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NAVIGATING MOTHERHOOD IN CUSTODY: AN EXAMINATION OF MATERNAL HEALTH AND RIGHT OF PREGNANT WOMEN IN THE PRISON

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ABSTRACT

The incarceration of pregnant women presents unique challenges in the Indian correctional system, raising critical concerns about maternal health, human rights, and prison administration. This research paper titled "Navigating Motherhood in Custody: An Examination of Maternal Health and Rights of Pregnant Women in Indian Prisons," aims to explore the legal and administrative frameworks that govern the treatment of pregnant inmates. Despite significant reforms, there are gaps in ensuring the holistic well-being of pregnant women and infants in custody.

The first issue examined in this paper addresses the limitations of the Bharatiya Nagrik Nyaya Sanhita (BNSS), which, though a replacement for the Criminal Procedure Code (CrPC), does not offer substantial improvements in safeguarding the specific rights of pregnant prisoners and overlooks various aspects of it which might result in confusion and might also lead to decision which could drastically alter the outcome of a case.

The second issue highlights the shortcomings of Chapter 24 of the Model Prison Manual, particularly its failure to provide adequate guidelines for maternal healthcare, childcare, and

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postnatal care within prison facilities which does lead to issues faced by the pregnant women and also to women in general in the prisons of India.

The third issue, often overlooked, is the absence of comprehensive mental health support for pregnant inmates, which exacerbates the psychological burden they face. This research draws on case laws, statutory provisions, and standards to argue that mental health services, alongside medical care, must be integral to prison administration to meet the needs of pregnant women in our prisons and to progress to do the necessary improvements.

By analyzing these issues, this paper calls for urgent reforms that prioritize maternal rights, improve healthcare infrastructure, and create a more humane correctional environment for incarcerated mothers and their children.

KEYWORDS

Incarceration of pregnant women, Maternal health, Statutory provisions, Health care infrastructure, Correctional Facility (Prisons), committees.

INTRODUCTION

In the following research paper, we have gone through the women and mothers in prisons as it is very underexplored and the human rights are often seen as being violated, as the Indian prisons are overcrowded and mainly male dominated let it be both inmates or the prison staff itself and analysis the related preexisting cases in India with regards to the topic in this paper we have taken a doctrinal method to get the findings of the research gaps as it is known to be an effective way of research.

In this paper we will be mainly focusing on three major aspects for the women and mothers in correctional facilities as those are the gaps in the statutes which are not clear about the punishment and the facility for the pregnant women's and the sentencing system in comparison of Crpc and BNSS as there is a noticeable flaw which will be further addressed in the paper.

The second objective will be focusing on the lacunas of the model prion manual and the points those are being neglected or left behind as to name a few it could be lack of prison staff training

as it can be seen the availability of female staff are far less than the male staff and we can also see that the correctional facility having female staff are either under trained or not acting properly in the required scenario for the women in general or the pregnant mothers.

We can also point to the cultural sensitivity towards the female inmates by the prison staff and as we have known earlier about the lack of awareness which also causes violence in between the inmates which could cause mental stress and can harm the health of both the new-born and the mother herself as some post-delivery traumas. And in relation to this we can point out our third objective of the paper which will be the mental well-being of the mothers in prison and also their lack of rehabilitation within the prison and difficulties faced by them after being released in the society and it affecting the New-born in a very negative manner.

LITERATURE REVIEW

1) An overview of Maternal Health and Right in Custody

Analyzing the scenario of maternal entitlement for women in India imprisoned for criminal offenses common institutional disregard and inadequate funding for health. This lack of care is not only evident in tangibles like health but also in intangibles like psychological and emotional solace and mediation of Pregnancy and nursing mothers is hostile in Indian prisons. In the literature, the constitutional guarantees contrast significantly with the current conditions of incarcerated mothers produce evidence of an urgent necessity for reformative actions.

