieved the following findings:

- Majority of women prisoners (74.2 %) had committed the crimes under the Indian Penal Code.
- Majority of the women were convicted for three offences murder (35.6%), dowry deaths (21.7%), Offences under NDPS Act (22.7%). Therefore it can be held that murder, dowry death and offences under NDPS Act are the major causes of women’s imprisonment.
- Majority of women prisoners (39.3%) were convicted for 20 years and imprisonment for life.
- Majority of victims (44.4%) were from the women prisoners’ family of procreation which means that majority of victim was already known to women prisoners.
• Majority of women prisoners (52.8%) refused to accept the commission of the crime. According to them, they were falsely implicated by the police.
• Majority of women prisoners (71.3%) committed the crime in the convenience of other.
• Majority of women prisoners (79.2%) refused to disclose the reason for the commission of the crime.
CHAPTER 2

RIGHTS OF WOMEN PRISONERS: A LEGAL PERSPECTIVE

In the days when the entire purpose of the imprisonment was punishment, the rights of the offender seemed unimportant. This was so because he/she seldom returns to the community, neither he/she nor his/her family would like to complain that his/her right has been infringed because it was believed that a prisoner had no fundamental rights. As the philosophy of penology moved towards rehabilitation and reintegration, however, the complete deprivation of rights became intolerable.\(^1\) The significance of human rights available to the prisoners beyond the deprivation of liberty has been clearly spelled out in the national, international and regional human rights instruments. Today the real difficulty is not so much concerned with what right prisoners have but what obligations rest on the authorities to ensure those rights because prisoners are often placed in a position where they are helpless to protect themselves from assaults, attacks or other crimes often far worse than those crimes for which they were convicted. Prisoners wholly depend on prison authorities for almost all of their day-day-day needs. As the assurance of a human right to a free individual often only demands that the state does not breach the right, in case of prisoners this usually require that the authorities should actively shape the pre-conditions which the prisoners can actually enjoy the right. Thus, beside negative obligations such as obligation not to torture detainees, prison authorities have positive obligations to provide such living conditions so that prisoners can have their other rights. Endorsing above philosophy\(^2\) The Human Rights Committee has issued a General Comment on *Humane treatment of persons deprived of liberty* in which it spells out the obligation to ensure humane treatment of prisoners and respect for their inherent dignity, clarifying that States have:

> a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty. Treating all persons deprived of their liberty

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with humanity and with respect for their dignity is a fundamental and universally applicable rule. Consequently, the application of this rule, as a minimum, cannot be dependent on the material resources available in the State party. Therefore, accordingly in this chapter now a closer look will be taken at a variety of specific human rights protections available to women prisoners and correlating positive obligation of the state concerning women prisoners under National, International, and Regional perspectives.

2.1 RIGHTS OF PRISONERS

Prisoners can have two types of rights:

- **Substantive Rights**: Substantive rights are those rights created and defined by statute like Indian Penal Code, Prison Act, which are available to prisoners under statues enacted by the government.

- **Procedural Rights**: Procedural rights are those rights generally classified under the concept of due to “Due Process Clause”\(^3\) When a person is entitled to due process of law it means that there are certain rules and the procedure that the state must follow.

Essentially, the substantive law defines the rules by which all members of society must play. While procedural law defines the rules by which the Government must play while dealing with a citizen’s liberty.\(^4\)

Although Indian constitution has no “Due Process Clause” or the “VIII Amendment”, but after cooper\(^5\) and Maneka Gandhi\(^6\) case, consequence is the same and added that article 21 is the counterpart of the procedural due process in the United States. For what is punitively outrageous, scandalizing, unusual or cruel and rehabilitative counter productive, is unarguably unreasonable and arbitrary and is short down by art 19 and if inflicted with procedural unfairness, falls foul of article 21. Part III of the Constitution does not part company with the prisoner at the gates and judicial

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4 Ib id.


oversight protects the prisoner’s shrunken fundamental rights. If flouted, flowed upon or frozen by the prison authorities.\(^7\)

2.2 NATIONAL PERSPECTIVE WITH REFERENCE TO WOMEN PRISONERS

Under the National perspective researcher has discussed those rights which are expressly recognized under the Indian laws governing prisons with the corresponding duties of the prison staff and other officers of the criminal justice system.\(^8\)

2.2.1 The Prisons Act, 1894

The Prison Act 1894 is a central act providing for regulation of prisons almost throughout India. This act defines the duties or prison officers including medical officers, admission, removal and discharge of prisoners, food, clothing and bedding and different categories of prisoners as well as issues relating to their health and employment while in prison.\(^9\) The following sections of the act specifically deal with women prisoners to protect them against the abuse or torture.

- **Search and Examination by Female Staff**

  Women prisoners are more vulnerable to abuse. Therefore, in order to protect their dignity and privacy, act requires that search and examination of women prisoners should be carried out by matron under the general or special orders of the medical officer on their entry into prison.\(^10\)

- **Separate Accommodation for Women Prisoners**

  Women prisoners should be kept in separate buildings so that no business could takes place between men and women prisoners.\(^11\)

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\(^10\) S. 24 of *The Prison Act 1894*.

\(^11\) *Id.*, S. 27.
• Protection against Imposition of Instrument of Physical Restraint

Act strictly prohibited the imposition of handcuffs, fetters and whipping on women prisoners for any prison offence.\textsuperscript{12}


Punjab Jail Manual 1996\textsuperscript{13}, included forty two chapters, eleven hundred and sixty rules, twenty supplementary appendices and a comprehensive index. All the rules framed in the manual are under the authority of section 59 of the prison act, 1894. This manual is made equally applicable to both male and female offenders and prisoners.\textsuperscript{14} The manual contains the following protective provisions to be followed by prison staff in the treatment of the women prisoners.

• Right against the Use of Instrument of Restraint

In order to protect from torture, manual strictly prohibits the imposition of handcuffs on women prisoners.\textsuperscript{15}

• Right to Search by Female Warder on Admission

In order to protect the dignity of women prisoners the search and examination of women prisoners should be carried out by the female warden under the general or special orders of the medical officers.\textsuperscript{16}

• Classification of Female Prisoners

For the purpose of treatment, female prisoners should be classified into different categories on the basis of sex, age, condition of health, criminal record, the legal reason for their detention and kept in separate institutions or annexure and units for the purpose of their treatment.\textsuperscript{17}

\textsuperscript{12} Id., S. 46.
\textsuperscript{13} A jail manual is a ‘Digest of Rules and Regulations Governing Prisons and Prisoners’.
\textsuperscript{14} Paramjeet Singh, “Jail and other Institution for Female Offenders and Desirability and Extent of Protection to them Against the Keepers of these Institutions: Exploitation of Female Offenders”, Amritsar Law Journal, 1989, p. 130.
\textsuperscript{15} Para 356 of the Punjab Jail Manual 1996.
\textsuperscript{16} Id., para. 496, 400 (6).
\textsuperscript{17} Id., para. 495, 496.
- **Separate Accommodation for Women Prisoners**
  
  Women prisoners are vulnerable to physical abuse. Therefore manual requires that women prisoners should be kept in separate institutions or annexure, so that no business can takes place between male prisoners and them.\(^{18}\)

- **Protection against Exploitation**
  
  The task and time of labour imposed on female prisoners should not be in excess of two-third of maximum task and time for hard labour and medium labour respectively prescribed in respect of adult male convict: provided that the time occupied in education/vocational training activities should found as week period.\(^{19}\)

- **Facility of Conveyance for Female Prisoners**
  
  While traveling by road during transfer from one jail to other, female prisoners should provide separate conveyance and their transfer should takes place only during the day.\(^{20}\)

- **Commutation and Postponement of Death Sentence**
  
  In case the female prisoner sentenced to death found pregnant, high court must either postpone the execution of death sentence or commit the sentence to imprisonment for life.\(^{21}\)

- **Provision for Extra Diet for Female Prisoners**
  
  Nursing mothers admitted to jail with her child should provide extra diet in addition to the ordinary diet given to female prisoners.\(^{22}\)

- **Safeguards for Female Prisoners Sentenced to Death**
  
  Female prisoners sentenced to death:

  (i) Should be guarded by the female warden without baton.

\(^{18}\) Id, para. 498.

\(^{19}\) Id, para 614.

\(^{20}\) Id, Para 681.

\(^{21}\) Id, Para 776.

\(^{22}\) Id, Para 820.
(ii) Their search should be conducted by the matron or a female warden without the presence of male officials.

(iii) Handcuffs should not be imposed on them when allowed into the cell-yard.23

- **Right to Medical Care and Treatment**

  (i) In respect of sick female prisoners, it is the duty of the female warden to call the attention of the medical officer to every female prisoner who complains of being or appears to be ill.

  (ii) To satisfy heresy that sick female prisoner is getting special diet as prescribed for her by the medical officer.24

2.2.3 **Punjab Prisoner (Attendance in Courts) Rules, 1966**

These rules were framed by the government in exercise of the powers conferred by section 9 of the prisoners (Attendance in courts) act, 1955 which provides rules and procedure for the attendance in courts of persons confined in prisons for obtaining their evidence or for answering a criminal charge. It provides following protections to Women Prisoners.

- **Prohibition of Imposition of Instruments of Restraints**

  (i) These rules prohibit the imposition of handcuffs on female prisoners when traveling by rail or road unless it is essential to prevent the escape, violence or suicide.25

  (ii) If in any case handcuffs are imposed, on female prisoners the senior police officer should record the reasons in writing at headquarter.26

- **Separate Guard for Female Prisoners**

  It further provides that when female prisoners are produced in courts they should sent along with separate guards instead of ordinary hawalat guards in order to protect them from harassment.27

23 Id, Para 770.
24 Id, Para 221.
26 Id Rule 10(b) (3).
27 Id Rule 17.
2.2.4 The Punjab Good Conduct Prisoners’ (Temporary Release) Rules, 1963

The Punjab Good Conduct Prisoners’ (Temporary Release), Rules, 1963 were framed in the exercise of power under section 10 of the Punjab good conduct prisoners (temporary release) act, 1963, which empowers the state government to frame rules by notification for carrying out the purposes of the act. Thus, these rules provide procedure for the temporary release of prisoners for good conduct.

- **Release of Women Prisoners**

  This rule provides that when a female prisoner temporary released under the Punjab Good Conduct Prisoners’ (Temporary Release) Act, she should be transferred to the jail nearest to place which she want to visit during her temporary release. It is the duty of the superintendent of the jail from which she is transferred to inform her family members as she specify about the.

(i) Date of her release

(ii) Jail from which she is to be released.\(^{28}\)

2.2.5 Punjab Police Rules, 2011

The truth that human personality is inviolable and that all human beings what ever their rank or status in society have a right to live with dignity is the fundamental Principle underlying all laws concerned with human rights in any free democratic society. India shares this belief with all the nations who are parties to the Universal Declaration of Human Rights. The founding fathers of the India attached the great importance to human rights and accorded them a high place in the Constitution. But in a lawless society, where violence prevails, the human rights of individuals and of groups are likely to be trampled on or, at the very least, ignored. State can protect and promote the human rights of its citizens only if there is maintenance of law and order in society. Thus, maintenance of law and order, to protect the human rights of every person is of prime importance to any Government.\(^{29}\)

\(^{28}\) *Id Rule 8.*  
The primary institution on which state lies for maintenance of law and order is police.\(^3^0\) Police, are duty bound to create and maintain an environment of peace and order within which legitimate individual and groups ends may be pursued. In carrying out these duties effectively, the police have been given responsibilities and powers, while exercising these powers, police are required to examine their own methods and behaviors in order to respect the Constitutional commitment to the individual’s fundamental rights and to ensure that the protectors of human rights do not become its major violators.\(^3^1\)

Thus, in order to achieve these ends and to make police more accountable towards society and to bring the transparency in the work of the police, on the recommendations of the Supreme Court, the State of Punjab has enacted a new Punjab Police Act, 2007 and framed the Punjab Police Rules, 2011 under the act, in order to replace the around 79 year old Punjab Police Rules, 1934.

Under Chapter 20, entitled “Human Rights” of the Rules, Police are expected, whenever they encounter women, to follow the following rules.\(^3^2\)

- Women should be shown special treatment to respect their gender dignity and social status wherever they interact with the police system whether as complaints, victims, accused, witness or as prisoner.
- Separate prisons, police lockups, correctional centers and separate courts should be established, exclusively to deal with women.
- The police, prison, correctional and judicial personal dealing with women should be specifically trained to handle their gender-specific needs.
- Search and interrogation of women should be carried out according to strict standards of decency. Women prisoners should be escorted by women police officers.
- Basic amenities such as food, clothing, bedding, water, medicines, sanitary needs and privacy must be provided to women prisoners.

\(^3^0\) Ibid.
\(^3^1\) Ibid.
\(^3^2\) Punjab Police Rules, 2011 retrieved from www.punjabpoliceindia.org as visited on 5-7-2013.
2.2.6 Indian Penal Code, 1860

Custodial Violence is anathema in any civilized society. It is a matter of concern and is aggravated by fact that it is committed by persons who are supposed to be protectors of the citizens. It is strange and astonishing that custodial crimes are always committed under the shield of uniform and within the four walls of a police station or lock-up and prisons the victim being totally helpless.\(^{33}\)

United Nations Special Rapporteur on Torture held that: “Custodial violence against women very often includes rapes and other forms of sexual violence, such as treats of rape, touching, virginity testing, being stripped naked, invasive body searches, insults and humiliation of a sexual nature etc. It is widely recognized, including by former special Reporters on torture and by regional Juries prudence that rape constitutes torture when it is carried out by or at the instigation of a with the consent or acquiescence of public officials.”\(^{34}\)

In this regard in 1997 European Court of Human Rights in a case of custodial rape, acknowledged that: Rape of a detainee by an official of the state must be considered to be an especially grave and abhorrent form of ill-treatment given the ease with which the offender can exploit the vulnerability and weakened resistance of the victim. Furthermore, rape leaves deep psychological scars on the victims which do not respond to the passage of time as quickly as other forms of physical and mental violence.\(^{35}\)

Custodial rape remains one of the worst forms of texture perpetrated on women by law enforcement personnel. Such sexual assault by the custodian of law on the helpless woman has touched the collective consciousness of the society and resultant reaction force the government to insert the following sections 376-B, 376-C and 376-D were inserted into the *Indian Penal Code, 1860* through the Criminal (Amendment) Act, 1983, in order to provide protection to women against custodial sexual abuse, not

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amounting to rape. Out of these three sections 376-B, 376-C and 376-D, section 376-C is relevant to the present study.

Section 376-C of the Indian Penal Code, 1860 Intercourse by superintendent of jail, remand home etc, this section provides “whoever, being the superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women’s or children’s institution taken advantage of his official position and induces or seduces any female inmate of such sexual intercourse not amounting to offence of rape, shall be punished with imprisonment.”

Under this section, the custodial sexual abuse not amounting to rape, is nevertheless made punishable because the statute proceeds on the premise that consent of women in custodial sexual act is a result of the abuse of the official position of a person, who is able to induce or entice the women into illicit sex outside lawful wedlock by holding out some allurement or other temptations which the women not in a position to refuse. Thus, this section of Indian Penal Code, 1860 provides protection to women prisoners against custodial sexual abuse. The Law Commission of India in its 135th report on “Women in custody” has considered this section 376-C fairly adequate so far as women in custody concerns.

2.2.7 The Criminal Procedure Code, 1973

The Criminal Procedure Code, 1973 also provides several human rights to arrested persons, to accused and to the convicted persons. Code provides following human rights protections to women prisoners which should be followed by authorities such as police, court or prison authorities, while dealing with them.

- **Release of Women Prisoners on Probation of Good Conduct**

  The code provides special protection to an accused who is under twenty years of age or any women (of any age) convicted of an offence not punishable with death or imprisonment for life.

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37 p. 135.23.

According to code, if no previous conviction proved against such convicted women, the court can order release on probation of good conduct and on entering into a bond to keep the peace. Further provides that while releasing on bond, the court should have in view the age, characters or antecedents of the offenders. The object of this section is to avoid sending the first offender prison for an offence, which is not of a serious character and thereby running the risk of turning him into a habitual criminal.

**Postponement of Execution of Death Sentence**

Section 416 of the Cr. P.C., 1973 empowers the high court to postpone the execution of death sentence awarded to a woman who is found to be pregnant at the time of execution. The high courts have been given the discretion to commute the death sentence to imprisonment for life. This provision is in consonance with the international covenant of civil and political rights, 1968.

**2.3 JUDICIAL APPROACH REGARDING THE RIGHTS OF PRISONERS**

India has a highly developed judicial system with the Supreme Court having plenary powers to make any order for doing complete justice in any cause or matter and there is a mandate in the Constitution to all authorities, civil and judicial, in the territory of India to act in aide of the Supreme Court. The scope of writ jurisdiction of the High Courts is wider than traditionally understood and the judiciary is separate and independent of the executive to ensure impartiality in administration of justice. The judiciary has a central role to play in this thriving democracy and shuns arbitrary executive action. The higher judiciary has been empowered to pronounce on the legislative competence of the law making bodies and the validity of a legal provision. The range of judicial review recognized in the higher judiciary in India is the widest and most extensive known to any democratic set up in the world. The rights recognized by the judiciary are binding on the state under Article 141 of the Constitution which

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40 *Id*, p. 694.
provides that the law declared by the Supreme Court shall be binding on all courts within the territory of India.\textsuperscript{42}

One of the important provisions of the Constitution of India is generally applied by the courts in Article 14 in which principle of equality disembodied. The rule that “like should be treated like” and the concept of reasonable classification as contained in Article 14 has been a very useful guide for the courts to determine the category of prisoners and their basis of classification in different categories.\textsuperscript{43}

Article 19 of the Constitution guarantees six freedoms to the citizens of India. Among these certain freedoms like “freedom of movement, freedom to reside and to settle” and freedom of profession, occupation, trade or business cannot be enjoyed by the prisoners because of the very nature of these freedoms and due to the condition of incarceration.\textsuperscript{44}

But other freedoms like “freedom of speech and expression” freedom to become member of an association” etc. can be enjoyed by the prisoner even behind bars and his/her imprisonment or sentenced has nothing to do with these freedoms. But these will be subjected to the limitations of prison laws.\textsuperscript{45}

Article 21 of the Constitution has been major centre of litigation as far as the prisoner’ rights are concerned. It embodies the principal of liberty. This provision has been used by the supreme court of India to protect certain important rights of prisoners. After Maneka Gandhi’s case\textsuperscript{46} this article has been used against arbitrary action of the executive especially the prison authorities.\textsuperscript{47}

The Supreme Court of India played an important role in carrying out the intentions of the founding fathers. The Supreme Court’s humanistic attitude helped in protecting the citizen’s most cherished rights not only this apex court viewed prisoners as human beings and from time to time delivered judgments protecting the fundamental


\textsuperscript{44} \textit{Ibid.}

\textsuperscript{45} \textit{Ibid.}

\textsuperscript{46} \textit{Maneka Gandhi v. Union of India AIR 1978 S.C. 597.}

rights of prisoners and directed state to provide adequate facilities to prisoners strongly advocated for prison reform. The inspiring idea behind adopting this trend may be the realization of the fact that: 48

Firstly, that criminals are made, not born, are curably human and not irredeemably brutish. Secondly, crime is disease and most criminals are a kind of psyche patients, such anti-social maladies must be headed by medico-legal recipes inside prisons or at centers ideologically adopted to kindle, no kill, the suppressed social being behind bars. Thirdly, judicially punitively must be conditioned by the philosophy of reform, not retribution but actually proved to be counter productive and finally medical humanism and clinical pragmatism not traditional legal torture or magic healer, plus the non-negotiable character of the quint-essential constitutional guarantees of human rights of sentences is the new testament of penology. 49 Thus because of these reasons the Supreme Court has very emphatically pointed out that:

“Convicts are not, by mere reason of the conviction, denuded of all the fundamental rights which they otherwise possess. A compulsion under the authority of law, following upon a conviction, to live in a prison–house entails by its own force the deprivation of fundamental freedoms like the right to move freely throughout the territory of India or the right to practice a profession. A man of profession would thus stand stripped of his right to hold consultation, while serving out his sentence. But the constitution guarantees other freedoms like right to acquire hold and dispose of the property for the exercise of which incarceration can be no impediment. Likewise, even a convict is entitled to the precious right guaranteed by article 21 of the constitution that he shall not be deprived of his life and personal liberty except according to procedure established by law.” 50

Like you and me, prisoners are also human beings. Hence, all such rights except those that are taken away in the legitimate process of incarceration still remain with the prisoner. 51

49 Ibid.
While dwelling at length on the mode of treatment of criminals in prisons, the principles of punishment and other allied matters the court stated, that the role of jail authorities should be that of doctors treating criminals as patients. Also held that it is the duty of the state to respect the personality in each prisoner in the light of the preamble to the Constitution and hoped that the state will not permit the colonial hangover of putting people behind the bars and afterwards forget about them. The court felt that an atmosphere should be created in jails which can help in changing the social behavior of the criminals, so that their proneness towards crime can be reduced.\textsuperscript{52}

If you treat a man like an animal, then you must anticipate him to act like one. For every action, there is a reaction. This is only human nature. And in order for an inmate to act like a human being you must trust him to as such. Treating him like an animal will only get negative results from him. You cannot spit in his face and expect him to smile and say thank you. And it will continue to grow until the prison officials learn that an inmate is no different than them, only in the sense that he has broken a law. He still has feelings, and he’s still a human being. And until the big wheels in Sacramento and the personnel inside the prison starts practicing rehabilitation, and stop practicing zoology, then they can expect continuous chaos and trouble between inmates and officials.\textsuperscript{53}

Supreme Court of India and different High Courts regarding prison reform since the early 1990’s has recognized a broad range of rights of the prisoners in the light of the human rights initiatives. Some of the important rights of the prisoners are like.\textsuperscript{54}

2.3.1 Prisoners’ Right against Handcuffing

In order to respect the human dignity of the prisoners, the court held that “handcuffing is \textit{prima facie} inhuman and, therefore, unreasonable, is over-harsh and at the first flush, arbitrary, absent fair procedure and objective monitoring, to inflict ‘irons’ is to resort to zoological strategies repugnant to Article 21”. In \textit{Citizen for Democracy}

\textsuperscript{52} Manoj Kumar, “Formulating a Pragmatic Policy for India: A Legal Perspective”, \textit{CILQ}, 2001, pp. 202-03.

\textsuperscript{53} \textit{Ibid.}

\textsuperscript{54} \textit{Ibid.}
through its President v. State of Assam\(^55\), the Supreme Court expressed serious concern over the violation of law laid down by the court in its earlier decisions against handcuffing of under-trial or convicted prisoners by police authorities. The court, therefore, laid down some directions for the strict implementation of the law against handcuffing. The court lay down the rule that handcuffs, or other fetters should not be forced on a prisoner, convicted or under-trial while lodged in a jail anywhere in the country or while transporting or in transit from one jail to another or from jail to court and back. The police and jail authorities, on their own, shall have no authority to direct the handcuffing of any inmate of a jail in the country or during transport from one jail to another or from jail to court and back. Further laid down that even in cases where in extreme circumstances, handcuffs have to put on the prisoners, the escorting authority must record contemporaneously the reasons for doing so. Otherwise, under Article 21 the procedure will be unfair and bad in law. The court directed all ranks of police and the prison authorities to meticulously obey the directions given in this case. The court further held that any violation of any rank of police in the country or member of jail establishment shall be summarily punishable under the contempt of courts apart from other penal consequences under law.\(^56\)

2.3.2 Prisoners’ Right against Solitary Confinement

When a person is sent to jail he loses all his contacts with the outside world. The question whether he could further be isolated from his fellow prisoners by putting him into a separate and solitary cell came up before the Supreme Court in Sunil Batra v. Delhi Administration,\(^57\) where solitary confinement was challenged as violative, \textit{inter alia}, of Article 21 of the constitution of India. The Supreme Court observed that, such solitary confinement of prisoners within the jail premises would be in violative of ‘Right to Personal liberty’ and Right to Privacy’ under article 21 of the constitution.

\(^{55}\) AIR 1996 S.C. 2193.


\(^{57}\) AIR 1978 S.C. 1675.
2.3.3 Prisoners’ Right to Human Treatment

In *Sanjay Suri v. Delhi Administration* 58 in order to provide human treatment to prisoners the apex court emphasized that the incharge of jail administration from top to bottom must develop the proper approach to deal with the prisoners and under-trials. It was pointed out that the jail administration must be made to generate a sense of humanism in the officials and those in the ranks below them so that prisoners should have direct contact with those officials in getting round to the right approach in life.

2.3.4 Prisoners’ Right to Minimum Living Conditions

*In Vikram Deo Singh Tomar v. State of Bihar* 59 the Supreme Court directed for renovation of care home buildings to provide amenities to inmates like living rooms, bath rooms, toilets etc. and also to provide them adequate water and electricity, cots for sleeping, blankets bed sheets and proper clothing. The courts also directed the care home superintendent to ensure the doctor’s visit to these care homes daily.

2.3.5 Prisoners’ Right to Legal Aid

The Supreme Court of India laid down the following “benign prescriptions” for free legal aid to prisoners to be followed by the lowest to highest court in the country where deprivation of life and personal liberty of a citizen is in substantial peril. 60

1. The court should forthwith furnish a free transcript of the judgment when sentencing person to prison term.

2. In the event any such copy being sent to the jail authorities for delivery to the prisoner by the appellate, revisional or other court the official concerned shall, with quick dispatch, get it delivered to the sentenced and obtain in written acknowledgement thereof from him.

3. Where the prisoner seeks to file an appeal or revision, every facility for exercise of the right shall be made available by the jail administration.

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58 1988, Cr.L.J. 705 (SC).
4. Where the prisoner is disabled from engaging a lawyer, on reasonable grounds, such as indigence or incommunido situation the court shall, if the circumstances of the case, the gravity of the sentence, and the end of the justice so require, assign competent counsel for the prisoner’s defence, provided party does not object to that lawyers.  

5. The state which prosecuted the prisoner and set in motion the process which deprived him of his liberty, shall pay to the assigned counsel such sum as the court may equitably fix.

6. If the prisoner sentenced to imprisonment is virtually unable to exercise this conditional and statutory right to appeal, inclusive of special leave to appeal for want of legal assistance, there is implicit in the court under Article 142 read with Article 21 and Article 39-A of the Constitution, power to assign counsel for such imprisoned individual for doing complete justice.

7. Prisoner/convict will be provided with free copy of judgment of session court or high court within 30 days of the pronouncement of judgment prisoner will be informed by jail superintendent about the availability of free legal aid and asked him whether he would his right to free legal aid. Judgment of session court or high court should be explained to the prisoner in the language as understood by him. Every jail will have to provide at the cost of the state exchequer copy of Vakatatnama Affidavit etc. in the form required by the High Court or Supreme Court.

