



**ADVANCE SOCIAL SCIENCE ARCHIVE JOURNAL**

Available Online: <https://assajournal.com>

Vol. 03 No. 02. Apr-Jun 2025. Page# 770-791

Print ISSN: [3006-2497](#) Online ISSN: [3006-2500](#)

Platform & Workflow by: [Open Journal Systems](#)



**Colonial Shadows and Modern Authorities: An In-Depth Analysis of Female Prisoners in Pakistan with Cross-Jurisdictional Insights and Primary Interviews from District Jail Kasur**

**Saqlain Haider**

Visiting lecturer of law at Punjab University and Superior University Lahore

[mynamesaqlain@gmail.com](mailto:mynamesaqlain@gmail.com)

**Dua Batul Tayyab**

Final Semester of law at LUMS Lahore

[duabatul@gmail.com](mailto:duabatul@gmail.com)

**Aiman Behzad**

Final Semester of law at LUMS Lahore

[aimanbehzad2001@gmail.com](mailto:aimanbehzad2001@gmail.com)

**Shazia Ibrahim**

Advocate high Court

[shaziaibrahimvflc@uop.edu.pk](mailto:shaziaibrahimvflc@uop.edu.pk)

**ABSTRACT**

This research paper delves into the multifaceted experiences of women within the prison system, with a particular emphasis on the city of Lahore, Pakistan. Section 1 presents an outline of the prison landscape in Pakistan, highlighting how colonial legacies have predominantly moulded prisons into instruments of containment rather than avenues for rehabilitation. Section 2 delves into the presence of women within the prison system across three jurisdictions, examining the gender-specific dynamics at play and emphasizing how rehabilitative efforts within prisons reflect and address these unique experiences. Additionally, we delineate five foundational challenges encountered by women in prison, namely accommodation and food, victimization, programming and treatment, work opportunities, and the unique role of motherhood in confinement. In particular, we reflect on how this impacts the rehabilitative aim of the prison system. Section 3 of the paper is dedicated to examining the reality of women's incarceration in Lahore, Pakistan, through the lens of these five challenges. By organizing our analysis around these specific areas, we aim to shed light on the distinct experiences and hardships faced by incarcerated women in a socio-cultural context that warrants attention and intervention. Through this research, we endeavour to contribute to a deeper understanding of the complexities surrounding women's incarceration, with implications for policy-making, advocacy efforts, and the development of targeted interventions to address the unique needs of this marginalized population in Lahore and beyond.

**Keywords:** Incarceration, Colonialism, Gender, Punishment, Rehabilitation, Segregation, Justice, Victimization, Discipline, Marginalization.

**Introduction**

Throughout Pakistan's legislative history, the imprint of colonial legacy has been discernible throughout the laws promulgated post-independence. One such example is the Prison Act of 1894, which focused on the administration and operation of the prison system, which still

holds relevance in Pakistan today. However, while the Prison Act of 1894 presented a firm footing for how prisons should be managed and regulated, the laws did not focus on rehabilitating and reforming prisoners. One can argue that earlier, the prison system was primarily built as a punitive measure for prisoners so that they are deterred from committing crimes in the future. While the purpose for building prisons earlier may not have been for a rehabilitative purpose, it can safely be assumed that the present laws have endeavoured to re-establish and redefine the purpose of the prison system to be primarily rehabilitative.

As much as the administration and the operational system of the prison are paramount, it is the incarcerated whose rehabilitation and reintegration into society that should be of crucial importance. While, in Pakistan, the Prison Rules have been developed to address the rehabilitative aspect for the incarcerated in general, female offenders have unfortunately not benefitted much from these laws.

While Pakistan's legislative reforms have ventured to come up with new laws that acutely address the plight of prisoners, one can argue that a clear gender bias exists between the way female offenders are treated and male offenders are treated. Whether it is the way they undergo sexual abuse and harassment at the hands of the prisoners, the lack of adequate reproductive healthcare, and little to no opportunities to receive legal aid and rehabilitation, female offenders within the Pakistani jail system have consistently been let down by the mediocre implementation of the laws that have yet to be exercised.