2) The Inconveniences of Pregnancy Behind the Bar for Pregnant Women and Mothers

A. Maternal Health Challenges[4]

[4] Sohoni, N. "Maternal Health in Prisons," *International Social Work*, 1975, vol. 18, pp. 34.

Women prisoners' standard of health care is a dismal affair and especially prisoners who are pregnant. She notes that there are few prenatal and post-natal facilities which puts the lives of both the mother and the child in danger.

B) Mental Health and Stress Factors

Mohanty (2013)[5] states that imprisoned women suffer even greater psychological distress from family separation and the adjustment of the prison environment, which is developed for male inmates and does not meet female prisoners' needs.

3) Protection and Legal Rights of women in Custody

A. The Constitutional Rights and Realities

Article 14 of the Indian Constitution provides for equality but women inside the cell or prison are unserved by this demographic because they are discriminated structurally most of the time. Biswas (2016)[6] delves into how these constitutional assurances are disregarded in that they are violated, and therefore signals the need to have the courts come in to ensure protection of rights behind bars.

B. Institutional Shortcomings[7]

For her, while there is legislation in place, the latter is not enforced optimally; this is the case with such categories of prisoners as pregnant inmates, for instance, as Chauhan mentioned in her publication from 2022. Her work enhances on, the need for staff training within prison that is tailored for female prisoners more so in international human right enforcement.

4) Effects of Parental Prison on Child

A. Mother-Child Separation

[5] Mohanty, R. "Behavioral Dynamics in Women's Prisons," 2013.
[6] Biswas, A. "The Disparities in Prison Rights for Women," *Indian Journal of Legal Justice*, 2016, vol. 7, pp. 140.
[7] Chauhan, P. "Human Rights Enforcement and Women in Custody," 2022, vol. 5, issue 6, *International Journal of Law and Management in Human Rights*, pp. 5.

Haley (1977)[8] also explained that the case on forced separation in Mozambique came from mothers who had to be taken from their children for whatever reasons they were imprisoned and therefore there was need to allow imprisoned mothers to at least interact most often with their children. She focuses on psychological impacts of separation and gives other solutions such as the parenting program and in prison nursery facilities.

B. Long-term Effects for the Child

According to Aggarwal (2022)[9] children who are born or brought up in prison also have some social rejection issues hence their mental health is poor and do not easily assimilate into society. They are forced to insufficient proper care as well as educational facilities that only exacerbates their status of marginalized individuals.

5) Food and Consumer Service in Custodial Setting

A. Malnutrition and its Implication on Health

In their article Chatterjee and Chatterjee (2018)[10] discuss the limited meal entitlements of women incarcerated in India, thus showing the negative outcomes that poor nutrition has on pregnant prisoners and those who are breastfeeding. This analysis points too that where dietary supplements are absent, they negatively affect maternal health resulting in detrimental birth outcomes and postpartum problems.

Controversies on who should possess the power and control on food production is largely drawn between industrialized nations and the third world countries principally because of globalization. As demonstrated, the control had been utilized systematically with a purpose to emaciate the

[8] Haley, J. "Separation of Mothers in Prisons," *New England Journal on Prison Law*, 1977, vol. 4, pp. 141(1).
[9] Aggarwal, P. "Children Raised in Custody," 2022, vol. 5, issue 1, *International Journal of Law and Management in Human Rights*.
[10] Chatterjee, R., & Chatterjee, P. "Nutritional Challenges in Women's Prisons," *Prison Journal*, 2018, vol. 98, pp. 40(1).

inmates, as a similar measure used to demean the incarcerated women. This power relation bears special prejudice to pregnant women whose nutrient intake requirements are crucial.

6) Health Rights and Institutions Constraints

A. Access to Health Services

Mohanty (2013)[11] notes that incarcerated women receive much inadequate service delivery in their health needs, and prison staff lack adequate training to attend to maternal health complications. The author supports health care changes that incorporate full spectra services of maternal care falling under the prison system.

