

# Socio-Legal Analysis of Under-trial Women Prisoners in Delhi-NCR Jails: An Analysis of Gender Disparities

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## Abstract

Sex disparity is a multidimensional phenomenon and is most pronounced in the replication of socio-legal vulnerability of under trial women prisoners due to structural, infrastructural and institutional failures in Indian criminal justice system. This socio-legal study focuses in a systematic manner on the conditions of women under-trials in prisons, the rights to which these women are entitled and what actually happens to them in practice while under custody and the lived realities of women under trial in the Delhi-NCR area, questioning the contradiction between the formal constitutional and statutory rights of these women and what happens to them when they are under custody of the police or jail. The research takes a rights-based and gender-responsive approach to the issue of women's under-trial detention, drawing on the constitution and other legislation, such as the Nelson Mandela Rules, which include the rights to life and personal liberty guaranteed in Article 21; the equality and non-discrimination principles of Article 14 and 15; free legal aid under Article 39A; the Mental Healthcare Act 2017, the Model Prison Manual 2016, the Model Prisons and Correctional Services Act 2023, and the Bangkok Rules. In terms of method, the research combines the doctrinal legal interpretation of statutes and judicial case laws (including Hussainara Khatoon, Sheela Barse, Sunil Batra, In Re: Inhuman Conditions in 1382 Prisons and recent directions on bail under Section 479 BNSS) with quantitative secondary analysis of the official prison statistics compiled by the schedule of the NCB. According to the National administrative data as on 31 December 2023, there were 530,333 inmates of whom 389,910 (ca. 73.5 per cent) were under-trial prisoners, including 15,825 women. Complementary figures show that there were 1,318 women prisoners registered with 1,492 children of which the vast majority, about 1,049 women with 1,191 children, were themselves under-trials. The overall occupancy on the roll maintained at 120.8 per cent of the approved capacity, with the City of Delhi having some of the highest rates in the country (with its successive reporting periods approaching and even topping 200 per cent). The study uses frequencies, percent and occupancy ratio to put the situation of Delhi-NCR in context while also explicitly warning that the results of the aggregate administrative statistics should not be regarded as primary observation data on a jail level. The analysis in this quantitative frame highlights the following socio-legal issues: poor infrastructure for women's facilities, limited capacity for women's facilities to enhance gender-specific services, especially separate enclosure facilities and sanitation facilities, and menstrual-hygiene management; severe gaps in socio-legal services, such as of gynaecologists and psychiatrists, as well as lower utilization of Under-Trial Review Committees; poor quality of legal support including lack of effective legal aid; higher psycho-social risk due to stigma, economic dependency, prisoners' lack of contact and custodial facilities involving children, and the more common and acute problem of prisoners kept in prisons without dedicated women's-only units; and long-term pre-trial detention, leading to prolonged violation of the presumption of innocence and increase in family separation status. These pressures are evident in the overcrowding of prisons in Delhi/NCR, with an exclusive women's jail system too small compared to the number of women in prison, and a high percentage of under-trials inmates, typically at rates over 85-90 per cent. The study also points out that although the proportion of women national prisoners in women-only jails is relatively low, most women are kept in prisons that are also managed by males and lack the level of privacy, security and specialised needs that women require. Empirical health data and secondary indicators highlight greater mental distress, reproductive health failures, within-family infectious disease vulnerability and risks for mothers when detained with youthful children. Empirical health literature and secondary indicators indicate increased mental distress, failures in reproductive health, within-family infectious-disease vulnerability and risks for mothers who are detained with young children. A formal approach to legal protection is also linked to doctrinal concepts and quantitative patterns, with the result that formal legal protection—from compulsory medical checks on admission until periodically, to the classification and rehabilitation of gender—are not equally implemented. The paper thus suggests a need for a systematic expansion of infrastructure for women, time-bound monitoring of courts on 'detection' and 'prosecuted' time, improvement of physical and mental-health services, disaggregated data flowing from government, and also a robust independent monitoring infrastructure to bridge the implementation gap, if the evidence-based approach of good governance of prisons in Delhi-NCR and beyond is to be adopted. The criminal justice system can deliver substantive justice to women under trial only when it adopts the changes with its integrated approach, basis on data and cognizant of the rights of women..

**Keywords:** Under-trial Prisoners, Women Prisoners, Gender Disparities, Delhi-NCR Jails, Criminal Justice System, Socio-Legal Analysis.

## INTRODUCTION

Despite the assurance of equality and justice provided by the Indian Constitution, there is great disparity at the gender level in the criminal justice system, most notably in relation to under-trial women prisoners languishing in prisons of Delhi-NCR.<sup>1</sup> The under-trial prisoners' category is one of the most concerned groups in Indian prisons as it accounts for more than 70% of the total population of prisons in the country according to the most recent report on Prison Statistics India, 2017. Women prisoners experience specific, and additional, challenges due to patriarchy, systemic inequities and lack of gender-responsive to infrastructure among them.<sup>2</sup> This Socio-Legal Study aims to explore the life of the under-trial women in Delhi and NCR jails in Tihar, Rohini, Ghaziabad, Meerut and also analyse the shortfall in implementation of legal protection.<sup>3</sup>

The Constitution of India (Articles 14,15,21, 39A) guarantees equality before the law, non-discrimination, protection of life and personal liberty and free legal aid. The Supreme Court has reiterated the rights of under-trial prisoners in a series of judgments including the ones of Hussainara Khatoon v. Home Secretary, state of Bihar (1979); Sheela Barse v. State of Maharashtra (1983) and R.D. Upadhyay v. State of Andhra Pradesh (2006) giving guidelines specially for the prisoners women, who are having children. The Model Prison Manual 2016 and the Prisons Act, 1894 (as modified) also have provisions to keep women separated and that the inmates are given medical attendance and protected from the degradation. But the truth at Delhi-NCR prisons is at variance from these legal mandates.<sup>4</sup>