In this paper, we will be delving into the effects of the colonial legacy that managed to shape the prison landscape in Pakistan, particularly in Lahore, and impacted the experiences of incarcerated women. Furthermore, we will also be exploring the rehabilitative efforts that have been made so far to address the gender-specific challenges that incarcerated women confront.

#### **Methodology:**

We have structured this analysis into three main sections.

**In Section 1**, we deal with the colonial influence on the prisons of today, especially regarding their treatment of women offenders. This section mainly relied on the Prison Development Committee's 1838 report on improvements suggested for colonial prisons. This report was primarily chosen due to its revolutionary nature, as it introduced ideas that were further built upon in later reports. Using this report as the basis for our analysis of the colonial experience, we gain the main crux of the changing socio-cultural circumstances within which the colonial prison existed. We also acknowledge that the PDC report was a textual document and, thus, not necessarily a complete capture of the full extent of the tensions, challenges, and negotiations that comprised the actual existence of the prison. This study presumes that the colonial documentation reveals a conception of the colonial prison and its prisoners from the lens of the colonial administrators. Finally, within this section, we particularly emphasize the gender-specific experience of the women offenders through the lens of the colonial administrators. In doing so, we aim to showcase how these conceptions of women offenders in prisons still colour the relationship between administrators and female offenders today.

**Section 2** presents a cross-jurisdictional analysis of women's experience in jails in post-colonial countries of the subcontinent. We also look at how the law has evolved in time to accommodate issues of women offenders in prisons within these countries. To present the cross-jurisdictional analysis, we have chosen India, Pakistan, and Bangladesh as the countries. These countries were mainly selected due to their shared colonial heritage and their similar justice structure. Furthermore, these countries exhibit some similarities in their social contexts, making comparisons across these jurisdictions easier.

**Section 3** mainly uses our first-hand account of the District Jail at Kasur to rationalize and compare conclusions drawn in previous sections. For this section, we conducted open-ended interviews with the prison officials and prisoners, which focused on providing essential services to the prisoners, such as accommodation, food, victimization, programming and

treatment, work, and motherhood. This provides us with an on-ground reference point for determining whether colonial and cross-jurisdictional influence is relevant in considering the current status of women offenders. However, it is to be acknowledged that our interaction has been heavily skewed towards the jail authorities. We were only able to meet prisoners with an official present. Therefore, our conclusions heavily focus on how jail officials, such as the Superintendent and the Assistant Superintendent, reacted to our questions.

### **Section 1:**

Within this section, we seek to explore the colonial experience of imprisonment, particularly with women. The essential purpose of such an endeavour is to highlight general trends that still affect women's imprisonment experience today. For this purpose, we have relied chiefly on observations in the Prison Development Report published in 1838. This was mainly due to its revolutionary nature, as it codified the shift to imprisonment as a primary punitive measure. While we know that the reports were primarily viewed as recommendations, and it is not determined whether they were followed in their entirety, it is apparent on a bare perusal of current law and practices that methods devised in that era still affect the prison system today.

### **English Conception of Imprisonment as punishment:**

Before we delve into an analysis of the colonial prison institution, it is prudent to examine its foundation, which is the concept of crime and punishment, as it developed in English society, and particularly how it led to the formation of the idea of imprisonment as a means to counter criminality.

In Early Western society, punishment was characterized mainly by a legally approved system of "discrimination, violence and revenge, and penitence" during Medieval and Ancient times (Blomberg & Lucken, 2000). Within the period, the essence of punishment for breaking the social contract was pain that affected the '*body of the damned*.' Interestingly, given the enmeshment of the Church and State during that time period, crime was considered akin to sin, and to 'wash' the soul of sin, the body had to go through some sort of physical suffering. Thus, the State's punitive power fostered the religious idea of atonement to create a "*stage of virtue and penitence*." These bodily punishments were dramatized and presented publicly as the '*spectacle of the scaffold*.' It was believed that the '*soul of the damned*' was saved through the '*elicitation of truth by confession and punishment*' (Spierenburg, 1995).

