

TRANSGENDER REALITIES IN PRISONS IN INDIA: A LEGAL AND POLICYCENTRIC CALL FOR STRUCTURAL CHANGE

Priyanka¹, Sapna Bansal²

¹*Research Scholar, GDGU, Haryana, India*

²*Associate Professor, G.D Goenka University, Haryana, India*

Abstract

Transgender prisoners in Indian prisons experience a singular intersection of structural abandonment, institutionalized bias, and legal erasure. Even after judicial acknowledgment of transgender rights and the passage of the Transgender Persons (Protection of Rights) Act, 2019, the carceral system remains entrenched in strict, binary structures that do not allow for gender diversity. The following paper critically explores the lived experiences of transgender prisoners in India, revealing legal protection gaps, custodial policies, and prison facilities. It questions matters such as arbitrary assignment to housing, refusal of gender-affirming treatment, and humiliating searches and admissions, which are all contrary to constitutional safeguards of dignity and equality. The analysis is based on Indian law, international human rights instruments—specifically the Yogyakarta Principles and Nelson Mandela Rules—and government guidelines, such as the Ministry of Home Affairs' new guidelines for the handling of transgender prisoners. The research argues that current legal and administrative structures are inadequate, frequently perpetuating, instead of alleviating, the marginalization of transgender individuals in detention. It recommends structural reform with a focus on gender self-identification, comprehensive healthcare, safe shelter, sensitization of prison officials, and enforceable mechanisms of oversight. The paper ends by concluding that unless India's prison system evolves beyond tokenistic acknowledgment towards real inclusion and protection of transgender persons, the constitutional promise of dignity and equality will continue to be unfulfilled.

Keywords: Transgender rights, Prison reforms, Gender Identity, Indian Criminal justice system.

1. Introduction

Transgender individuals are among the most marginalized and treated badly in India's criminal justice system. Especially in prisons, where there is little space for those who don't fit into male or female categories. Even though the Supreme Court of India has made significant strides such as legalizing transgender identity (NALSA V. UOI, 2014) and the government enacted the Transgender Persons (Protection of Rights) Act (2019) there is little change inside prisons. In practice, transgender prisoners mostly experience severe issues like being allocated to the incorrect wards according to their birth gender, being addressed by the incorrect gender (misgendered), failing to receive adequate medical treatment, and being made to undergo degrading search processes. Most of them are also subjected to physical or sexual assault, usually with impunity for the attackers. These incidents not only violate fundamental rights guaranteed by the Indian Constitution such as equality, dignity, and personal freedom but also violate international norms in the humane treatment of prisoners. The Ministry of Home Affairs released guidelines to reform the treatment of transgender prisoners, including separate accommodations and respect for their identity. Yet, many prisons have yet to implement these recommendations, and adequate reforms still have to be done.

Aligarh University suspended professor Ramachandra Siras in 2010 when three journalists, allegedly with the help of university employees, broke into his apartment and recorded him having a consensual sexual encounter with a male. Although Professor Siras' suspension was halted by the Allahabad High Court, the departmental investigation continued. A few days following the court order, he committed suicide. Because of his sexual orientation, Siras was punished by disclosing it to a society that was not prepared to embrace it. His heartbreaking tale, which also served as the basis for a film, made clear how important the right to privacy is, especially when it comes to sensitive characteristics like sexual orientation. (Times, 2010). The stigma that the LGBTQIA+ community (Times, 2010) faces in society is evolving and improving. However, taking into account the discrimination community's perceptions of transgender people in all spheres of life, not just one, may cause this transformation to occur more slowly than anticipated. At home, they face discrimination, ridicule from society, and the denial of schooling and job possibilities; they become the butt of jokes and ridicule, with people viewing their ridicule as entertainment. Transgender individuals experience discrimination based on gender identity, social, legal, and political, which is further complicated by caste, class, and religion. Due to the normal discrimination they face concerning their housing, health, work, education, and other social and cultural problems, many transgender individuals are effectively compelled to find a means of livelihood, often via illegal means such as begging and sex work. Due to their "hyper-visibility" in public settings, many transgender people face discrimination. Additionally, it contributes to a culture of policing that perceives transgender people as "deviant," which leads to harassment, violence, arbitrary detention, and unlawful arrest. (Deekshitha Ganesan & Saumya Dadoo, 2020) This, in turn, breeds dread of dealing with the legal system. Less is known about transgender people's experiences in prisons, one of the most unseen locations of abuse, although transgender rights activists and human rights reports have detailed the brutality, violence, and disciplinary actions that characterize their interactions with the police and courts. (Bernard E. Harcourt, 2014,)