B) Changes to the Law to Promote the Rights to Maternal Health

Sohoni (1975)[12] also pays attention to the problem of structural changes in the health and legal aspects of imprisoned mothers. The others are health examinations, health care facilities for the children of prisoners, and gender-responsive provisions of the prisoners' rights for pregnant women.

OBJECTIVES OF THE PAPER-

1. Examining Lacunas in the BNSS Compared to the Cr.P.C. Regarding Maternal Health.
2. Identifying Key Omissions in the Model Prison Manual and Proposed Solutions.
3. Cultural Stigma and Mental Health Challenges – Addressing the Unique Psychological Needs of Pregnant Women in Indian Prisons

LEGAL FRAME WORK

[11] Mohanty, R. "Healthcare Gaps in Indian Prisons," 2013.
[12] Sohoni, N. "Structural Reforms for Maternal Health in Prisons," *International Social Work*, 1975.

For having a broader prospective and before diving into the objectives and the research solutions, having an idea of the existing laws for women and the mothers in the correctional facility will be beneficial: -

1. **THE INDIAN CONSTITUTION-**

1.1 Article 21: Guarantees the right to life and personal liberty, which includes the right to health, medical care, and dignity for incarcerated individuals, including pregnant women and mothers.

1.2 Article 39(e) and 39(f)[13]: Direct the state to ensure that children and mothers are protected from neglect and exploitation, and that children's rights to development and care are safeguarded.

2. **National Human Rights Commission (NHRC) Guidelines**

3.1 The NHRC has issued several guidelines regarding the treatment of women prisoners, especially during pregnancy and motherhood. It mandates:

a. Adequate nutrition and healthcare for pregnant women.
b. Prohibiting the shackling or restraining of pregnant women during labor, a practice that violates human dignity.
c. Ensuring that the separation of mothers from their children, when necessary, is done in the least traumatic manner possible.

3. **The Model Prison Manual, 2016 (Issue 2)**

This manual provides guidelines for the administration of prisons and the treatment of prisoners, including specific provisions for women inmates:

4.1 **Chapter 24: Women Prisoners**

(a) Emphasizes the need for special facilities for women prisoners, including prenatal and postnatal care for pregnant inmates.

[13] *India Const. art. 39(e)-(f).*

(b) Recommends that children up to six years of age can stay with their mothers in prison and outlines provisions for their care, education, and recreation.

(c) Suggests the appointment of female medical officers and staff to cater to the needs of women prisoners.

4. Maternity Benefits Act, 1961 (Relevance)

5.1 Although not specific to incarcerated women, the **Maternity Benefits Act** provides that every woman is entitled to receive maternity benefits, which should, in principle, be extended to pregnant women in prison. This includes maternity leave, health support, and access to medical care.

5. The Mulla Committee Report (1983), (Highlight Women's Issue)

Although not a statute, this report by the All-India Committee on Jail Reforms made significant recommendations for prison reforms, including:

6.1 Improved facilities for women prisoners.

6.2 Specialized training for prison staff dealing with women inmates.

6.3 Provisions for the care of children living with their mothers in prison.

6. Cr.P.C. and BNSS

7.1 Cr.P.C. section 417- Section 417 deals with appeals in cases where an accused is acquitted. It allows the state or the complainant to file an appeal against an order of acquittal to the appropriate appellate court.

7.2 BNSS- There are no significant changes in the appeal procedures in the BNSS. However, concerns remain that the BNSS might not focus enough on the practical difficulties faced by complainants or victims during the appeal process.

7.3 Cr.P.C. section 437- Section 437 governs the bail process for individuals accused of non-bailable offenses, granting magistrates the authority to release accused persons on bail under certain conditions.

7.4 BNSS- BNSS has made modifications to the bail process. It introduces conditions like prohibiting multiple bail applications without a change in circumstances and aims to tighten the process for repeat offenders or those accused of heinous crimes.

7.5 Cr.P.C. Section 416 provides for the postponement of the execution of a death sentence on a pregnant woman until she has delivered her child. It reflects a compassionate approach toward pregnant convicts.