The main idea of the public and harsh nature of punishment of the physical body was to serve as a deterrent for the 'lower class.' However, this purported effect started to disappear, and these public proceedings became avenues for the public to voice their frustration with public officials and magistrates. The punishments became more secluded and were hidden from society to prevent public disorder. Furthermore, with regards to the promulgation of harsh punishments of the physical body, a common concern emerged that the public spectacle of such punishment meant that people were becoming increasingly desensitized and even excited by the violent displays, considering it akin to entertainment (Wiener, 1990). Comparing such a spectacle to the Colosseum fights in Rome would not be incorrect. Thus, what was once public theatre became a private act. This was the beginning of a "*new era of the penal justice system where there was no more public executions, painful disfigurements or annihilation of criminal bodies*." From this emerged a new mechanism of penal justice consisting of "*the deprivation of freedom*" and "*the technical alteration of the prisoners*" (Foucault, 1975).

This was also coupled with a new way of conceiving crime, given the capitalistic system emerging due to the industrial revolution in the late eighteenth century. The concern of '*propertied men*' against the '*crime problem*' provided stimulus for debates on the administration of justice. Furthermore, previously, besides capital and corporal punishment, a key punishment imposed upon offenders was transportation to the Americas; however, the colony's independence made this no longer a viable option. In 1751, a committee was formed

to propose a solution to the rise in crime in London. One of the key recommendations of this committee was the use of confinement and hard labour as a means of punishment. Instituting hard labour and imprisonment as punishment was meant to combat the 'idleness' and 'depraved habits' of the working classes by encouraging 'habits of industry' and 'reflection.' The conception of crime and punishment was limited to the ability to incite terror and dread of the consequence rather than meaningfully enforcing means of reformation and rehabilitation. However, there was a shift in the late eighteenth century as the notion of prison rehabilitation gained popularity with the publication of Cesare Beccaria's *Of Crime and Punishment* in the 1760s and provided support for conclusions already forming in England (Beattie, 1986).

Following this development, in 1779, the Penitentiary Act was introduced, which formalized the rise of imprisonment as a punishment in England. The change of sensibilities towards punishment is best described by the word 'penitentiary,' which means 'repentance,' indicating that the object of imprisonment is essentially reformation. Interestingly, Jonas Hanway, who was a key influencer in developing imprisonment as the ideal form of punishment, remarked in 1775:

"I lay my foundation on the rock of religion'...'having every day fresh reason to believe, It is the only true basis of government; and that national security and happiness must decay with the neglect of it'... 'there is no other means for a young man, or an old one, to cleanse his ways, has by ruling after the work of God;...whenever he goeth wrong, out of the commandments, it is because has not been duly taught to hide them in his heart" (Beattie, 1986).

Hanway also considered *"the separation of prisoners and... their physical isolation, at least at night"* (Beattie, 1986). Howard, who was also a significant influence in creating the Penitentiary Act, explained that isolation would *"enable each prisoner to spend his nonworking hours in solitude and silence which would be favorable to reflection and may lead them to repentance"* (Beattie, 1986).

This strikes up a fascinating conversation that strikes the heart of the debate on the nature of prisons and whether prison rehabilitation is possible. A commonality observed between the pre-eighteenth-century and post-eighteenth-century conception of criminality is that it is conceived to be akin to sin. The idea of redemption from sin in Christian theology is intrinsically linked to the concept of suffering. Redemptive suffering, as understood in Christian theology, refers to the notion that through the suffering of one's soul or body, one can remit the just punishment afforded for sin (Lebacqz, 2014). Thus, it is a natural conclusion within the colonial system that a crime, which is thought to be akin to sin, must be punishment to incite some sort of suffering to achieve redemption.