The experiences of transgender inmates lie in the ugly crossroads of the regular abuses of the right to life and dignity that characterize a prison system on one side, as against marginalization based on gender identity on the other. It implies that what all other inmates experience while incarcerated has been worsened by the specific vulnerabilities that a transgender inmate is likely to face. The male-female gender dichotomy, upon which the prison machinery is based, perpetuates prevailing ideas about sex and gender that are prevalent in society. Such conditions are indicative of deliberate indifference and other forms of maltreatment synonymous with abusive conditions not just in prisons but especially used against sexual and gender minorities. (Erni, 2012)

This paper reviews the laws and policies that influence prisoners and discusses potential approaches to legal and policy reform. We contend that transgender inmate narratives are useful for identifying their unique needs and concerns as well as for formulating legal and policy responses to their self-experience. The authors of this article examine the discrimination and humiliation experienced by transgender inmates in Indian prisons while highlighting the Ministry of Home Affairs recommendation providing for separate housing cells for members of these marginalized communities. The article discusses the different issues that transgender prisoners in Indian jails confront and suggests remedies that can make their confinement more respectable and liveable.

2. Legal Recognition of Transgenders Rights

India has made significant legal strides in recognizing and safeguarding the rights of transgender people, starting with the historic Supreme Court ruling in (NALSA V. UOI, 2014), also referred to as the NALSA judgment. The ruling was historic in identifying transgender persons as the “third gender” and established their fundamental rights under Articles 14, 15, 19, and 21 of the Constitution. The Court focussed on gender self-identification right and asked central as well as state governments to guarantee the educational rights of, provision of health and sanitation facilities by, giving job opportunities and granting social justice to transgender people. Alongside that, Parliament enacted the Transgender Persons (Protection of Rights) Act, 2019, so as to legislatively regulate for safety of transgender individuals along with rights for welfare of these persons. The Act prohibits discrimination across many fields and seeks to enhance access to welfare schemes and services. Nevertheless, despite its progressive nature, there have been some concerns expressed regarding its real provisions and implementation.

It is thus essential to critically examine the Act to point out the gaps and limitations that act as barriers to its effectiveness in dealing with the lived experiences of transgender individuals, particularly in custodial institutions.

The NALSA verdict made it possible for the Indian judiciary to enact more legislation aimed at improving the situation and elevating transgender individuals. In 2018, the Indian Supreme Court decriminalized homosexuality and declared the colonial legacy of Section 377 of the Indian Penal Code to be invalid. (Navtej singh Johar v. Union of India, 2018) This, in turn, facilitated the Transgender Persons Protection of Rights Act, (2019) which came into force to provide a legal framework for the rights, protection, and welfare of transgender persons in India. In terms of protecting transgender people’s rights and dignity, the Act is historic. It protects the freedom to identify one’s gender identity. This is a huge step in the direction of transgender people’s inclusion and empowerment. In order to promote more social acceptance, it forbids discrimination against transgender individuals in four important domains: public services, healthcare, employment, and education. The requirement that the state establish assistance programs and initiatives for the socioeconomic advancement of transgender individuals is another significant clause. Although this law contains many commendable features, it does not address the unique vulnerabilities faced by transgender individuals while they are in custody. The Act’s establishment of a bureaucratic procedure for obtaining a certificate of identity from the District Magistrate when an individual wishes to be legally recognized as one is one of its most serious shortcomings. Access becomes difficult as a result, especially for transgender inmates who might not be able to get such a certificate. Furthermore, the Act is unclear about how prison officials should assist transgender inmates who are not certified as such.