2.3.6 Prisoners’ Right to be Interviewed

In Sunil Batra v. Delhi Administration the Supreme Court held that lawyers nominated by the District Magistrate, Session Judge, High Court and the Supreme Court will be given all facilities to interview, right to confidential communications with prisoners, subject to discipline and security considerations. Lawyers shall make periodical visits and report to the concerned courts results of their visits.

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65 *AIR 1978 S.C. 1675.*
2.3.7 Prisoners’ Right to Maintain Contact with the Outside World

While recognizing the importance of prisoner’s right to contact with their family members the supreme court of India has ruled in *Sunil Batra’s*, case held that visits to prisoners by family and friends are a solace in isolation, and only a dehumanized system can derive vicarious delight in depriving prison inmates of this humane amenity. Subject, of course, to search and discipline and other security criteria, the right to society of fellowmen, parents and other family members cannot be denied in the light of Article 19 and its sweep. Moreover, the whole rehabilitative purpose of sentences is to soften, not to harden and this will be promoted by more such meetings. A sullen, forlorn prisoner is a dangerous criminal in the making and the prison is the factory. There is no reason why the right to be visited under reasonable restrictions, should not claim current constitutional status. Subject to considerations of security and discipline, liberal visits by family members, close friends and legitimate callers, are part of the prisoners’ kit of rights and should be respected.

Similarly, the Supreme Court of India in the *Francis Coralie Mullin vs. The Administrators, Union Territory of Delhi* had stated that as part of the right to live with human dignity and therefore, as a necessary component of the right to life, a prisoner would be entitled to have interviews with the members of his/her family and friends and if any prison regulation or procedure laid down by prison regulation regulating the right to have interviews with the members of the family and friends is arbitrary or unreasonable, it would be liable to be struck down as invalid as being violative of Article 14 and 21 of the Constitution.

2.3.8 Prisoners’ Right to have Adequate Accommodation

In *S.P. Anand v. State of M.P.*, court held that a convict lodged in jail must have reasonable accommodation to live a healthy life and enjoy his personal liberty to the extent permitted by law.

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69 *Francis Coralie Mullin vs. The Administrators, Union Territory of Delhi* AIR 1981 S.C. 746.
70 AIR 2007, MP 167.
2.3.9 Prisoners’ Right against Torture and Custodial Violence

In *D.K. Basu’s case*[^71], Supreme Court held the principle that (i) Article 21 of the Constitution could not be denied to convicts except according to the procedure established by law (ii) any form of torture or cruel, inhuman or degrading treatment falls within the ambit of Article 21, whether it occurs during investigation or otherwise, monetary or pecuniary remedy is an appropriate and indeed effective and sometimes the only suitable remedy for redressal for established infringement of the fundamental right to life of the citizen by the public servants and the state vicariously liable for their act.

2.3.10 Prisoners’ Right to Leave and Special Leave

All the persons have right to apply for the temporary release from the prison on the specified grounds mentioned in the local act or jail manual, as the case may be. The Bombay high court held that release of furlough is a legal and substantial right of the prisoners and denial of the same must be based on material facts indicating that the same would disturb public peace and tranquility.[^72]

2.3.11 Prisoners’ Right to Judicial Remedy

In *Charles Sobraj v Superintendent Central Jail*,[^73] court held that imprisonment does not spell farewell to fundamental rights laid down under part III of the constitution. Prisoners retain all rights enjoyed by the free citizens except those lost necessarily as an incident of confinement. Therefore, it is court’s duty and authority to ensure that the judicial warrant which deprives a person of his life and liberty is not exceeded, subverted or stultified.

2.3.12 Prisoners’ Right to Parole and Furlough

In *Sharad Keshav Mehta v State of Maharashtra & others*,[^74] court held that a prisoner have the substantial and legal right to be released on furlough after having complied with the requirements of the rules framed for release of prisoners on furlough.

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[^73]: *AIR 1978, S.C. 1594.*
[^74]: MANU/MH/0054/1988 (Criminal WP NO. 376 of 1987)
2.3.13 Prisoners’ Right to Basic Human Needs

A Convict Prisoner in the Central Prison v State of Kerala\(^75\), court observed that while one does not expect life in prison to be the same in the free world, yet the human dignity of the prisoner must be maintained under all circumstances. Imprisonment may strip a person of certain facets of life, but he does not become a non-person and rights that human dignity requires and circumstances justify, must be granted to him. The court directed

- The state shall build sufficient number of prisons to accommodate prisoners.
- The state shall effectively implement segregation, keeping habitual offenders away from fresher’s, to avoid the possibility of hard core criminals turning jails into schools of crime.
- The state will take appropriate action to pay reasonable wages to prisoners, so that, motivation for work is generated.
- Sufficient provision will be made to segregate civil prisoners and military prisoners, from prisoners convicted of criminal charges.
- Proper arrangements will be made for escort of prisoners from jails to courts and back. A rational parole policy must be evolved by the state.
- Sanitary napkins which are not included in the clothing supplied to female prisoners, should also be supplied.
- Necessary facilities for the jail staff must be provided as a congenial working environment alone can ensure a contented service.
- Reservation of a nominal percentage of jobs for convict prisoners of good behaviour can be an incentive and it would be consistent with the concept of rehabilitation.
- Educational and recreational facilities, within reasonable limits may be provided in prisons.

\(^75\) 1993 Cr. L.J. 3242.
2.3.14 Prisons’ Right to Redressal of Grievances

To provide redressal of grievances, in *Madukar & Jambhale v State of Maharashtra & others,*76 the court directed the state and the prison staff that grievance deposit boxes should be maintained by or under the orders of the district magistrate and the session judge. On the question of the grievance redressal procedures, the court issued several directions such as grievance box should be kept at a conspicuous place inside the prison under lock and key, and key will remain exclusively with the district judge. Complaint registered should be maintained in prison office which shall contain the complaints found in grievance deposit box and action taken in respect of such complaints and for ventilating the legal grievance of prisoners judges should personally visit the jails situated in their jurisdiction. Lawyers should also be nominated to make visits to jails. In *Rama Murthy v. State of Karnataka,*77 the Supreme Court observed that, whenever a complaint is lodged by the prisoners against the torture or inhuman treatment meted out, the appropriate action against the delinquent must be taken immediately. Besides, the court also opined that the prisoners who lodge complaint should be properly protected from the jail authorities for having lodged a complaint. This clearly shows that, even a prisoner also has the right to lodge complaint against the jail authorities if they are subjected to third degree punishment or inhuman treatment.78

2.3.15 Right to Evoke the Writ of Habeas Corpus against Prison Authorities for Excesses

In *Sunil Batra (II) v. Delhi Administration,*79 the Supreme Court held that when every attempt to seek redress for one’s genuine complaint fails, the prisoner can straightaway appeal to the high court for the issuance of a writ of *Habeas Corpus.* This right would be available to any prisoner against any action of the jail authorities which is not commensurate with the sentence passed by the court or other actions expected of the prison authorities. If this action fails to bring in the required change, the prisoner can move petition to the Supreme Court for the protection of his fundamental rights. This is guaranteed fundamental right of every citizen under the constitution.80

76 1987 Mah LJ 68.
77 AIR 1997 S.C. 1739.
79 AIR 1980 3SCC 488 (522).
2.3.16 Prisoners’ Right to have Information about Rights

In order to make aware about rights available to prisoners in jails, in *Sunil Batra*’s Supreme Court of India ruled that the State Government should take steps to prepare in Hindi and other regional languages a Prisoner’s Handbook of Rights and circulate copies to be kept in prisons to bring legal awareness to the inmates. 81

2.3.17 Prisoners’ Right to Work

In *Hiralal Mallick v. The state of Bihar* 82, Justice Krishna Iyer laid the emphasis on the constructive and curative work with special reference to the needs of the prisoner on having a healing effect on the criminal for bringing a change in the personality. The mechanical chores and the soulless work done in prisons and the coercion in prison wardens may have counter effects therefore the courts directed to prescribe the reformatory type of work in Bihar prisons within the limits of the prison rules operative in the state. There must be humanizing atmosphere in jails. 83

2.3.18 Prisoners’ Right to Reformatory Programmes

The treatment of persons sentenced to imprisonment has to aim at establishing in them the will to lead law abiding and self supporting lives after their release and to enable them to do so. The treatment of prisoners through reformatory programmes has to be such as will encourage their self-respect and develop in them the sense of responsibility. Under this umbrella, prisoners have the right to education, counseling, learning of meaningful skills, vocational training, meditation, etc. 84

2.3.19 Prisoners’ Right against Fellow Prisoners

In *Kewal Pati v. State of U.P.* 85, about prisoners right to protection and security against their fellow prisoners, court held that it is duty of the prison authorities to ensure the life and security of the prisoners and that the killing of a prisoner by a co-prisoner would amount to a deprivation of life in violation of article 21. 86

81 *Id*, 109.
82 1977, S.C. (Cr.) 538.
85 1995 3SCC 660.
2.3.20 Prisoners Right to Security and Safety

In Sheela Barse v. State of Maharashtra\(^87\), while giving the answer to question, whether the prisoners should be provided with security and safety in the prison, the Supreme Court observed that, the prisoners too have the right to seek security and safety for life inside the jail and issued directions to all State Governments to provide adequate safety and security to all the prisoners including the women prisoners.\(^88\)

2.3.21 Women Prisoners’ Right to Pre-natal and Post-natal Care

In R.D. Upadhayaya Case v. State of Andhra Pradesh & others\(^89\), the Supreme Court issued the following guidelines for the Union Government, State Government, Union Territories and State Legal Services Authority to provide pre-natal and post-natal care to the women prisoners and directed them to submit a compliance report in four months.

- Before sending a pregnant woman to jail, the concerned authorities must ensure that jail in question has the basic minimum facilities for child delivery, as well as for providing adequate pre-natal and post natal care for both, the mother and the child.

- When a woman prisoner is found or suspected to be pregnant at the time of her admission or at any time thereafter, the lady medical officer shall report the fact to the superintendent.

- As soon as possible, arrangement shall be made to get such prisoner medically examined at the female wing of the District Government Hospital for ascertaining the state of her health, pregnancy, duration of pregnancy, probable date of delivery and so on.

- After ascertaining the necessary particulars, a report shall be sent to the Inspector General of Prisons, stating the date of admission, term of sentence, date of release, duration of pregnancy, possible date of delivery and so on.

\(^{87}\) AIR 1983 S.C. 378.
\(^{88}\) The Lawyers, May 1990, p. 5.
\(^{89}\) AIR 2006 S.C. 1946.
• Gynaecological examination of female prisoners shall be performed in the District Government Hospital.

• Proper pre-natal and post-natal care shall be provided to the prisoner as per medical advice.

**Child Birth in Prison**

• As far as possible and provided she has a suitable option, arrangements for temporary release/parole (or suspended sentence in case of minor and casual offender) should be made to enable an expectant prisoner to have her delivery outside the prison. Only exceptional cases

• Constituting high security risk or cases of equivalent grave description scan be denied this facility.

• Births in prison, when they occur, shall be registered in the local birth registration office. But the fact that the child has been born in the prison shall not be recorded in the certificate of birth that is issued. Only the address of the locality shall be mentioned.

• As far as circumstances permit, all facilities for the naming rites of children born in prison shall be extended.

**2.4 INTERNATIONAL PERSPECTIVES WITH REFERENCE TO WOMEN PRISONERS**

Under the International perspective, researcher has made an effort to review the rights available to women prisoners in the form of protections under both the general as well as the specific human rights instruments relating to prisoners.

**2.4.1 Universal Declaration of Human Rights, 1948**

Human Rights, by definition, belong to everyone, based on their humanity without regard to conduct and status. The key human rights documents are very clear in their statement of the intrinsic “dignity and worth of the human person and make no exception for those who have broken the law or otherwise violated the social contract. The significance of these rights to people deprived of their liberty is also clearly spelled out in the Universal Declaration of Human Rights 1948.⁹⁰

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Based on the 18th century principle of individual freedom and 20th century principle of liberal democracy, the Universal Declaration of Human Rights was adopted as a “common standard of achievement for all people and all nations to promote, respect for these rights and freedoms, to secure their universal and effective recognition and observe” provides that “No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.” The declaration contains not only civil and political rights but also the economic, social and cultural rights. About these rights, declaration reaffirms that “Everyone is entitled to all these rights and freedoms without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Though, Declaration legally non-binding in the beginning: but due to incorporation of human rights provisions in many national constitutions, frequent reference in United Nations resolutions and declaration to the “duty” of all states to observe faithfully the Universal Declaration of Human Rights, some decisions in various national courts that refer to the Universal Declaration as a source of standards for judicial decisions etc., it has become the foundation for establishing obligatory legal norms to govern international behavior with regard to rights of individuals. In respect of persons deprived of liberty the Declaration showed its concern for prisoners through some of its provisions. Article 6 incorporates the vital principle that everyone has the right to recognition everywhere as a person before the law, a principle signifies that a prisoner does not cease to be a “person” inside a jail and is, as such, entitled to receive a reasonably decent and civilized treatment in the prison.

### 2.4.2 International Covenant on Civil and Political Rights, 1966

Another key human right document is the International Covenant on Civil and Political Rights, 1966. It elaborates the civil and political rights set forth in the universal declaration of human rights. Right contained in the covenant applies to every human

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92 Article 5 of the Universal Declaration of Human Rights, 1948.
93 Id, Art. 2.
being except few. As it is a legally binding, the state parties to the covenant are obliged to undertake to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised under the covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion national or social origin, property, birth or other status.\textsuperscript{96} It also contains principle of non-discrimination that require the state to ensure the equal rights of men and women to the enjoyment of all civil and political rights set forth in the present covenant.\textsuperscript{97}

Covenant states that:

- All persons deprived of their liberty should not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty and that respect for the dignity of such persons must be guaranteed under the same conditions as far that of free persons.\textsuperscript{98}

- Convicted persons should be segregated from the accused persons and subjected to separate treatment appropriate to their status.\textsuperscript{99}

- For persons who are convicted, the prison system should not only be retributory but should focus on reformation and social rehabilitation of the prisoners.\textsuperscript{100}

- Death sentence should not carried on the pregnant women prisoners.\textsuperscript{101}

- Prisoners sentenced to death have right to seek pardon or commutation of the sentence.\textsuperscript{102}

\textbf{2.4.3 Convention against Elimination of All Forms of Discrimination against Women, 1970}\textsuperscript{103}

Besides these, basic human rights provisions, in order to implement the provisions contained in these basic human rights documents to eliminate all forms discrimination against women, in 1970, the United Nations adopted the Convention on

\begin{itemize}
\item \textsuperscript{96} Art 2 (1).
\item \textsuperscript{97} Art (3).
\item \textsuperscript{98} Art. 10(1) of \textit{International Covenant on Civil Political Rights 1966}.
\item \textsuperscript{99} Id, Art. 10(2)
\item \textsuperscript{100} Id, Art. 10(3).
\item \textsuperscript{101} Id, Art. 6(5).
\item \textsuperscript{102} Art. 6(4).
\item \textsuperscript{103} India is a signatory to CEDAW, (the convention on the elimination of the forms of discrimination against women, having ratified it on 256.1993 with two reservations which involves article 16(2) 29(1) of the conventions.
\end{itemize}
Elimination of All Forms of Discrimination Against Women. This convention is the important landmark in the journey towards realization of women’s rights in the world. It is often described as international bill of rights of women. This convention is the culmination of more than thirty years of work by the United Nations Commission on the Status of Women. The content and the structure of the convention have been shaped by both the international human rights movement and women’s movement so that its unique and almost revolutionary text reflects the major aims achieved by both of these movements in defining women’s human rights.

The convention in its Preamble expressed the concern that despite the efforts by the United Nations to eliminate discrimination against women, extensive discrimination against women continued to exist in the world.

With 30 Articles organized in six parts Convention defines the Discrimination against Women as “any an distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

The convention talks about discrimination of ‘effect’ and ‘purpose’ thus manifesting a comprehensive perception which covers both ‘direct’ or ‘indirect’ or ‘international’ and un-international forms of discrimination. The definition also makes it clear that any distinction, exclusion or restriction on the basis of sex that in any way obstructs women’s enjoyment of their human rights is discrimination. By specifically referring to all women’s right to full enjoyment of their human rights regardless of their marital status, considers different attribution of rights to ‘unmarried’ ‘married’ widowed’ women etc. as essential discriminatory.

Similarly, the Article’s references to not only political, economic, social, cultural and civil areas but also any other field’ renders the instruments responsive to any and all existing or future forms of discrimination thereby reflecting the progressive and expensive nature of the rights foreseen in the women’s convention.

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The convention recited, in potent language, what state parties’ needs to do in order to ensure elimination of discrimination against women. It obligates states to:105

1. Incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate measures prohibiting discrimination.

2. Establish tribunals and other public institutions to ensure the effective protection of women against discrimination.

3. Ensure elimination of all acts of discrimination against women by person, organizations and enterprises.

4. Repeal all national penal provisions which constitute discrimination against women.106

Convention against Elimination of All Form of Discrimination Against Women does not specifically refer to the situation of women deprived of their liberty. However, the human rights committee has affirmed that “Persons deprived of their liberty enjoy all the rights set forth in the covenant, subject to restrictions that are unavoidable in a closed environment.” The same applies with regard to the rights set forth in CEDAW; women in prison enjoy the same rights not to be subject to gender based discrimination as other women.107

The Human Rights Committee’s General Comment 28 gives guidance as to what non-discrimination against women requires for women in prison: as regard Article 7 and 10 states parties must provide all information relevant to ensuring that the rights of persons deprived of their liberty are protected on equal terms for men and women. In particular, states parties should report on whether men and women are separated in prison and whether women are guarded only by female guards. States parties should also report about compliance with the rule that accused juvenile female shall be separated

105 Art. 2 of CEDAW 1970.
from adults or on any difference in treatment between male and female persons deprived of liberty, such as, for example, access to rehabilitation and education programmes and to conjugal and family visits. Pregnant women who are deprived of their liberty should receive humane treatment and respect for their inherent dignity at all times surrounding the birth and while caring for their newly-born children; states parties should report on facilities to ensure this and on medical and health care for such mothers and their babies.\textsuperscript{108}

\subsection*{2.4.4 Declaration on the Elimination of Violence against Women, 1993}

The Declaration on the Elimination of Violence against Women (DEVAW) was adopted by the United Nations General Assembly in 1993. It was the first international human rights instrument adopted by the United Nations that specifically addresses the violence against women. DEVAW is the product of years of advocacy by non-governmental organizations and women’s group. Although not a binding treaty, it is applicable to all the members of the United Nations. Like other United Nations declarations, DEVAW is regarded as a source of international law. Declaration recognizes that violence against women violates women’s rights and fundamental freedoms and poses an obstacle to women’s social, economic and political equality. By using the term “violence against women”, the declaration addresses violence that is committed overwhelmingly by men against women. It defines the problem broadly and recognises that it encompass “gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women”. It includes violence that occurs primarily in the family, including battering, sexual violence, female genital mutilation, and other traditional practices harmful to women, as well as violence committed in the community, such as rape, sexual abuse, sexual harassment at work and in other institutions, trafficking in women, and forced prostitution.\textsuperscript{109} Therefore, it calls the states and the international community to take all appropriate measures to abolish existing laws, customs, regulations and practices which are discriminatory against

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\textsuperscript{108} Id., p. 7.
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women and to establish adequate legal protection for equal rights of man and women, in particular.

(a) The principle of equality of rights shall be embodied in the constitution or otherwise guaranteed by law.

(b) The international instruments of the United Nations and the specialized agencies relating to the elimination of discrimination against women shall be ratified or acceded to and fully implemented as soon as practicable.\(^{110}\)

Declaration goes on to require that states should: take measures to ensure that law enforcement officers and public responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them the needs of women.\(^{111}\)

All provisions of penal codes which constitute discrimination against women shall be repealed for the eradication of violence against women.\(^{112}\)

2.5 UNITED NATIONS INSTRUMENTS\(^{113}\) RELATED TO PRISONERS

The major contribution of the United Nations Crime Prevention and Treatment of Offenders has been the laying down of Standard Minimum Rules for Treatment of Prisoners which constitutes its major standard setting efforts in the area of criminal justice administration.


The International and Penitentiary Commission made an endeavour in 1929 to work out some important rules called standard minimum rules for the treatment of prisoners which could be uniformly applicable throughout the world when thousands of men especially women and children were tortured and killed in prison walls in a brutal manner. The first record of a concrete proposal of these Standards Minimum Rules was made to International Prison Commission at Berne on July, 1926. This proposal was

\(^{110}\) Article 2.
\(^{111}\) Art. 4, Para (1).
\(^{112}\) Article 7.
\(^{113}\) The term Instrument covers are the different documents held that embody human rights standards, legally binding treaties, covenants and conventions (hard law) as well as commitment expressed in declarations, resolutions, guiding principles, code of conduct etc.
well received by the commission. Eventually, a set of fifty-five rules was presented to the next IPPC congress held at Prague in 1930. After further studies a first draft was produced in 1933 and endorsed by the League of Nations. However, that attempt failed due to variation in geographical and political conditions of different countries. Subsequently in 1949, the United Nations convened a meeting of a group of experts to consider the problem of crime prevention and to frame standard minimum rules for this purpose. Consequently, a draft of standard minimum rules for the treatment of was submitted by the first congress on prevention of crime and treatment of offenders, United Nations organization Geneva in 1955, and approved by the UN Economic and Social Council in 1957.\(^\text{114}\)

These rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consequences of contemporary thought and the essential elements of the most adequate systems of today to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions. In view of the great variety of legal, social, cultural economic and geographical conditions of the world, it is evident that all the rules may not be capable of application in all places and at all time. They should, however, serve to simulate a constant endeavour to overcome practical difficulties in the way of their application in the knowledge they represent, as a whole, the minimum conditions which are accepted as suitable by United Nations. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole.\(^\text{115}\)

The standard minimum rules among the important principles it articulates are:

- **Separate Accommodation for Women Prisoners**

  In order to protect the inherent dignity of women prisoners, standards requires the states to provide separate institution for the women prisoners. Further, if due to non-availability of proper space male and female prisoners kept in same institution the


\(^{115}\) Ibid.
premises, where female inmates kept should be entirely separate so that no business can take place between the male and female. ¹¹⁶

- **The Standard Minimum Rules also include Special Requirement Covering Pregnancy, Children and Childcare**

  It provides that women institutions should have special accommodation for all necessary post and pre-natal care and treatment. Timely arrangements should be made for children to be born in a hospital outside the institution. The fact that child is born in prison should not be mention in the birth certificate, when birth registration of the child takes place¹¹⁷. The stigma that women who have been in prison are faced with on return to their communities should not be perpetuated through their children.¹¹⁸

- **Measures Necessary for Preventing Abuse of Women Prisoners by Male Prisoners or Prison Officials are Clearly**

  Provides that an institution which contains both male and female prisoners, part of the institutions where women prisoners confined should be under the authority of responsible women officer. She should have the custody of the keys of all part of the institution. No male member of the staff should grant access to any part of the institution unless accompanied by a women officer. Women prisoners shall be attended and supervised by women officers only.¹¹⁹

- **Pre-natal and Post-natal Care and Treatment**

  There should be special accommodation for all necessary pre-natal and post-natal care and treatment.¹²⁰

- **Provisions for Infants**

  Where nursing infants are allowed to remain in the institution with their mothers, provisions shall be made for a nursery staffed by qualified persons, where infants shall be placed when they are not in the care of their mothers.¹²¹

¹¹⁶ Rule 8.
¹¹⁷ Rule 23.
¹¹⁹ Rule 23(1).
¹²⁰ Rule 23(2).
¹²¹ Ibid.
2.5.2 KYIV Declaration Women’s Health Right in Prison, 1995

In 1995, the World Health Organization’s Regional Office for Europe launched the health in prison project, supported by the WHO collaborating centre for health and prisons in the department of health, United Kingdom. The project works within a network of countries committed to protecting and promoting the health in prisoners in the interest of prison of staff and of public health. On the request of the member states of Health in Prison Project involved in the project, WHO Heath in Prison Project, together with partner organizations and experts and with the support of the UNDC, QCEA, QUNO, the Sainsbury centre for mental health, the AIDS foundations east-west and the European monitoring centre for drugs and drug addiction has reviewed all issues affecting women’s health in the criminal justice system and has especially considered the gross inequalities in women’s health in prisons founded that current arrangement in criminal justice system for dealing woman prisoners often fail to meet their basic and health needs are therefore for short of what is required by human rights, by accepted international recommendations and social justice and therefore adopted the KYIV Declaration on Women’s Health in Prisons in 1995.\(^\text{122}\)

The declaration held that following key services should be provided to the women prisoners in the prisons in order to meet their basic and gender health needs.\(^\text{123}\)

- **Complete and Detailed Medical Check Up**

  Complete and detailed medical checkup should be carried out of women prisoners when they enter into prison and throughout their stay in prison. This complete medical check up should be done to know their:

  (i) Socio-economic and educational background.
  (ii) Health and trauma histories.
  (iii) Current health status.
  (iv) Evaluation of any skill they have or required.

- **An individual Care, Treatment and Development Plan for Women Prisoners**

\(^{122}\) UNODC (2009), Women’s Health in Prison: Correcting Gender Inequality in Prison Health, p.37 retrieved from www.unodc.org/.../declaration_kyiv_women_bos_health_in_prison.pdf., as visited on 15-3-2013..

\(^{123}\) *Id.* Para 4.3.
Health care, treatment and development plan for women prisoners should be developed by the joint efforts of different health care providers and all staff likely to involve in women prisoners care and custody in consultation with women themselves.

- **Primary Health Care Services in Prison**

  Primary health care services available to in the prison should be made clear to women prisoners on their entry into prison with the help of pamphlets written in an understandable language.

- **Awareness about Specialist Health Care Services in Prison**

  Women prisoners should be made aware about specialist health care programmes which are quickly provided and adjusted to meet their needs such as post-traumatic stress disorder, chronic health conditions, HIV and AIDS counseling and support, hepatitis, tuberculosis and other infectious diseases etc. and how to access these specialized health care, programmes must be explained to women while discussing her individual care plan.

- **Pre-release Preparation and Continuity of Care**

  On release from prison, women prisoners have to face greater disgrace and rejection from their communities as compared to the male prisoners. Due to stigmatization, finding the safe and secure accommodation always remains difficult from them. Therefore the release of women prisoners requires specific planning and support. Hence, in order to facilitate the reintegration of women prisoners into the society after release, pre-release preparations should be adequately planned and in order to ensure the continuity of care and access to health and other services, all such services should have good links to the services in the community.