7.6 BNSS- This provision has been retained in the BNSS, but no significant reforms or enhancements have been introduced. While retaining this compassionate element, BNSS has not expanded on other protections for vulnerable groups, such as pregnant women or mothers in prison, beyond what CrPC already offers.

RESEARCH OBJECTIVES AND ANALYSIS

OBJECTIVE 1—Lacunas of BNSS OVER Cr.P.C.in maternal affairs.

This research seeks to provide a critical overview of the legal loopholes and inadequacies of the BNSS as compared with the repealed Cr.P.C. especially in promoting the health and rights of pregnant women and mothers incarcerated in India. Although there were some fundamental provisions in the Cr.P.C., which contained some provision and guideline assisting the purpose such as section 416 of Cr.P.C. wherein the implementation of capital punishment to pregnant women was kept in abeyance, there null provision made regarding the care, protection, welfare, and legal assistance to the arrested and detained pregnant women and mother. This modern improved structure has not met these lacunas properly in the BNSS leading to huge health problems in maternal and child health, poor living standards, and no legal remedy for the indigenous people. This research seeks to:

1. Less Scope of BNSS:

Cr.P.C. Section 416 was only concerned with pregnant women convicted to death penalty, the BNSS even further constrains provisions to women awaiting life imprisonment or death. It does not consider the various types of challenges under trial pregnant woman or under trial mothers experience like; poor prenatal/post-natal care, poor hygiene, poor nutrition, and access to health facility.

1.1 **Relevant Case: Rani Rani vs. The State of NCT of Delhi (2021)**[14] reveal that pregnant women in prison experience many difficulties and the judiciary offers only a narrow set of safeguards to the incarcerated women.

2. Address the Lack of Comprehensive Provisions: Further, the provisions prescribed in the Cr.P.C. as well as BNSS are also silent about appropriateness for the mother-children. This involves lack of adequate procedures in respecting the welfare of children in birth, health, and education kids born in custody or with their mothers in prison. Although to a certain degree the Model Prison Manual gives some suggestions, the recommendations are not enforceable and clear, which results in a policy gap.

2.1 **Relevant Case: Laxmi Mandal vs. Deen Dayal Harinagar Hospital & Others (2010**[15]**)** focused on the adequate health care facility to be provided.

2.2 **Relevant Case: R.D. Upadhyay vs. State of Andhra Pradesh (2006** [16]**)** focused on the children and their mothers living in the prison with adequate facilities.

3. Critique the Prolonged Bail Procedures: Under Section 437 of the Cr.P.C, bail provisions for pregnant women are overall and apply to all pregnant women without regard for their special conditions. This normally has undesirable consequences such as denial of bail for long periods, prolonged confinement which increases health hazards for both the woman and the fetus. The BNSS has made even the provisions of bail harder, though this has been done inadvertently, especially making it harder for women seeking their freedom.

4. Evaluate the Lack of Training for Prison Staff: Lack of policies and professional practice concerning pregnant female prisoners and children and adequate training to prison

[14] RANI @ MANJU v. STATE (GOVT.) OF NCT OF DELHI, Delhi High Court, Judgment, Law, casemine.com (no date). https://www.casemine.com/judgement/in/65ae3352af42ad07dc78a75d.
[15] Laxmi Mandal v. Deen Dayal Harinagar Hospital & Ors | Global Health & Human Rights Database.
[16] Upadhyay, R.D. and Supreme Court of India (2006) R.D. Upadhyay vs State of A.P. & Ors on 13 April, 2006, Indian Kanoon. http://indiankanoon.org/doc/1258611/.

personnel makes it difficult to implement and maintain consistent policies on correct penalties of pregnancies and children across correctional facilities. This in turn negates the rights of other vulnerable population in the society to basic human rights in further extension.