“Transgender discrimination is prohibited in healthcare, education, employment, and services under the Act.” Custodial facilities such as juvenile homes, police lockups, and prisons are not specifically mentioned.(section 49)Inmates who identify as transgender typically face severe violence, harassment, and prejudice from both other inmates and prison staff. The effectiveness of the law in protecting transgender inmates is diminished when there is no explicit command to prevent such prejudice in correctional facilities. Regarding whether transgender inmates should be housed in male, female, or transgender wards, the legislation is silent. Because of this, transgender people are frequently housed based on their biological sex

at birth rather than their gender identification, leaving them vulnerable to physical abuse, psychological anguish, and sexual assault.

Access to healthcare, including hormone therapy and gender-affirming operations, is guaranteed by the Act. In reality, though, prisons lack the medical facilities required to offer transgender convicts specialized care. When incarcerated, hormone replacement therapy (HRT) is frequently stopped, which causes significant mental and physical suffering. Furthermore, transgender inmates' healthcare issues are made worse by the lack of sensitive medical personnel in correctional facilities. (No. 40, 2019)

Although the Act requires the establishment of a complaint process for violations of transgender rights, it makes no mention of how this process would be carried out in correctional facilities. Issues pertaining to abuse or mistreatment frequently remain unresolved, and prison officials are rarely trained or informed of how to handle accusations from transgender inmates. For transgender inmates, access to justice is further limited by the absence of any external monitoring mechanisms.

As a result, the Act ignores the unique marginalized needs of transgender people when they are released from jail. Since the Act does not provide special rehabilitation or reintegration programs for transgender individuals who leave the prison system, they are at risk of additional victimization and recidivism. As a result, the majority of transgender inmates experience social rejection and exclusion; many of them end up jobless and homeless after being released from prison. Despite being a positive step toward acknowledging and defending transgender rights, the Transgender Persons (Protection of Rights) Act, 2019 does not address the unique vulnerabilities of the transgender community in detention facilities. Without particular legal regulations governing their management within prison, it is easy for violence, discrimination, and carelessness to proliferate. To guarantee that transgender inmates are respected and treated equally before the law, a drastic reform based on human rights is urgently needed.

3. International Human Rights Standards

To ensure adherence to the fundamental minimum requirements, international standards offer legislators and policymakers significant and persuasive information to address the unique needs of the LGBTQI+ groups in imprisonment. Nevertheless, the unique vulnerabilities of the LGBTQI+ groups in jails are not mentioned in many international documents. The Nelson Mandela Rules (2015), the Yogyakarta Principles (2007), and the Yogyakarta Principles plus 10 (2017) are among the few that do.

3.1 The Yogyakarta Principles plus 10

The Principles regarding international human rights law with sexual orientation and gender identity were drafted in 2007 by an International Panel of Experts on International Human Rights Law and Sexual Orientation and Gender Identity. (Principles, 2017) Commonly known as the “Yogyakarta Principles”, they recognized that human rights violations exist against individuals based on their perceived or actual gender identity or sexual orientation. These are principles that affirm the structure of rights and obligations owed to individuals by states and others concerning which effect can be given to these very diverse standards concerning human rights, and their application to the very wide and varying issues associated with gender identity and sexual orientation. Thus, “additional principles and state obligations regarding

international human rights law application to sexual orientation, gender identity, gender expression, and sex characteristics to complement the “Yogyakarta principles” have been added to these principles in 2017 by bringing in Yogyakarta Principles plus 10. (Yogyakarta Principles Plus 10, 2017) “Principle 9” also highlighted aspects of state obligations impacting the treatment of LGBTQI+ detainees, added together with principles in the “Yogyakarta Principles plus 10” concept.