2.5.3 **WHO Guidelines on HIV Infections and AIDS in Prisons, 1996**

These guidelines were prepared on the basis of technical advice provided to World Health Organization prior to and during a consultation of experts convened in Geneva in September 1992. The guidelines provide standards from a public health perspective which prison authorities should strive to achieve in their efforts to prevent HIV transmission in prisons and to provide care to those affected by HIV/AIDS. WHO
guidelines are divided into fifteen sections ranging from general principle that the prisoners have the right to receive health care “equivalent to that available in the community without discrimination.” The Guidelines contains the following specific recommendation relating to care and support of HIV-positive women prisoners.

(a) **Special Need of Women Prisoners**

Prison authorities should provide special attention to the gender-specific needs of women prisoners.125

(b) **Training for the Staff**

Staff dealing with detained women should be trained as how to deal with the psychological and medical problems associated with HIV infections in women.

**Women with HIV-Infection**

(a) Women prisoners with HIV-infection should be provided knowledge about the likelihood of HIV transmission from mothers to child and through sexual contact and services specifically designed to meet their needs.

(b) They should be provided condoms or skills in negotiating safer sex in order to protect themselves from HIV infection during imprisonment or while release on parole.

(c) Counseling on family planning should be provided to them.

(d) HIV-infected women should not be compelled to terminate their pregnancies.

(e) Such women should be able to take care for their young children while in prison regardless of this HIV status.126

**Beside these recommendations the prison authorities should make following services and facilities available in all prisons holding women.**

(i) Gynecological consultations at regular intervals, particular attention should be paid to the diagnosis and treatment of Sexual Transmitted Diseases.

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125 *Id*, Guideline H (44)

126 *Id*, Guideline H (45).
(ii) Family planning counseling services oriented to women’s needs.

(iii) Care during pregnancy in appropriate accommodation.

(iv) Care for children born to HIV-infected mothers.

(v) Knowledge to use condoms and other contraceptives during detention and prior on parole periods or on release.\textsuperscript{127}

Besides these, above stated international rules, standards, conventions and guidelines regarding the treatment of prisoners the increasing concern over the violation of human rights in general and the specific women’s rights of female prisoners adversely affected by their incarceration and improper treatment as a result of inadequate prison systems and regimes, led the many countries and international community to take steps to seriously address the problems of the women prisoners.

2.5.4 \textbf{United Nations Standards Minimum Rules for the Treatment of Prisoners and Non-custodial Measures for the Women Offenders. 2010}

Therefore recognizing the need to provide global standards with regards to the distinct needs of the women prisoners and taking into account the above stated resolutions adopted by different United Nations bodies, in which members states were called upon to respond to the needs of women prisoners, the United Nations Congress on Crime Prevention and Criminal justice, adopted the Standards Minimum Rules for the Treatment of Women Prisoners and Non-custodial Measures for the Women Offenders, widely known as the “Bangkok Rules.”\textsuperscript{128}

The main credit for the of adoption of these rules goes to the Thailand, because it is Thailand who deems it timely and appropriate to invite the world community to use the original standard minimum rules for the treatment of offenders as a base to develop a more comprehensive set of standards specifically geared towards female offenders/prisoners. Thailand has proposed a new approach to women prisoners through the draft Untied Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measure for Women Offenders which has been introduced to the world community

\textsuperscript{127} \textit{Id}, Guideline H (46).

under the project called “Enhancing Lives of Female Inmates or “ELFI” which stems from the Kamalanjai project and is based on the premise that, with today’s changing world.\textsuperscript{129}

The issue of women in prison has become more complex. The existing regimes on the treatment of prisoners and offenders, thorough appropriate for men are either silent or not adequate for the gender-specific needs and realities of women.\textsuperscript{130}

The main purpose of these rules is simply to create a gender equality approach to the treatment of women prisoners and offenders as well as to narrow the gap of negligence to fulfill specific needs of women prisoners. These rules do not replace the standards minimum rules for treatment of prisoners and Tokyo Rules, instead supplement and complement them as these are inspired by principles contained in various United Nations conventions and declarations of existing international law. These 70 rules are addressed to prison authorities and criminal justice agencies including policy makers, legislators, the prosecution services, the judiciary and the probation service. Therefore, these authorities are obliged to follow these rules in the treatment of women prisoners.\textsuperscript{131}

Here the researcher has made the brief discussion of these rules.

- **Registration**: The prison authorities should maintain detailed register containing whole information about women prisoners and their children.

- **Allocation of Prison**: Women should allocated prisons close to their homes or such places where they can easily receive social rehabilitation services.

- **Personal Hygiene of Women Prisoners**: Accommodation available to women prisoners should provide sanitary towels, regular supply of water, for the personal


\textsuperscript{130} Ibid.

care of their children and women, in particular for women involved in cooking and those who are pregnant, breast feeding or menstruating.

- **Health Care:** Complete medical checkup should be done of women prisoners in order to know their entire health history and to provide primary health care needs.

- **Medical Confidentiality:** The medical confidentiality of women prisoners should be respected at all times.

- **Medical Checkup for Children:** Children accompanied to women prisoners should provide complete medical check up.

- **Gender-Specific Health Care Services:** Health care services equivalent to those available in the community should be provided to the women prisoners. Medical examination of women prisoners should be done by female doctor or nurse. In case of medical examination by male doctor, should be carried out only in the presence of the female staff members only.

- **Mental Health Care:** Women Prisoners suffering from mental illness should be provided gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes.

- **Awareness about HIV Prevention, Treatment, and Care:** Prison authorities should provide women prisoners suffering from HIV: Education and awareness about HIV prevention, treatment and care in the prison.

- Specialized treatment program should be made for substance abusers.

- **Preserve Dignity during Searches:** In order to preserve the dignity of women prisoners, personal searches of women prisoners should be carried out by the female staff only.

- **Protection from Violence:** Punishment by close confinement, segregation and instrument of restraint should not be applied/used during labour, birth and immediately after birth of the child.
• **Classification Methods for Women Prisoners:** Prison authorities should develop gender-specific classification methods in order to ensure the treatment early rehabilitation, and reintegration of women prisoners into the society.

• **Prison Region:** Prison regions for women prisoners should be flexible enough to address the needs of pregnant women, nursing mothers and women with children.

• **Social Relation and After Care:** Pre and Post-release reintegration programme for women prisoners should be developed by prison authorities in co-operation with probation, social welfare services and NGOs. The prisoner authorities should use open prisons, home leave, Open prisons halfway houses and Community-based programmes and services in order to re-establish women prisoners contact with their families.

• **Additional Support for Released Women Prisoners:** Provisions should be made to provide additional support to released women prisoners in order to ensure their successful re-integration in the community.

• **Foreign Nationals:** Government should made efforts to transfer the non-resident foreign national women prisoners to their home country as early as possible during their imprisonment.

• **Minorities and Indigenous Peoples:** Prison authorities should recognize the distinctive needs of women prisoners belong to religious and cultural backgrounds.

### 2.6 REGIONAL PERSPECTIVES WITH REFERENCE TO WOMEN PRISONERS

In addition to national and international developments, prisoners’ rights have increasingly found recognition and protection at the regional level also.\(^\text{132}\)

In international law the term ‘region’ may mean an area embracing the territories of a group of states. The states should bind together by the ties of common interest, i.e. there should at least be an identity of certain minimum values and standards. Thus, a region may be created by grouping the states on the basis of economic, social, cultural or political factors. Regional arrangements may be created for

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\(^{132}\) Retrieved from Books.google.co.in/books?isbn=9067048887 as visited 5-12-2013.
a wide range of purposes, such as, security, defence, political or socio-economic functions and responsibilities. States constituting a regional arrangement are therefore a more limited community than those of international institutions. Such organizations are established as it is easier to develop a sense of community in a compact geographical area.\textsuperscript{133}

The United Nations human rights systems provides the main architecture of the international human rights protection regime, and regional human rights protection mechanism constitute one of the fundamental pillars by complementing and often improving it on a regional level.\textsuperscript{134}

Regional systems of human rights apply to a limited number of states, usually states found in close geographical proximately and are more accessible to people in so far as the salient bodies are located in the same geographical areas. The similar political, cultural and economic similarity enables the regional systems to offer better enforcement potential than their international contemporary’s states. Regional sanctions can be more effective than other international sanctions.\textsuperscript{135} In the beginning, the United Nations considered itself to have prime jurisdiction over establishing a universal system of human rights. Regional developments were always viewed by the United Nations as undermining the process of developing international universal rights. Therefore, the United Nations charter has not made any provision for the possibility of the development of regional human rights system. The only reference was made to regional system was in relation to peace and security.\textsuperscript{136}

\subsection{Initiative taken by United Nations to promote Regional Arrangements}

In order to promote the regional arrangement, the General Assembly of the United Nations, in 1977 adopted a resolution on “Regional Arrangement for the Promotion and Protection of Human Rights”, while recognizing the importance of


regional co-operation for the promotion and protection of human rights and fundamental freedoms, appealed the states without regional system to consider agreements with a view to establish within their respective regions of suitable regional machinery for the promotion and protection of human rights.\footnote{Janusz Symonides (ed.), \textit{New Dimensions for Challenges for Human Rights}, Rawat Publications, New Delhi, 2003, p.31.}

Vienna Declaration and Plan of Action gave a positive evaluation of regional arrangements, and emphasized the fundamental role of the regional arrangements in the promotion and protection of human rights. The Declaration held that regional arrangements reinforce the universal human rights standards as contained in international human rights instruments and their protection.\footnote{\textit{Ibid}.}

The World Conference on Human Rights also reiterated the need to establish regional and sub-regional arrangements for the promotion and protection of human rights where they do not already exist.\footnote{\textit{Ibid}.} Currently there are three major Regional Human Rights Systems.

(i) The African Human Rights System

(ii) The Inter-American Human Rights System

(iii) The European Human Rights System

\subsection*{2.6.2 European Convention on Human Rights and Fundamental Freedoms, 1953}

European Convention on Human Rights and Fundamental Freedoms is the principle convention of the Council of Europe, came into force in 1953. It is often heralded as the greatest achievement of the council of Europe in the field of human rights. It was stemmed from wish to provide a bulwark against, which had spread into states in central or Eastern Europe after the Second World War. It was also reaction to the serious human rights violations that Europe had witnessed during the second world ward.\footnote{D.J. Harr’s Mo’ Boyle and Warbrick, \textit{Law of the European Convention on Human Rights}, Butter Worths, London, 2000, p. 135.}
This convention is a part of a network of international human rights treaties of universal or regional application. It has inspired the regional systems of human rights protection setup on the American and African continent, contains the civil and political rights. These rights has been supplemented by the addition of further rights by first, fourth, sixth and seventh protocol to the convention that are binding upon those states that have ratified them.\textsuperscript{141}

It is a treaty under which the signatory states accept certain duties, consisting mainly in recognizing that individuals have certain rights. It is composed of statement of rights and freedoms which the contracting parties “shall secure to every one within their jurisdiction”. It provides that the protection of human rights asserted by it should be effected by two bodies. (i) The Commission (ii) The European Court of Human Rights.

**Commission:** Complaints of violations of the provisions of the European convention are made to commission, (the right of an individual to make such a complaint) (Art. 25 of the European convention) commissions first task is to decide whether the application is admirable or not. Its decision on the question of admissibility is final. Once an application is received as admissible the commission goes on to establish the fact and try to secure a friendly settlement between the state and the applicant when the settlement is reached, the proceedings are ended is reached, the proceedings are ended, and the commission publish the report.

**European Court:** Either the commission or the government concerned in the application may refer the matter to the European court within three months of the transmission of the commission report, provide that the state concerned has accepted the compulsory jurisdiction of the court or has accepted it for the particular case in question. The court considered the commission report together with the oral and written submission of the state. The court’s judgment is final and is pronounced in open court. It has power to award compensation to the injured party. In order to give effect to the provisions of the convention in respect to the prisoners, the council of Europe adopted

\textsuperscript{141} \textit{Ibid.}

### 2.6.2.1 European Prison Rules, 2006\footnote{European Prison Rules 2006 available at www.eurochips.org/recommended-reading/.../european-prison-reform, as visited on 7-5-2012.}

Prison standards reflect the commitment to treat prisoners firstly and fairly. In the context of Europe, the first attempt to set such standards in Europe was made in 1973 with introduction of the European prison rules which were closely modeled on the standard minimum rules for the treatment of prisoners, by the council of Europe.

The reasons for adopting a European variant of prison standards following the adoption of standard minimum rules were to boost the application of the norms contained in standard minimum rules in Europe to convey contemporary penal policy accurately. In 1987, these rules were revised thoroughly to embrace the needs and aspiration of prison (authorities) administrators, prisoners and prison personnel in a coherent approach to management and treatment that is positive, realistic and contemporary.

Since, 1987, evolutionary changes in society, crime policy, sentencing practice and research together with the accession of new member states to the Council of Europe, have significantly altered the context for prison management and the treatment of prisoners. Therefore in view of these changes, European prison rules were again revised in 2006. These revised rules offers guidance to member states that are modernising their prison laws and will assist prison administrators in deciding how to exercise their authority even where the rules have not get been fully implemented in national laws. These rules refer to measures that should be implemented in “national laws” rather than to “national legislation” as they recognise that law making may take different forms in the member states of the council of Europe. According to these rules, the term “national law” is designed to include not only primary legislation passed by a national parliament but also other binding resolutions and orders, as well as law that is made by courts and tribunals in as far as those forms of creating law are recognised by
national legal systems. Thus, these revised rules provides European Prison Rules provides a more upto date vision on penal policy, reflecting the views and practices of the 47 member states of Council of Europe as compared to United Nations the Standard Minimum Rules for the Treatment of Women Prisoners.

These revised European Prison Rules contains the following rules which specifically deals with the problems of women prisoners.

- **Separate Accommodation for Women Prisoners**

  In order to protect the inherent dignity of women prisoners, European prison rules, like standard minimum rules provides women prisoners should be detained separately from male prisoners.\(^{144}\)

- **Sanitary Needs of Women Prisoners**

  Regarding Sanitary needs these rules requires the prison authorities, special arrangements should be made. Ensure that all facilities regarding their sanitary needs, such as adequate water for bathing washing and cleaning, sanitary pad or towels are available and access to them is not denied.\(^{145}\)

- **Special needs of Women Prisoners**

  For access to special services for prisoners, prison authorities should provide special access to services and pay attention to the needs of women prisoners who have suffered physical, mental or sexual abuse before or during imprisonment in addition to the general attention to be paid to all such women prisoners.\(^{146}\)

2.6.3 **American Convention on Human Rights, 1969**

American Convention on Human Rights, the main leg of the American regional human rights, was adopted in 1969 and came into force in 1978. The source of inspiration for the drafter of convention were the non-binding American Declaration on the Rights and Duties of Man, the Universal Declaration of Human rights, the International Covenant on Civil and Political Rights 1996 and the European Convention

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\(^{144}\) Rule 18.8 of *European Prison Rules, 2006.*  
\(^{145}\) *Id.*, Rule 34.  
\(^{146}\) *Id.*, Rule 34.2.
on Human Rights and Fundamental Freedoms 1953. The Preamble of the Convention states that its purpose is ‘to consolidate in this hemisphere, within the framework of democratic institutions a system of personal liberty and social justice based on respect for the essential rights of men.’

The Convention contains only civil and political rights like European Convention, American Convention also contains ‘derogation clause’ which permits states to take measures derogating from their obligations in time of war, public danger or other emergency that threatens the independence security of a state party to the extent and period of time strictly required by the exigencies of the situation. Two supervisory institutions also established under the charter are:

- American Commission on Human Rights.
- American Court on Human Rights in order to supervise the implementation and enforcement of rights contained in the convention.

The Commission under the Convention has the educational, investigative, advisory, administrative and supervisory roles. These tasks are complementary and mutually supporting, and permit the commission to oversee the totality of human rights activities in the state parties to ACHR. Under the convention, the court has two types of jurisdiction: contentious and advisory. Only the states and American commission of human rights have standing before the court. Individual cases go to the court only through the American Commission. Two types of complaints may be made under the convention. The first is complaint by person denouncing violation of the Convention by a state party. The second is complaint by state parties that another state party has violated the human rights protection by the Convention.


- It prohibits the imposition of the capital punishment on pregnant women.

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148 Art. 27 (1).
149 Id. p.117.
150 Id. p.118.
• It provides that every person condemned to death should have power to apply for amnesty, pardon, or communication of sentence.

• The person deprived of his liberty due to conviction should not be subjected to cruel, inhuman, or degrading punishment or treatment and they should be treated with respect in order to protect both the dignity and the physical and mental integrity of the individual.

• For persons who are convicted the penitentiary systems should have its essential aim the reformation and social rehabilitation/re-adaptation of the prisoner concerned.\textsuperscript{151}

In order to give effect to these provisions adopted the Principles and Best Practices for the Protection of Persons Deprived of their Liberty in America, 2008.

\textbf{2.6.3.1 Principles and Best Practices for the Protection of Persons Deprived of their Liberty in America, 2008}\textsuperscript{152}

Principles and Best Practices on the Protection Persons Deprived of their Liberty were adopted by the Inter-American Commission on Human Rights in its 131\textsuperscript{st} regular period of session held in March 2008. The initiative to frame these principles to protect the rights of persons deprived of their liberty was taken in 2001. The main aim of these principles is to expand on the existing normative framework in order to establish precise standards pertaining to the conditions of detention of persons deprived of their liberty as well as those tortures and other cruel, inhuman and degrading treatment.

In order to fulfill this aim, the Principles support the among other things, the use of independent institutions and organizations to carry out visits and inspections to places where persons are deprived of their liberty. These Principles are not legally binding on states, but creates a moral obligation for the States to be followed in the treatment of the persons deprived of their liberty.\textsuperscript{153}

\textsuperscript{151} Art. 5(6).

\textsuperscript{152} Principle and Best Practices on the Protection of Persons Deprived of their Liberty in America, 2008 retrieved from www.refworld.org/docid/48732afa2.html., as visited on 6-2-3013.

\textsuperscript{153} \textit{Ibid.}
The Principles and Best Practices contain the following specific Principles for the gender-specific Treatment of Women Prisoners.

- **Equality and Non-Discrimination**

  Principles and Best Practices prohibit the Discrimination among the different types of prisoners. Women have different health care needs from male. Therefore, action taken solely to protect the rights of pregnant and nursing mothers deprived of their liberty should not be treated as discriminatory. These actions should be applied according to the domestic and international human rights law and must be examined and analyzed before application by judge or other competent independent and impartial authority in the absence of judge.\(^\text{154}\)

- **Health Rights of Women Prisoners**

  Women deprived of liberty should have access to specialized medical programmes that match their physical and biological characters and assets their reproductive health needs. Pregnant women should have access to gynecological and pediatric care, before, during and after child birth. Child should be born in hospital or other appropriate institution outside the jail. The fact that child is born in hospital should not be mentioned on birth certificate.

  Women’s institution should have special accommodation, adequate personal such as lady doctor, nurse and equipments for pre-natal and post-natal care and treatment.\(^\text{155}\)

- **Personal Hygiene of Women Prisoners**

  Women deprived of liberty should provide adequate water, toothpaste, soap, toothbrush, sanitary pads or towel on regular basis in order to meet specific sanitary needs of their sex.\(^\text{156}\)

- **Separation of Different Categories of Prisoners**

  Therefore recognising their vulnerability principles require that and humiliation from the male prisoners and male staff. Therefore, according to principle, women

\(^{154}\) Principle II.  
\(^{155}\) Principle X.  
\(^{156}\) Principle XII.
deprived of liberty should be kept in physical separate institutions from the male prisoners institutions so that no business can take place between them.\textsuperscript{157}

- **Supervision by Female Staff**
  
  In order to protect the women prisoners form ill-treatment, place of deprivation of liberty of women or the women’s section in mixed institutions should be under the direction of female staff. To protect the privacy of women prisoner, their custody and examination should be carried out fully by the female personals only.\textsuperscript{158}

- **Body Searches of Women**
  
  Bodily searches of women prisoners and women visitors for security purposes should be carried out by competent women personals under satisfactory sanitary conditions. Such searches should be compatible with human dignity and respect for fundamental rights.

### 2.6.4 African Charter on Human and Peoples Rights, 1981

The main document of the African Regional Human Rights system is the African Charter on Human and People’s Right, 1981. This Charter was adopted by the Organization of African Unity, which was established in 1963, but in 2000 it was transferred into the African Union. It recognizes not only most of the universally accepted civil and political rights but also certain socio-economic rights. It also recognizes certain collective or group rights along with individual rights. These rights are contained in Chapter I of the Charter. Besides these, rights, Charter also includes duties of the individual towards family etc. Duties of the individual are contained in Chapter II of the Charter. Another important feature of the Charter is that unlike other international human rights conventions, character does not have an express limitation or derogation clause, outlining the conditions under which all the rights in Charter may be limited. Instead the Charter contains certain articles with provisions which are known as ‘clawback’ clauses to which the rights in questions are to be exercised within the law.\textsuperscript{159}

\textsuperscript{157} Principle XIV.

\textsuperscript{158} Principle XX

The task to monitor the compliance with the charter by State parties is entrusted to the African Commission on Human and People’s Right. Under the Charter, the commission takes decision in respect of complaints it receives from individual about violations of the Charter by State parties and receive the reports which the State parties are submit biannually. It also appoints special reporters and adopts resolutions on human rights issues.\textsuperscript{160}

The African Court was not foreseen in the Charter, because it was argued that the traditional way of solving disputes in Africa was not through courts but through mediation and conciliation a task for which a commission was better suited. But the court was established by 1998 protocol came into force in 2004 in order to complement the jurisdiction of the commission. The main aim of the court is to ‘complement the protective mandate’ of the commission. The court has the power to adapt ‘advisory opinions’ namely to give and authoritative statement on an issue relevant to the African Charter or any African Organization recognized by the African Union. It can hear the cases submitted by the Commission. The court also has the power to try to reach an ‘amicable settlement’ between parties to the case.\textsuperscript{161}

The Charter contains the following provisions Relevant to the Present Study:

With regard to the rights of the women’s, the Charter provides that the states should ensure the elimination of every discrimination against women and also ensure the protection of the rights of the women as stipulated in international declaration and Conventions.\textsuperscript{162}

In order to implement this provision with respect to the treatment of the women prisoners, the African System of Human Rights adopted the African Charter on Prisoners rights, 2001.

\textbf{2.6.4.1 African Charter on Prisoners Rights, 2001}\textsuperscript{163}

The African Charter on Prisoner’s Rights “as minimum standard” was adopted by the fifth conference of the central, Eastern and southern African heads of correctional services held on September 2-7, 2001, at Namibia.

\textsuperscript{160} Ibid.
\textsuperscript{161} Ibid.
\textsuperscript{162} Art. 18(3).
The Charter consists of two parts Part A and Part B. Part A contains the general rights of the prisoners whereas the Part B contains rights for the special categories of prisoners such as under-trial prisoners, Female Prisoners, Foreign Prisoners, Juveniles, Mentally Disorder Prisoners, Civil Prisoners, Prisoners Facing Death (sentence) Penalty, Aged or Disabled Prisoners, Prisoners with HIV) Aids, Prisoners Requiring Psychological or Psychiatric Assistance.

The Charter contains the following standards under part B, to be followed by states and prison authorities while dealing with women prisoners in the prisons.

- **Separate Accommodation for Women Prisoners**

  Like European Prison Rules 2006 and Principles and Best Practices for the Protection of Persons Deprived of their Liberty, this Charter also reiterates that in order to protect the women prisoners from physical abuse, they should be confined in the physically separate institutions from the male institutions.

- **Gender-Specific Needs of Women Prisoners**

  Prison authorities should made special arrangements for necessary pre and post-natal care and treatment for the pregnant and mother prisoners in their institution.\(^{164}\)

**Child Care in Prisons**

Prison authorities should made proper arrangements for children to be born in hospital outside the institutions.\(^{165}\) The fact that child is born in prison should not be mentioned on his/her birth certificate.\(^{166}\) So that stigma that women have been in prison are faced with on return to their communities should not be perpetuated through their children.

Mother prisoners should allow to nurture their children up to age of three years. Prison authorities should made efforts to hand over the children after the indicative age (as prescribed by the national laws) to their relatives. If they do not find any relative outside the jail, than social workers should given the responsibility to take proper care of such children.\(^{167}\)

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\(^{164}\) *Id.*, 2 (b).

\(^{165}\) *Id.*, 2 (c).

\(^{166}\) *Id.*, 2 (d).

\(^{167}\) *Id.*, 2 (e).
- **Equal Access to all Facilities and Services**

  Women prisoners should be allowed to enjoy same rights as enjoyed by male prisoners. They should have equal access to education, vocational training and recreational facilities available to male prisoners.¹⁶⁸

- **Prohibition of Death Penalty on Women Prisoners**

  Death penalty should not be carried out on pregnant and new mother prisoners.¹⁶⁹

- **Protection from Abuse**

  State should take action to prevent the abuse of women prisoners in the hand of the male prisoners and prison officials.¹⁷⁰

- **Psychological or Psychiatric Assistance**

  Women prisoners with children and pregnant mothers require psychological or psychiatric assistance should provide special attention and care of the visiting psychologists and psychiatrists.¹⁷¹

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¹⁶⁸ *Id.*, 2 (b).
¹⁶⁹ *Id.*, 2 (1).
¹⁷⁰ *Id.*, 2 (b).
¹⁷¹ *Id.*, 2(d).
CHAPTER 1
INTRODUCTION AND RESEARCH METHODOLOGY

‘Criminal’ is such a word, which itself creates the hatred for the person who commits the crime. But this hatred becomes more severe, when a woman committed the crime, whether she has committed the crime to protect her family or due to victimization from her family or this society.