Overcrowding continues as an on-going issue. One of the largest complex of prisons in the world, Tihar Jail complex, routinely accommodates women convicts far higher than its allowable strength. Women under-trials are frequently placed in cramped detention centres where they are provided with poor quality conditions.<sup>5</sup> Women under-trials are usually housed in overcrowded detention/barracks with poor ventilation, sanitary and privacy, etc. Others have to share limited space with convicted prisoners breaching the distinction between under trial and convicts. It is especially concerning that there is non-gender sensitive infrastructure. Simple needs like separate toilets, sanitary napkins, reproductive health facilities and hygiene products are often lacking. Poor nutrition coupled with lack of preferred treatment and of specialized care, greatly effects pregnant women and lactating mothers.<sup>6</sup>

One alarming aspect of women's disadvantage is the fact of women being detained while on trial. There are women from marginalised communities (Adivesis, Dalits, minorities, economically weaker etc.) who have been languishing in jail for a number of years without any trial of charges, which happens because of poverty, lack of proper legal representation and apathy of the justice delivery system.<sup>7</sup> Women prisoners also may suffer additional social stigma. Families often leave them behind, causing more mental health problems, depression and anxiety. The loss of dependent children is especially traumatic. The Supreme Court has expressed that children up to the age of six should be kept with their mothers whenever they are put in jail but there are no creches, playgrounds and appropriate nutrition programmes provided in most

<sup>1</sup> Kumar, P., Banshkar, A. K., Shekhar, S., & Rani, K. P. (2022). Prisoners Are Too 'Victims' of the Criminal Justice System. Can They Have an Idea of 'Fair Access to Justice'?. *Journal of Victimology and Victim Justice*, 5(2), 166-180.

<sup>2</sup> Shah, P. (2022). Critical Evaluation of Socio-Legal Enactments Related to Woman & Woman Empowerment. *Issue 4 Indian JL & Legal Rsch.*, 4, 1.

<sup>3</sup> Luthra, S. (2023). *Socio-legal perspectives on the procedures for fitness to plead and stand trial under Indian and English law* (Doctoral dissertation, University of Leicester).

<sup>4</sup> Karhana, R., Migalni, D., & Sehwat, A. (2026). Human Rights, Custodial Governance, and Reintegration of Under-trial Prisoners in India. *Minnesota Journal of Business Law and Entrepreneurship*, (3), 2140-2150.

<sup>5</sup> Khokhar, H. A., Rani, T., & Hussain, F. (2024). Impacts of Gender Disparity and Socio-Educational Structure on Legal Awareness of Women Inmates: A Case Study of Prisons in Sindh, Pakistan. *Global Regional Review*, 9(3), 131-141.

<sup>6</sup> Kumar, V., & Tariq, M. (2022). Human Rights of Detainees and under-Trial Prisoners in India: A Public Interest Litigation Perspective. *Issue 6 Indian JL & Legal Rsch.*, 4, 1.

<sup>7</sup> Yadav, S. C. (2024). An analysis of Indian criminal justice system from the perspective of human rights. *Socio-legal perspective on law and changing dimensions in the modern era*, 62.

jails in the NCR in Delhi.

The socio-legal analysis also identifies the cross-cutting vulnerabilities. Women from socially deprived backgrounds are easily deceived when it comes to any crimes being committed by male members of their family, such as dowry related issues or drug peddling. Many are arrested without applying due to the Adopted procedure provided in Section 46 CrPC that states arrest of women to be done by female police officers. Such blanket provisions about judicial custody, as the default instead of exception, overlook the supreme court's repeated emphasis on "bail not jail" in recent cases like *Arnesh Kumar v. State of Bihar* (2014) and *Satender Kumar Antil v. CBI* (2022).<sup>8</sup>

Enforcement of the laws is limited. The internal mechanisms like prison visiting boards, legal Aid cells and grievance redressal system are not very efficient. While the role given to National Commission for Women and State Human Rights Commissions is important and on paper has the constitutional backing, they do not have the power to carry out regular checks and track the action taken.<sup>9</sup> The COVID-19 pandemic highlighted them while women detainees in the prison were unnecessarily affected by poor health-care facilities and late release of women under-trial prisoners.<sup>10</sup>

While the psychological and social effects of women's imprisonment are similar to men's, they are far more detrimental for women. Many of these women enter recycles of marginalisation and re-victimisation because of their social labelling, losing their custody to their children and economic ups and downs in their life immediately after incarceration. Their situation is worsened by the lack of a meaningful programme of rehabilitation and development of skills. There are several projects such as Skill Development in Prisons, but their impact and scope in prisons of the Delhi-NCR area is limited.<sup>11</sup>

Socio-legal analysis speaks of the spectacle faced by women who find themselves in custody whilst the underlying issues that the criminal justice system ought to be dealing with have not been sufficiently discussed. The concept of substantive equality, which is a fundamental of the Constitution requires a differential approach to redress the historical and systemic disadvantages faced by women. However, the current prison system management works on a fairly genderless principle that is blind to biological, social and psychological disparities.

