

International Journal of Policy Sciences and Law

Volume 1, Issue 1

Menstruation in Incarceration

Muskan Sumbaly¹

This Article is brought to you for “free” and “open access” by the International Journal of Policy Sciences and Law. For more, visit <http://ijpsl.in/>

To submit your manuscript, email it to us at editorial.ijpsl@gmail.com or [click here](#).

¹ *English Literature Graduate, Sri Guru Tegh Bahadur Khalsa College, University of Delhi.*

The ancient Indian Vedas or Upanishads have always given a respectable status to women and positioned her like that of a goddess or a mother. Even religious texts, like Manusmriti, state that a woman is to be honoured and adorned. She is considered to be a precious being protected by her father and then the husband and finally by her son. According to the World Bank, the percentage of women's population in India was reported at 48.03%. Both the male and female population are treated equally in the eyes of law and constitution. In spite of this, several developmental programmes have been implemented and initiated by the government for women which show us that something is not right. Moreover, in 1985, a separate department was set up exclusively for Women and Child Development, The Ministry administered 'Support to Training and Employment Programme' (STEP) for women as a Central Sector Scheme followed by other initiatives like Mahila Kosh, Women Development corporation etc. (GARPH Publication, 2012) As per the annual report "Crime in India" released by the National Crime Record Bureau in 2019, stating that the crime rate against women has increased by 7.3 per cent from 2018 to 2019.

Women are exploited at different levels from household to the corporate sector, due to the lack of awareness of their basic legal rights and laws of the constitution. Even in the incarceration, which is closely monitored by the government, women prisoners are abused, molested and do not have any better situation than the free world. Prisons itself are the correctional facility that house people who break the law. The sole purpose of prisons is the reformation of inmates. Rather, the system often tries to hide the violence behind these closed doors. The custodial horrors now have become daily occurrences for such women. What can a woman do when her custodians become her violators? This is an extremely frightening and intimidating question yet the reality of women prisoners.

Based on a report by the National Commission for Women, India, Women committed the crime due to poverty. They are particularly vulnerable to being detained because of their inability to pay fines for petty offences. A study of *Condition of Women Prisoners and Their Children* in Eastern UP Jails conducted in 2006 stated that these women offenders typically come from economically and socially disadvantaged segments of society. Typically they are middle-aged, young unemployed, and in most cases; they are illiterate and deprived of the education of their

basic human rights along with a dependent child. (A Study of Condition of Women Prisoners and Their Children in Eastern UP Jails, 2006) The Constitution of India guarantees many rights for women which includes the following:

1. No women will be arrested in absence of a woman constable, moreover, the arrest of women between sunset and sunrise should be avoided
2. The arrested woman shall be housed in a separate women lock-up cell and in case of unavailability of a cell she will be in a separate room altogether
3. The arrested women can only be frisked by another woman constable, even the medical procedures will be done by female practitioners and in the presence of women constables
4. All necessary prenatal and postnatal care should be provided to females who are arrested. Restraints should only be used on pregnant women as a last resort. Their safety or the safety of their foetus should never be put at risk. Women must never be restrained during labour
5. Women should be guarded by female constables or police officers. They must be questioned in the presence of policewomen

Thus all men's counterparts should maintain dignity and decency whilst in the process. Due to the lack of awareness of such many laws, women are often harassed and assaulted by the men constables. Increased criminality also has intergenerational effects, with children of prisoners being more likely to have unstable family systems, lower economic resources, a higher tendency of delinquent behaviour and eventually turning into criminals themselves. (Prisoners' Educational Reforms in India: An Institutionalised Insufficiency, 2020)

As per the latest data available from the Ministry of Women and Child Development (Women in Prisons India, 2018) at the end of 2015, Indian jails are home to 17,834 women and out of this only, 17% have access over living in exclusively female prisons. While the majority of them are housed in the female enclosures general prisons. There are several provisions in the form of laws, rules and guidelines that protect women from exploitation in prison and guarantee them basic services. Among the various other provisions under the Prisons Act, 1894, the following facilities under the act are related with the reformation of prisoners:

- Accommodation and sanitary conditions for prisoners.
- Provision for the shelter and safe custody of the excess number of prisoners who cannot be safely kept in any prison.
- Provisions relating mental and physical state of prisoners.
- Provisions relating to the examination of prisoners by qualified Medical Officers.
- Provisions relating to separation of prisoners, containing female and male prisoners, civil and criminal prisoners and convicted and under trial prisoners.
- Provisions relating to treatment of undertrials, civil prisoners, parole and temporary release of prisoners.