“Principles 7 to 10” and principles 55 and 58 are relevant to the subject in question: deprivation of liberty, trial, and incarceration of persons of the LGBTQI+ community from the entire 58 principles highlighted in both texts. Principle eight, “The right to a fair trial” declares that the state must take all necessary legislative, administrative, and other measures to prohibit and eliminate prejudicial treatment on account of sexual orientation or gender identity at every stage of the judicial process. (plus, 2017) Principle 7 endorses the “right against arbitrary deprivation of liberty” and lays down the obligation of the state to take all necessary legislative, administrative, and other measures to ensure that under no circumstances may sexual orientation or gender identity serve as grounds for arrest or detention. While Principle 10 affirms the right not to be tortured or subjected to cruel, inhuman, or degrading treatment or punishment (plus y. p., 2017), Principle 9 endorses the right to humane treatment whilst in detention. (plus y. p., 2017)

The state has to ensure that “such legal provisions, whether found in customary laws, religious norms, or indigenous laws-are not explicit or are described with the application of very general punitive provisions, such as acts against nature, morality, public decency, vagrancy, sodomy, propaganda, and so on.” Moreover, these provisions must “not penalize the sex-orientation, gender identity, or expression, or allow for sanctioning of any kind for these reasons.” There can be no criminalization, sanctions, or prosecution based on sexual orientation, gender identity, gender expression, or sex characteristics, according to Principle 55. “Principle 55 furthermore supports the obligation of the state to ensure that detention facilities possess adequate sanitary arrangements.”

In this research, Principles 9 and 10 will be especially kept at the forefront of consideration. The general governmental obligations outlined in these principles are critical for safeguarding the legal rights of LGBTI+ individuals while under the mind of custody. (Dhanuka, 2020) Pursuant to these principles, it is the duty of the state to train and educate prison officials, carry out independent monitoring of detention facilities, and ensure that inmates participate in deciding upon a facility that conforms with their gender identity and sexual orientation. Besides, the principles recognize torture and cruel, inhuman, or degrading treatment or punishment based on sexual orientation or gender identity, which implies that the state has to act to protect LGBTI+ persons against such acts and that police, prison staff, and others with the capacity to prevent or perpetrate such acts should be trained in this regard. (Dhanuka, 2020)

3.2 Nelson Mandela Rules

UN Standard Minimum Rules for Treatment of Prisoners 2015 which can be called as Nelson Mandela Rules is another such international document in the context of the treatment of LGBTI+ people in custody. It was in December 2015, wherein these rules were passed by a resolution of the General Assembly of the United Nations. These rules are an updated version of the 1955 rules. Generally speaking, they are regarded to be the least requirement

concerning correctional administration and inmate care. (Secretariat, 2015) One must criticize Nelson Mandela Rules immediately for lacking any mention of LGBTI+ rights apart. The language implies that the normative dichotomy of man and woman still governs these regulations. (Congress, 1955) No special mention was made of a single vulnerability of LGBTI persons inside jails despite those recognizing the vulnerability of female inmates, requirements for segregation, health care and medical facilities, and their children, though regulations did establish the general protection against discrimination on “any other status” as well. (APT, 2013)

Rule 2 includes the general duty of prison administrations to suitably consider the specific needs of their inmates, especially the most vulnerable groups in prison surroundings. This applies to LGBTQI+ populations, as well, in making the policy for prison officials to keep in mind the specific needs and challenges they face.

4. Institutional Challenges Confronting Transgender People in Indian Prisons

The Indian penal system, which is already reeling under systemic weaknesses like overcrowding, shortage of staff, and poor medical care, turns particularly inhospitable to transgender prisoners who are often exposed to violence, negligence, and institutional indifference. Transgender individuals in custody remain exceptionally vulnerable despite judicial recognition of their identity because the prison system remains a binary structure that does not recognize or cater to gender diversity.