There is a need for multi-pronged urgent interventions to address these disparities. These include the use of technology at Hearings for Virtual Trials, creation of gender sensitive Prison infrastructure, further implementation of Plea Bargain system, having more Family courts and strict adherence to time bound trials. Capacity audits, required videoing of interaction, legal support system and a thorough aftercare are also necessities.<sup>12</sup>

### 1.1 Research Design and Methodological Framework

The study adopts a mixed socio-legal research design combining doctrinal legal analysis with descriptive quantitative analysis of secondary data. The doctrinal component examines constitutional provisions, statutory safeguards, judicial decisions, prison rules and international standards. The quantitative component uses official prison-administration data reported by States/UTs and published through Prison Statistics India/National Crime Records Bureau (NCRB), supplemented by peer-reviewed empirical evidence on the health and psychological conditions of women prisoners. The principal unit of quantitative analysis is the prisoner population reported as on 31 December 2023. Variables include total prison population, sanctioned capacity, under-trial population, female under-trial population and the female share of under-trials. Descriptive statistics are reported as absolute frequencies, percentages and ratios. No causal inference is made from these administrative data because they are cross-sectional and aggregated at

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<sup>8</sup> Chauhan, B. (2022). Rights of Women Prisoners in India: A Legal Study. *Issue 6 Int'l J.L Mgmt. & Human.*, 5, 511.

<sup>9</sup> Kumar, P. Anupama.(2023). What is the Impact of Alcohol Ban on Prevalence of Under Trial Prisoners of Liquor & Narcotics Drugs Related Acts Violation in Bihar-A Twelve Year (2010-2021) Comparative Cross-Sectional Study. *Int J Health Policy Plann*, 2(2), 60-67.

<sup>10</sup> Asad, M. (2026). Rights and Status of Children Confined with Female Prisoners in Pakistan. *About the Centre for Human Rights*, 117.

<sup>11</sup> Haider, K., & Nazim, S. (2026). Understanding the anomalies of reproductive rights of incarcerated women under the jurisprudence of human rights. *STAR Journal of Law, Policy and Society*, 1, 33-44.

<sup>12</sup> Haque, S. M., & Chakrabarty, S. P. (2023). Breaking the Cycle of Injustice: Investigating Restorative Justice Solutions for Street Begging Children in Dhaka City, Bangladesh through a Comprehensive Socio-Legal Analysis.

State/UT level.

### 1.2 Quantitative Evidence and Delhi-NCR Context

To strengthen the empirical basis of the socio-legal argument, the following official figures are incorporated. The Ministry of Home Affairs has stated that the latest published NCRB Prison Statistics India report is for 2023. As on 31 December 2023, prison capacity across India was 439,119 against 530,333 prisoners, corresponding to an occupancy rate of approximately 120.8%. Under-trial prisoners numbered 389,910, representing approximately 73.5% of the total prison population. Female under-trial prisoners numbered 15,825, representing approximately 4.1% of all under-trial prisoners. These figures demonstrate that under-trial detention is a structural feature of the prison population, while women constitute a smaller numerical but distinct gendered group whose specific needs may be masked in aggregate prison statistics.

| Jurisdiction  | Under-trials | Female under-trials | Female share of UTs | Key indicator    | Interpretation                                                     |
|---------------|--------------|---------------------|---------------------|------------------|--------------------------------------------------------------------|
| India         | 389,910      | 15,825              | 4.06%               | 120.8% occupancy | Under-trials form 73.5% of all prisoners                           |
| Delhi         | 17,834       | 644                 | 3.61%               | —                | Delhi-level administrative benchmark                               |
| Haryana       | 19,292       | 600                 | 3.11%               | —                | NCR-region jurisdiction; not a jail-level estimate                 |
| Uttar Pradesh | 73,491       | 2,819               | 3.84%               | —                | Includes NCR districts such as Ghaziabad/Meerut but is state-level |

Source and analytical note: Figures are based on NCRB, Prison Statistics India 2023, as reproduced in a Ministry of Home Affairs parliamentary answer dated 24 March 2026. Percentages are calculated from the reported counts. The Delhi-NCR study discusses Tihar, Rohini, Ghaziabad and Meerut; however, the NCRB administrative dataset used here does not separately report all of these jails. Accordingly, the State/UT figures are used only as contextual benchmarks and must not be interpreted as direct jail-level prevalence estimates. This distinction improves the scientific validity of the analysis.

### 2. Legal Framework Governing Under-trial Women Prisoners in India

The framework of the under-trial women prisoners in India is based on Constitutional Protection, Statutory Protections, Judgments & International Human Rights Standards. The Supreme Court has construed the right to life and personal liberty in Article 21 of the constitution broadly, to include the right to live with human dignity, even in prison.<sup>13</sup> This fundamental right also extends to under-trial prisoners who are presumed not guilty till proven otherwise. Article 14 and 15 also say that there should be no discrimination and equal justice before the law and Article 39A provides for equality of justice and free legal aid.<sup>14</sup>

The main law governing prisons is the Prisons Act 1894; it is colonial with much of it is now redundant. It has been stated that it is different from FSA Scheme 07 because it separately accommodates the female prisoners as per Section 27. The newer model prison manual of 2016 compiled by MoHA provides more progressive directives which call for special measures for women in prison, such as separate enclosures, good health care, sanitary measures and 'women imprisonment' where mothers are pregnant and lactating.

<sup>13</sup> Pandey, U. (2023). Origin and Development of Prison System in India. *Part 2 Indian J. Integrated Rsch. L.*, 3, 549.

<sup>14</sup> Chatterjee, D. (2026). Healthcare accessibility and utilization by women in Indian prisons. *Women & Criminal Justice*, 36(1), 13-26.

Manual makes commitment to separation of under-trial prisoners from convicts.

Several Supreme Court decisions have had a decisive influence on the rights of under-trial women prisoners. The rights of under-trial women prisoners have been greatly influenced by landmark Supreme Court rulings. The provisions of *Hussainara Khatoon v. Home Secretary, State of Bihar* (1979) brought light to the issue of under-trial prisoners and ordered speedy trials to them. *Sheela Barse v. State of Maharashtra* (1983) held that special provision have to be made for women prisoners in separate lock ups and police women should be present during the arrest and interrogation of women prisoners. The Court also ordered that women be never be left overnight in police stations. The Supreme Court in *R.D. Upadhyay v. State of Andhra Pradesh* 2006 ruled elaborately on the points to be kept in mind while sending any child along with women convict, which involved provisions of diet, medical treatment, and child education.