PROPOSED SOLUTIONS FOR ADDRESSING THE GAPS

1. **Comprehensive Legal Reforms:**

   i) propose specific measures put in the BNSS or in other outstanding legislation regarding the healthcare, nutrition and sanitation of pregnant detainee women's Extend the coverage of the protections to all women prisoner and not only those on death row or life imprisonment. Utilize increased clarity and specific guidelines for bail especially to pregnant women and mothers they must be given special considerations of fast hearing and possibly some special considerations, Custody.

   ii) Broaden the scope of protections to include all incarcerated women, not just those on death row or life imprisonment.

   iii) Develop clear protocols for bail procedures tailored to pregnant women and mothers, ensuring expedited hearings and compassionate considerations.

2. **Integration of the Model Prison Manual with Binding Provisions:**

   This should include:

   (i) Designated mother-and-child care units in prisons.
   (ii) Mandatory childcare facilities for children up to six years.
   (iii)Regular medical check-ups and vaccinations for both mother and child.

3. **Capacity Building for Prison Staff:**

   (i) Develop training programs for prison staff to ensure they are trained to handle the unique needs of pregnant women and mothers.
   (ii) Introduce accountability measures to ensure following the guidelines, including regular inspections.

4. **Judicial and Administrative Interventions:**

(i) Empower courts to issue directives for care plans for pregnant women in custody, considering the needs of each case.

(ii) Mandate collaboration between prison authorities, healthcare providers, and child welfare departments to ensure a holistic approach to maternal and child care.

Expected Outcomes:

(1) Better health status of mothers and children in prison.

(2) The mitigation of existing prejudices towards women in particular and in general prisoners.

(3) Compel efficiently the handling of pregnant and motherly detainee across India prisons and child health standards in prisons.

(4) Reduction in the systemic marginalization of incarcerated women.

(5) A more humane and rights-based approach to criminal justice for vulnerable.

(6) Increased accountability and uniformity in the treatment of pregnant women and mothers.

OBJECTIVE 2-

Chapter 24 of the Model Prison Manual, which addresses the incarceration of women, contains numerous gaps that require attention and resolution. In this objective, I have identified three major issues among many, providing solutions and relevant case support for each.

Issue 1 – Limited Focus on Reproductive and Maternal Health

The Model Prison Manual provides certain provisions for pregnant women and lactating mothers; however, it lacks a comprehensive framework for addressing the broader spectrum of reproductive health needs of female inmates. Specifically, the manual fails to include essential aspects such as regular gynaecological care, access to contraceptives, and effective menstrual hygiene management. This oversight has significant implications, as it can lead to deteriorating health

conditions among female inmates, thereby compromising their fundamental rights under Article 21 of the Indian Constitution[17], which guarantees the right to health and personal dignity. Ensuring comprehensive reproductive healthcare for incarcerated women is not only a matter of health but also one of preserving their dignity and autonomy.[18]

To bridge this gap, it is crucial to implement several essential measures. The manual should mandate regular reproductive health check-ups and provide adequate access to contraceptives for those who may need them. Furthermore, establishing a system for periodic gynaecological evaluations and ensuring a steady supply of sanitary products would support female inmates in maintaining their health and dignity. Addressing these areas would promote better health outcomes, reduce the likelihood of health complications, and align with the constitutionally protected right to personal well-being and dignity.

It is recommended that the Model Prison Manual incorporate a detailed framework that specifically addresses the reproductive health needs of female inmates. This framework should include comprehensive prenatal and postnatal care, access to gynaecological services, and effective menstrual hygiene management with sufficient sanitary facilities. Additionally, specialized training for medical staff to address the unique health requirements of female inmates is essential. Such measures would not only improve the healthcare quality within the prison system but would also reinforce the state's responsibility to uphold the dignity and rights of incarcerated women.