Women prisoners are the most unfortunate segment of the society. They have always been treated differently to men and that difference in treatment continues to present day. From the review of the both national and international literature, researcher found that different reasons has been recognized by the different criminologists, and the sociologists for the different and arguably unfavorable treatment towards female prisoners.1 One of the reason is the small number of women prisoners i.e. about 6.5 percent of the world’s prisoners are women and in most prison systems women constitute between 2 and 9 percent of the total prison population. The prevalence of women within the total prison population is lowest in African countries and the highest levels in Asia, especially south-eastern and eastern Asia.2 In India, women prisoner population comprises 3.9 percent as compared to the male population which is 96.1 percent.3 Thus, to small number their human rights are largely overlooked.4 They are often confined in male-centric jails, which mean that prison systems and prison regimes are almost invariably designed for the majority male prison population, for example, from the architecture of prisons, to security procedures, to facilities for health care, family contact, work and training.5 The Sixth United Nations Congress on Prevention of Crime and Treatment of Offenders 1982 also highlighted this fact that due to small

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numbers, women prisoners do not get the same attention and consideration as do male prisoners and this inattention often results in limited access for women prisoners to the necessary programs and services.\(^6\)

Secondly, female violence is less culturally acceptable than male violence as it is difficult for society to accept violence from female since it is considered unnatural.\(^7\) Those who are imprisoned are considered to be ‘monsters’, the embodiment of the evil principle and unable to distinguish right from wrong. An unforgiving society rejected and stigmatized women while they were in prison and after they returned to the community. As such, women in prison were not deemed capable of reform and redemption.\(^8\)

Thirdly, academicians and scholars have also considered that female prisoners are not worth focusing on or that they are similar to male prisoners and there is no need to look deeper into their problems. Even Government and the prison authorities unwilling to make different provision for women prisoners have repeatedly invoked the principle that all prisoners should be treated equally and to treat women prisoners differently would be unfair for male prisoners.\(^9\)

Again, the lack of intention on the part of policy makers to give due consideration to female prisoners and their gender-specific histories, life stories and social positioning has also led to the female prison population being a population that is ignored, misunderstood, and neglected.\(^10\)

Moreover, criminologists also neglected the female criminality. They considered female criminality as integral part of the total phenomena of crime. They held that there is no particular reason why female criminality should be viewed exclusively from a


\(^8\) Clarice Feiman, Women in the Criminal Justice System, Praeger Publications, New York, 2\(^{nd}\) ed. 1986, p. 35.


sexual angle.\textsuperscript{11} Even the all traditional criminological theories whether biological, psychological, anomie, control, differential association, conflict, labeling, social disorganization, or social learning theories have been mainly developed from male subjects, validated on male subjects and focus on male victimization.\textsuperscript{12} Feminist criminologist the Carol Smart complains that this lack of knowledge and understanding have led to distorted policies of women treatment.\textsuperscript{13}

In brief it can be stated that the manifestation of these differences often results in stereotypic, inadequate programming which makes incarceration extremely hard for women and leaves them totally unprepared to support themselves or their families upon release.\textsuperscript{14}

In order to ensure that women prisoners are not discriminated against in practice, the feminist criminologists, contemporary scholars, penal reformer and campaign groups advocated that there is need to understand that women prisoners have requirements that are very different to those of men. Women need gender-specific facilities for healthcare, to help them in childbirth, to care for their children in prison, to receive counseling to guard against the possibility of rape and sexual assault and to maintain contact with their dependents. In addition to the physical, they also required mental attention. The female prison population is disproportionately affected by mental health problems, with higher levels of depression, anxiety, phobias, neuroses, self-mutilation and suicide compared to both the general and male prison population. Women prisoners suffer more severe range of social exclusion problems than men on leaving prison.\textsuperscript{15} In other words it can be said that the chance their rehabilitation are quietly bleak. Further many women are forced to bring their young children to prison. The age at which children ought to be educated and socialized is spent by such unfortunate children in jail without any opportunity to learn values and norms of society.\textsuperscript{16}

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\textsuperscript{13} Carol Smart, “Criminology Theory: Its Ideology and Implications Concerning Women”, \textit{BJS}, March, 1977, p. 5.
\textsuperscript{16} Ram Ahuja, \textit{Criminology}, Rawat Publications, New Delhi, 2000, p. 150.
\end{flushleft}
Women also commit a different variety of offences than men that is to say their pattern of offending differ quite significantly to those men.\textsuperscript{17} In terms of victimization, some scholars argued that there is complex interrelationship between women’s victimization and women criminality. Women and girls commit crime to avoid being further victimized and they experience victimization in the course of committing crime. The ultimate example of the victimization and criminality nexus is the case of women who kills her abusers.\textsuperscript{18} For example, a women who is criminally assaulted by her brother-in-law, frequently beaten by her husband, denied the legitimate share in her husband’s/ father’s land property by her kin, or forced by circumstances to help her husband in illegal economic pursuits. What happens when such a women endeavors to free herself from the stultifying life her family imposes upon her? More often than not, the freedom and the redressal are sought, may be unintentionally, through behavior which ultimately is labeled as ‘crime’. Thus, a large number of crimes are committed by women due to their victimization in the hands of the society and family members and not due to their criminal tendencies or disorganized personalities. There are two important cases of Phoolen Devi and Kiranjit Ahluwalia. These two cases articulate powerfully the dynamics of women abuse in society and domestic situations and set the stage for an understanding of how victims could become killers.\textsuperscript{19}

Beside these differences and victimization, the imprisonment of a woman is more dysfunctional to her family in the sense that the family has to face ‘dismemberment’ and ‘demoralization’. The former refers to the crises of absence of a member due to imprisonment and latter refers to social disgrace and social stigma of the family due to its member’s criminality. Both make a women’s family, husband and her children suffer emotional and social deprivation.\textsuperscript{20}

\textsuperscript{17} Marget Liddell and Marietta Martinovic, “Women Offending: Trends, Issues and Theoretical Explanations”, \textit{IJSI}, Vol. 6, No.1, 2013, p. 133.

\textsuperscript{18} Claire Renzetti and Lynne Goodstein, \textit{Women, Crime and Criminal Justice}, Oxford University Press, USA, 2000, pp.4-5.

\textsuperscript{19} \textit{Ibid.}

\textsuperscript{20} Leelamona Devasia and V.V. Devasia (ed), \textit{Female Criminals and Female Victims: An Indian Perspectives}, DATTSONS Publishers and Publishers Distributors, Nagpur, 1987, p. 56
Although women remain a small percentage of the total numbers in prison, their number is growing.\(^\text{21}\) The number of women in prison has increased between 2000 and in the beginning of 2013, by over 40 percent.\(^\text{22}\) Research has suggested that the increase in the women prison population is not due to an increasing quantity or severity of crime committed by women, but rather to a change in sentencing policies and law enforcement priorities. The increased imprisonment rates relates most noticeably to drug offences. This may involve women being sentenced for crimes committed as addicts trying to support their addiction, or it may concern women who have attempted to smuggle drugs on behalf of someone else in exchange for payment. At the same time, women in less developed countries continue to be incarcerated for crimes motivated by poverty or crimes relating to sexual conduct and social norms, as well as drug related crimes. This increase not only impacts the individual woman being sentenced to prison but also the overall prison situation of women.\(^\text{23}\)

The need for specific policies which will address the gender specific issues of women prisoners was first highlighted by 19\(^{\text{th}}\) century reformer, Elizabeth Gurney Fry, she was the first penal reformer to devote her attention solely to the plight of imprisoned women. Her ideals for penal reform were based on the precepts of the Society of Friends. Quakers emphasized personal, paternalistic means of correction and their main instrument of reform was religion.\(^\text{24}\) She rejected the family trappings of material success and adopted the strict principles of the Society of Friends. Her religious and philanthropic work in this group was an important foundation for the penal reforms which led her world wide reclaims. Fry provided the concrete, explicit details for operating penal regimes miring from the works of other penal reformers such as Howard, Buxton, Western, Hoare and other male reformers.

“In the beginning Elizabeth believed as did most people, that the women were not re-deemable, and she had not planned to help them. But she was horrified at the


\(^{\text{22}}\) Female Imprisonment, International Centre for Prison Studies, retrieved from www.prisonstudies.org/News as visited on 5-3-2014.


conditions in which the women and children lived, their treatment, and the hopelessness of their lives. Although it was considered extremely dangerous, Fry went into the prison to improve conditions for the women as well as for the children. She instituted a committee of women to visit and comfort women prisoner significant change in attitudes towards female offenders among those. Their work demonstrated that even the most degraded women were redeemable. Her success brought about a significant change in attitudes towards female offenders among those interested in penal reform.  

Her main object was that prisoners should be treated as human beings with human feelings and that their corporation should be sought.”

With the change in attitude, Elizabeth proposed the ‘vigilant and unremitting inspection’. She suggested the creation of prisons for women where the arrangement of cells, day-rooms and airing grounds would allow matrons to be able to see all the prisoners while at work, and in their hours of recreation and to overhear them during the night. She also advocated the continuous useful labour to be an integral feature of prisons because it had moral and material benefits. According to her ‘No prison can be considered complete which does not afford the means of labour, which properly pertains to a reforming discipline and forms an important part of the system of punishment. She continually stressed the importance of useful labour for women prisoners.

The other instruments of reforms advocated by the Fry’s were religious instruction and teaching in the rudiments of reading and writing. According to her the major thrust of instruction should be religious because she had great faith in the ability of religious instructions to bring about profound ‘amendments in life.’

In order to decrease the deleterious effects of contamination on women prisoners Elizabeth proposed a complex system of classification. According to her classification and segregated living arrangements would distribute women in a hierarchy of relative

28 Id, p. 52.
guilt and worth and prompt them to behave in a diligent and industrious manner as a means of achieving greater rewards and privileges.\textsuperscript{29} She also proposed to ban all male from the daily supervision of female inmates, the female prisoners should be placed under the superintendence of officers of their own sex. Matron and female officers should be of a ‘decidedly religious’ character, possessed of ‘respectable, orderly and active habits’ and plain in dress, gentle. They should be a consistent example of feminine propriety and virtue’ and practice vigilance and impartiality in dealing with prisoners.\textsuperscript{30}

Further, the need to address the situation of women prisoners has been emphasized in various contexts such as, The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders 1982, recommended the states to provide recognition to the specific problems of women prisoners and means to solve these problems.\textsuperscript{31}

Moreover, the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment 1988, adopted by the United Nations also clearly recognizes the need for specific measures to be adopted to protect the rights and special status of women, particularly pregnant women and nursing mothers.\textsuperscript{32}

Apart from this, in Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-First Century, (2000), the states committed that they will develop the action-oriented policy recommendations based on special needs of women prisoners.\textsuperscript{33}

Further, The United Nations General Assembly’s, “Plans of Action for the implementation of the Vienna Declaration on Crime and Justice” concerning action on the Special needs of women in the criminal justice system recommended the states to:

\textsuperscript{29} Id. p. 53.
\textsuperscript{30} Id. p. 55.
\textsuperscript{32} Principle 5(2).
• Review, evaluate and, if necessary modify their legislations, policies, procedures and practices relating to criminal matters, in such manner consistent with their legal systems, in order to ensure that women are treated fairly by the criminal justice system and to
• Develop national and international crime prevention and criminal justice strategies that take into account the special needs of women prisoners.

The Human Rights Committee’s General Comment 28 on the equality of rights between men and women emphasized that states must ensure “that the rights of persons deprived of their liberty are protected on equal terms for men and women”.  

The Commission on Human Rights in its resolution on “Human Rights in the Administration of Justice in Particular Juvenile Justice”, 2004 highlighted the need for special vigilance with regard to the specific situations of women deprived of their liberty, and their vulnerability to various forms of violence, abuse, injustice and humiliation and therefore invited the governments, relevant international, and regional bodies, national human rights institutions and non-governmental organizations to devote increased attention to the issue of women in prison, in order to find out their key problems and the ways in which they are addressed.

In 2005 six of the seven United Nations Human Rights Treaty bodies raised the issue of the human rights of women in prison.

The establishment of a gender-sensitivity penal system and conducting gender-sensitivity training for law enforcement officials were key recommendations made by a Nigerian NGO in 2006. Studies in Russia and India underlined the requirements for gender sensitivity in the management of women’s prisoners and an “urgent need to re-think women’s prisons without the male prison.  

34 Ibid.
35 Committee on the Elimination of Racial Discrimination, Human Rights Committee, Committee Against Torture, Committee on The Rights of Child.
At the Regional level, the Quaker Council for European Affairs (2007) recommends that the Member States of the Council of Europe to:

- Ensure that prison policies and programmes are specifically tailored to the needs of women, including those in the areas of resettlement; and
- Ensure that the needs of female prisoners upon release, issues such as homelessness, unemployment, workforce discrimination and regaining custody of children, are addressed; if social services were previously involved with a prisoner, then they should be informed when that prisoner is to be released.\(^{38}\)

1.1 INITIATIVES TAKEN TO IMPROVE THE CONDITIONS OF WOMEN PRISONERS IN INDIA

The problem of improving the prison administration and conditions of prisoners has been engaging the attention of the Government since independence.\(^{39}\) Various committees, commissions, have been constituted by both the centre and state Government from time to time to improve the prison conditions to the extent as are conducive to the reformation and rehabilitation of prisoners\(^{40}\). The question of ensuring custodial justice to women has also been gone by these committees, starting from the All India jail Manual Committee of 1957-59. This committee suggested a specialized approach towards care, treatment and rehabilitation of women offenders. Another committee, the All India Committee on Jail Reforms, 1980-83 who studied the problem of prison reform in depth, observed about women prisoners that “it is the small number of women in prison, which is responsible for their needs being neglected.” Women continue to be in jails for long periods, sometimes for very minor violations of law, unable to defend themselves, and totally ignorant of ways and means of securing legal aid or help even to write a petition for quick disposal of their cases. They are not aware of the rules of remission or premature release, and live a life of resignation at the mercy of officials who seldom have understanding of their problems. The kind of shy, Cast away, mistreated women. These women are confined to a prison environment where they are subjected to dehumanizing conditions.

\(^{38}\) UNODC (2009), Women’s Health in Prison: Correcting Gender Inequality in Prison Health, p. 37 retrieved from www.unodc.org/.../declaration_kyiv_women_bos_health_in_prison.pdf., as visited on 15-7-2013


inhibited village women that usually land in jails have no courage to communicate their needs to the male staff posted at their jails, and they maintain a ‘Purdah’ as such on their sufferings as on their faces. They have no means of communicating their needs to higher officials as there is hardly any women officer at headquarter of the prison department who would appreciate their needs and requirements and made huge recommendations in respect of treatment of women prisoners. The committee recommended the setting up of ‘Protective Homes’ rather than jails for women prisoners.

On the basis of the reports of these committees and recommendations and custodial torture prevalence against women prisoners, in 1986, an exclusive National Expert Committee on Women Prisoners was set up by the Government of India under the chairmanship of a very eminent retired judge of Supreme Court, Justice Krishna Iyer to undertake a study on the situation of women prisoners’ in penal and correctional system of the India. This committee (i) Studied the procedure for the handling of women offenders in detention or custody (ii) Reviewed the conditions governing treatment of women offender in penal and correctional institutions. (iii) Examined the efficacy of institutional and other services for reformation and rehabilitation of offenders. Committee visited the central jails and a few representative district jails, sub-jails and police-lockups of these states: Bihar, Maharashtra, Orissa, Uttar Pradesh, Assam, Tripura, west Bengal, Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu. During the visits to jails to these states, committee noticed a variety of disabilities women and girls suffer because of their gender in the criminal justice and correctional processes. Justice Krishna Iyer summarizes the whole condition of women prisoners as “women in custody are tragic testimony of judicial futility, statutory impotency and implementation calamity”. Thus, the committee made exhaustive recommendations for bringing about improvements in the management of women prisoners covering various facets. The committee recommended the formulation and adoption of national policy on custodial justice to women. In order to overview the implementation of the proposed policy, the committee recommended the creation of a statutory autonomous body to be designed as the national authority on custodial justice to women. The committee even
formulated a draft “legislative-cum-administrative” code for consideration of the government in this regard. The committee strongly felt the need of adopting two basic approaches while dealing with women prisoners in custody. These approaches are (a) maintaining the dignity of women in the custody, and (b) rehabilitation and social defence should be the principal purpose as well as the outcome of holding women as prisoners and under-trials in the prison. The committee also held that although, an increase in the number of women prisoners in the country had slightly augmented, facilities for women prisoners in forms of accommodation, health, food, medical, education and other basic necessities, the quantum of those facilities is still not adequate in view of increasing number of women prisoners in recent years.\(^\text{41}\)

Again the Parliament Committee on Empowerment of Women, 2001-2002,\(^\text{42}\) headed by Smt. Marget Alva, took up the subject “Women in Custody” for detailed examination of the conditions of women in detention and therefore visited the jails of the following states: central prison, Mumbai, Tihar jail, Delhi, model jail, Chandigarh, central prison, Orissa, presidency jail, Kolkata, Nari Bandi Niketan and District jail, Lucknow and made some eye opening observations that there is total neglect on the part of the concerned authorities in providing basic needs to women prisoners. There is overcrowding, mal-nutrition, lack of medical care, educational, vocational and legal facilities in almost all the jails. The general condition relating to food, clothing, recreation, hygiene is not proper and needed considerable improvement. The majority of female population in jails consists of under-trials. What is more pathetic is the fact that women inmates who obtained bail were still languishing in jails for want of surety. The committee, therefore strongly recommended that remedial measures must be taken expeditiously by the centre and state government, to bring about discernible improvement in the conditions of women in custody.


In this report the commission discussed the certain questions relating to women in custody, referred to commission by the Ministry of Law and Justice, the Ministry of State crop up out of the report Vol. 1, submitted by the national expert committee on women prisoners, 1986-87, first, relating to Nari Bandigriha Adalat in the nature of mobile judicial camp in order to provide speedy justice to women offenders, second, issue relating to the efficacy and relevance of various legislations having a bearing on women’s status in custody and criminality. In reference to first issue, after analysis of all the practical aspects relating to the establishment of the mobile courts, the law commission held that it is not possible to establish separate courts for under-trial women prisoners instead asked the Government to think more about the importance of the law relating to the grant of bail to women. In reference to the second issue in question, the law commission examined the following legislations: *The Code of Criminal Procedure Code, 1973*, *The Civil Procedure Code, 1908*, *The Indian Penal Code, 1860*, *Probation of Offenders Act, 1958*. Here only those provisions of these legislations are mentioned which bear relevance for the treatment of women prisoners. About sections 376-B, 376-C, 376-D, of Indian penal code the commission held that these provisions of the Indian Penal Code designed to deter potential offenders from the committing rape or cognate offences including subtler forms of seduction or harassment, are fairly adequate so far as women in custody are concerned. Hence, Commission did not make any recommendation about these sections.

About Section 416, Capital Sentence on a Pregnant Woman which “provides that if a women sentenced to death is found to be pregnant, the high court shall order the execution of the sentence to be postpone and may, if it thinks fit, commute the sentence to imprisonment for life”. Commission held that this section should be substituted as provided “if a women sentenced to death is found to be pregnant, the high court shall commute the sentence to one of imprisonment for life.”

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44 *Id*, p.135.23.
After thorough examination of sections 3 and 4 of the *Probation of Offenders Act, 1958* with regard to women prisoners, the commission suggested that the probation of offenders act should be amended in the following manner.

Section 3 of Act, (which deals with the power of the court be release a convicted offender on admonition) should be amended, by providing that in deciding about such release, the court shall have regard to the circumstances of the case, including the nature of the offence and character of the offender (as at present) and the fact that the offender is a women.

Section 4(1) of the *Probation of Offenders Act, 1958*, which empowers the court to release offender convicted of certain offences on probation of good conduct should be amended on the same lines as section 3 of the act recommended to be amended as above, that is to say, the court shall have regard also to the fact that the offender is a women.45 Besides these amendments the commission was of the opinion that the sentence of imprisonment shall be carried out in the proper spirit. Imprisonment, no doubt, imposes restrictions on the liberty of the person sentenced thereto, but it does not permit cruelty, harassment, exploitation or other maltreatment of a person in prison, nor does it allow an attitude of lethargy or indifferences towards the prisoner.46

Therefore, the following concrete measures were recommended by the law commission as regards female prisoners.

- On admission to jail, a female prisoner should be medically examined. If medically necessary, she should be kept separately in a female enclosure. The same course should be adopted on each occasion of re-admission to jail after temporary release.
- Female prisoner suspected of pregnancy in custody, should be sent to the district government hospital. In case of advanced pregnancy, should be shifted to female ward of the government hospital.
- A female prisoner shall not be handcuffed or made to wear fetter cross-heir during transit from one jail to another or to the court or for investigation.

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46 *Id*, p. 135.17.
Besides this, she should be escorted by the matron or female warden, if she is required to leave the female enclosure. During transit, a female relative shall be allowed to accompany her.

- Where there are no suitable arrangements for housing women prisoners, they should be sent to a suitable institution wherever practicable.

- Jails where there are women prisoners shall be visited by visitors appointed by the Government. Of these jail visitors, one should be a medical officer and two should be social workers (of whom one should be women). Two visitors should visit the jail at least once in six months and make a report to the session judge.

The commission said that if these recommendations are implemented will help to remove the hardship faced by the women prisoners.\textsuperscript{47}

A.P. Bhatnagar Committee on Prison Reform 2006\textsuperscript{48}: In 2006 the government of Punjab appointed the A.P Bhatnagar, committee to suggest measures to reform the prisons and correctional services in Punjab.

About the condition of women prisoners in Punjab, committee held that women prisoners in Punjab prisons require special attention. There is a neglect lot and much can be done to organize their daily routine in a much more constructive and useful manner. The most important thing regarding them is how to get them involved in an activity, which will be helpful to them in their rehabilitation. The women prisoners also require attention regarding their health, including mental health care, personal hygiene, segregation, need for welfare for their children and some other peculiar needs.

Committee discussed the measures adopted by the Tihar jail, for the welfare and rehabilitation of women prisoners and Children’s of the women prisoners. Committee had asked the state government to adopt the same measures for women prisoners and their accompanied children in Punjab jails. Beside this, Committee asked the state government to identified and adopt suitable rehabilitation programmes especially suitable for women prisoners, Special arrangements are required to be make for under

\textsuperscript{47} Id, p. 135.39.

six year old children of women offenders to ensure that children’s growth, development and welfare are taken care of, Lady Doctor should be engaged, to the extent possible, for taking care of healthcare needs of women prisoners. Release on personal bond should be made extensive particularly for women and especially those with accompanying children.49

Beside these committees and commission, in 2002, the Ministry of Women and Children, the Government of India had launched a scheme “SWADHAR- a scheme for women in difficult circumstances” with the objective to provide primary need of shelter, food, clothing, counseling, emotional, legal support and rehabilitation through education, awareness, and skills when women prisoners are released from jail and do not have any family support, among other groups of disadvantaged women.50

In 2002-03 the Central Government launched a non-plan scheme known as the Modernization of Prisons for construction of additional jails to reduce overcrowding, repair and renovation of existing jails, improvement in sanitation and water supply and construction of living accommodation for prisons staff. The scheme was being implemented in 27 States over a period of five years (2002-07) with an outlay of Rs. 1800 crore. The cost was being shared between Central Government and State Governments in the ratio of 75:25 respectively.51

1.2 NATURE OF WOMEN CRIME AND PUNISHMENTS IMPARTED IN INDIA

Understanding the contemporary prison for women requires an examination of the historical background of this system of social control along with the nature of crime committed by the women and respective punishments available for those crimes.52 For this purpose, the crime committed by women, its nature, punishment, and existence of

49 Ibid.
52 Smruti Bhosle, Female Crime in India and Theoretical Perspective of Crime, Kalpaz Publications, Delhi, 2009, p. 255.
prison system has been looked upon historically covering: (i) Ancient Period (ii) Medieval Period (iii) British Period of Indian History.

1.2.1 Ancient Period

The laws of the ancient period are believed to be of divine origin, one portion called Sruti, or “that which is heard” and which constitutes the Vedas, the four Vedas are the Rig-Veda, yajurveda, Samaveda, and Atharvaveda, being supposed to be very words revealed by Brahma himself and another dominated Smriti or that which is remembered, comprising the Dharamasatra and imagined to have been communicated to mankind through the medium of inspiration. The important Smritis are: Manu Smritis, Yajnavalkya Smriti, Narada Smriti, Parahara Smriti, Brihaspati Smriti, Katyayana Smriti.

Dharamashastra contains three topics. Achara, which provides rules on daily rituals, life-cycle rites, as well as specific duties and proper conduct that each of the four castes or varna have to follow. Vyavahara, they are laws and legal procedures. Prayaschitta, which provides rules for punishment and penances for violating the laws of dharma.

Among the all Smrities, Manu Smriti is recognized as the most authoritative work by all the law writers, from 2nd century A.D. onwards. The eighteen sub-divisions of law, which cover civil as well as criminal law, are the special features of the Manu Smriti. Kautilya’s Arthasastra was considered to be another important and authoritative source of law during ancient India from Mauryan period onwards. Kautilya’s Arthasastra played a considerably important role in defining crimes by women prescribing controlling measures for such crimes. He talked about women’s crimes, which were mostly ‘transgression, vagrancy, elopement, and sojournments’.

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In addition to these, literary works of the ancient period, the *Mimamsa* (art of interpretation) and the *Nibadhas* (commentaries and digest) are also the supplementary sources of law.\(^{57}\)

1.2.1.1 Nature of Women Crime and Punishment

According to the above stated sources the penal law of ancient period was not exactly criminal law in the modern sense of the term.\(^{58}\) It was based on the Varna System. The administration of legal justice and infliction of punishment was performed on the basis of Varna System.\(^{59}\)

Punishment in ancient period actually takes two forms: *danda* and *prayascitta*. The *danda* refers to the punishments meted out by legal authorities, usually a ruler, for criminal and civil offences. The second, *prayascitta*, denotes the self imposed penances or expiation that are generally undertaken voluntarily by a person who has committed a legal or religious transgression.\(^{60}\)

The *dandaniti*, i.e. punishment policy, is one of the elaborately dwelt upon subjects in ancient India as it was intimately connected with the administration of the State. Manu emphasized the importance and utility of punishment saying: “Punishment alone governs all created beings, it protects them and it watches over them while they are asleep.”\(^{61}\) As per *Manu*, *Yajnavalkya* and *Brihaspati* there were four kinds or methods of punishment during ancient India, namely, admonition, censure, fine and corporal punishment and declare that these punishments may be inflicted separately or together according to the nature of offence. Corporal punishments included death penalty, cutting off the limb with which the offence was committed, branding on the head some mark indicating the offence committed, shaving the head of the offender and

parading him in public streets.\textsuperscript{62} Kautilya laid down that the award of punishment should be regulated by a consideration of the motive and nature of the offence, time and place, strength, age, conduct, learning and monetary position of the offender, and by the fact, whether the offence is repeated.\textsuperscript{63}

In ancient period, the women’s crimes and punishments were defined in terms of morals and virtue. When women commit the crime she was considered not just violators of the criminal code, they are also at the same time violators of particular social mores. The general rule that lesser punishment is to be inflicted on women is stated by Katyayana. Katyayana stated that in cases of all offences women were to suffer half of the fine in money which were prescribed for male offenders, and when capital punishment was inflicted on a male, amputation of a limb would be the corresponding punishment for a female. For murder, however, female criminals were equally severely punished.\textsuperscript{64} Kautilya provided that: a woman attains ability to enter into transaction on completion of 12 years and men when they are 16: if they disobey after that (i.e. after attaining majority) the women shall be fined twelve panas and a man twice that amount.