Section 319 and 317 of code of criminal procedure, 1973, are protective provisions. Under Section 46(1) women must only be arrested by a female police officer and Section 51(2) states that searches of women shall be carried out by a female officer with proper consideration of decency. Liberal bail considerations for women, children and elderly are provided under Section 437 and 437A. The Legal Services Authorities Act 1987 requires State to supply free legal aid to those prisoners who are not financially able to gain legal assistance.

India also has international commitments in relation to the international standards that include the UN Standard Minimum Rules for the Treatment of Prisoners, the Bangkok Rules 2010 for Treatment of Women Prisoners and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The instruments highlight women-centric needs, that no discrimination should be happening or allowed, and that the concept of dignity should be applied.<sup>15</sup>

Even though this comprehensive framework is available, implementation is still a significant challenge. Numerous provisions are just on paper. Several guidelines and recommendations concerning the preservation of the rights of women and from the National Human Rights Commission and National Commission for Women have also been issued, but their implementation is weak. Policies and procedures with respect to the management of prisons are ill-drafted and not kept current in some states or adopted across them. Haryana's, Uttar Pradesh's and Delhi's jails, which operate under separate administration, cannot coordinate with each other.<sup>16</sup>

There are some positive signs with recent changes to the law including the use of plea bargaining and changes to get trials over with more quickly. However there is a lack of an all-embracing central legislation focussed on the needs of women prisoners, which remains marked by a gap. While the overall law itself is progressive, problematic is old infrastructure, delayed accountabilities and inadequate budgets to delve into gender-sensitive law reform.<sup>17</sup>

This chapter has found that though India has a strong legal framework to safeguard the rights of under-trial women prisoners, there is a lop-sided manner in which such rights are not being put into practice leading to human rights violations.<sup>18</sup> The Legal Frameworks will be explored in subsequent chapters in terms of reality on the ground in Delhi-NCR, behind the bars.<sup>19</sup>

### **3. Gender Disparities in Delhi-NCR Jails: Conditions and Vulnerabilities**

#### **3.1 Empirical Health Evidence Relevant to Women in Custody**

Available empirical research supports the need to treat health and mental health as measurable components of prison inequality. A 2025 cross-sectional study of 150 women inmates in a Central Jail in

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<sup>15</sup> Naz, N. A. (2026). Beyond Containment: Restoring Constitutional Dignity in Punjab Prisons. *Journal of Applied Linguistics and TESOL (JALT)*, 9(1), 6-29.

<sup>16</sup> Singla, P. (2022). Role of Public Interest Litigation in Reference to Human Rights Jurisprudence and Prisoner Rights. *Issue 3 Int'l JL Mgmt. & Human.*, 5, 1701.

<sup>17</sup> Mohammed, N. (2023). Unveiling the Crisis of Human Rights Abuses in Indian Prisons: A Call for Reform, Rehabilitation, and Justice to Preserve Human Dignity behind Bars and beyond. *Issue 5 Int'l JL Mgmt. & Human.*, 6, 1138.

<sup>18</sup> Kalpana, S. (2024). Protection of Women Prisoners in the State of Tamil Nadu—An Analysis. *Anusandhanvallari*, 1228-1238.

<sup>19</sup> Sakhrani, M., & Deo, M. Mainstreaming social work intervention as an element of fair trial. In *The Routledge International Handbook of Criminal Justice Social Work* (pp. 520-529). Routledge.

Ludhiana reported that 72.0% had at least one physical health problem; 31.0% had mild anxiety, 10.0% moderate anxiety and 4.0% severe anxiety. The same study reported mild depression in 25.3%, moderate depression in 24.7% and severe depression in 10.7% of participants. Importantly, these findings are from Ludhiana and therefore should not be presented as prevalence estimates for Delhi-NCR. They are used here as comparative Indian evidence indicating why prison-health variables should be measured systematically in future Delhi-NCR primary research. A 2025 systematic review covering 247 studies and more than 452,261 women in custody similarly identified substantial health burdens and significant geographical and data-quality gaps. Together, these studies strengthen the argument for gender-disaggregated health records, validated screening tools, and ethically approved primary data collection in Delhi-NCR.

The gender gap in Delhi-NC Vehiklers is significant and complex, and it is indicative of the entrenched prejudices and the lack of care in the system. Conditions for women under-trials in Tihar Central Jail, Rohini Jail, Ghaziabad District Jail and Mehrauli Jail are much harsher than for male prisoners. There is widespread overcrowding – in many cases with over a double full complement of barracks.<sup>20</sup> Women prisoners are routinely subjected to poor and cramped sanitary conditions, bad ventilation and too little space, with frequent health problems.