The legal principle established in Javed v. State of Haryana[19] emphasizes the importance of reproductive rights as part of Article 21, highlighting the state's duty to provide healthcare services to all women, including those in custody. This case serves as a crucial foundation for advocating

[17] India Const. art. 21.
[18] The Right to Motherhood Behind Bars: Evaluating the Conditions and Challenges of Pregnant Women in Indian Prisons," IJFMR, 2024.
[19] *Javed v. State of Haryana*, (2003) 8 SCC 369.

reforms within the prison system, underscoring the necessity of a reproductive health framework that respects and upholds the dignity of incarcerated women.

Issue 2 – Inadequate Support for Mothers with Children

The Model Prison Manual provides that children up to six years of age may reside with their incarcerated mothers. However, this provision lacks a comprehensive roadmap for the children's future beyond this age limit. There is a notable gap in addressing the educational, developmental, and psychological needs of these children, which are essential for their healthy growth, especially within a prison environment. Without targeted support, these children are at risk of experiencing adverse effects that could hinder their development and future well-being.[20]

To bridge this gap, it is essential to expand the current framework to address not only the provision of basic amenities but also the educational and emotional development of these children. Structured programs should be developed for early childhood education, healthcare, and psychological support, focusing on minimizing the psychological impact of incarceration on young minds[21]. These programs would help children to receive a well-rounded foundation, ensuring they are not disadvantaged due to their unique circumstances.

A comprehensive policy is recommended to support children's transition beyond the age of six. This policy should include partnerships with social welfare organizations to ensure that children are placed in suitable homes or care facilities as needed. For children who continue to remain with their mothers, it is imperative to ensure access to play areas, early childhood education, and counselling services to address any emotional distress they may experience. Such measures would help protect their mental and emotional health, contributing to a more positive and supportive environment during their formative years.

[20] "Becoming a Mother Behind Bars," The Citizen, 2021.
[21] Navigating pregnancy and early motherhood in prison: A thematic analysis of women's experiences," Health and Justice Journal, 2022.

The legal precedent set in R.D. Upadhyay v. State of A.P.[22] outlines detailed guidelines for children residing with their incarcerated mothers, emphasizing the importance of health, education, and welfare measures. This case highlights the need to protect the rights and well-being of children within prison settings. The principles established in this judgment support expanding the manual's provisions to ensure that children living in prisons receive the necessary care, which is vital for safeguarding their future.

Issue 3 – Lack of Gender-Specific Rehabilitation Programs

The lack of gender-specific rehabilitation programs in Indian prisons presents a significant gap in the reintegration of female inmates into society. Although vocational training is mentioned within the Model Prison Manual, these programs fail to address the unique needs of women, particularly those who have been impacted by domestic violence, trafficking, or other gender-specific issues. This lack of customization in rehabilitation services limits the employability and societal re-entry prospects of these individuals, as the generic training does not equip them with skills tailored to their experiences and challenges. For instance, a woman affected by domestic violence or trafficking may require support in areas such as financial independence, mental health recovery, and skill-building suited to her personal circumstances. Without such gender-specific provisions, the existing programs fall short of addressing the barriers female inmates face upon release.[23]

To bridge this gap, it is crucial to introduce rehabilitation programs that specifically cater to the needs of women[24]. These programs should focus on fostering financial independence, providing recovery support from experiences of violence or abuse, and equipping female prisoners with employable skills relevant to the job market. Tailoring vocational programs to meet the skill requirements of female inmates can significantly enhance their opportunities for financial stability post-release. Training in areas such as financial management, technical skills, and mental health

[22] *R.D. Upadhyay v. State of Andhra Pradesh,* (2006) 9 SCC 409.
[23] The Complexities of Childbirths in India Prison: Balancing Maternal Rights," B&B Legal, 2022.
[24] Women's Health in Indian Prisons," IJCRT, 2023.

counseling can empower these women to reintegrate successfully into society. In addition, post-release support services, including job placement assistance and skill certification, would further aid in their transition, helping them to overcome social and economic barriers after their incarceration.