\textit{Kautilya’s Arthasastra} played a considerable important role in defining crimes by women and prescribing controlling measures for such crimes. He talked about women’s crimes and prescribes the punishments to be inflicted on women. He considers the women offender sympathetically if she is pregnant or who has given birth to infant.\textsuperscript{65}

Adultery or immoral sexual enjoyment was regarded as the most heinous and degrading offence. The Smritis insisted that sexual enjoyment must be only between duly married husband and wife.\textsuperscript{66} Adulterous females were also not exempt from punishment.

\begin{itemize}
\item \textsuperscript{63} Ibid.
\item \textsuperscript{64} Sukla Das, \textit{Crime and Punishment in Ancient India}, Abhinav Publications, New Delhi, 1977, p. 69.
\item \textsuperscript{65} Suvarna Cherukuri, \textit{Women in Prison: An Insight into Capacity and Crime}, Foundation Books, New Delhi, 2008, p. 15.
\end{itemize}
Following types of punishment was available for women who commit the adultery. *Yajnavalkya* prescribe the highest amercement, the middling one when the paramour was of higher caste, but he was of a lower caste than the women, the male offender was sentenced to death and the woman had her ears cut off.\(^{67}\) If the male be of lower caste than the women, the male offender was sentenced to death and the women had her ears cut off. The consenting women (adulteress) was, according to *Vasistha* to be shaved, to have her head anointed with clarified butter and to be paraded naked on an ass and left to die on the great journey, while, the *Manu* provides when a women, arrogant because of the eminence of her relatives and her own feminine qualities, becomes unfaithful to her husband, the king should have her devoured by dogs in a public square frequented by many.\(^{68}\) *Kautilya* prescribe the cutting of nose and ear of a wife indulging in adultery and in some cases recommended 27 *panas* for the women.\(^{69}\) Gautama states that the king should get an adulteress devoured by dogs in a public place, if the adulteress is of a caste lower than her.\(^{70}\) *Sankha* prescribes this punishment for a women’s paramour of a lower caste and for erring women death by burning. *Vrddha-harita* prescribes that in the case of a women who is confirmed adulteress, or who destroys her foetus, her husband should have her ears, nose and lips cut off and then she should be banished. *Brhaspati* was much stauncher in this respect and according to him female adulterers were to be punished more severely. But these severe punishments for adultery were very much relaxed and softened by later *Smriti* writers.\(^{71}\)

Causing abortion was regarded as a serious offence and was severely punished. *Narada* has prescribed banishment for women who procure abortion. Bigamy was no offence in the case of males. In case of females bigamy was prohibited, but no judicial


\(^{69}\) Birendra Nath, *Judicial Administration in Ancient India*, Janaki Prakashan, Patna, 1979, p.82


punishment appears to have been prescribed for the offence of bigamy as such. Such cases were left in the hand of village elders for meting out social punishments.\textsuperscript{72}

Manu prescribes the shaving of the head as a punishment for a woman who pollutes a maiden. Flogging was prescribed by Vishnu for a woman in her course touching intentionally members of the higher castes.\textsuperscript{73} A wife, who has committed faults, may be beaten with rope or a split bomboo on the back part of the body only not on a noble part. According to Kautilya, suicide is severe crime, the person whether man or women would be punished by the punishment of deprival of rites after death who commits suicide.\textsuperscript{74}

Vasistha enjoins that only four types of wives are to be abandoned, one who has intercourse with the husband Pupil, with the husband’s guru, one who attempts to kill her husband. Second, who commits adultery with a man of degrade caste like a leather-work.\textsuperscript{75} Lesbians were cruelly punished by having their fingers chopped off.\textsuperscript{76}

Besides these, punishments, death penalty was also inflicted on women offenders in the following cases. Women who was extremely wicked or who murdered a man or who destroyed the embankments of a tank may have a stone tied round her neck and be drowned, provided she be not pregnant at the time of the sentence.\textsuperscript{77} Yajnavalkya prescribes death by being gored by the horns of bulls (after the nose, lips, ears and hands are cut off) for a woman who is guilty of poisoning or who is guilty of incendiarism or who kills her husband, elders or her own child. Manu prescribed that a women, being boastful of her father’s richness or of her own beauty, deserting her

\textsuperscript{72} Suvar na Cherukuri, \textit{Women in Prison: An Insight into Capacity and Crime}, Foundation Books, New Delhi, 2008, p.43
\textsuperscript{74} Shailja Bapat, “Kautilya’s Views on Punishment in Dharamasastra and Social Awareness, by V.N. Jha (ed.), Indian Books Centre, Delhi, 1996, p. 172.
husband and living in adultery with her paramour both the women and her paramour are punishable with death.\textsuperscript{78}

\textbf{1.2.1.2 Imprisonment}

Imprisonment was also prevalent during the ancient period.\textsuperscript{79} Manu mentions imprisonment among the three main modes of punishment. He laid down, “Let the king carefully restrain the wicked by three methods: by imprisonment, by putting them in fetters in lock-ups.\textsuperscript{80} About the construction of the prisons, Manu prescribed that, prison-houses should be built on public roads so that everybody can see the sufferings and disfigured criminals.\textsuperscript{81}

During Buddha Period, prisons were also in existence. There were regular prisons called \textit{Bandhanagaras}, where the convicted prisoners were jailed and were often kept in fetters and chains, and from where they sometimes ran away.\textsuperscript{82}

Although \textit{kautilya} did not mention the imprisonment as punishment but text refers to prison-houses and their administration. About prisons, there were two types of prison-houses-\textit{dharmaasthiyabandhandgara} and \textit{Mahamatriyabandhanagara}. The former known as \textit{charaka}, something like a lock-up where the accused was kept till the case was decided. The later appears to be intended for criminals who were unable to pay fines imposed on them. The period of imprisonment was determined by the amount of fine to be paid out of the wages earned for the work done for the state or till a relative of the prisoner freed him by paying the requisite amount of ransom.\textsuperscript{83}

\textit{Kautilya’s Arthasastra} elaborate some of the consideration for prisoners, which could be treated as some physical facilities to be provided to them that the accused who are not convicted and whose trial is going on in a different lock-up where the other prisoners are lodged. Those who are convicted by judges and unable to pay their fines

\begin{itemize}
\item \textsuperscript{78} \textit{Id.}, p. 191.
\item \textsuperscript{79} Divakar Mohanty, \textit{Rights of Prisoners}, in \textit{Dharamasastra and Human Rights}, by Ujjwala Jha (ed.), New Bhartiya Book Corporation, Delhi, 2011, p. 73.
\item \textsuperscript{81} Julis Jally, \textit{Hindu Law and Custom}, Bhartiya Publishing House, Delhi, 1975, p. 282.
\end{itemize}
were lodged in separate well guarded rooms. Facilities like halls, wells, bathrooms, place of worship according to their respective religion were constructed within prison. Sanitary arrangements, arrangement of protection against fire, against poisonous and other dangerous creatures were made. If somebody troubles and harasses a prisoner like disturbances in his sleep, in his taking meals, answering natures call and moving he shall be fined three Panas each. This will increase by three Panas for each type of harassment. If the superintendent subjects any prisoners to unjust torture without proper cause, the superintendent has to pay 48 Panas. If a superintendent deprives a prisoner of food and water he has to pay fine of 96 Panas. When officer torments a prisoner he shall be punished in a second degree of fine and he causes death to a prisoner he should be fined 100 Panas. Due to prescription of fine in cash and kind the interest of the prisoners were protected where indirectly light on their rights.84

In respect of protection of women prisoners, Kautilya provides that separate wards are made for male and female prisoners. In order to protect from custodial violence Kautilya provides that if an officer in a jail rapes a captive or a slave within lock-up he shall be punished with first degree of fine. When he commits rape with an Arya woman in lock-up he shall be punished with the highest degree of fine. When an officer commits rape with an Arya woman arrested for untimely moment at night he shall be hanged at the same spot.85

Kautilya also refers to grant of pardon to the prisoners on special occasions. Whenever new country is conquered, when an heir-apparent is installed on the throne, or when a prince is born to the king, prisoners are usually set free. Once in a day or once in five nights, jails may be emptied of prisoners in consideration of the work they have done, or of whipping inflicted upon them or of an adequate ransom paid by them in gold.86 He also prescribed that on the day to which birth stars of the king are assigned, as well as on full moon days. He prescribed that among the duties of the Nagaraka is to let out of the jail on the day of the festival of the birth constellation of

85 Ibid.
the king and on the full moon day such prisoners as are young, very old, suffering from
disease, and helpless or those who are of charitable disposed may pay in cash the fines
or others bind themselves by an agreement to pay in cash the fines for the offences for
which the prisoners are jailed.\textsuperscript{87} The condition of the prisons were undoubtedly
improved in the time of Asoka, who appears to be first to exert for the temporal and
spiritual welfare of the prisoners, and entrusted this work on the offices called
\textit{Dharmamahamatras}. Asoka’s measures were stepping towards moulding prisons as the
place of reformatory punishment.\textsuperscript{88}

\section*{1.3 MUGHAL PERIOD}

Muslims were a foreign Muhammadan dynasty who settled in India in eight
centuries after Islam has been adopted in certain countries outside India and a new
administrative type has been developed in those countries. The Mughal administration
presented a combination of India and extra-Indian element, or more correctly, it was the
Perso-Arabic system in Indian setting. This imported system was modified to suit local
needs. Its attitude towards law and justice was opposed to modern conceptions.\textsuperscript{89}

\subsection*{1.3.1 Nature of Women Crime and Punishment}

Muslim criminal law broadly classified the crimes under three heads: (i) Crimes
against God (ii) Crimes against Sovereign (iii) Crimes against Individuals.\textsuperscript{90} According
to J.N. Sarkar, the punishment for these crimes was of four types which include \textit{Hadd},
(b) \textit{Tazir}, (c) \textit{Qisas} and (d) \textit{Tashhir}. To these he added detention in prison without trial,
somewhat like our Hajat (lock-up) but more severe.

\subsubsection*{1.3.1.1 Hadd}

\textit{Hadd} signified boundary on limit; barrier or obstruction. In the \textit{Qurans}, it is
always found in plural, meaning the limit lay down by God, i.e. the provisions of law.
\textit{Hadd} is that punishment which has been exactly defined in the \textit{Quran} or the \textit{Hadis} by

\begin{itemize}
  \item \textsuperscript{87} P.V. Kane, \textit{History of Dharmasastra: Ancient and Medieval Religious and Civil Law}, Vol. III, 2\textsuperscript{nd}
  \item \textsuperscript{88} Berendra Nath, \textit{Judicial Administration in Ancient India}, Janaki Prakashan, Patna, 1979, p. 91.
  \item \textsuperscript{89} Jadunath Sarkar, \textit{Mughal Administration}, M.C. Sarkar and & Sons Ltd, Calcutta, 1952, pp. 5-6.
  \item \textsuperscript{90} \textit{Id.}, p. 101.
\end{itemize}
the prophet.\textsuperscript{91} This form of punishment is distinguished from \textit{Qisas}, which was considered the right of man, or private, as well as from \textit{Tazir}, which was indefinite and left to the discretion of the \textit{Qazi}. Under \textit{Hadd} the quantity and quality of punishment was fixed for certain offences and this could not be altered or modified. If the offence was proved the qazi had no other alternative but to sentence the convict to the prescribed punishment. The main aim of this punishment was to deter offenders from the perpetration of criminal acts, injurious to the community.\textsuperscript{92}

The punishment of \textit{Hadd} extended to crimes of adultery of illicit sexual intercourse (Zina) between married or unmarried persons, of false accusations of incontinence (\textit{Qadhf}), of drinking wine, of theft and of highway robbery.\textsuperscript{93}

- **Zina** The penalties for a man and woman, for the offence of Zina, when legally established in like circumstances, were the same. But whereas a man to be punished standing and naked except his girdle, a woman was not to be stripped, except of her outward garments, to receive the strips inflicted upon her, and with a further regard to decency, she was to receive them in sitting posture. The execution of a sentence of whipping, but not for lapidation, were to be postponed, in the case of a pregnant woman, until she had recovered from her labour.\textsuperscript{94}

- **Drinking of wine (\textit{Shurb})** Under Muslim penal law, the punishment for drinking wine, or being intoxicated with ether prohibited liquors was, if the offender was a free man or woman, eighty strips, to be inflicted in the same manner as provided in the case of zina and forty strips if the drinker was a slave, whether male or female.\textsuperscript{95}


\textsuperscript{92} Tapas Kumar Banerjee, \textit{Background to Indian Criminal Law}, Orient Logmans, New Delhi, 1963, pp. 46-47.

\textsuperscript{93} \textit{Ibid}.

\textsuperscript{94} \textit{Ibid}, p. 48.

\textsuperscript{95} \textit{Id}., p. 49.
• A false imputation of incontinence *Qadhf (Slander)* The penalty for slander when legally established was eighty strips, if the offender was free and forty strips if he or she was a slave.\(^{96}\)

• **Conversion/Apostate** A woman apostate is to be imprisoned according to the Hanafi School, but must be put to death according to all the other three schools of law.\(^{97}\)

### 1.3.1.2 Qisas

*Qisas* means retaliation, applied in case of killing and wounding which do not prove fatal. This was the personal right of the victim or his next kin, in the case of certain crimes, notably murder, unless the person killed was himself under sentence of law to die. If he demanded the legal punishment, the *Qazi* was bound to inflict it and neither he nor the king could exercise the royal clemency by modification or abrogation of the sentence. However, it became a case of *Diya* if the next to kin of the deceased was satisfied with the money damages as price of blood, offered by the murderer, or pardoned him unconditionally, it was his lookout, and neither the *Qazi* nor the king was to take any further notice of the crime. In *Qisas* “the right of god’s creatures prevailed” and the state came in only if desired to do so by a complaint of the aggrieved party.\(^{98}\) In case of murder of woman by woman she was to be tarnish.\(^{99}\) The *Diya* for a crime committed against a woman was half of that given for a man. There was no *diya* for a minor or an insane person. Women and children were not liable to pay *Diya*.\(^{100}\)

### 1.3.1.3 Tazir

*Tazir* means discretionary punishment, is intended to reform the criminal and inflicted for such crimes as have no *hadd* punishment. It was not ‘the right of god’. On contrary, its severity and magnitude was left entirely to the discretion of the judges for which attempts were often made to escape this type of punishment by bribery. It could take one of these four forms:

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96 *Id.* p. 50.
100 *Id.* p. 29.
Introduction and Research Methodology

- *Tadib*, or public reprimand.
- *Tirr*, or dragging the offender to the door and exposing him to public scorn; somewhat like putting a man in the pillory.
- Imprisonment or exile
- Boxing on the ear’; scourging.\(^{101}\)

1.3.1.4 *Tash-hir*

*Tash-hir* or public degradation was a properly-devised punishment of universal currency throughout the Muslim world and even Hindu India and medieval Europe. It included such punishment such as shaving off the offender’s head, making him ride on an ass with his face turned towards its tail, and his body covered with dust, sometimes with a garland of old shoes placed around his neck; parading him in this posture through the streets with noisy music and finally turning him out of the city. It is neither recognized nor condemned in the law-books of Islam, but has been inflicted by all Muslim *Qazis* and kings, and even by the lay public.\(^{102}\) This punishment is mentioned in the Institutes of *Manu*. The guilty (women) was mounted on an ass and paraded through the public streets. Prince Shah Alam inflicted this punishment on a woman in *Ujjan* for giving false information about a hidden treasure. He ordered to tear her robe to pieces, mount her on an ass with her face to its tail and parade her through the city. She was then flogged and afterwards released.\(^{103}\)

1.3.2 *Imprisonment*

During the Muslim rule in India punishment by imprisonment was not as uncommon as in ancient HInd India. But the chief feature of this punishment was that no period was fixed for it. The *qazi* and the magistrate had a right to send anyone to prison for the offence or crime for which the punishment could be warded and the accused had to show signs of repentance to secure his freedom.\(^{104}\) There were two kinds of prisons,

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\(^{102}\) *Ibid.*


one for prisoners of high rank and the other for ordinary criminals. Important nobles and princes guilty of treason and rebellions were imprisoned in the fortresses situated in different parts of the country the prominent among them, one was at Gwalior, second at Ranthambar and the third at Rohtas.\textsuperscript{105} Criminals condemned to death were usually sent to the fort of Ranthambore. They met their death two months after their arrival there. The Gwalior fort was reserved for the ‘nobles that offend’. To Rohtas were sent those nobles who were condemned to perpetual imprisonment, from whence very few return home’. Princes of royal blood were often sent to this place. Beside these noble-castles, there were jails at the capital, at the headquarters, of provinces, districts and parganahs. These public jails were called \textit{bandikhanas}. Beside regular prisoners, under trials were confined in jails. Occasionally, the prisoners were transferred from one place to another. When prisoners were taken to the prison, they were usually loaded with iron fetters on their feet and shackles on their necks.\textsuperscript{106}

The jails were frequently inspected by high officials of the judicial department who inquired those who had suffered enough. Sometimes the emperor paid visits to the prison houses at the capital, while the governors inspected the provisional jails. Internal organization of jails was highly unsatisfactory. Little or no care was taken of hygiene and cleanliness in jails nor was there any satisfactory arrangement for messing and treatment. Expense on jails was perhaps resented by all long periods. They therefore did not favour imprisonment for long periods.\textsuperscript{107}

In the time of Aurangzeb, persons were detained for securing confession. The detention in jail lasted as long as the accused did not become weak or submissive. He was let off earlier if he agreed to embrace Islam. Many persons were able to secure the release they were re-arrested. Slow poisoning of the prisoners was also resorted to be giving them big doses of opium early in the morning. Such a practice existed in the fort of Gwalior also.\textsuperscript{108}

\textsuperscript{107} \textit{Ibid.}
The only redeeming feature for the prisoners was that orders for their release were issued on special occasions. On the birth of prince Salim, Akbar ordered that all the prisoners in the imperial dominions were to be released. Soon after his occasion, Jahangir ordered the release of all those persons who had been imprisoned for a long time in the forts.\footnote{Ibid.}

1.4 BRITISH PERIOD

After the British East India Company in 1765, had acquired the authority over the department of finances of Bengal it gradually extended its control over other branches of government. The legal system was essentially Islamic and as far as penal law was concerned, based on Hanafite law. Under the Muslim law, as compared to contemporary British law, there were relatively few capital offences and, in addition, there were so many defences available that convictions for such capital offences were difficult to obtain. Britishers were not in favour to use the discretionary power of siyasa for pronouncing death sentences. They regarded it as arbitrary justice which offended their idea of rule of law. Therefore, in the beginning they adopted status quo. But gradually, the Britishers modified the Islamic criminal law properly rather than circumventing it by using the extensive discretionary power of siyasa.\footnote{Rudolph Peters, Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century, Cambridge University Press, Cambridge, 2005, p. 110.}

1.4.1 Nature of Women Crime and Punishment

At the beginning of the British rule, the following punishments were imposed on criminals such as impaling, cutting off the nose and ears, the stocks, blowing from a gun, hanging, drowning either from a boat or being tied up in a beg, flogging with a whip, and jail. Imprisonment in jails and transportation to some country were two methods of punishment which were made much use in British period.\footnote{Tapas K. Banerjee, Background to Indian Criminal Law, Orient Logmans, New Delhi, 1963, p. 292.}

The system of transportation was started in India in 1784 in a planned manner. The first penal settlement in India was at Bencoolen in Sumatra in 1787 and the first batch of Indian convicts was transported to this place in 1787. In 1823, the penal settlement was transferred to Island of Penang. After Penang, when Singapore came
into possession of Great Britain, a group of convicts were transported from India to Bancoolen and from there to Singapore on 18th April, 1925. Among them was one female, transported for life. After these penal settlements, penal settlement at Andaman’s began from March, 1858. In 1859, all felons under sentence of transportation, who were physically fit for labour were departed at once to the Andamans. In 1860, Government started sending female convicts to Andamans.112

1.4.2 Imprisonment

As the condition of jails was appalling at the end of the Muslims rule, but the government of Bengal did not pay any attention to this problem before the arrival of Lord Cornwallis. Until then prisoners were under the general management of the Naib Nazim and his subordinates, the judges of the Foujdari courts upto 1970, the government of the company exerted only indirect influence on the Nizamat and so not much was done in the field of jail administration till them. But in 1790, with the assumption of direct responsibility for the Nizamat and the administration of criminal justice, the improvement of prison conditions began to receive attention. At that time the buildings constituting the jails were in very poor conditions. Almost all the jails had mud-walls and straw thatched roofs. The condition of prisoners was very deplorable. Ill-treatment of prisoners and severities were practiced on them. Jails were miserably overcrowded and the prisoners were deprived of the necessities of life because of the inefficiency of administration. There were no classification of prisoners, criminals and debtors, men and women, were kept together in the same room.113

The number of deaths among the prisoners was unusually high. Due to insecurity of the jails prisoners often escaped from the jails. Prisoners were kept in stocks or fetters or fasten them down with bamboos, or shut them up in cells or close apartments at night not on account of the suit or charge on which they are confined, but because of insecurity of the jails. Untried prisoners were also put into fetters. Prisoners were not given food by the government, but they were given daily allowance with which they purchase their food from one or more shopkeepers who were allowed access

112 Id.
113 Tapas Kumar Banerjee, Background to Indian Criminal Law, Orient Longmans, New Delhi, 1963, p. 361.
to the prisoners. At some places the prisoners were not given their rations and were forbidden to wash and shave. Some jails were miserably overcrowded and the prisoners were deprived of the necessities because of the inefficiency in administration. From the stand point of health, security and durability in the face of storms or fire, jails were unsatisfactory. Solitary confinement was more prevalent. Prison labour was intended to inflict punishment on the prisoner, to disagree and humiliate him, and finally to crush him. Prison labour was usually taken as the means to keep the men usefully employed, to make them contribute to some extent to the cost of their maintenance and to prevent their mental deterioration. All convicts sentenced to imprisonment were employed on public works like the manufacture of bricks, digging of tanks, repairing of the bands, clearing of jungles, and in the construction of bridges and of roads throughout the province which were scandalously defective, with the exceptions of bodily labour because of age sickness, or other infirmity.\(^{114}\)

First effort to reform the prison administration was made in 1835, when Macaulay drew the attention of Government to the necessity of thorough prison reform and proposed to appoint a committee “for the purpose of collecting information as to the state of Indian prison and of preparing an improved plan of prison discipline and to suggest such reforms as may make the place a model for other prisons’. Therefore, a committee was formed with able men of whom Macaulay was one to report on the subject. The report was prepared after the most careful and prolonged inquiry in all parts of India and submitted its report in 1838\(^{115}\) criticizing severely the “laxity of discipline, corruption and the system of employing the prisoners in extra-mural labour on public roads. Unfortunately, the committee in its recommendations deliberately rejected “all reforming influences such as moral and religious teaching, education or any system of rewards for good conduct.” However, one of the factors which goes in favour of this committee is, that the process of prison reforms started in India with the recommendations of this committee. For many years, after the establishment of this committee, no marked progress was done in the field of prison reforms and concept of human treatment of prisoners.\(^{116}\)

\(^{114}\) \textit{Ibid.}

\(^{115}\) \textit{Id.} p. 362.

Therefore, Second Prison Inquiry Committee was appointed in 1864 to review
the prison administration in India. In 1877 a Conference of experts met to inquiry into
prison administration. The conference proposed the enactment of a prison law and draft
bill was prepared. But no attempt made at legislating the proposed draft bill. In 1888-89
another committee was appointed to examine jail administration and on the basis of its
report, the Prison Act 1894 and the Prisoners Act 1900 and other statutes dealing with
prisoners was passed.\(^{117}\) However, the process of review of the prison problems in India
continued even after this. Another Indian Jail Committee was appointed in 1919-20.
This committee examined the conditions of prisons not only in India but also in
England, Scotland, U.S.A., Japan, Philippines and Hongkong and after visiting the jails
of these countries, Committee stated that:

“The Indian prison administration has lagged behind on the reformative side of
prison work. It has failed so far to regard the prisoners as an individual and has
conceived of him rather as a unit in the jail administrative machinery. It has little lost
sight of the effect which humanizing and civilizing influences might have on the mind
of the individual prisoner.”\(^{118}\) The committee emphasized “the necessity of improving
increasing existing jail accommodations, of recruiting a better class of warders, of
providing education for prisoners, and of developing prison industries so as to meet the
needs of the consuming department of Government”. It also recommended the
separation of civil from criminal offenders and the creation of children’s courts, and
drew particular attention to the reformation side of the system.\(^{119}\) But the
recommendations of this committee could not be implemented due to the unfavorable
political atmosphere that prevailed during that time.\(^{120}\)

Under the Government of India Act, 1919, the maintenance of prisons fell within
the sphere of provincial government, subject, however, to all-India legislation. With the
introduction of provincial subject and the power of legislation in this respect was vested

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\(^{117}\) M.C. Valson, Rights of Prisoners: An Evolving Jurisprudence, CULR, Marc-Dec 1995, p. 308.
\(^{118}\) R.N. Sharma, Prison Reforms in Modern Perspective-A Comparative Analysis”, M.D.U. Law
in the provincial governments as regards the transfer of prisoners and criminals from one unit to another.\textsuperscript{121}

1.5 CRIMINAL JUSTICE SYSTEM IN INDIA

‘Criminal Justice System’ refers to the structure, functions, and decision and processes of agencies that deal with the crime prevention, investigation, prosecution, punishment and correction. Some believe that it is not totally accurate to speak of a criminal justice system. A System implies some unity of purpose, an organized interrelationship among component parts. The criminal justice system is a loose confederation of agencies that perform different functions and are independently funded, managed and operated. However, despite their independence, these agencies of criminal justice system are interrelated because what one agency does affects all others. That is why they are called a ‘System’.\textsuperscript{122}

The objective of the criminal justice are prevention, and control of crime, maintenance of public order and peace, protection of the rights of the victim as well as person in conflict with law, punishment and rehabilitation of those adjudged guilty of committing crime, and generally protection of life and property against crime and criminality. The principal formal agencies of criminal justice are Police, Judiciary, and the Correction (Prisons, Probation and Parole) under the Constitution of India.\textsuperscript{123}

Thus, prison or correction is the final stage in the criminal justice system. It is custodian of the criminal justice administration. Prisons give legal effect to the labours of the investigative, prosecution and adjudicatory functions performed by the police, prosecution and the courts respectively.\textsuperscript{124}

1.6 CONTROL AND MANAGEMENT OF PRISONS IN INDIA

‘Prison’ in India is a State subject according to item 4 in the State List-II of the seventh schedule of the constitution. Prison are managed and governed by state Government and Government of Union Territories. The Government of the states and

\textsuperscript{123} Liu Jianhong; Hebenton; Bill; Jou, Susyan (eds.), Handbook of Asian Criminology, Spring Publishers, New York, 2013, p. 27.
\textsuperscript{124} Prisons and law in India prepared by Bureau of Police Research and Development, Ministry of Home Affairs, New Delhi, 2003.
union territories have last world in all matters relating to prevention and detention of crime, trial and sentencing of offenders, and the custody of criminals in prisons. The State Government has the power to make rules and regulations for administration and management of prisons and correctional institutions.