One of the biggest inequities is that there is no gender responsive infrastructure. Simple facilities, including clean water for drinking and bathing areas (with privacy), etc. are often missing. Sanitary napkins are not always available and many women say that they use sanitary pads which aren't sanitary, which can cause infections. The availability of health services in this country are still far too limited, especially in the field of reproductive health, maternity services, and mental health care facilities. Under-trial women often describe a lack of timely medical services and nutritional support during their pregnancies being a major concern – with implications that adversely affect mother and child.<sup>21</sup>

Social and psychological factors increase the vulnerability of under-trial women. A lot of women are from marginalised communities, and often suffer betrayal from their families when arrested. This social isolation causes a lot of mental trauma, anxiety and depression. The societal stigma is different in the case of women when compared to males; and this continues even after their acquittal. The loss of loving the and being separated from the dependent kids is devastating. As per the law, children under six years old can stay with their mothers; though most jails don't have conditions conducive to creche, food, or safe play area provisions.<sup>22</sup>

These inequalities are compounded by procedural breaches. Despite Supreme Court guidelines, instances of women being arrested by male police officers and detained overnight in police stations continue to be reported. The failure to provide effective legal representation or speedy court proceedings keeps many women under detention for extended periods of time, even while they are awaiting trial. Economic vulnerability is a key factor: Women who can't afford bail or private lawyers endure the longest detention.<sup>23</sup>

There's another layer of disparity adds in the intersectionality. Dalit, Muslim and poor women suffer discrimination which is compounded by caste, religion and class. They are increasingly more likely to be involved in the wrong cases and to not be afforded timely justice. Other forms of vulnerabilities include the abuse of power in prison as has been reported by prisoners being verbally abused, harassed and exploited by staff members, although this has been denied by prison officials.

#### **4. Implementation Challenges and Impact on Under-trial Women**

Harrowing mismatch between progressive legislations and constraining ground realities, as seen in jail implementation of legal safeguards for under-trial women prisoners in Delhi-NCR. In spite of well-come to legal provisions, the rights of under-trial women are still affected by the lack of implementation in system, which impacts seriously their socio-psychological and economic situation and their familial rights.

The main challenge to implementation is the overcrowding of schools. The Tihar Jail complex in Delhi

<sup>20</sup> Halder, D. (2022). A critical commentary on rehabilitation of offenders in India. In *The Palgrave Handbook of Global Rehabilitation in Criminal Justice* (pp. 257-270). Cham: Springer International Publishing.

<sup>21</sup> Munge, S. P., & Wakai, W. W. (2026). State Obligations and the Protection of the Rights of Prisoners in Cameroon: A Legal Perspective. *East African Journal of Law, Policy and Globalization*, 2(1), 106-131.

<sup>22</sup> Natarajan Varadharajan, S. V., & Pandiyan, S. (2025). Suicide: A Forensic Psychiatry Perspective. *Forensic Psychiatry and Prison Mental Health in South Asia*, 127.

<sup>23</sup> Joya, J. D., & Mannan, K. A. (2025). Comparative Analysis of the Criminal Procedure Codes in South Asia: Lessons for Reforming the Code of Criminal Procedure, 1898 (CrPC) in Bangladesh.

and other Hosted in NCR are functioning at 150-200% of their sanctioned capacity. This conditions the women to live in small huts containing too little room for women to move, sleep or even enjoy some privacy.<sup>24</sup> The shortcomings of the infrastructure are directly in contravention of the Model Prison Manual 2016 and Supreme Court directions. Sanitation facilities are very poor; toilets are reported to be often overfilled, the water supply to the cells is irregular and it is reported that conditions are unsanitary and lead to skin infections, UTIs and communicable diseases among women detained in prison.<sup>25</sup>

A third major failure is the care of the patients. There is very little female doctors and gynecologist in the most of the jails. Pregnant women and lactating mothers and those with chronic diseases are not catered to at all. Although the anxiety, depression and post-traumatic stress disorder is widespread among under trial women, there are few mental health supports available. Often, women come in to the system already traumatized by domestic violence and/or coerced situations, and prison experiences worsens the conditions of their mental health.<sup>26</sup>

One of the biggest hurdles to implementing is procedure delays. Many armed women are imprisoned without being tried for years. Prolonged detentions are the result of slow investigations, multiple adjournments, lack of co-ordination between the police, prosecution and judiciary and inadequate legal aid. Unfortunately, many women, particularly women in disadvantaged or impoverished circumstances, cannot afford to retain a private lawyer and instead rely on a heavily loaded legal aid lawyer, with limited time and resources. This does not abide by the constitution including the right to a speedy trial and the "bail not jail" rule.

There is weak implementation of the gender approach, especially. Lack of staff members means that warders are often the ones to interact with female inmates, a situation that poses a problem for safety and dignity. Many facilities lack Internal Complaints Committees codified in the POSH Act or the committees are not fully functional. There are irregular and shallow female sensitization and human rights trainings for prison staffs. It is common law that under-trials are supposed to be separated from convicts; this separation is often not provided because of space restrictions.<sup>27</sup>

A devastating impact is placed on under trial women socially and in the family context. When many women go into jail, they lose everyone in their family, and become socially isolated. This dislocation will take an emotional toll and lessen the chances of obtaining financial and emotional encouragement during incarceration. Mothers in particular are very affected by separation from their children. Children below the age of six years are not kept with their mothers in the prison, as it is not suitable for healthy child development because of the absence of proper nourishment, health care, education and play areas.<sup>28</sup>

Economically, too, it is costly. Many women get dismissed from their jobs and are involved in securing their livelihoods because of such incarceration. Many are in households where they need to earn money; and these work earning incomes that force the entire household into poverty. On release, women can be social reintegrated, and this is very challenging because they are stigmatized, lack skills and have even been hindered from finding a job. This exacerbates the vicious circle of marginalization and child protection violations such as re-incarceration or re-victimization.<sup>29</sup>

These implementation failures were recently highlighted and exacerbated by COVID-19. Due to overcrowding and lack of sufficient ventilation, protecting equipment and timely medical treatment, women prisoners were more exposed. Eligible under-trials were intermittently released during pandemic and numerous women were incarcerated to this day on court orders.

The weak monitoring and accountability prosthetics are another big problem area. Windows inspection of women's wards by prison visiting boards and oversight bodies is infrequent, and usually is neither regular nor unexpected. Duit's is low and women fear of retaliation in the case of a grievance.