The need for such gender-sensitive rehabilitation programs finds support in legal precedents such as Charles Sobhraj v. Superintendent Central Jail, Tihar[25]. This case highlights the responsibility of prisons to rehabilitate inmates through educational and vocational training, establishing a basis for the development of gender-specific programs. The principle underlying this judgment advocates for a rehabilitative approach tailored to the needs of inmates, thus reinforcing the importance of implementing gender-focused training to facilitate effective societal re-entry for female prisoners. By aligning with this legal principle, the prison system can work towards creating a more inclusive and supportive environment that empowers female inmates and enhances their prospects for successful rehabilitation.

OBJECTIVE 3-

Cultural Stigma and Mental Health Challenges – Addressing the Unique Psychological Needs of Pregnant Women in Indian Prisons

Pregnant women in Indian jails are in a particularly precarious situation due to the combination of parenthood and incarceration, which is characterised by high levels of psychological stress and social humiliation. Motherhood is highly valued in India, as mothers are seen as moral role models and carers due to strongly ingrained cultural norms. This idealised view frequently results in jailed moms bearing the burden of stigma in two ways: as inmates and as women who are thought to have "failed" their moral and familial obligations. This cultural condemnation amplifies the

[25] *Charles Sobhraj v. Supdt., Cent. Jail, Tihar,* (1978) 4 SCC 104.

psychological challenges these women face, worsening the mental health struggles common within prisons.[26]

Mental Health Challenges in Custody: -

Compared to the general population, pregnant prisoners are more likely to experience mental health conditions such anxiety, depression, and post-traumatic stress disorder (PTSD). These difficulties are exacerbated by the jail atmosphere, which is inherently isolating, crowded, and private. The expectation of birthing under limited circumstances and the lack of family support—a fundamental component of emotional health in Indian culture—further increase the stress levels of expectant mothers. These factors contribute to a sense of shame, guilt, and social alienation, all of which are magnified by cultural stigma and inadequate access to mental health resources within the prison system.[27]

Cultural Stigma and Its Psychological Impacts: -

The idealized position of the mother in Indian society is one of selflessness and caring. Women in custody, particularly those pregnant, often face severe societal and familial judgment.[28] This stigma leads to a diminished sense of self-worth and internalized guilt, with many incarcerated mothers feeling alienated from their identity as caregivers.[29] Their psychological anguish is

[26] Banerjee, D.D. (2023). *Mental Wellbeing Behind the Bars: How Indian Prisons Struggle With Mental Health*. [online] TheQuint. Available at: https://www.thequint.com/fit/indian-prisons-mental-health-inmates [Accessed 4 Nov. 2024].

[27] National Institute of Mental Health & Neuro Sciences, Bengaluru (2021). *Dealing with Mental Health Issues in Prisoners during COVID-19: A Handbook*.

[28] Shivani Mathur Gaiha, Salisbury, T.T., Mirja Koschorke, Raman, U. and Petticrew, M. (2020). Stigma associated with mental health problems among young people in India: a systematic review of magnitude, manifestations and recommendations. *BMC Psychiatry*, [online] 20(1). doi: https://doi.org/10.1186/s12888-020-02937-x

[29] Kumar, S. (2023). A Study of Right to Mental Health of Prisoners in India: Legal Intricacies and Concerns. *IJFMR23044418*, 5(4).

exacerbated by the social label of "criminal" that obscures their parental identity. The stigma surrounding mental health issues further prevents many women from seeking help, as mental illness is often misconstrued as a sign of weakness or instability.[30]

Barriers to Adequate Mental Health Care: -

Pregnant women in Indian prisons do not have access to specialised mental health care. Access to trauma counselling, psychiatric consultations, and needs-specific support groups is restricted. The fact that many prisoners are still ignorant of their rights to maternal care while incarcerated exacerbates their sense of anger and powerlessness. These women are also unable to deal with the intense guilt and humiliation connected to their particular situation because there are no culturally competent therapeutic choices available.