One powerful example of this lack of attention is the case of Kiran Gawli, a transwoman who was arrested for 17 months in a men's prison, shared quarters with 2,000 men, five of whom were also transgender women. Though she was a woman in self-identification and feared being treated badly, she was housed in the men's wing without consulting her or taking her safety into consideration. *“I was totally shocked. How could a woman remain unscathed within the men's prison? Why did they not consult me about staying with the women prisoners?” she inquired.* (Shantha, 2021). Throughout her imprisonment, she and other transwomen were subjected to harassment, sexual assault by other inmates and officials, and institutional silence when they complained. Although she had filed at least five written complaints and reported to the superintendent, nothing was done (Jain, 2023). Kiran claims that “fellow transwomen who were arrested together with her were violated and maltreated by quite a few convicts and undertrials alike, with acts of cruelty being perpetrated by the hired male jail staff.” (Jain, 2023). Such serious allegations were also voiced to the prison superintendent by the complainants. Neither the court nor the prison administration, however, came forward to help them. (Jain, 2023)

These accounts tell a larger truth, the prison context is inherently disempowering, with enormous power imbalances between prisoners and officials, constrained access to grievance avenues, and a general culture of impunity. Although prison reform policies pay some attention to vulnerable groups such as women, children, and those with mental or physical disabilities, sexual minorities, particularly transgenders, are mostly invisible. (Bourothu, 2021)

The UN Special Rapporteur on Human Rights has noted the increased vulnerability of transgender and transsexual individuals in prisons to physical and sexual abuse at the hands of both prison officials and fellow inmates. Such international organizations as the Association

for Prevention of Torture and Penal Reform International acknowledge that these vulnerabilities apply throughout the criminal justice system, not only to incarceration.(UNHRC, 2017) Thus, mere identification of transgender identities in NCRB records is not enough; collection of data must also record the experiences and specific challenges of LGBTI+ communities, particularly transgender individuals in custody.Safety of transgender prisoners depends on the respect of their right to self-identification.

4.1 Search Protocols

Issues start from the moment of admission, beginning with search protocols. According to the BNSS 2023, arrested persons are searched to avoid entry of contraband, with women being searched by female officers to ensure decency. (section 49) But there is no law about how to search transgender persons with dignity and respect for their rights. Searches must be security-oriented, not sex-oriented, ideally carried out by staff of the inmate's identified gender or by a medical practitioner to ensure privacy and respect.

The search process tends to include strip searches in isolated places, which can be highly humiliating. Transgender prisoners are often subjected to degrading treatment, as evidenced in testimonies where officers ridicule and disrespect their gender identity, strip them involuntarily, and take long periods of time to return their clothes, humiliating them further. Existing prison policies do not have clear procedures to safeguard transgender prisoners during searches, exposing them to abuse and disrespect.

4.2 Medical Examination

BNSS permits medical examination of a person arrested if there are grounds to believe it will lead to evidence pertinent to the offense. At the request of a police officer, a registered medical practitioner can do the examination using reasonable force if needed. Where the arrested person is female, the examination should be performed or supervised by a female medical practitioner. The clause also explains the meaning of “examination” as encompassing various scientific examination techniques like DNA profiling and establishes what a “registered medical practitioner” is in light of the National Medical Commission Act, 2019. (No. 46)Nevertheless, nothing in the provision touches upon the medical examination of the transgender population and therefore creates anxiety with procedural transparency as well as their custodial rights.

The CHRI investigation (Dhanuka, 2020) noted that no standardized process or strategy has been implemented regarding transsexual inmates’ medical examinations. “Their medical examinations, how they are conducted, and the results of these examinations amount to violations of the most basic rights of transgender inmates since these medical assessments also focus on determining the gender of a person, as it relates to looking at an individual’s genitalia”.