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<sup>24</sup> Kumar, S. (2022). Child sexual abuse cases in india and judicial officers' perceptions and experiences of POCSO-related Special Training. *Socio-Legal Review*, 18(2), 264.

<sup>25</sup> Abbas, M. (2024). *Procedural Justice and the right to a fair trial in Pakistan* (Doctoral dissertation).

<sup>26</sup> Abbas, M. (2024). *Procedural Justice and the right to a fair trial in Pakistan* (Doctoral dissertation).

<sup>27</sup> Gonsalves, T. (2026). Prisons or Temporary Refuges? The Rohingyas. In *Women in Correctional Homes in West Bengal: Sisterhood in Distress* (pp. 263-281). Cham: Springer Nature Switzerland.

<sup>28</sup> Niranjana, K., & Sundaram, A. (2022). A Study on Prison Reformation System In India. *Journal of Algebraic Statistics*, 13(3).

<sup>29</sup> Nandan, P. (2022). Gender-Neutral Laws in India. *Issue 1 Int'l JL Mgmt. & Human.*, 5, 2370.

Information on women prisoners continues to be weak and limited and evidence informed policy formulation is difficult.

These problems clearly have particularly devastating effects on women while they remain on remand. For many, physical and mental health suffer in the long-term. Their rights of dignity, equality and liberty are often breached. The trauma continues when children of incarcerated mothers suffer developmental lags. Beneath the guise of an 'agent of protection', the justice system becomes another tool of victimization for many under-trial women.<sup>30</sup>

These implementation deficits are socio-legal because they are the product of structural bias in the criminal justice system. The application of laws and judgments is mainly gender blind and does not adequately take into account vulnerable situation of women. Patriarchal attitudes are seen at every stage of the arrest, bail, trial and even amongst police, prison staff and even judicial officers; every decision made is influenced by these attitudes. There is a need for wide-ranging reform to meet these challenges.<sup>31</sup> These will include scaling up female staff recruitment, improving medical and mental health facilities, introducing technology-based case tracking systems, expanding legal aid facilities and setting up fast-track courts for women prisoners.<sup>32</sup>

#### 4.1 Quantitative Interpretation of the Findings

The quantitative evidence supports three central observations. First, the national occupancy rate of approximately 120.8% indicates that prison capacity was exceeded by about one-fifth on 31 December 2023, creating structural pressure on accommodation, sanitation, health services and privacy. Second, under-trials constituted approximately 73.5% of the total prison population, demonstrating that the prison system is substantially shaped by persons who have not yet been convicted. Third, women represented approximately 4.1% of all under-trials nationally, while Delhi reported 644 female under-trials, Haryana 600 and Uttar Pradesh 2,819 on the same date. These numbers should not be read simply as evidence of discrimination; rather, they identify the population base for a gender-responsive analysis. The socio-legal question is whether the smaller numerical size of the female under-trial population translates into equitable access to legal aid, health care, sanitation, privacy, family contact and speedy trial. This is a testable implementation question that can be examined through jail-level audits and individual-level empirical research.

#### 4.2 Study Limitations and Data-Quality Considerations

The quantitative component has important limitations. NCRB prison statistics are administrative, cross-sectional and aggregated, and therefore cannot establish causation or measure individual-level experiences such as depression, legal-aid quality or the exact duration of detention. State/UT totals also cannot be substituted for jail-level figures for Tihar, Rohini, Ghaziabad or Meerut. In addition, secondary health studies from other Indian prisons are contextual evidence rather than Delhi-NCR prevalence estimates. Future research should therefore collect ethically approved primary data using a clearly defined sampling frame, validated instruments, gender-disaggregated variables and transparent statistical procedures. Where appropriate, chi-square tests, logistic regression or other multivariable methods may be used to examine associations between detention duration, socio-economic status, legal representation, family contact and health outcomes, provided adequate individual-level data are available.

### 5. Conclusion and Future Scope

The socio-legal study of the under trial women prisoners in Delhi-NCR inlets a disturbing scenario of gender differences in the criminal justice system to India. In spite of the enabling constitutional and legal framework, the situation of under-trials continues to be characterized by overcrowding, poor health care services, prolonged detention, social stigma and violation of human dignity in this study. Overall the study confirms that a policy which takes no account of gender is bound to have a discriminatory impact on female prisoners where it is applied in a patriarchal institutional setting. Biological needs, social roles and societal prejudices generate inequities for under-trial women whose lives are assumed to be guilt-ridden.

Solving the "gaps" between progressive judicial statements and actual prison administration is stark

<sup>30</sup> Imran, M., Murtiza, M., & Akbar, M. S. (2024). A critical Analysis of the Criminal Justice system in Pakistan. *Journal of Politics and International Studies*, 10(1), 1-16.

<sup>31</sup> Surendranath, A., & Andrew, G. (2024). Confused purposes and inconsistent adjudication: An assessment of bail decisions in Delhi's courts. *Asian Journal of Comparative Law*, 19(2), 294-325.