However, the implementation of these provisions is found to be largely lacking and women face a variety of problems while living in prisons, for example, a severe lack of female staff, which includes guards, officers, doctors, nurses, etc. Even the right amount of nutrition is a concern especially for pregnant and lactating women and children in prison, which is directly related to health. Women are entitled to have access to educational qualification. The education of illiterate young offenders (18-21 years) is considered compulsory. (Women in prisons, 2018) Prisoners who wish to pursue their formal education should be allowed to access books and study material as per rules in each State. Skilling and vocational training of women prisoners are a vital part of reformation and many prisons in India provide these services. Accommodation arrangements or recreations in prisons are often inadequate, which is worsened by severe overcrowding. There are inadequate numbers of toilets, bathrooms and other basic activities while in prison but the educational facilities are largely missing.

The National Prison Manual provides for diverse educational facilities for inmates, depending on their aptitude and preconditions for sanitation and hygiene. The insufficient provision of water and menstrual hygiene products is a serious concern. In addition to this, there is a lack of female medical personnel and facilities meant to cover physical, sexual, reproductive and mental health needs of women in prison. A large majority (81.8%) of female prisoners fall in the menstruating group of 18-50 years. This demands an increase in menstrual hygiene and proper sanitation facilities in the prisons. Every Prison manual states to provide a minimum number of clothes and

undergarments to the women prisoners as per climatic conditions and corresponding to basic hygiene standards. However, it is found that in reality prisoners are often provided with very limited clothing, and do not have the opportunity to wash these clothes regularly. Women are reportedly charged for sanitary napkins in some prisons or are only provided with a set monthly number irrespective of need. This leads women to resort to using unhygienic materials such as cloth, ash, pieces of old mattresses, newspapers etc during their menstrual cycles. (Women in Prisons in India, 2018)

Menstruation is the natural physiological process female bodies experience yet it's considered as a taboo to talk about. It's not a hidden truth that a female body goes through a series of hormonal & chemical modifications over their lifetime. Being a part of the female's reproductive parts, it begins at the age of adolescence. For most women, it is a cycle that occurs every month ranging from 28-36 days till menopause. Usually, each menstruation cycle lasts for about 3-5 days. The hullabaloo for the rights and dignity for a woman stays intact, actions aren't considerate. Women have been institutionalised due to the patriarchal norms of society. The need of an hour is to educate women about the importance of- menstrual hygiene and how badly it can adversely affect their health. Maintaining proper hygiene during menstruation benefits the health care needs and requisites of women during their menstrual cycle.

There are different commercial products available for the management of menstrual hygiene like sanitary pads, menstrual cups and tampons which are disposable and are made just for the purpose of being used at once. Along with this, there is even additional availability of special homemade pieces of cotton cloth in the market which can be reused after washing and drying them in sunlight. Menstrual hygiene also includes cleaning and washing the genitals frequently. Due to the lack of discussions on it in society openly, studies have shown women remaining ignorant of the hygienic practices while menstruating. However, this lack of appropriate knowledge about menstrual hygiene and sanitation results in various problems amongst women. This topic needs to be managed socially, being amongst the fundamental aspects of women's experience, it receives almost negligible attention in the women's prisons. As a result, the issue

remains veiled in silence. Furthermore, some societies even have certain prevalent restrictions in performing the daily activities during their menstrual cycle, such as restrictions in entering religious and holy places, consumption of a variety of food like curd, milk, pickle, restricting from combing hair, bathing or even moving sometimes. Similarly, in prisons, women get the least access to the management of menstrual hygiene and sanitation facilities and the system does not adhere to the facts mentioned in the Prison manuals by the government.

To improve the state of sanitation in prisons, strict implementation of these prison manuals is required along with regular and genuine inspections. Prison administrations should link with the local Swachh Bharat initiatives to facilitate construction of more toilets and repair as per accepted hygiene standards. There are also a number of Non-Governmental Organizations and Corporate Social Responsibility programmes under which menstrual hygiene products are distributed free of cost, which can be leveraged to cover several prisons in each state. Moreover, some NGOs specifically train people to sew their sanitary pads, with minimal products. India is a country where women are mostly engaged in sewing clothes, embroidery and making handicraft goods, thus it will be easier for them to learn how to sew their reusable pads. Collaborations with the Non-Governmental Organizations for giving them access over the basic skill of sewing their reusable pads will not only help them use it themselves, but they can also commercialise to collect some money in Prisons. These NGOs can come up with plans of distributing a customizable kit which will have the basic requirements like a few threads, needles, cotton cloth, absorbing material, cotton and plastic sheets through which they can make their reusable pads.