In India there are a total of 1,394 prisons of different categories and sizes, with an authorized capacity of 3,43,169 but they lodge 3, 85,135 inmates including 3, 68,184 male (95.6%), and 6,951 (4.4%) female inmates. Out of these number, 1, 27,789 were convicts, 2, 54,857 were under trials, and the balance 4922 being detenues and 567 others. The occupancy rate was 112.2 percent at the end of the 2012. As far as the male-female convict’s ratio is concerned, 96.1 percent were males and 3.9 percent were females. There are 20 jails exclusively for women prisoners exist only in 13 states/UTs. The highest numbers of female inmates 3,163 were reported from Uttar Pradesh followed by Madhya Pradesh 1,181, Bihar 928, Maharashtra 1,338, Punjab 1,275 female at the end of year 2012. Maximum numbers of women convict were reported (844) from Uttar Pradesh followed by Madhya Pradesh (494) of the total convicts in the country at the end of the year 2012. In Punjab out of total 1,275 female inmates 407 were female convicts and 865 were female under trials at the end of 2012.

<table>
<thead>
<tr>
<th>Year</th>
<th>Convicts</th>
<th>Under-trials</th>
<th>Total C.T+U.T</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>105</td>
<td>319</td>
<td>424</td>
</tr>
<tr>
<td>2006</td>
<td>120</td>
<td>342</td>
<td>462</td>
</tr>
<tr>
<td>2007</td>
<td>114</td>
<td>398</td>
<td>512</td>
</tr>
<tr>
<td>2008</td>
<td>152</td>
<td>316</td>
<td>468</td>
</tr>
<tr>
<td>2009</td>
<td>216</td>
<td>345</td>
<td>561</td>
</tr>
<tr>
<td>2010</td>
<td>215</td>
<td>448</td>
<td>663</td>
</tr>
<tr>
<td>2011</td>
<td>247</td>
<td>369</td>
<td>616</td>
</tr>
</tbody>
</table>


125 Tamil Nadu and Kerala has 3 women jails each and Andhra Pradesh, Rajasthan and West Bengal have 2 women jails each. Bihar, Gujarat, Maharashtra, Odisha, Punjab, Tripura, Uttar Pradesh, and Delhi have one women jail each. Total capacity of women inmates was highest in Tamil Nadu, (1,569) followed by Rajasthan (469), Uttar Pradesh (420), West Bengal & Delhi (400 each), Andhra Pradesh (380), Punjab (320), Maharashtra (262), Kerala (232), Gujarat (200), Bihar (83), Odisha (52) and Tripura (30). Prison Statistics 2012, available at from ncrb.nic.in. as visited on 1-3-2014.

The Central Acts which govern the working of Prisons in India are:

- *The Prison Act, 1894*
- *The Prisoner Act, 1900*
- *The Transfer of Prisoners Act, 1950*

These Central Acts provide overall uniformity in the functioning of prisons in different states. Besides these acts, the state governments have passed their own laws. All states have their own Jails Manuals based on the central acts as amended by the state Government from time to time to meet local needs and requirements.

The general, matters concerning prisons and adult offenders are looked after by the Home Department of the State Government. Other subjects like the prevention and control of Juvenile delinquency and after care under the Social welfare department.

The State Act which governs the working of prisons in Punjab are:

- *Punjab Prisoners (Attendance in Courts) Rules, 1969*
- *Punjab Habitual offenders (Control and Reform) Act, 1952.*
- *Punjab Habitual Offenders (Control and Reform), Rules, 1957.*

*The Prison Act, 1894* has defined the term “prison” as any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners and include all lands and buildings apartment thereto, but does not include:

(a) any place for the confinement of prisoners who are exclusively in the custody of the police.

(b) any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure Code, 1882; or
(c) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail:¹²⁷

### Organizational Set Up¹²⁸

![Organizational Set Up Diagram]

**Figure 1.1: Organizational Set Up**

#### 1.7 AIM OF THE PRISON SYSTEM IN INDIA

India share a universally held view that sentence of imprisonment would be justifiable only if it is ultimately leads to protection of society against crime; such a goal could be achieved only if incarceration motivates and prepares the offender for a law-abiding and self supporting life after their release. It further accepts that, as imprisonment deprives the offender of his liberty and self-determination. The prison system should not be allowed to aggravate the sufferings already inherited in the process of incarceration. While certain categories of offenders, who endanger public safety, have to be segregating from the social mainstream by way of imprisonment: all

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¹²⁷ Sec 3(1) of *the Prison Act, 1894*.

¹²⁸ Comptroller and Auditor General of India, retrieved from agpunjab.gov.in/reports/2012/report%20no%203/appendices.pdf as visited on 12-10-2013.
possible efforts have to be made to ensure that they came out of prisons as a better
individual.\textsuperscript{129} 

The Jail Department of Punjab\textsuperscript{130} also seeks to protect society from criminals and also endeavor to reform and assimilate offenders in the social milieu by giving them appropriate correctional treatment. To make correctional treatment a continuous and complete process, this integrated department is called the Department of Prisons and Correctional Services. This department is a part of the Ministry of Home Affairs and Justice of Punjab Government.\textsuperscript{131} All prisons in Punjab have been named as \textit{Sudhar Ghars} to create a healthy psychological effect in the minds of the inmates, prison staff and general public.\textsuperscript{132} In Punjab there are seven Central Jails,\textsuperscript{133} six District Jails,\textsuperscript{134} ten Sub Jails,\textsuperscript{135} only one Women Jail situated at Ludhiana, one Borstal Jail, and two open Agricultural jails.\textsuperscript{136}

1.8 \textbf{REVIEW OF LITERATURE}

Sudha Kaldate\textsuperscript{137} (1987), in this paper, authoress, has made an effort to discuss the problems of the convicted women offenders. She has used both the empirical and the non-empirical method. She visited the jails and correctional institutions of women offenders situated in states of Assam, Tripura and West Bengal. During the visit to these jails and correctional institutions, she found that female offenders are considered as a ‘limited risk custodial liability’ and their small number in prisons are responsible for their needs being neglected. According to her, physical state of most prison buildings was unsatisfactory. Custodial amenities for women prisoners were unsatisfactory

\textsuperscript{130} RFD. Result Framework retrieved from www.performance.gov.in/sites/defaults/files \ldots/ Punjab/\ldots/12/prisons.pdf as visited on 5-9-2013.
\textsuperscript{132} Ibid.
\textsuperscript{133} (1) Amritsar (2) Bathinda (3) Ferozepur (4) Gurdaspur (5) Jalandhar (6) Ludhiana (7) Patiala.
\textsuperscript{134} One each at (1) Faridkot (2) Hoshiarpur (3) Kapurthala (4) Nabha (5) Ropar (6) Sangrur.
\textsuperscript{135} One act at (i) Barnala (2) Dasuya (3) Fazilka (4) Malerkotla (5) Moga (6) Mansa (7) Muktsar (8) Pathankot (Now district jail) (9) Patti and (10) Phagwara.
\textsuperscript{136} One at Nabha and other at Kapurthala (Now District Jail).
classification of prisoners was also non-existent in most prisons. Medical diagnostic and care facility by full-time female doctors was absent in many jails.

Beside physical infrastructure, she also found the lack of co-ordination between correctional services and other agencies like law, probation and voluntary organizations and women staff inadequate and under represented at all levels. Through the review of published and unpublished literature she found that recommendation of the Indians Jails Reform Committee, 1919-20 have received little attention in various states and union territories.

In order to improve the conditions of women offenders in India she suggested apart from improvement in daily facilities, cleanliness and hygiene conditions, educational, vocational and legal literacy programme should be introduced and carried on with all seriousness. Voluntary bodies, women activities and lady advocates should be associated by the prison officials. Reports of the committees constituted to consider the conditions of women prisoners should be urgently implemented so that a women convict should come out of prison as a responsible citizen. Those who want to improve the conditions of women offenders should study and where possible personally inspect, prison conditions in India as well as outside.

Samarendra Mohanty\textsuperscript{138} (1987), in this paper, the author had made an attempt to describe certain critical issues concerning the female prisoners in India and the relevance of vocational training for their reformation and rehabilitation. In order to achieve these objectives, he used the non-doctrinal method. About female criminality, he studied the prison statistics from 1971 to 1978 and found that number of female criminals has increased from 41.87 percent to 55.90 percent and that women do commit all kinds of crimes that their male counterpart do. About vocational training, he held that available vocational training programme for prisoners in jails are inadequate and may not help in their rehabilitation and suggested to introduce vocational training programme for women prisoners in jails those can have a tremendous help in developing a sense of responsibility which is must for rehabilitation in the truest sense.

\textsuperscript{138} Leelamona Devasia and V.V. Devasia, \textit{Female Criminals and Female Victims: An Indian Perspectives}, DATTSONS Publishers and Publishers Distributors, Nagpur, 1987, pp. 242-249.
of term. so, it is essential that Indian scholars should come forward to carry on research for reforming the policy, objectives, and the organisation of prison work programmes for women prisoners suitable to the needs of the contemporary period.

Rekha Saxena\(^{139}\) (1994), authoress has conducted this study from sociological perspective. This study has been divided into eight chapters. Chapter one provides information about the concept of crime through a review of the criminological literature available on the subject. Chapter second contains information about the research methodology adopted by the authoress to collect the data in order to make this study possible. She adopted the non-doctrinal method and used the comprehensive interview schedule technique to collect the data from women offenders. In chapter third she discussed the socio-economic background of the women offenders.

In chapter fourth and fifth of the study, she explained very beautifully the viewpoints of the women offenders about the family with which they came in contact and which have had a varying influence in shaping their lives, both before and after marriage and concluded that family is the most important situation in the life of female offenders and major contributory factor to criminal behaviour among them.

In chapter sixth, authoress examined the various patterns of criminality, victim offender relationship and motivation in crime and concluded that apart from social and economic problems, and the rejection of family and social values a women’s personal behaviour and attitudes are also equally important causes of crime in females.

Chapter seventh is very informative. It consists of two parts. In part one, she described the physical structure of five prisons in order to look into the living conditions of convicted women offenders. Second part explores the women offenders experience of imprisonment and their attitudes towards the police, court and the prison officials and fellow inmates and concluded that imprisonment of women offenders and the social experiences encountered by women inmates as a result of prisonization, does bring the pains and losses to an accused. Most of the female prisons were in poor conditions. The

physical surroundings of most prison building was unsatisfactory, classification of
prisoners and treatment programmes for female prisoners were either non-existent or
markedly inadequate which may not help in their rehabilitation.

Sabita Mishra and Amarendra Mohanty\textsuperscript{140} (2002), the main objectives of this
study were to find out the problems of prison administration particularly in Orissa, the
conditions of female offenders in the jails and to give a setting to future investigation
and to prepare a base for the best utilization of appropriate techniques in the setting up
of correctional institutions for female offenders. In order to achieve these objectives
scholars adopted the historical and survey-cum-evaluate methodology. The researchers
collected the opinion of 150 women prisoners lodged in 13 jails in different parts of
Orissa, through an exhaustive interview schedule in order to know their socio-economic
conditions (profile), cause of crime and conditions of jails in Orissa in which they live.
About socio-economic conditions, they found that most of the women prisoners were
married, illiterate, unemployed at the time of crime, belong to Hindus religion, hails
from rural areas and from middle class or lower middle class families, stricken by
poverty, poor knowledge about the legal system.

About the causes of crime, they founded that beside personal rivalry, jealously,
broken homes, theft, drug-trafficking and self-defence, dowry atrocity emerges as the
main reason for criminality among the elderly women aged between 41-50 years.

Beside socio-economic conditions and causes of crime among women prisoners,
researchers made the efforts to sum up the whole prison conditions in this short article.
They found that prison conditions in Orissa are inadequate for the rehabilitation and re-
integration of the women prisoners into the society after release from prison and
purpose of the imprisonment is only custodial instead of being correctional.

S.P. Srivasatava, (2005)\textsuperscript{141} this paper has been divided into six parts. The first
part contains the introduction. In introduction description about the finding of the
justice Krishna Iyer’s Committee (1987) constituted to review the condition of the

\textsuperscript{140} Sabita Mishra and Amarendra Mohanty, “Administration of Women Prisoners in Orissa: Problems
\textsuperscript{141} S.P. Srivasatava, \textit{Handbook on Crime against Women}, Indian Publishers Distributors, New Delhi,
2005, pp. 368-402.
women in prison and the report of the national commission for women who visited many jails all over the country to study the conditions of women has been made. In the second part, discussion about the prevailing prison conditions in India is made and found the eight major problematic areas which affect the system and need priority attention success over-crowding, delay in trail, lack of privacy and proper facilities to facilities the communication between prisoners and their families, friends, lawyers etc. Contains the brief discussion about the judicial pronouncement made to protect the right of the prisoners. It is explained that it was Maneka Gandhi’s case, which generated strong current and converting the right to life and personal liberty in Article 21 into a great shield against deprivation of human rights and the court held that “imprisonment does not spell farewell to fundamental rights.” fifth part describe the role of the Non GovernmenOs in the field of treatment after care and rehabilitation and suggested to incorporate the recommendations of the Mulla Committee made about the role which NGOs can play in respect to the treatment of the prisoners.

In last part of the paper researcher concluded that it is travesty of justice that despite a new jurisprudence coming forth from the apex court articulating new forms of rights and liberties to prisoners, it remains non-existent for a large percentage of illiterate, ignorant and impoverished masses of this country and it did not change substantially the position of prisoners or prison system in India.

**Deepti Shrivastava**\(^1\) (2006), through this study the researcher made an effort to identify the various problems faced by the women prisoners, causational factors behind these problems, impact of these problems on female prisoners and to suggest the various remedial measures to prevent these problems. Researcher used the both doctrinal and empirical method to carry out this study and found out that due to male-dominated jails women prisoners have to face inequitable treatment, psychological problems due to neglected gender-specific medical care, forced separation from children, fear of stigma and problem of rehabilitation after release from the jail. On the basis of these problems, she concluded that following causes are responsible such as small female prison population, poor strength of the female staff, untrained staff, poor

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infrastructure facilities, lack of separate prisons, illiterate prisoners, traditional social mind, unskilled industry instructions, untrained welfare offices, lack of counseling and casual attitude of prison staff. The problems faced by women prisoners in the jails put following impacts on them such as if they were not trained in various income generated programes, they have to face further chances of exploitation, due to social stigma they can end their life, forced separation of women prisoners from their children put large on their children, inadequate child care put effects on the physical development of the child. All above stated problems put hurdles in re-assimilation and rehabilitation of the victim. In order to prevent these problems faced by the women prisoners, researcher suggested the following measures such as first of all to abolish discrimination between male and female prisoners, prevent the increasing recidivism among the women, special attention should be given towards the job training, alternative method of sentence should be used for female prisoners, special consideration should be given to the children of women prisoners and concluded that if the female prisoners can’t assimilate themselves in prison culture then the correctional process will be incomplete and due to incomplete correctional process they can’t rehabilitate themselves in the society mainstream.

Debarati Harider and K. Jaishankar\textsuperscript{143} (2007), this article has been divided into two parts by the researcher. First parts contains discussion about the six rights available to women convicts, under-trails and offenders under Article 21 and 22 of the India Constitution such as Right against inhuman treatment, torture and custodial deaths, Right against solitary confinement, Right against arbitrary arrest and detention these rights are equally apply to the women prisoners. Second part talks about the position of women prisoners in Indian jails. In order to carry out this study, researchers used the doctrinal research method.

In respect of the position of women prisoners in India, the authors held that although Right to Life under Indian Constitution has been broaden enough to include wide prisoners rights to prisoners, but unfortunately situation still prevails in the area of

women prisoners and suggested the implementation of the recommendations of Justice Krishna Iyer’s Report on women prisoners in order to improve the conditions of the women prisoners in Indian prisons.

Deepti Shrivastava144 (2009), “this study is the result of the project work sponsored by the bureau of police research and development. The main objectives of the study were to (i) get a clear picture of status of women prisoners and their children, (ii) identify the judicious pronouncement about women prisoners and their execution appraisal in Indian prison (iii) identify causational reasons responsible for non-implementation of judicial pronouncements.

In order to conduct this study, authors used the both doctrinal and non-doctrinal methods and the primary and secondary data. Primary data was collected through interview schedule and observation method.

She has found about the status of women prisoners that unfortunately still there are mixing custody existing for various categories of offenders, prostitutes, procuresses. Besides this lack of proper educational facilities still existing although free legal aid facilities are available in prisons but very few lawyers visited prisons to give much needed advice to the inmates. Women prisoners who obtained bail were still suffering in prisons. About the implementation of judicial pronouncement, it was found that the status of judicial pronouncement implementation for women and children virtually in at a middling level, it is still required realistic attention, recognition and protection, which did not yet receive the adequate attention. Further, she found the following causational factors such as lack of proper training of prison officers, small prison population, poor staff inmate ratio, lack of co-operation among prison officers, lack of sufficient funds and held that there is a strong need to foster effectuation of judicious pronouncement to carryout prison administration. She put the following recommendations such as development of individualized programming plan, using the mechanism of rewards and punishment for maximum implementation, need of gender sensitization of prison officers, need of extra funds, coordination with NGOs, need to improve prison culture,

improvement in service conditions etc. based on the interaction with the women prisoners and key prison personnel.

Kunwar Vijay Partap Singh\textsuperscript{145} (2010), the main objective of the study was to examined whether rights and privileges available to women prisoners under national and international laws are practically available to women prisoners or not in Amritsar central jail. In order to achieve this objective researcher used the interview schedule technique to collect the primary data from 15 women prisoners confined in the Amritsar jail and establish that living conditions available to women prisoners were conducive to enjoy their rights and privileges available to them beyond the deprivation of liberty except these problems such as lack of proper space to have interview with family members, relatives, friends, non-availability of gender-specific health care facilities. Author recommended that government should implement the provisions of the model prison manual, 2003 and guidelines of Supreme Court in order to safeguard the rights of women prisoners.

R.K. Tiwari\textsuperscript{146} (2011), in this article the author highlighted the gender-specific needs of pregnant women prisoners, of mother women prisoners with children before birth and after birth of the child, child care, protection from physical abuse etc and the gender-specific rights such as health rights, right to contact with the family members, rights available to pregnant women prisoners set out in different international and domestic documents. He examined the guidelines issued by the Supreme Court in R.D. Upadhyay’s case in order to provide gender-specific rights to women prisoners and suggested that government should take positive steps to implement the Supreme Court guidelines and international provisions to improve the conditions of the women prisoners.

Ashish Virk\textsuperscript{147} (2011), it is very informative article. She has divided this article into four parts. In the first part of the article, she discussed the international historical

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development of women jails and highlighted the reasons responsible for the negligible attention given to the female criminality and the seminal work of various feminist criminologists, who challenged the conventional criminological theories of criminality and held that women’s relationship to crime problem needs to be understood not only in terms of their offending behaviour, but also in relation to women’s experience as victim in relation to women’s experience as victim of crime. In second part, she discussed the conventional theories of female criminality along with the significant causative factors give rise to female criminality. Third part of the paper is significant from the perspective of present study. In this part she described the observations made during an empirical study of the sole exclusive women jail Ludhiana. She held that environment within the four walls of prison is not suitable for the rehabilitation and reintegration of women prisoners. Moreover, such environment makes the women prisoners loose all their morality, tenderness, politeness making their behaviour their behaviour anti-social. Hence, prisons with such environment could not be considered as correctional homes, they have merely becomes stores of human beings.

She held the vocational training imparted to them in the form of embroidery, stitching candle making etc. neither sufficient for their economic independence nor the inmates show much interest in these activities. Therefore, suggested that in order to make the prisons, correctional homes, the laws and manuals dealing with prison administration should be thorough revised and amended regularly taking into consideration the changing nature and dimensions of crime in society. According to her the Punjab Prison and Correctional Service Bill 2010, should be speedily operationalized because this bill have special focus on women prisoners as well.

In fourth and the last part of the paper, in order to make imprisonment useful which could help in rehabilitation of prisoners and pull of the real purpose of imprisonment, she suggested to adopt some other modes of punishment for women prisoners successfully working in USA’s criminal justice system in lies of imprisonment.
Kamla\textsuperscript{148} (2011), in this article, the researcher highlighted the violation of human rights of women prisoners and steps taken by the Indian Apex Court to protect their human rights. Researcher used the doctrinal method for this purpose. She described that women prisoner have to face many problems in the male-dominated prisons. Because adequate clothing, toilet facilities were not made available to them. The facilities for education, vocational training and recreational facilities were always remain very limited for them. As majority of women prisoners were from rural background, illiterate so had no courage to communicate their needs and grievances to prison staff in the jails. In order to stop the violation of human rights of the women prisoners the Apex Court of India through judicial activism gave a new dimension to the word ‘personal liberty’. Court issued a number of guidelines such as to provide legal aid to needy women prisoners and held that punishments in civilized societies must not degrade human dignity. Judiciary issued the number of guidelines for states and prison administrations to be followed in order to stop the violation of human rights of women prisoners. According to judiciary the prison manuals are mostly callous colonial competitions and even their copies are mostly beyond the prisoner’s ken.

Mukesh Garg and Nareshlata Singla\textsuperscript{149} (2012), in this study researchers considered the rights of women prisoners and highlighted the problems faced by them in the prison. They used the non-doctrinal research method and divided the paper into the five parts. First part contains general introductions about women in India. Part two described the various constitutional provisions of the constitutions of India such as article 14, 15 which provide equal status to the women. In third part, researcher described the basic human rights, constitutional and statutory rights available to the women prisoners in the jails. In fifth part, discussion about the problems faced by the women prisoners in the jails is made. According to researcher, due to small numbers of women prisons, they have to face over-crowding which generates other problems for them. Due to made-dominated prison system women prisoners have to face shortage of


proper necessities such as proper accommodation or recreation facilities, women prisoners also have to suffer torture both physical and sexual in custody. They also did not get satisfactory legal aid in prisons. Therefore researchers suggested that in order to prevent the problems faced by the women prisoners the efforts should be made on war footing to reduce the strength of women under trial prisoners and for this purpose the procedure of plea bargaining should be adopted. Lok Adalats should be organized frequently. Fast track courts should be substantially amended. Penal of visitors should be appointed on permanent basis. Goal and aim behind awarding the punishment should be the reformation and rehabilitation of the women prisoners.

J.J. Rath\textsuperscript{150} (2012), this paper is an outcome of the doctoral research carried out by the author on “Right to privacy of the women prisoners in the jails of Orissa: A critical analysis”. The main objective of the author was to unearth the socio-economic conditions of the female inmates in the jails of Odisha. For this purpose author used the both doctrinal and non-doctrinal method of research. He studied the socio-economic conditions of the women prisoners in the terms of the following variables: age, religion, housing conditions, marital status, number of children’s, place of stay, educational profile, nature of family, employment status, monthly family income of number of dependents, other sources of survival sufficiency of family income. He find out that majority of women were married, belong to the age-group of 40-60 years, from joint families, living in kacha houses, most of women had two children’s, staying in their in laws families before committing crime, illiterate, fathers of the most of the respondents were also illiterate, majority of women prisoners belong to Hindu religion, had low rate of education and concluded that ultimately, low literacy rate, low family income, illiteracy of the parents, apathetic behaviour of the in-laws, are the contributing factors towards involvement of women in crimes. Author suggested that to protect the rights of women prisoners the government must endeavour to take steps towards improvement of the socio-economic conditions of women prisoners. For this purpose the government should provide educational, vocational training and counseling programmes to women prisoners. Because, education either in the form of elementary education or in the form

of soft skills is the only way to make the women prisoners socio-economically sound. Follow-up study of released prisoners should be made to assess the impact of rehabilitation oriented programmes so as to identify the problem areas and to make improvements in the prison rehabilitation policies.

Romana\textsuperscript{151} (2010), through this study, researcher made the efforts to highlight (i) the gender-specific needs and the gender-specific rights of women prisoners set out in international and domestic documents (ii) various facilities available to women prisoners in the central jail located in the capital city of Jammu and Kashmir (iii) Implementation of the various guidelines made by the honorable Supreme Court of India in R.D. Upadhyay v. State of Andhra Pradesh and others.

For this purpose she used the both doctrinal and non-doctrinal methods. She found out that there is wide gap between theory and practice vis-à-vis women prisoners rights leaves much to be desired on the part of the government and prison administration and concluded suggested that there should be transparency and access to the prisons. In order to meet the expectations that prison should meet the demands of rehabilitation and reformations, in addition to those of retribution, punishment, and deterrence, government should solve the problem of prisoners first. Government should take affirmative steps to reform prisoners and make them better prisoners.

From the review of the important literature related to the topic under study, researcher found that majority of studies has been done empirically from the both sociological as well as criminological point of view. All these studies concluded that conditions of women prisoners were unsatisfactory due to inadequate living conditions, absence of adequate treatment programs for the rehabilitation and reintegration of women prisoners, non-implementation of judicial pronouncement in real terms. These studies done from 1994 to 2012, shows that government had never made any concrete efforts to improve the conditions of women prisoners accept the appointment of committees. Efforts made by the Committees also wasted due to non-implementation of the recommendations regarding the women prisoners given by them.

1.9 OBJECTIVES OF THE STUDY

The objective of any work is very important as they provide those lines of action which are to be followed. The present study seeks to examine the following objectives:

1. To find out the socio-economic status of women prisoners.
2. To know the nature and extent of crimes committed by women prisoners.
3. To make an in-depth examination of situations in which they live in prisons.
4. To find out the major causes responsible for the abuse of their rights.
5. To find out the problems faced by the women prisoners due to abuse of their rights.
6. To develop suitable approach to prevent abuse of their right through this study.
7. To find out appropriate suggestions for the rehabilitation and reintegration of women prisoners.

1.10 RESEARCH QUESTIONS

In the light of the objectives of the study the following research questions are framed:

1. What are the rights available to the women prisoners?
2. Whether the present prison conditions are adequate for the women prisoners?
3. What should be done to stop the abuse of women prisoners’ right?
4. What changes should be brought in age-old prison Acts?
5. What effective measures should be adopted for reformation and rehabilitation of women prisoners?

1.11 HYPOTHESIS OF THE STUDY

1. Problems faced by women prisoners are mainly due to being placed in a prisoner which is structurally not suitable for them.
2. Existing prison rules and regulations are not suitable with the administration of women’s prison.
3. The purpose of imprisonment is still custodial not the reformation and rehabilitation of the women prisoners.
1.12 SIGNIFICANCE OF THE PRESENT STUDY

Studying the subject of research is not only to understand the concept of problem but it also helps to contribute something to society in direct or indirect way. Similarly this study holds significance for women prisoners, the prison administrators, the policymakers and for the society.