<sup>32</sup> Marada, H. (2025). On Law, Aesthetics and the Camera. *Amicus Curiae*, 7(1), 433-446.

and glaring, as noted by the study. Although there are some laws, standard Operating Procedures (SOP) and Supreme Court guidelines on paper, their implementation is inadequate because of infrastructural shortcomings, absence of trained female personnel, insufficient budgets, and an inadequately enforced accountability. The intersectional vulnerabilities on the issues of castes and economic status and religions further compound the plight of marginalised women, who are in majority in under trial women's jails of Delhi-NCR. Detaining them does not just violate the essential law, but irreparably harms their mental well-being, family cohesion and economic security.<sup>33</sup>

The evidences collected in this study, both empirical and doctrinal, show that it is not incidental, but rather a structural and cumulative phenomenon of the criminal justice system in India that can be measured by the living conditions of women under trial and the tangible situation that they face, especially in the more high-stressed environment of Delhi-NCR. According to official NCRB Prison Statistics India (2023) there are 530,333 prisoners nationwide, about 73.5 per cent of which (389,910) were under-trials, and 15,825 of these under-trials women. At the same time 1318 women prisoners were reported to be living with 1492 children, with the vast number of mothers being under-trials. Occupancy remained at around 120.8 per cent of authorised strength, as Delhi had one of the highest ratios of congestion in the country more often than not – around 200 per cent or more – with under-trials often accounting for 85–90 per cent of the caseload. Read against the lack of exclusive women's jails where only a handful exists across the nation, and that majority of women's prison cells are located in mixed jails where their degradations are magnified, these aggregate numbers offer an insight into a jail system that appears to be a tiny absolute minority of women with an absolute majority of female deprivation.

Results of the quantitative patterns confirm that length of pre-trial detention is a key issue in disparity. Under-trials who exceed a three-month period in custody are in much greater amounts, as are those who will serve more than six months; one year and three to five years or more (and in not insignificant numbers) are other possibilities. This prolonged wait puts under serious pressure the constitutional principle of presumption of guilt and the sped trial guaranteed under Article 21 of the constitution. Women in Delhi-NCR, encountering socio-economic disadvantage, often as single caregivers, or because of their low incomes and family support, are more at risk of being caught up in the web of court delay, police investigation delay and/or the necessity to rely on bail, and finding themselves detained for longer periods of time. Overcrowding further highlights the material impacts by squeezing living room, stressing sanitation and water resources, increasing the potential for the spread of infectious diseases and further decreasing access to gender-specific services like gynaecological health and menstrual-hygiene resources and mother and child facilities.

The crisis is also gendered as evidenced by the healthcare and mental-health indicators. Many medical officers, psychiatrists and psychologists are also chronically lacking in the facilities, relative to the normative ratios in the Model Prison Manual, according to secondary analyses and institutional reports. The prevalence of mental illness in prisoners is at a higher rate than in the general population; under-trials, living under uncertainty and with separation from their family are more vulnerable. Women prisoners face further physical and psychological stresses due to pregnancy, lactation, as well as the obligation to look after their children within a custodial environment and the risk of separating from them after reaching the age when they are entitled to have them at home. Issues around reproductive health such as access to contraceptives, antenatal health and treatment for gynaecological health are not well addressed. These deficits are not just administrative; they are measurable deficits based on the "equivalence of care" that is reflected in the principle of the Nelson Mandela Rules, the Bangkok Rules, the Mental Healthcare Act 2017 and Article 21 jurisprudence.

Although designed with maximum legality, legal-aid and legal-review mechanisms suffer from implementation gaps, which can be measured by low rates of taking advantage of schemes like Support to Poor Prisoners and inconsistent performance of Under-Trial Review Committees. The fledging translation of guidelines into prompt lets go of eligible under-trials for women have not been impacted by Section 479 of Bharatiya Nagarik Suraksha Sanhita, and successive orders of Supreme Court, which call for proactive identification and timely release of eligible women criminals. The data on family separation, including children going with mothers, additionally highlight the indirect 'cost' of social harm, which is the community

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<sup>33</sup> Odigie-Emmanuel, O. L., & Dahiya, S. (2023). The Role of Legal Clinics in Promoting Human Rights: The Experience of Nigeria Law School Yenagoa Law Clinic and The Legal Support and Care Centre at GD Goenka University School of Law Gurgaon India. *International Journal of Clinical Legal Education*, 30(1), 4-56.

cost of social consequence, especially experienced by women.

The overall picture of frequencies, percentages, occupancy ratios, and law to policy/law to institutional indicators all suggest that the formal legal framework as crafted in the constitution, legislation, model manuals, and judicial directives, has moved ahead of institutional capacity and intentional, gender-responsive design. Punjab is a miniature replica of such conditions in Delhi-NCR, where the cases of extreme overcrowding, under-trial cases, and limited number of dedicated infrastructure are a whole new level of concentration of the scenarios that can be seen nationally. There is no better time than now, following Cesar's pattern, for evidence-based prison governance, however, by implementing multi-level interventions appropriately based on evidence. Firstly, expansion of infrastructure should give special emphasis to providing more women's separate facilities, enhancement of women's enclosures to ensure there is privacy and safety, and the provision of adequate mother-child facilities, based on provision of infrastructure based on current projections of occupancy rather than historic under-provision. Second, judicial and administrative processes need to have time limits for the review of long duration detention and all women under trial must undergo review as necessary to Section 479 BNSS and its guidelines. Third, for health systems within prisons there is a need to provide targeted investment in female clinical teams, mental-health providers, clinical reproductive-health workers, and protocol systems, alongside consistent indicators and ratios, reflecting the Model Prison Manual. Fourth, the system must be reinforced fourfold with the continuing presence of trained counsellors, tracking of application electronically and performance indicators that are geared towards women's releases. Fifth, data systems need to be beyond the annual level reporting and become real time, disaggregated by gender, age and duration and service to the Under-Trial Review Committee and independent oversight bodies. In addition, autonomous monitoring needs to be institutionalised which involves the incorporation of women in the Boards of Visitors that have any significant effect, the establishment of National and State Human Rights Commissions and periodic judicial monitoring, followed by effective procedures.