4.3 Placement of Prisoners

4.4 In Indian prisons, as per allegations from “Telangana and Karnataka”, “if a person has female genitalia, they are lodged in the female section; otherwise, they are kept in the male section. Likewise, a similar event was witnessed in Nagpur Central Prison, Maharashtra”, with “Kiran Gawli.” (Dhanuka, 2020) Thus, it cannot be said with certainty that the placement process is followed in only a few states. The opposing perspective must be taken into account.The instance of a transgender prisoner demonstrates the discrimination they

experience. Project 39A posted a transman article on their criminal law blog wherein the Transmen cited (Dhanuka, 2020) *"I explained to them that I am transgender and I take testosterone. Even with that, guards forced me to strip, ridiculed my scars, and refused my hormone injections. I was forced to dress like a woman, and it made me feel helpless"* (Dhanuka, 2020)

There is certainly something that should be changed in taking drastic measures to solve those problems. It could be easily addressed by giving every individual the respect and equality that the individual deserves, which could easily solve the problems of social stigma and vulnerability of transgender inmates in Indian jails by denying a person an essential right to identify his or her gender.

An inmate's access to healthcare is a need for a transgender prisoner who must be free of discrimination, avoiding distinctions that are non-existent for other inmates. In Indian prisons, there are typically many medical negligence cases concerning the transgender community, and the case against a transgender inmate in Bengaluru Central Prison, in the instance referred to as Ishu, attracted much attention. Numerous news organizations covered this medical malpractice lawsuit, such as Reuters. "Ishu had had surgery to enlarge her breasts and had acquired an infection in her silicone implants. The jail medical officer had been notified by the transsexual inmate. Regarding her situation, until it worsened, she was just given generic painkillers. It was required, as well as the relocation of her attorneys who acted on her behalf to the medical facility." The medical care had a serious breakdown. According to "Alternate Law Forum member Ramya Jawahar Kudekallu", "this kind of medical malpractice results from the overall indifference toward transgender prisoners, the lack of readiness, and the disdain and failure to provide these prisoners with the appropriate care and treatment in Indian prisons." (Roy, 2017.)

5. Role of Judiciary and Government towards Enhancing Transgender Rights within Prisons

The judiciary and the government play an important role in protecting and furthering the rights of transgender inmates within prisons. Acknowledging the special set of challenges presented by transgender inmates variance from discrimination and abuse to the lack of adequate healthcare and risky living conditions the judicial interventions as well as governmental policies have been aimed at establishing dignity, equality, and security within the system of corrections. Through pioneering court decisions and detailed guidelines, attempts are being made to provide transgender prisoners with equitable treatment, respect for their gender identity, and access to required support and facilities. These measures represent significant steps towards the protection of the human rights of transgender individuals in custodial environments. For the Indian government, it is important to allocate funds to secure a fair and adequate system for all prisoners, whether they are non-binary or binary. Thus, there must not be any loopholes in the fundamental requirement of medical facilities meant for Transgender inmates. The Supreme Court "articulated and highlighted the importance of equality while recognizing one's sexuality as a bedrock for proper civic engagement" (Navtej Singh Johar v. Union of India, 2018). The Supreme Court expressed, "individual liberty and autonomy, equality for without any form of prejudice, acknowledging each person's identity with respect and privacy beings as the four pillars of our constitution, which serve as the tangible foundation of our essential rights." (Navtej Singh Johar v. Union of India, 2018) Nevertheless, occasionally, the transgender community has still been avoided by the general public due to "dogmatic social standards, prejudiced ideas, narrow-mindedness,

inflexible stereotypes, and prejudiced views. “Everyone is entitled to equality, and simple discrimination based on a person’s sexual preferences, physical characteristics, etc., cannot be categorized as a legitimate way to marginalize or discriminate against prisoners who belong to the community of transgender people.” The judiciary has a well-settled law on the right to self-determination of Gender; hence, transgender prisoners must be recognized as a third gender or given the option of People identifying with the gender they feel most comfortable with.