The study brings out the short comings present in prison system regarding the treatment of the women prisoners. By eliminating these shortcomings the Government and prison administrators can bring the prison reform to prevent the abuse of women prisoner’s rights and thus results in the improvement of conditions of the women prisoners in the jail. Improved living conditions and human treatment will help the women prisoners’ rehabilitation and reintegration into the society and therefore prevent the re-offending among the women prisoners.

1.13 LIMITATION OF THE STUDY

Every study conducted may have some limitations, unfortunately this study also have some limitations.

Firstly, it is not an easy job to collect the data from criminals as no one knows what is going on in their minds. Secondly, researcher has to rely on whatever prisoners or prison staff says about each other and about the living conditions available to prisoners. There is no other source to testify the saying of these two groups of the prison world.

1.14 RESEARCH METHODOLOGY

1.14.1 Nature of Study

The present study is descriptive as well as analytical in nature.

1.14.2 Universe of the Study

At geographical level, the study is confined to seven central jails of Punjab situated at Amritsar, Gurdaspur, Jalandhar, Bathinda, Ferozepur, Patiala and Ludhiana (special women jail).
The reasons for selecting central jails are: central jails consists of sizeable population of both long and short terms, occasional and habitual prisoners, whereas the sub-jails and district jails are usually small jails located at the immediate town which provide alternative arrangements for keeping the under-trails before they are convicted and shifted to central prisoner population of central jails consists of prisoners convicted for commission of different types of crimes and undergoing different term of imprisonment. Central jails have stable population of prisoners. The study is concerned with women prisoners only whose cases are decided by the court and who are sentenced to undergo a term of imprisonment.
Table 1.2
Population of Women Prisoners at the Time of Data Collection

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Central Jails</th>
<th>Number of Women Prisoner</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Convicts</td>
<td>Under-traits</td>
</tr>
<tr>
<td>1.</td>
<td>Amritsar</td>
<td>49+8* = 57</td>
<td>102</td>
</tr>
<tr>
<td>2.</td>
<td>Bathinda</td>
<td>37</td>
<td>74</td>
</tr>
<tr>
<td>3.</td>
<td>Ferozpur</td>
<td>45</td>
<td>89+2** = 91</td>
</tr>
<tr>
<td>4.</td>
<td>Gurdaspur</td>
<td>11</td>
<td>71</td>
</tr>
<tr>
<td>5.</td>
<td>Jalandhar</td>
<td>27</td>
<td>58</td>
</tr>
<tr>
<td>6.</td>
<td>Ludhiana</td>
<td>104</td>
<td>124</td>
</tr>
<tr>
<td>7.</td>
<td>Patiala</td>
<td>44</td>
<td>53</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>317</td>
<td>573</td>
</tr>
</tbody>
</table>

Source: According to the information as provided by the prison officials at the time of data collection.

Figure 1.2: Population of Women Prisoners at the Time of Data Collection

* Were Foreigner Prisoners who had completed their term of imprisonment but still in jail.
** Were Under trial eunches apprehended for unnatural offences u/s 376 of Indian Penal Code.
1.14.3 Sample Size

At the time of data collection, total number of women prisoners’ population was 317. Researcher decided to interview all the 317 women prisoners because sampling was not possible due to:

- Heterogeneous population of women prisoners.
- Non-availability of information about the characteristics of women prisoners.
- Refusal by prison authorities of some jails to provide any information about women prisoners in written form.
- Due to variation in number of women prisoners’ population in different jails.

The researcher was able to interview only 216 women prisoners due to

- Non-cooperation of the prison authorities and staff.
- Absence of some women prisoners at the time of interview due to Mulakat with their family members, or “chutti”.
- Refusal by some women prisoners to provide any information due to afraid from prison authorities.
- Hence, the sample size for the present study consist of 216 women prisoners.

1.14.4 Method of Data Collection

Data is collected from both primary and secondary sources. Keeping in mind the topic of the study, objectives and type of women prisoners’ population, researcher has adopted the schedule method and utilized the structured interview schedule technique to collect the primary data as required for the study from the women prisoners.

1.14.5 Construction of Interview Schedule

Interview schedule is constructed in the light of the objectives and the research questions of the study. Interview schedule consists of 78 questions and divided into 14 segments. Interview schedule consist of 12 open-ended questions and 66 closed-ended questions. Data regarding the following aspects is collected through the interview schedule:
1. Socio-Economic profile of women prisoners.
2. Criminal information regarding types of crime, term of imprisonment, reason from crime, relation with the victim etc.
3. View of women prison regarding specific prison conditions such as accommodation, nature of barracks, food, drinking water, bedding, clothing, sanitary and personal hygiene conditions etc.
4. Institutional correctional programmes available for women prisoners: Educational and vocational training programme.
5. Health care facilities available for women prisoners.
6. Facilities available for children of women prisoners.
7. Inspection/visits paid by higher authorities to prison and their behaviour (with women prisoners) during inspection.
8. Facilities available to maintain contact with the outside world.
9. Visit by family members.
10. Work opportunities available for women prisoners.
11. Relation between the staff and women prisoner.
12. Legal aid facilities available for women prisoner.
13. Major problems faced by women prisoner in the jail.
14. Sexual abuse faced by women prisoners.

Through non-participant observation tool, researcher made the efforts to know more about how women prisoners lives in prison, their behaviour with the staff and co-inmates, their daily routine etc.

1.14.6 Pre-Testing of the Interview Schedule

In order to get the reliable and valid data according to the objectives of the study, the interview schedule was pre-tested on 25 women prisoners confined in the Amritsar central jail. During the pre-testing of the interview schedule, researcher found
some questions lengthy, more time consuming, irrelevant, not yielding relevant information. Researcher also found some relevant questions missing. Therefore, irrelevant questions were deleted and few new questions were added according to the objectives of the study. In this way the researcher brought the interview schedule into the final format.

1.14.7 Processing and Analysis of Data/Statistical Tool

After the completion of data collection the whole data collected through the interview schedule was checked for any discrepancies and incompleteness.

Most of the questions in each interview schedule were pre-coded. After checking the completeness and accuracy of the data all the other questions which were not pre-coded, they were provided suitable codes. Qualitative data was converted into quantitative data by providing the suitable numerical codes. After providing the relevant codes, the whole quantitative data was filled on the code sheet prepared by the computer programmer. Data is processed with the help of SPSS.

1.14.8 Presentation of Data

In order to represent the processed data, univariate tables are used. These tables are constructed with the help of the computer. For graphic representation of data, bar and pie charts are also used where needed. Percentage of all the responses is taken into account. Descriptive analysis is used to convert the numerical information into the qualitative facts.

1.15 COLLECTION OF DATA

The collection of data for any study relating to prison population is not an easy job. The first problem is that of visiting the jails and collecting the statistics. Prisons are closed institutions. Prison is not recognised as an independent system of power but it acts as an instrument of the state. It acts as an institution of social control and symbol of legitimate coercion. So, Government does not permit everyone to visit the jail. A specific permission to that effect has to be obtained from the concerned authority, the Director General of Prisons. It is not an easy job to get permission from director general of prisons. In present study, researcher had to face problem in getting the permission
from DGP. Her first application for permission was rejected by the DGP. He asked the researcher to change the title of her study, as according to him, title of the study itself against their department and assured the researcher that he will definitely grant the permission after the change of the title of the study. But it was not possible for the researcher to change the little of the study after registration as per the Ph.D. Guidelines of the university at that time. Only after one and half year, from the date of refusal to grant permission by DGP, researcher’s supervisor able to get the permission with the help of very kind police officer’s undertaking that nothing objectionable will be written against the prison department.

1.16 **RAPPORT WITH THE WOMEN PRISONERS**

At the entrance gate of every central jail, guard asked the researcher about the purpose of the visit and whether she has the permission from the Director General of Prisons for the same purpose, only on showing the letter of permission, superintendent allowed the researcher to enter the jail and collect the data for her researcher work. In each jail, the superintendent or deputy superintendent instructed the matron/warden to take the researcher around the women annexure and introduce her to the inmates. They strictly instructed the researcher not to cross the second internal gate of the jail alone due to the presence of the male prisoners near the gate and not to ask very personal questions from the women. In few jails, superintendent of the jail also advised the researcher to keep some distance from women prisoners, because some women prisoners were suffering from chronic diseases and due to shortage of the proper space, they were kept along with the other prisoners.

In the beginning, the inmates were doubtful about the motives of the researcher and were looking at her in a strange manner. They thought that the researcher is a newly appointed teacher. Some considered her new lady doctor and started telling her about their gynecological problems. At this instance she felt very helpless and pity for those ladies and explained them that she is an university student and she is here to collect the data for her study. Researcher stressed the fact of her being a student and that she is not related in any way to prison department and will not disclose any information told by them. In this way researcher obtained their cooperation and promised the full confidentiality of their responses.
During the data collection, women prisoners often asked her, how the study would help them. Regarding this keeping in view the ethics of the research, researcher explained them truly, that although their co-operation would not help in lessening their term of sentence but definitely helped to improve their living conditions in the jail and therefore, prevent the abuse of their rights which results into availability of appropriate treatment and therefore facilitate their rehabilitation and reintegration into the society after release from the prison.

In order to gain their confidence and motivate them to answer the question, researcher showed her deep interest in their stories. She listened patiently everything told by the women prisoners about their case histories, police atrocities, dishonesty of lawyers, their abuse by the victim or victim’s family etc.

Women prisoners were contacted in their residential barracks, outside the barracks, in verandas as well as on their work-place between 10 am. to 5 pm. All interviews were conducted in privacy. All the interviews were conducted in Punjabi or Hindi language easily understandable by the prisoners.

During the data collection, researcher found some women hesitant to express their views about living conditions, staff-inmate relationship etc. due to fear from prisons authorities. Researcher found that in comparison to illiterate, literate women showed the keen interest to open secret of the prison administration. Some women prisoners told the researcher that every year student come and asked them different types of questions. Sometime the questions were so intimate that they were not able to provide answer to those questions. According to them everyone came here for their own benefits, no one did anything for them. They had become fed up with such types of interviews.

Some women prisoners asked for favours from the researcher. Some requested the researcher to make a phone call to their family members and convey them to pay visit to them, as they were in need of money. Some inmates asked researcher to make a call to their lawyers and ask them whether there had filled the bail application/appeal or not. Some poor prisoners, whom no one comes to meet, requested the researcher to bring some old cloths, hair bands or clips etc. for them. During data collection,
researcher found that the women prisoners were anxious about their children's well being. They want their early release from the jail.

1.17 SECONDARY DATA

Secondary data for the study is collected from both the published and unpublished sources and from internet.

Published Sources for the Study Includes:

- Books, journals, Magazines, Newspapers, Researcher Papers, AIR India Reporters.
- Various publications of International bodies and their subsidiary organs.
- Reports of the Committees and Commissions appointed by the State and Centre Government on Prison Reforms.
- Reports of the Law Commission of India.
- Internet Sites.

In order to collect secondary data, besides, Guru Nanak Dev University’s, main and departmental libraries, researcher has visited the libraries of the following institution and thoroughly study the literature taken from these institutions.

- Indian Law Institute, New Delhi.
- Punjab University, Chandigarh.
- Panjabi University, Patiala.
- North- West Centre of Indian Council of Social Science Research, Chandigarh.
- Rajiv Gandhi National Law University, Patiala.
- University of Delhi, Delhi.
Introduction and Research Methodology

- National Archives of India, New Delhi.

1.18 PLAN OF THE STUDY: CHAPTERIZATION

The present study is divided into five chapters:

**Chapter-1: Introduction and Research Methodology**

Beside brief introduction about the topic, discussion of various initiatives both national and international taken to improve the conditions of women prisoners is made in this chapter. An effort is made to trace the historical background of women crime, respective punishment for such crimes and development of jails, treatment meted out to the prisoners. Research methodology adopted to conduct this study is also discussed in this chapter.

**Chapter-2: Rights of Women Prisoners: A Legal Perspective**

In this chapter a closer look is taken at a variety of specific human rights protections available to women prisoners and correlating positive obligation of the state concerning women prisoners under National, International, and Regional perspective. Role played by the judiciary to define the rights of the prisoners in general and gender specific rights of women prisoners in particular is also discussed. The chapter contains three parts. Under National perspective, researcher has discussed the both Central and State Penal laws, Substantive and Procedural Criminal laws containing specific provisions regarding women prisoners. Part-II contains International perspectives relating to women prisoners human rights instruments have provisions deals with women prisoners. In part III of the chapter contains of regional human rights instruments.

**Chapter-3: Socio-Economic and Criminal Profile of Women Prisoners**

This chapter contains an analysis of the socio-economic and criminal profile of 216 women prisoners, who were surveyed for this study. It has been divided into two parts. Part one of this chapter contains information regarding the socio-economic profile of women prisoners. In part second of the chapter, criminal profile of women prisoners has been discussed.
Chapter-4: Conditions of Women Prisoners in Punjab: An Empirical Analysis

In this chapter researcher has made an earnest effort to represent the actual conditions women prisoners on the basis of information obtained from the survey of 216 women prisoners confined in seven jails in Punjab. The conditions of women prisoners accessed in terms of the living conditions and rehabilitation and reintegration programmes available for women prisoners. Living conditions within jail for women prisoners has been reviewed in terms of accommodation, nature of barracks, sleeping facilities, food, clothing and bedding, sanitation conditions, water supply, health care facilities, sexual abuse and staff-inmate relationship. Rehabilitation and Re-integration of women prisoners analysed in terms of existence of classification and segregation, educational, vocational training programs, contact with outside world, visit by higher authorities, free Legal Aid, work programs for women prisoners, correctional counseling, after-care programs, recreational facilities and services. This chapter of the study also contains the discussion about various types of problems faced by women prisoners due to abuse of their rights find out from the analysis of the conditions of women prisoners in central jails in Punjab.

Chapter-5: Conclusions and Suggestions: Is devoted to the conclusion and suggestions, an appraisal of the discussion made in the previous chapters is made and suggestion are given to reform the prison system in Punjab to prevent the abuse of both general and particular gender-specific rights of women prisoners in order to facilitate their rehabilitation, re-integration in the society after release from the prison.

1.19 OPERATIONAL DEFINITIONS

Crime: Crime is any act or behaviour by a person which violates the norms of society. It may be a theft, robbery a murder, sexual abuse or kidnapping.

Women Prisoner: A women who has been found guilty of criminal behaviour convicted under Indian Penal Code and sentence to Imprisonment.

Under-trials: Under-trials are those who are housed in prisons and for them the trial is pending before the court.
Remandant: A person who has been arrested under suspicion will be produced before a magistrate with 24 house and them kept in the jail for 15 days before trials

Abuse

Physical Abuse: Refers to striking or beating another person with the hand or an object, but may include assault, with a knife, gun or other weapon. Physical abuse also includes such behaviour as locking someone in a closet or other small space, depriving someone of sleep, burning gagging, or trying them up etc.

Sexual Abuse: Inappropriate sexual contact between a child or an adult and someone who has some kind of family or professional authority on them. Sexual abuse may include verbal remarks, founding or kissing, or attempted or completed intercourse

Verbal Abuse: Refers to regular and consistent belittling, name – calling, labeling, or ridicule of a persons but it may also include spoken threats. It is one of most difficult forms of abuse to prove because it does not leave physical stars or other evidence, but it is nonetheless hurtful

Psychological: Emotional abuse covers a variety of behaviour that hurt or injure others even through no physical contact may be involved. In fact, emotional abuse is a stronger predictor than physical abuse of the likelihood of suicide attempts in later life. One form of emotional abuse involves the destruction of someone’s pet or valued possession in order to cause pain. Other behaviour in this category include silent treatment, shaming or humiliating someone in front of others.

Right: Right is an interest recognized and protected by state. Generally right are of three types, legal rights, moral rights and fundamental rights.

Fundamental Rights: These are some essential basic natural and inalienable right or freedoms which subject to provisions of constitution, cannot be violated, or inferred with, by any law, order, regulations or Act of Govt.

Human Right: Human Rights are those minimal rights that every individual must have by virtue of his being a member of human family irrespective of any other considerations.
**Central Jail:** Central jails mean any prison in which criminal convicted prisoners are received for the purpose of underlying their sentence by transfer from any other jail in which such prisoners are not, when committed to prison, in the first instance are ordinarily received.

**District Jail:** District jails mean any prison in which prisoners from one or more districts are, in the first instance, ordinarily committed and includes every jail other than a central jail or special jail.

**Internee:** Foreign prisoner confined in a camp awaiting deportation after compilation of prison term.

**Correction:** Correction is the systematic, organized effort by society to punish offenders, protect the public, and change an offender’s behavior.

**Family of Procreation:** The family one creates through, and following, one’s marriage.

**Family of Orientation:** the family into which one is born.

**Gender-Specific Programming:** are those programs that take into consideration the difference between male and female offenders, this term is generally applied to those programs that focus on the unique characteristics and needs of female offenders.

**Literacy Rate:** Literacy rate means the percentage of people with the ability to read and write.

**Parole:** A process by which a prisoner is allowed to be conditionally released during the term of Imprisonment.
CERTIFICATE

This is to certify that the thesis entitled “PROBLEMS OF ABUSE OF WOMEN PRISONERS’ RIGHTS IN INDIA WITH SPECIAL REFERENCE TO PUNJAB” submitted to the Faculty of Laws, Guru Nanak Dev University, Amritsar, for the degree of Doctor of Philosophy, was carried out by Renu Sharma at the Department of Laws, Guru Nanak Dev University, Amritsar, under my supervision. This is an original work and has not been submitted in part or full for any other degree/diploma at this or any other university/institution. This thesis is fit to be considered for the award of degree of Ph.D.

Dated: 

Supervisor

Dr. Viney Kapoor Mehra
Associate Professor
Department of Laws
Guru Nanak Dev University,
Amritsar-143005
DECLARATION

This is to certify that the research work embodied in the thesis entitled, “PROBLEMS OF ABUSE OF WOMEN PRISONERS’ RIGHTS IN INDIA WITH SPECIAL REFERENCE TO PUNJAB” has been done by me and not submitted elsewhere for the award of any other degree. All ideas and references have been duly acknowledged.

Counter Sign

Dr. Viney Kapoor Mehra  
(Supervisor)  
Associate Professor,  
Department of Laws,  
Guru Nanak Dev University,  
Amritsar

Dated:
ACKNOWLEDGEMENT

First person in the accomplishment is my supervisor, Dr. Viney Kapoor Mehra, Associate Professor, Department of Laws, Guru Nanak Dev University, Amritsar, who has supervised my study with enduring interest, concern, faith, friendship and enthusiasm. I acknowledge all her contributions of time and ideas from her enriched experience with which she made my Ph.D. experience productive and stimulating. The joy and enthusiasm she has for her research was contagious and motivational for me, even during tough times in the PhD pursuit. Without her support, guidance and fruitful discussions, I would not have been able to successfully conclude my research.

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I also take this opportunity to express my reverence and deepest gratitude to my Parents, the epitome of affection, love, kindness, commitment and honesty. They have been my guiding force always.

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Last but not the least, I offer my regards and blessings to all of those who supported me in any respect during my research work.

Renu Sharma
<table>
<thead>
<tr>
<th>SR. NO.</th>
<th>TITLE</th>
<th>PAGE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER-1</td>
<td>INTRODUCTION AND RESEARCH METHODOLOGY</td>
<td>1-61</td>
</tr>
<tr>
<td>1.1</td>
<td>Initiatives to Improve the Conditions of Women Prisoners in India</td>
<td>9</td>
</tr>
<tr>
<td>1.2</td>
<td>Nature of Women Crime and Punishments Imparted in India</td>
<td>15</td>
</tr>
<tr>
<td>1.2.1</td>
<td>Ancient Period</td>
<td>16</td>
</tr>
<tr>
<td>1.2.1.1</td>
<td>Nature of Women Crime and Punishment</td>
<td>17</td>
</tr>
<tr>
<td>1.2.1.2</td>
<td>Imprisonment</td>
<td>21</td>
</tr>
<tr>
<td>1.3</td>
<td>Mughal Period</td>
<td>23</td>
</tr>
<tr>
<td>1.3.1</td>
<td>Nature of Women Crime and Punishment</td>
<td>23</td>
</tr>
<tr>
<td>1.3.1.1</td>
<td>Hadd</td>
<td>23</td>
</tr>
<tr>
<td>1.3.1.2</td>
<td>Qisas</td>
<td>25</td>
</tr>
<tr>
<td>1.3.1.3</td>
<td>Tazir</td>
<td>25</td>
</tr>
<tr>
<td>1.3.1.4</td>
<td>Tash-hir</td>
<td>26</td>
</tr>
<tr>
<td>1.3.2</td>
<td>Imprisonment</td>
<td>26</td>
</tr>
<tr>
<td>1.4</td>
<td>British Period</td>
<td>28</td>
</tr>
<tr>
<td>1.4.1</td>
<td>Nature of Women Crime and Punishment</td>
<td>28</td>
</tr>
<tr>
<td>1.4.2</td>
<td>Imprisonment</td>
<td>29</td>
</tr>
<tr>
<td>1.5</td>
<td>Criminal Justice System in India</td>
<td>32</td>
</tr>
<tr>
<td>1.6</td>
<td>Control and Management of Prisons in India</td>
<td>32</td>
</tr>
<tr>
<td>1.7</td>
<td>Aim of Prison System in India</td>
<td>35</td>
</tr>
<tr>
<td>1.8</td>
<td>Review of Literature</td>
<td>36</td>
</tr>
<tr>
<td>1.9</td>
<td>Objectives of the Study</td>
<td>48</td>
</tr>
<tr>
<td>1.10</td>
<td>Research Questions</td>
<td>48</td>
</tr>
<tr>
<td>1.11</td>
<td>Hypothesis of the Study</td>
<td>48</td>
</tr>
<tr>
<td>1.12</td>
<td>Significance of the Present Study</td>
<td>49</td>
</tr>
<tr>
<td>1.13</td>
<td>Limitations of the Study</td>
<td>49</td>
</tr>
<tr>
<td>1.14</td>
<td>Research Methodology</td>
<td>49</td>
</tr>
<tr>
<td>1.14.1</td>
<td>Nature of Study</td>
<td>49</td>
</tr>
<tr>
<td>SR. NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>1.14.2</td>
<td>Universe of the Study</td>
<td>49</td>
</tr>
<tr>
<td>1.14.3</td>
<td>Sample Size</td>
<td>52</td>
</tr>
<tr>
<td>1.14.4</td>
<td>Method of Data Collection</td>
<td>52</td>
</tr>
<tr>
<td>1.14.5</td>
<td>Construction of Interview Schedule</td>
<td>52</td>
</tr>
<tr>
<td>1.14.6</td>
<td>Pre-testing of the Interview Schedule</td>
<td>53</td>
</tr>
<tr>
<td>1.14.7</td>
<td>Processing and Analysis of Data/Statistical Tool</td>
<td>54</td>
</tr>
<tr>
<td>1.14.8</td>
<td>Presentation of Data</td>
<td>54</td>
</tr>
<tr>
<td>1.15</td>
<td>Collection of Data</td>
<td>54</td>
</tr>
<tr>
<td>1.16</td>
<td>Rapport with the Women Prisoners</td>
<td>55</td>
</tr>
<tr>
<td>1.17</td>
<td>Secondary Data</td>
<td>57</td>
</tr>
<tr>
<td>1.18</td>
<td>Plan of the Study: Chapterization</td>
<td>58</td>
</tr>
<tr>
<td>1.19</td>
<td>Operational Definitions</td>
<td>59</td>
</tr>
<tr>
<td></td>
<td><strong>CHAPTER-2</strong> RIGHTS OF WOMEN PRISONERS: A LEGAL PERSPECTIVE</td>
<td><strong>62-112</strong></td>
</tr>
<tr>
<td>2.1</td>
<td>Rights of Prisoners</td>
<td>63</td>
</tr>
<tr>
<td>2.2</td>
<td>National Perspective with Reference to Women Prisoners</td>
<td>64</td>
</tr>
<tr>
<td>2.2.1</td>
<td>The Prisons Act, 1894</td>
<td>64</td>
</tr>
<tr>
<td>2.2.2</td>
<td>Manual for the Superintendence and Management in the Punjab, 1996</td>
<td>65</td>
</tr>
<tr>
<td>2.2.3</td>
<td>Punjab Prisoner (Attendance in Courts) Rules, 1966</td>
<td>67</td>
</tr>
<tr>
<td>2.2.4</td>
<td>The Punjab Good Conduct Prisoners Temporary Release Rules, 1963</td>
<td>68</td>
</tr>
<tr>
<td>2.2.5</td>
<td>Punjab Police Rules, 2011</td>
<td>68</td>
</tr>
<tr>
<td>2.2.6</td>
<td>Indian Penal Code, 1860</td>
<td>70</td>
</tr>
<tr>
<td>2.2.7</td>
<td>The Criminal Procedure Code, 1973</td>
<td>71</td>
</tr>
<tr>
<td>2.3</td>
<td>Judicial Approach Regarding the Rights of Prisoners</td>
<td>72</td>
</tr>
<tr>
<td>2.3.1</td>
<td>Prisoners Rights against Handcuffing</td>
<td>75</td>
</tr>
<tr>
<td>2.3.2</td>
<td>Prisoners Right against Solitary Confinement</td>
<td>76</td>
</tr>
<tr>
<td>2.3.3</td>
<td>Prisoners Right to Human Treatment</td>
<td>77</td>
</tr>
<tr>
<td>2.3.4</td>
<td>Prisoners Right to Minimum Living Conditions</td>
<td>77</td>
</tr>
<tr>
<td>2.3.5</td>
<td>Prisoners Right to Legal Aid</td>
<td>77</td>
</tr>
<tr>
<td>SR. NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>2.3.6</td>
<td>Prisoners Right to be Interviewed</td>
<td>78</td>
</tr>
<tr>
<td>2.3.7</td>
<td>Prisoners Right to Contact with Outside World</td>
<td>79</td>
</tr>
<tr>
<td>2.3.8</td>
<td>Prisoners Right to have Adequate Accommodation</td>
<td>79</td>
</tr>
<tr>
<td>2.3.9</td>
<td>Prisoners Right against Torture and Custodial Violence</td>
<td>80</td>
</tr>
<tr>
<td>2.3.10</td>
<td>Prisoners Right to Leave and Special Leave</td>
<td>80</td>
</tr>
<tr>
<td>2.3.11</td>
<td>Prisoners Right to Judicial Remedy</td>
<td>80</td>
</tr>
<tr>
<td>2.3.12</td>
<td>Prisoners Right to Parole and Furlough</td>
<td>80</td>
</tr>
<tr>
<td>2.3.13</td>
<td>Prisoners Right to Basic Human Needs</td>
<td>81</td>
</tr>
<tr>
<td>2.3.14</td>
<td>Prisoners Right to Redressal of Grievances</td>
<td>82</td>
</tr>
<tr>
<td>2.3.15</td>
<td>Right to Evoke the Writ of Habeas Corpus against Prison Authorities for Excesses</td>
<td>82</td>
</tr>
<tr>
<td>2.3.16</td>
<td>Right to have Information about Rights</td>
<td>83</td>
</tr>
<tr>
<td>2.3.17</td>
<td>Prisoners Right to Work</td>
<td>83</td>
</tr>
<tr>
<td>2.3.18</td>
<td>Prisoners Right to Reformative Programmes</td>
<td>83</td>
</tr>
<tr>
<td>2.3.19</td>
<td>Prisoners against Fellow Prisoners</td>
<td>83</td>
</tr>
<tr>
<td>2.3.20</td>
<td>Prisoners Right to Security and Safety</td>
<td>84</td>
</tr>
<tr>
<td>2.3.21</td>
<td>Women Prisoners Right to Pre-natal and Post-natal Care</td>
<td>84</td>
</tr>
<tr>
<td>2.4</td>
<td>International Human Rights Perspective</td>
<td>85</td>
</tr>
<tr>
<td>2.4.1</td>
<td>Universal Declaration of Human Rights, 1948</td>
<td>85</td>
</tr>
<tr>
<td>2.4.2</td>
<td>International Covenant on Civil and Political Rights, 1966</td>
<td>86</td>
</tr>
<tr>
<td>2.4.3</td>
<td>Convention against Elimination of all forms of Discrimination against Women, 1970</td>
<td>87</td>
</tr>
<tr>
<td>2.4.4</td>
<td>Declaration on the Elimination of Violence against Women, 1993</td>
<td>90</td>
</tr>
<tr>
<td>2.5</td>
<td>United Nations Instruments Related to Prisoners</td>
<td>91</td>
</tr>
<tr>
<td>2.5.1</td>
<td>United Nations Standard Minimum Rules for Treatment of Prisoners, 1955</td>
<td>91</td>
</tr>
<tr>
<td>2.5.2</td>
<td>KYIV Declaration Women’s Health Right in Prison, 1995</td>
<td>94</td>
</tr>
<tr>
<td>2.5.3</td>
<td>WHO Guidelines on HIV Infections and Aids in Prisons, 1996</td>
<td>95</td>
</tr>
<tr>
<td>SR. NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>---------</td>
<td>----------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>2.5.4</td>
<td>United Nations Standard Minimum Rules for the Treatment of Prisoners and Non-custodial measures for the Women Offenders</td>
<td>97</td>
</tr>
<tr>
<td>2.6</td>
<td>Regional Perspective Relating to Women Prisoners</td>
<td>100</td>
</tr>
<tr>
<td>2.6.1</td>
<td>Initiative taken by United Nations to Promote Regional Arrangement</td>
<td>101</td>
</tr>
<tr>
<td>2.6.2</td>
<td>European Convention on Human Rights and Fundamental Freedom, 1953</td>
<td>102</td>
</tr>
<tr>
<td>2.6.2.1</td>
<td>European Prison Rules, 2006</td>
<td>104</td>
</tr>
<tr>
<td>2.6.3</td>
<td>American Convention on Human Rights, 1969</td>
<td>105</td>
</tr>
<tr>
<td>2.6.3.1</td>
<td>Principles and Best Practices for the Protection of Persons Deprived of their Liberty in America, 2008</td>
<td>107</td>
</tr>
<tr>
<td>2.6.4</td>
<td>African Charter on Human and Peoples Rights, 1981</td>
<td>109</td>
</tr>
<tr>
<td>2.6.4.1</td>
<td>African Charter on Prisoners Rights, 2001</td>
<td>110</td>
</tr>
</tbody>
</table>