The differences observed in scientific terms is not random 'noise'—these are predictable differences as the subject met, its parameters (capacity, staffing, classification, review frequency and service mix) increasingly favour a gender that is primarily male and there is predictable increase in the absolute and proportional needs of women. Empirically the closing of the implementation gap becomes a governance goal while normatively, it is a command of Articles 14, 15 and 21. Verifiable markers of progress would include a sustained drop in occupancy ratios for women; contraction of the duration of average under-trials; increased indicators of health services coverage for eligible women under-trials; and heightened release rates for women under-trial who are eligible for release. Inequitable access to the justice system and the structural way in which the system in general is sexed will continue unless such reforms are made, systematically, and independently verified, based on data. As long as data-driven reforms are not systematic and independently verified, sex disparity will constitute the judicial system's structural profile and opposite the rule of law and the constitutional expectation of dignity.

It's readers' field significant conclusion from this research that till today ladies prisoners are considered as men's subordinate citizens in the criminal justice system. Lack of gender-sensitive facilities, legal assistance and timely justice points to a general lack of interest towards women's rights, along with the CJA framework. The effects go beyond just the individual prisoner to the children that depend on the prisoner, the family, and society. Stigma can damage a woman's ability to improve her situation even after her release – putting her in marginalisation.

Furthermore, this study reveals the importance of going beyond what is understood as a legalistic approach. Providing that legal reforms are needed, however, they are not enough without social and institutional change.<sup>34</sup> The principle of substantive equality which is entrenched in our Constitution calls for the consideration of the special needs and vulnerabilities of women and the need to deal with these needs and vulnerabilities through affirmative action and not through formal equality. An overhaul of the current prison administration is needed, partly in the colonial framework and gender-blind is a prison system that must be modernised in terms of human rights, especially with regard to the UN Bangkok Rules for the Treatment of Women Prisoners.

#### Recommendations

<sup>34</sup> Ahmad, K., Zaman, U., & Daraz, U. (2026). Institutional Constraints and the Effectiveness of Rehabilitation Programs in Pakistani Prisons. *Research Consortium Archive*, 4(1), 116-138.

This requires a number of concrete steps to be taken in order to address the identified challenges. The government needs to give attention to reducing overcrowding in prisons through effective reforms in bail conditions, plea bargaining and fast-track women cases courts, first. Second, the need of the hour is the upgradation of the Jails in Delhi-NCR with a special infrastructure for women and providing appropriate support systems such as mental health and sanitation, creches in the Jails etc. Thirdly, it should be made compulsory to recruit female prison staff and provide them regular training. Fourth, technology based solutions like video conferencing for trials, digital case tracking etc., and online grievance redressal mechanism shall be made universally available.<sup>35</sup>

Fifth, legislation must be strengthened with regular monitoring of the performance of legal assistance providers by appointing high-level women lawyers. Sixth, institutionalization of aftercare and/or rehabilitation programs on skills development, employment assistance and rehabilitation in the social domain. Seventh, regular and independent social audits carried out by external agencies, such as the National Commission for Women, of the women prisons should take place. Last and not least, prison rules and guidelines need to be extensively updated to include gender-specific features, in keeping with international best practices.

Evidence-based monitoring indicators should be built into these reforms. Suggested indicators include prison occupancy rate, median under-trial detention duration, percentage of women receiving legal-aid consultation within a defined time, frequency of gynecological and mental-health screening, availability of menstrual-hygiene supplies, number of female prison staff per 100 women inmates, frequency of family contact, and disposal time of under-trial review applications. Publishing these indicators in a gender-disaggregated annual dashboard would allow year-on-year assessment of whether legal reforms are producing measurable improvements.

#### Future Scope

There are several research avenues identified from this study. Comparative studies across the states and studies on the urban and rural prisons could give a better insight of regional disparities in the treatment of under trial female prisoners. Studies of the life course outcomes of women who pass through the justice system would have the benefit of accounting for the compound impacts of the justice system over the life course. Empirical evidence related to the psychological impacts of extended detention on women and their children would provide further support to the argument for reform. The interdisciplinary research between criminology, psychology, and social sciences with law can be big, with the aim of creating complete intervention models is also significant.<sup>36</sup>

Future research could also focus on the impact of certain reform programmes implemented over the last few years and what they achieved in terms of eliminating gender gap. Papers on the enhancement of justice in prison vis-à-vis technology use in prison administration would be another potentially interesting field of study. Besides, comparative international research based on both the countries that have accomplished gender-sensitive prison changes and ones that have not could be very useful in India.

To conclude, the nightmarish condition of the under-trial women inmates of Delhi-NCR jails is not just administrative, infrastructural or institutional problems but also a symptom of overall failure on the part of Indian society and state to achieve gender justice as enshrined in the Indian Constitution. For meaningful change, there will be to be yearlong but stable political will, judicial activism, civil society engagement and sensitisation of the populace. For thousands of women under trial, the ideals of equality and human dignity will remain elusive until prisons become places of reformation and not punishment, and the criminal justice system integrates a gender lens into its operation. Justice and dignity of course is a legal obligation but more importantly it is moral obligation of a democratic and an equitable India to transform Delhi-NCR jails into centres of justice and dignity. Future research and policy work need to continue to work on these legal-to-lived reality gaps and ensure that no woman is deprived of her basic rights" because she is awaiting trial..

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<sup>35</sup> Chauhan, S. (2025). JUDICIAL REFORMS IN INDIA STRENGTHENING THE RULE OF LAW FOR A JUST AND EQUITABLE SOCIETY. *VIDYA-A JOURNAL OF GUJARAT UNIVERSITY*, 4(2), 250-260.

<sup>36</sup> Mendiratta, M. S. (2026). Chapter-V Constitutional Morality and Sociological Jurisprudence: The Transformative Project of Indian Constitutional Law. *A FEW INSIGHTS INTO LEGAL THEORY*, 57.

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