Recently The Ministry of Home Affairs (MHA) has given a directive ensuring respect for the rights and identity of transgender prisoners by prison systems, in accordance with the Transgender Persons (Protection of Rights) Act, 2019. The advisory instructs transmen and transwomen separate toilets and bathing facilities and sheltered enclosures to provide safety and dignity (Chauhan, 2022). Important areas of focus are as follows:

- **Self-Identification:** The prison system must honor prisoners’ self-identified gender during all processes. **Accommodation:** Transgender prisoners must be kept in solitary enclosures to prevent isolation or harassment. (Affairs, 2024)
- **Records:** Prison records must have a "transgender" category, with room to change gender identity in event of misread court warrants. (Affairs, 2024)
- **Search & Privacy:** Searches should be done by staff that correspond with the prisoner's gender identity or medical personnel to provide privacy. (Affairs, 2024)
- **Healthcare:** Access to physical and mental health care, including gender-affirmative care, should be made equal. (Affairs, 2024)
- **Training Staff:** Gender sensitization training for prison staff is mandatory for which the Ministry of Social Justice, human rights organizations, and transgender members must be involved. (Affairs, 2024)

All these reforms aim to provide dignity, protection, and inclusion of transgenders within the prison system. The advisory of the Ministry of Home Affairs is significant but not without limitations. It suggests transwomen and transmen be housed in different enclosures but doesn’t specify whether placements will be decided on the basis of self-identification alone or medical/surgical interventions, opening up the possibility of arbitrary or coercive placement. Although advising against total isolation, the advisory’s implication of separate enclosures can still result in de facto segregation, keeping transgender prisoners isolated from social and rehabilitation programs. It also falls short of specifying protections from sexual violence, harassment, or physical abuse, which are paramount considering the vulnerability of transgender prisoners. While equal access to healthcare is paramount, the advisory does not ensure prompt access to hormone therapy, gender-affirming treatment, or mental health care, tending to be based on referral care that could delay necessary care. Lastly, the guidance relies on State and UT prison administrations for enforcement but does not create enforcement mechanisms, sanctions for non-adherence, or independent oversight by the likes of the NHRC or Prison Visiting Boards.

Conclusion and Recommendations

Even after progressive judicial acceptance and the passage of the Transgender Persons (Protection of Rights) Act, 2019, the situation of transgender prisoners in Indian prisons is very alarming. The carceral system still functions in a strict, binary mode that excludes those who fail to fit into conventional gender categories. Transgender persons encounter multiple challenges such as misgendering, denial of due accommodation, refusal of gender-affirming

medical care, humiliating search practices, and constant abuse. Although the Ministry of Home Affairs' advisory is a step in the right direction, it lacks clarity, enforcement ability, and holistic protection.

In order to transition from symbolic acknowledgement to tangible reform, there needs to be a multi-dimensional approach. First, the right to self-identification needs to be enshrined in law in all prison processes so that housing and treatment are decided on the basis of an inmate's gender identity. Gender-sensitive search and medical examination protocols need to be implemented with the privacy and dignity of the transgender inmates. Access to gender-affirming healthcare hormone therapy, psychological support, and specialist care should be ensured and not made subject to referral only.

Housing arrangements must not isolate transgender prisoners under the guise of protection. On the contrary, inclusive accommodation must guarantee security while enabling full integration into social, educational, and rehabilitative activities. Independent watchdog mechanisms, such as monitoring by organizations such as the NHRC and State Human Rights Commissions, must be made mandatory, and defaulting must have clear accountability measures attached to it. Sensitization training for prison staff is essential and must be implemented in consultation with experts and transgender representatives. Additionally, the Transgender Persons (Protection of Rights) Act, 2019 must be enacted to specifically include the custodial context and specify procedures for placement, medical care, and redressal of grievances in jails. The collection of data by the NCRB has to extend beyond identity to record transgender prisoners' experiences and vulnerabilities. Lastly, support and reintegration services for return to society tailored for transgender people are critical in lowering recidivism and guaranteeing a respectable reintegration into society. In sum, a human rights centered, gender-aware, and enforcement-based reform agenda is crucial to ensure the constitutional guarantees of equality, dignity, and justice for transgender people in Indian prisons. Without prompt structural transformation, the real lives of transgender prisoners will remain at odds with the legal protection granted to them.

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