With the rapidly increasing number of women in prison in India, many issues are plaguing the lives of women in prison, many of whom are undertrials. The management and the administration of the prison come under the state government domain under list 2 of the seventh schedule to the Constitution of India. Therefore, it is the primary role of the government to protect the rights of prisoners governed by the Prisoners Act 1894 and the prison manual of the respective state, despite various provisions, prison laws, rules and regulations the women

prisoners are unaware of their rights and faces torture, humiliation and lack of necessities inside the jail. Prisons are not effectively serving their reformatory purpose. Thus, the need of an hour is to understand the issues of women in prison, recognise their rights and ensure these rights are fulfilled. While there are many progressive rules laid down for the welfare and fair treatment of prisoners, particularly women, this does not always translate into practice.

Women face issues related to lack of female staff, inadequate accommodation facilities, low levels of sanitation and hygiene, insufficient services to address physical and mental health needs, deficient nutrition, negligible educational opportunities and often unusable skill and vocational training. Many women who live with their children do not receive appropriate educational, health and recreational services to raise them well. These issues coupled with a lack of legal aid in prison, limited contact with the outside world and a high incidence of violence by inmates and authorities further exacerbate the situation for women. Their re-integration in society after release is thus also a huge challenge. As more people enter the prison system, it is essential to make appropriate changes in services, processes and infrastructure to cater to their particular needs. (Women in prisons India, 2019)

Prisons remain closed to the outside world, thus making it further difficult to ensure good conditions. It is however important to allow independent and regular inspections so adherence to rules is improved. Prison administrators and the other staff dealing with women prisoners should mandatorily undergo gender-sensitive training, which will help them make better decisions with regard to women in prison. They must also be sensitive towards the needs of women belonging to minority communities, disabled women and foreign nationals so as not to discriminate against them in any manner. A responsive grievance redressal mechanism should be put in place to help address the violation of rights in prison and give inmates a method to have a dialogue with the administration. The vocational training should be effective and provide skills that are beneficial in the world outside prisons. In addition to this, they should be designed keeping in mind the different levels and kinds of education, cultural backgrounds, interests, ages, genders, and abilities of inmates. Inmates should be able to choose which programmes to be a part of, and paid adequate wages for their labour. When inmates are given the necessary tools to reintegrate into society after their incarceration is over, can a prison system be truly reformatory in practice?

Thus, with improving the conditions within prison, providing better support on release and most importantly keeping women out of formal prison systems as far as possible, the issue of female criminality in India can be dealt in a better way.

References

A Study of the condition of Women Prisoners and Their Children in Eastern UP Jails. (2006).

http://newapps.nic.in/pdfReports/A_Study_of_condition_of_Women_Prisoners_and_Their_Children_in_Eastern_UP_Jails.pdf

GARPH Publication. (2012). RIGHTS OF WOMEN PRISONERS IN INDIA: AN EVALUATION. Wwww.Garph.Co.Uk.

https://www.academia.edu/5450727/RIGHTS_OF_WOMEN_PRISONERS_IN_INDIA_AN_EVALUATION

Menstrual Hygiene among Prison Women in Kathmandu. (2014).

https://www.ijhsr.org/IJHSR_Vol.4_Issue.10_Oct2014/27.pdf

Prisoners' Educational Reforms in India: An Institutionalised Insufficiency. (2020). Social and Political Research Foundation.

[https://www.sprf.in/post/prisoners-educational-reforms-in-india-an-institutionalised-insufficiency#:~:text=Moreover%2C%20the%20numbers%20are%20also,and%20\)%20%5B13%5D](https://www.sprf.in/post/prisoners-educational-reforms-in-india-an-institutionalised-insufficiency#:~:text=Moreover%2C%20the%20numbers%20are%20also,and%20)%20%5B13%5D)

WOMEN IN PRISONS INDIA. (2018).

<https://wcd.nic.in/sites/default/files/Prison%20Report%20Compiled.pdf>

WOMEN IN PRISONS INDIA. (2019).

<http://www.ijrar.org/papers/IJRAR1AXP008.pdf>