**CHAPTER-3 SOCIO-ECONOMIC AND CRIMINAL PROFILE OF WOMEN PRISONERS**

<table>
<thead>
<tr>
<th>3.1</th>
<th>Part I: Socio-Economic Profile of Women Prisoners</th>
<th>113</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1.1</td>
<td>Age of Women Prisoners at the Time of Crime</td>
<td>113</td>
</tr>
<tr>
<td>3.1.2</td>
<td>Religion of Women Prisoners</td>
<td>115</td>
</tr>
<tr>
<td>3.1.3</td>
<td>Marital Status of Women Prisoners</td>
<td>117</td>
</tr>
<tr>
<td>3.1.4</td>
<td>Educational Status of Women Prisoners</td>
<td>119</td>
</tr>
<tr>
<td>3.1.5</td>
<td>Employment Status of Women Prisoners</td>
<td>121</td>
</tr>
<tr>
<td>3.1.6</td>
<td>Occupation of Husbands of Married Women Prisoners</td>
<td>123</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.2</th>
<th>Part II: Criminal Profile of Women Prisoners</th>
<th>125</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.2.1</td>
<td>Crimes Committed by the Women Prisoners</td>
<td>126</td>
</tr>
<tr>
<td>3.2.2</td>
<td>Term of Imprisonment</td>
<td>128</td>
</tr>
<tr>
<td>3.2.3</td>
<td>Victim-Offenders Relationship</td>
<td>129</td>
</tr>
<tr>
<td>3.2.4</td>
<td>Acceptance to Crime</td>
<td>130</td>
</tr>
<tr>
<td>3.2.5</td>
<td>Reasons for Commission of Crime</td>
<td>131</td>
</tr>
<tr>
<td>3.2.6</td>
<td>Pattern of Crime</td>
<td>132</td>
</tr>
<tr>
<td>SR. NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>----------</td>
</tr>
<tr>
<td>4.1</td>
<td>Living Conditions Available for Women Prisoners</td>
<td>135</td>
</tr>
<tr>
<td>4.1.1</td>
<td>Separate Prisons for Women Prisoners</td>
<td>135</td>
</tr>
<tr>
<td>4.1.2</td>
<td>Accommodation for Women Prisoners</td>
<td>136</td>
</tr>
<tr>
<td>4.1.3</td>
<td>Nature of Barracks</td>
<td>137</td>
</tr>
<tr>
<td>4.1.3.1</td>
<td>The Regulatory Measures</td>
<td>138</td>
</tr>
<tr>
<td>4.1.4</td>
<td>Sleeping Facilities Available for Women Prisoners</td>
<td>140</td>
</tr>
<tr>
<td>4.1.5</td>
<td>Women Prisoners Right to Adequate Food</td>
<td>141</td>
</tr>
<tr>
<td>4.1.5.1</td>
<td>The Regulatory Measures</td>
<td>141</td>
</tr>
<tr>
<td>4.1.6</td>
<td>Right to Adequate Clothing and Bedding</td>
<td>144</td>
</tr>
<tr>
<td>4.1.7</td>
<td>Adequate and Clean Drinking Water for Women Prisoners</td>
<td>145</td>
</tr>
<tr>
<td>4.1.8</td>
<td>Sanitary Conditions in the Jails</td>
<td>147</td>
</tr>
<tr>
<td>4.1.9</td>
<td>Women Prisoners Right to Health</td>
<td>150</td>
</tr>
<tr>
<td>4.1.10</td>
<td>Behaviour of Female Staff towards Women Prisoners</td>
<td>161</td>
</tr>
<tr>
<td>4.2</td>
<td>Part-II: Rehabilitation and Reintegration of Women Prisoners</td>
<td>167</td>
</tr>
<tr>
<td>4.2.1</td>
<td>Classification and Segregation of Women Prisoners</td>
<td>171</td>
</tr>
<tr>
<td>4.2.1.1</td>
<td>The Regulatory Measures</td>
<td>172</td>
</tr>
<tr>
<td>4.2.3</td>
<td>Women Prisoners Right to Education</td>
<td>173</td>
</tr>
<tr>
<td>4.2.4</td>
<td>Vocational Training</td>
<td>177</td>
</tr>
<tr>
<td>4.2.5</td>
<td>Library for Prisoners</td>
<td>179</td>
</tr>
<tr>
<td>4.2.5.1</td>
<td>The Regulatory Measures</td>
<td>180</td>
</tr>
<tr>
<td>4.2.7</td>
<td>Free Legal Aid Services for Prisoners</td>
<td>181</td>
</tr>
<tr>
<td>4.2.7.1</td>
<td>Prisoner’s Right to Free Legal (Aid) Services</td>
<td>182</td>
</tr>
<tr>
<td>4.2.8</td>
<td>Contact with Outside World</td>
<td>185</td>
</tr>
<tr>
<td>4.2.8.1</td>
<td>The Regulatory Measures</td>
<td>186</td>
</tr>
<tr>
<td>4.2.9</td>
<td>pay Telephone Facility</td>
<td>191</td>
</tr>
<tr>
<td>4.2.11</td>
<td>Conjugal Visits</td>
<td>193</td>
</tr>
<tr>
<td>4.2.12</td>
<td>Work for Women Prisoners</td>
<td>193</td>
</tr>
<tr>
<td>SR. NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>----------</td>
</tr>
<tr>
<td>4.2.12.1</td>
<td>The Regulatory Measures</td>
<td>195</td>
</tr>
<tr>
<td>4.2.13</td>
<td>Visits by Higher Authorities</td>
<td>197</td>
</tr>
<tr>
<td>4.3</td>
<td>Part III: Problems Faced by Women Prisoners</td>
<td>206</td>
</tr>
<tr>
<td>4.3.1</td>
<td>Physical Structure of the Prisoners</td>
<td>207</td>
</tr>
<tr>
<td>4.3.2</td>
<td>Absence of Classification and Segregation for Women Prisoners</td>
<td>208</td>
</tr>
<tr>
<td>4.3.3</td>
<td>Problems Due to Inadequate Food for Women Prisoners</td>
<td>208</td>
</tr>
<tr>
<td>4.3.4</td>
<td>Condition of Children of Women Prisoners</td>
<td>209</td>
</tr>
<tr>
<td>4.3.5</td>
<td>Problems Faced by Women Prisoners Due to Absence of Medical Facilities</td>
<td>211</td>
</tr>
<tr>
<td>4.3.6</td>
<td>Non-availability of Education for Women Prisoners</td>
<td>213</td>
</tr>
<tr>
<td>4.3.7</td>
<td>Inadequate Vocational Training Programmes for Women Prisoners</td>
<td>214</td>
</tr>
<tr>
<td>4.3.8</td>
<td>Inadequate Facilities for “Mulakaat” with Family Members</td>
<td>215</td>
</tr>
<tr>
<td>4.3.9</td>
<td>Problems Due to Poor Sanitation Conditions</td>
<td>215</td>
</tr>
<tr>
<td>4.3.10</td>
<td>Inadequate Clothing and Bedding Facilities</td>
<td>216</td>
</tr>
<tr>
<td>4.3.11</td>
<td>Inadequate Toiletries Things for Women Prisoners</td>
<td>216</td>
</tr>
<tr>
<td>4.3.12</td>
<td>Torture Faced by Women Prisoners in Jail</td>
<td>216</td>
</tr>
<tr>
<td>4.3.13</td>
<td>Distortion of Women Prisoners Emotions</td>
<td>217</td>
</tr>
<tr>
<td>4.3.14</td>
<td>Absence of Work Programme for Women Prisoners</td>
<td>218</td>
</tr>
<tr>
<td>4.3.15</td>
<td>Problems Due to Inadequate Legal Aid Services</td>
<td>218</td>
</tr>
<tr>
<td>4.3.16</td>
<td>Absence of Appropriate Complaint Mechanism for Redressal of Grievances</td>
<td>218</td>
</tr>
<tr>
<td>4.3.17</td>
<td>Absence of After-care Programs for Women Prisoners</td>
<td>219</td>
</tr>
<tr>
<td>4.3.18</td>
<td>Lack of Recreational Facilities for Women Prisoners</td>
<td>220</td>
</tr>
<tr>
<td>4.3.19</td>
<td>Pay Telephone Related Problems</td>
<td>221</td>
</tr>
<tr>
<td><strong>CHAPTER-5</strong></td>
<td><strong>CONCLUSIONS AND SUGGESTIONS</strong></td>
<td><strong>222-237</strong></td>
</tr>
<tr>
<td><strong>BIBLIOGRAPHY</strong></td>
<td></td>
<td><strong>238-256</strong></td>
</tr>
<tr>
<td><strong>APPENDIX</strong></td>
<td></td>
<td>i-vii</td>
</tr>
</tbody>
</table>
LIST OF CASES

- Sunil Batra’s Case Sunil Batra v. Delhi Administration, AIR 1978 SC 1665.
- Sunil Batra (II) v. Delhi Administration. AIR 1980 3SCC 488 (522).
- Maneka Gandhi vs. Union of India, AIR 1978 SC 597.
# LIST OF TABLES

<table>
<thead>
<tr>
<th>TABLE NO.</th>
<th>TITLE</th>
<th>PAGE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Number of Women Convicts in Central Jails of Punjab</td>
<td>33</td>
</tr>
<tr>
<td>1.2</td>
<td>Population of Women Prisoners at the Time of Data Collection</td>
<td>51</td>
</tr>
<tr>
<td>3.1</td>
<td>Age-Wise Distribution of Women Prisoners</td>
<td>114</td>
</tr>
<tr>
<td>3.2</td>
<td>Religion-Wise Distribution of Women Prisoners</td>
<td>116</td>
</tr>
<tr>
<td>3.3</td>
<td>Marital Status of Women Prisoners at the Time of Crime</td>
<td>118</td>
</tr>
<tr>
<td>3.4</td>
<td>Literacy Rate among Women Prisoners</td>
<td>119</td>
</tr>
<tr>
<td>3.4(a)</td>
<td>Educational Level of Literate Women Prisoners</td>
<td>120</td>
</tr>
<tr>
<td>3.5</td>
<td>Employment Status of Women Prisoners before Conviction</td>
<td>122</td>
</tr>
<tr>
<td>3.5(a)</td>
<td>Occupation-Wise Distribution of Women Prisoners</td>
<td>122</td>
</tr>
<tr>
<td>3.6</td>
<td>Occupation of Married Women Prisoners’ Husbands at the Time of Crime</td>
<td>123</td>
</tr>
<tr>
<td>3.7</td>
<td>Type of Crimes Committed by Women Prisoners</td>
<td>126</td>
</tr>
<tr>
<td>3.8</td>
<td>Distribution of Women Prisoners according to their Term of Imprisonment</td>
<td>128</td>
</tr>
<tr>
<td>3.9</td>
<td>Victim-Offender Relationship</td>
<td>129</td>
</tr>
<tr>
<td>3.10</td>
<td>Distribution of Women Prisoners According to their Acceptance to Crime</td>
<td>130</td>
</tr>
<tr>
<td>3.11</td>
<td>Distribution of Women Prisoners According to Reason of Crime</td>
<td>131</td>
</tr>
<tr>
<td>3.12</td>
<td>Distribution of Women Prisoners According to Help in Crime</td>
<td>132</td>
</tr>
<tr>
<td>4.1</td>
<td>Living Accommodation Available for Women Prisoners</td>
<td>137</td>
</tr>
<tr>
<td>4.2</td>
<td>Actual Number of Women Prisoners at the Time of Data Collection</td>
<td>139</td>
</tr>
<tr>
<td>4.3</td>
<td>Nature of Barracks According to Women Prisoners</td>
<td>140</td>
</tr>
<tr>
<td>4.4</td>
<td>Response of Women Prisoners Regarding Sleeping Facilities</td>
<td>140</td>
</tr>
<tr>
<td>4.5</td>
<td>Response of Women Prisoners Regarding the Quality of Food</td>
<td>142</td>
</tr>
<tr>
<td>4.6</td>
<td>Response of Women Prisoners Regarding their Satisfaction with the Quantity and Quality of Food</td>
<td>143</td>
</tr>
<tr>
<td>TABLE NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>-----------</td>
<td>----------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.7</td>
<td>Response of Women Prisoners to Question “Do Jail Authorities Provide Clothes to Women Prisoner’s?”</td>
<td>145</td>
</tr>
<tr>
<td>4.8</td>
<td>Response of Women Prisoners Regarding Availability of Adequate Clean Drinking Water</td>
<td>146</td>
</tr>
<tr>
<td>4.9</td>
<td>Response of Women Prisoners Regarding Proper Supply of Water for all Activities</td>
<td>146</td>
</tr>
<tr>
<td>4.10</td>
<td>Response of Women Prisoners Regarding Types of Toiletries given to them</td>
<td>147</td>
</tr>
<tr>
<td>4.11</td>
<td>Response of Women Prisoners Regarding the Quality of Toiletries Things</td>
<td>148</td>
</tr>
<tr>
<td>4.12</td>
<td>Response of Women Prisoners Regarding Sanitary Conditions in the Jail</td>
<td>149</td>
</tr>
<tr>
<td>4.13</td>
<td>Response of Women Prisoners to Question “Who Cleans the Toilets?”</td>
<td>150</td>
</tr>
<tr>
<td>4.14</td>
<td>Response of Women Prisoners to Question “Whether Sanitary Napkins are given to Them or Not?”</td>
<td>150</td>
</tr>
<tr>
<td>4.15</td>
<td>Distribution of Women Prisoners Suffering from Disease before Conviction</td>
<td>156</td>
</tr>
<tr>
<td>4.16</td>
<td>Distribution of Women Prisoners “Who Caught Disease in the Jail”.</td>
<td>157</td>
</tr>
<tr>
<td>4.17</td>
<td>Response of Women Prisoners Regarding Gynecological Care in the Jail</td>
<td>158</td>
</tr>
<tr>
<td>4.18</td>
<td>Response of Women Prisoners Regarding Existence of Separate Health Centre for them</td>
<td>158</td>
</tr>
<tr>
<td>4.19</td>
<td>Response of Women Prisoners Regarding Facility of Hospitalization in Case of Emergency</td>
<td>159</td>
</tr>
<tr>
<td>4.20</td>
<td>Response of Women Prisoners Regarding Availability of Appropriate and timely Medicines according to Disease</td>
<td>160</td>
</tr>
<tr>
<td>4.21</td>
<td>Response of Women Prisoners regarding Sexual Abuse Faced by them in the Jail</td>
<td>161</td>
</tr>
<tr>
<td>4.22</td>
<td>Number of women Staff Available to Handle Women Convicts and Under-trials at the Time of Data Collection</td>
<td>162</td>
</tr>
<tr>
<td>TABLE NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>----------</td>
<td>-----------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.23</td>
<td>Response of Women Prisoners Regarding the Behavior of Warden/Matron with Women Prisoners</td>
<td>162</td>
</tr>
<tr>
<td>4.24</td>
<td>Response of Women Prisoners to Question “Does Warden or Matron Ever Hurt you Physically?”</td>
<td>163</td>
</tr>
<tr>
<td>4.25</td>
<td>Response of Women Prisoners Regarding Use of Abusive Language by Warden/Matron for Them</td>
<td>164</td>
</tr>
<tr>
<td>4.26</td>
<td>Response of Women Prisoners to Question “Does Matron Talk to you Rudely?”</td>
<td>164</td>
</tr>
<tr>
<td>4.27</td>
<td>Response of Women Prisoners to Question “Do Warden/Matron Ask Anything in Return?”</td>
<td>165</td>
</tr>
<tr>
<td>4.28</td>
<td>Response of Women Prisoners Regarding Educational Programs in the Jail</td>
<td>176</td>
</tr>
<tr>
<td>4.29</td>
<td>Response of Women Prisoners Regarding Whether Vocational Training Programs are available in the Jail or not?</td>
<td>177</td>
</tr>
<tr>
<td>4.30</td>
<td>Response of Women Prisoners Regarding Sufficiency of Vocational Courses for their Rehabilitation</td>
<td>178</td>
</tr>
<tr>
<td>4.31</td>
<td>Response of Women Prisoners Regarding Availability of Separate Library/Study Room for Them</td>
<td>181</td>
</tr>
<tr>
<td>4.32</td>
<td>Response of Women Prisoners Regarding Awareness about Free Legal Aid</td>
<td>184</td>
</tr>
<tr>
<td>4.33</td>
<td>Response of Women Prisoners Regarding “Do their Family Members Come to Meet Them?”</td>
<td>188</td>
</tr>
<tr>
<td>4.34</td>
<td>Response of Women Prisoners Regarding “Who Come to Visit Them?”</td>
<td>189</td>
</tr>
<tr>
<td>4.35</td>
<td>Response of Women Prisoners to Question “Do You Get Support from Your Family Members”?</td>
<td>189</td>
</tr>
<tr>
<td>4.36</td>
<td>Response of Respondents Regarding Kind of Support from Their Family Members</td>
<td>190</td>
</tr>
<tr>
<td>4.37</td>
<td>Response of Women Prisoners Regarding Availability of Pay Telephone Facility</td>
<td>191</td>
</tr>
<tr>
<td>4.38</td>
<td>Response of Women Prisoners Regarding Sufficiency of Time of Call</td>
<td>191</td>
</tr>
<tr>
<td>TABLE NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>----------</td>
<td>----------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.39</td>
<td>Opinion of Women Prisoners Regarding Pay Telephone Facility</td>
<td>192</td>
</tr>
<tr>
<td>4.40</td>
<td>Distribution of Women Prisoners According to Work/Duty Assigned to Them.</td>
<td>196</td>
</tr>
<tr>
<td>4.41</td>
<td>Response of Women Prisoners Regarding Visits Paid by Higher Authorities to Women Barracks</td>
<td>200</td>
</tr>
<tr>
<td>4.42</td>
<td>Response of Women Prisoners Regarding “Do Higher Authorities have a Word with Women Prisoners to Listen their Grievances”</td>
<td>201</td>
</tr>
<tr>
<td>4.43</td>
<td>Response of Women Prisoners Regarding “How do they Sort out Your Problems”</td>
<td>202</td>
</tr>
<tr>
<td>4.44</td>
<td>Distribution of Women Prisoners According to Problems Faced by Them</td>
<td>203</td>
</tr>
<tr>
<td>4.45</td>
<td>Response of Women Prisoners to Question “Who is Responsible for the Problems Faced by Them in Jail?”</td>
<td>204</td>
</tr>
<tr>
<td>4.46</td>
<td>Number of Children Present in the Jails at the Time of Data Collection</td>
<td>210</td>
</tr>
</tbody>
</table>
# LIST OF FIGURES

<table>
<thead>
<tr>
<th>FIG. NO.</th>
<th>TITLE</th>
<th>PAGE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Organizational Set Up</td>
<td>35</td>
</tr>
<tr>
<td>1.2</td>
<td>Population of Women Prisoners at the Time of Data Collection</td>
<td>51</td>
</tr>
<tr>
<td>3.1</td>
<td>Age of women prisoners</td>
<td>114</td>
</tr>
<tr>
<td>3.2</td>
<td>Religion of Women Prisoners</td>
<td>117</td>
</tr>
<tr>
<td>3.3</td>
<td>Marital Status of Women Prisoners</td>
<td>118</td>
</tr>
<tr>
<td>3.4</td>
<td>Literacy Rate among Women prisoners</td>
<td>119</td>
</tr>
<tr>
<td>3.5</td>
<td>Educational Levels of Women Prisoners</td>
<td>120</td>
</tr>
<tr>
<td>3.6</td>
<td>Occupation of Women Prisoners before Conviction</td>
<td>123</td>
</tr>
<tr>
<td>3.7</td>
<td>Occupation of Husbands of Women Prisoners’</td>
<td>124</td>
</tr>
<tr>
<td>3.8</td>
<td>Crimes Committed by Women Prisoners</td>
<td>127</td>
</tr>
<tr>
<td>3.9</td>
<td>Term of Imprisonment</td>
<td>128</td>
</tr>
<tr>
<td>3.10</td>
<td>Acceptance of crimes by women prisoners</td>
<td>131</td>
</tr>
<tr>
<td>4.1</td>
<td>Actual Number of Women Inmates in the Central Jails</td>
<td>139</td>
</tr>
<tr>
<td>4.2</td>
<td>Quality of Food provided to Prisoners</td>
<td>142</td>
</tr>
<tr>
<td>4.3</td>
<td>Satisfaction with the Quality and Quantity of Food</td>
<td>143</td>
</tr>
<tr>
<td>4.4</td>
<td>Quality of Toiletries Things given to Prisoners.</td>
<td>148</td>
</tr>
<tr>
<td>4.5</td>
<td>Sanitary Conditions in the Jails</td>
<td>149</td>
</tr>
<tr>
<td>4.6</td>
<td>Women Prisoners Suffering from Disease before Conviction</td>
<td>157</td>
</tr>
<tr>
<td>4.7</td>
<td>Facility of Hospitalization in Case of Emergency</td>
<td>159</td>
</tr>
<tr>
<td>4.8</td>
<td>Availability of Appropriate and timely Medicines according to Disease</td>
<td>160</td>
</tr>
<tr>
<td>4.9</td>
<td>Behavior of Warden/Matron with Women Prisoners</td>
<td>163</td>
</tr>
<tr>
<td>4.10</td>
<td>Demand of Favour by Matron/Warder</td>
<td>165</td>
</tr>
<tr>
<td>4.11</td>
<td>Educational Programs in the Jail</td>
<td>176</td>
</tr>
<tr>
<td>4.12</td>
<td>Vocational Training Programs in the Jail</td>
<td>177</td>
</tr>
<tr>
<td>4.13</td>
<td>Sufficiency of Vocational Courses for their Rehabilitation</td>
<td>178</td>
</tr>
<tr>
<td>4.14</td>
<td>Awareness about Free Legal Aid</td>
<td>185</td>
</tr>
<tr>
<td>FIG. NO.</td>
<td>TITLE</td>
<td>PAGE NO.</td>
</tr>
<tr>
<td>---------</td>
<td>----------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.15</td>
<td>Visit by Family Members</td>
<td>188</td>
</tr>
<tr>
<td>4.16</td>
<td>Support from Family Members</td>
<td>190</td>
</tr>
<tr>
<td>4.17</td>
<td>Sufficiency of Time of Call</td>
<td>192</td>
</tr>
<tr>
<td>4.18</td>
<td>Work Assigned to Women Prisoners</td>
<td>196</td>
</tr>
<tr>
<td>4.19</td>
<td>Visits Paid by Higher Authorities</td>
<td>200</td>
</tr>
<tr>
<td>4.20</td>
<td>Higher Authorities have a Word with Women Prisoners to Listen their Grievances</td>
<td>201</td>
</tr>
<tr>
<td>4.21</td>
<td>Major Problems Faced by Women Prisoners in the Jail</td>
<td>203</td>
</tr>
<tr>
<td>4.22</td>
<td>Responsibility for the Problems Faced by Women Prisoners in the Jail</td>
<td>204</td>
</tr>
</tbody>
</table>