Proposed Interventions: -

Indian prisons require focused treatments that incorporate mental health care and cultural sensitivity in order to handle these complex issues: -

1. Mental Health Education Programs: It is possible to lessen stigma and promote an atmosphere where asking for assistance is welcomed by normalising conversations about mental health among staff and prisoners.
2. Specialized Mental Health Services: Timely intervention can be facilitated by making trained workers who are aware of the special needs of pregnant inmates available. Women can analyse their experiences and create coping strategies with the aid of group therapy and counselling.

[30] Misra, M. and Baba, Y. (2023). Examining the Mental Health of Prison Inmates: A Perspective of a Psychologist. *Mind and Society*, [online] 12(02), pp.87–94. doi: https://doi.org/10.56011/mind-mri-122-202311

3. Integration of Maternal and Mental Health Services: Pregnant women have interrelated physical and emotional demands that require psychological support in addition to prenatal care.
4. Family Connection Programs: Encouraging family visits and phone conversations might lessen the psychological effects of loneliness and strengthen the customary support networks that are essential to Indian mothers' welfare.

International and Legal Frameworks: -

The United Nations' Bangkok Rules[31] advocate for gender-sensitive approaches to address the needs of incarcerated women, emphasizing the provision of healthcare, including prenatal care, and attention to psychological well-being. Rule 23 underscores the necessity of medical care during pregnancy, while Rule 24 highlights the importance of mental health support for pregnant inmates.[32] In India, the landmark case ***R.D. Upadhyay v. State of A.P. (2006)***[33] established the judicial recognition of the rights of pregnant inmates under Article 21 of the Constitution. The Supreme Court affirmed that the right to life includes living with dignity, mandating adequate healthcare for pregnant prisoners. This judgment aligns with international standards, emphasizing the state's responsibility to ensure humane treatment and maternal health services.

CONCLUSION

The research on "Navigating Motherhood in Custody: "An Examination of Maternal Health and Rights of Pregnant Women in Indian Prisons" outlines enumerated major loopholes in law, rules,

[31] UNODC (2010). *The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders*.

[32] Dewan, M. (2023). *Women in Indian prisons denied menstrual products despite rules*. [online] Devex. Available at: https://www.devex.com/news/women-in-indian-prisons-denied-menstrual-products-despite-rules-105565 [Accessed 4 Nov. 2024]

[33] *R.D. Upadhyay v. State of A.P. (2006)* Supreme Court of India 559 of 1994. Available at https://indiankanoon.org/doc/1258611/ [Accessed 4 Nov, 2024]

regulations and humanitarian provisions existing for pregnant prisoners in India. The Indian prison system violates the constitutional which aimed at protecting the rights of these women and their children as for their essential health, psychological, and social requirements.

One core area is that finding indicates that prison system does not particularly provide appropriate legal backing and care for Pregnant women as presented in the Bharatiya Nagrik Nyaya Sanhita (BNSS), Criminal Procedure Code (CrPC) among other legal documents. While this Model Prison Manual has some progressive sections and it is unenforceable, general and lacks procedural details; aspects such as lack of adequate maternal health care, poor diet standard, and complete lack of mental health services for the prisoners remain unaddressed even thought it was supposed to be provided according to the model prison manual.

The research insists that these gaps should be closed by the provision of urgent reforms. Reforms in this area should cover full spectrum health care, bail for pregnant inmates, and tangible standards for staff capacity training. Stemming the reversal of the gains made in addressing mental health issues and providing humane conditions of living have to be provided. Besides insisting on structural transformations, developing culture tolerance and coming up with favourable family policies could reduce dignified and facilitate rehabilitation.

Thus, the rights of pregnant women in custody are not the case of the legal problem alone but rather it is the society's humanitarian concern to protect every individual who needs protection in today's social unjust world especially the life givers/ mothers. If these recommendations are followed India's prison system can be brought on par with constitutional provisions as well as the international treaty obligations of the country to afford dignity, health and justice to some of the most marginalized citizens of the country.