Consequently, the other point that emerges for debate is whether imprisonment within itself, not including the imposition of hard labour, falls within the category of suffering at it is not necessarily the suffering of the flesh. Herein, the idea emerges that isolation and separation of criminals from social and public life is a means of suffering aimed to force the criminal into a period of reckoning and reflection. While this was considered the humanitarian alternative, one cannot dispute that the essence of the prison remained the same, which was to bring about some degree of repentance through punitive measures. Thus, we can observe that the understanding of rehabilitation within the British Colonial context as their prisons developed was never isolated from punitive measures. The same punitive measures were supposed to bring out the rehabilitation of criminals.

Thus, ideas surrounding reform, marketed as being rehabilitative due to their less harsh nature, retained their punitive nature and were only changed in form due to the evolving ideals grounded in sociological and societal factors.

#### **Colonial Prisons in India:**

The colonial encounter was considered the ideal ground for experimenting and refining ideas regarding public administration that were gaining popularity in the metropolis. Similarly, creating a prison system within Colonial India was suitable for experimenting with such ideas. Benthamite principles of “clearness, certainty, promptitude, cheapness (and) penalties nicely adapted to the circumstances of each species of delinquency” were influential for colonial administration, like T.B. Macaulay, in promoting imprisonment as a punitive measure (Stokes, 1959). The idea of the prison envisioned for these colonized lands was loosely influenced by Bentham’s model prison, the Panopticon, wherein the concept was to allow all prisoners of an institution to be observed by a single **corrections officer** (within the colonial context, called the ‘Superintendent’), without the inmates knowing whether or not they are being watched. The remnants of the influence of this ideology can be seen in the overarching locus of power and control given to the prison superintendent, even in recent times (Stokes, 1959).

Examples of this experimentation can be seen in the shift in punishment within the 1838 PDC report, which was substantially influenced by contemporary British thinking on penal and punitive reform. Standard features of this thinking included an emphasis on labor, the discussion of solitary confinement as effective punishment, the use of imprisonment or transportation over corporeal or capital punishment and using classificatory logistics as a control mechanism.

#### **Classificatory Logistics and Moral Contamination:**

With the creation of the colonial prison, an exciting intersection was observed wherein these new places of penitence existed at the cross-section of Evangelical Christianity and emerging principles of science and morality. Thus, to achieve something considered a socio-religious goal, i.e., penitence, rational science principles, such as the classification of prisoners, were relied upon. The Prison Development Committee Report of 1838 argued that developing a system of classification was essential to maintain discipline and order in the prison:

“The great majority of all prisoners are persons of depraved habits. With such, one of the best effects to be hoped for from imprisonment is that the prisoner shall feel that all previous conduct has been of a nature to call forth the reprobation of the great mass of his countrymen. Before this effect can be expected, he must be taken out of the little world in which he has been living, and his conduct has probably been applauded or passed over without remark. Now, if a system of classification, theoretically correct, could be carried out into practice without the commission of a single error, the prisoner should be placed among the set of companions, no one of whom should be better nor worse than himself; he would still live in a section of that little world in which he lived before, and in a section which would be the more essentially depraved by being more exclusively composed of vicious individuals.”

As displayed, the essential presumption of the PDC was that the regulation of prisoners inside the prison heavily depended on the social context of native subjects outside the prison walls. Thus, the PDC’s plan for discipline cantered around the racialized perception of native society as a social group that produced criminalized subjects. A significant aspect of prison discipline was thus to maintain the distinction between the inside and the outside world by regulating how prisoners can contact each other and the public. They recommended that the following system of classification be implanted uniformly:

“We think that classification to be of any material used must be carried at least so far as to separate absolutely by day and by night and whether in jail or working parties out of jail, following description of prisoners:

1<sup>st</sup>: Accused persons suspected of being Thugs.

2<sup>nd</sup>: Males accused of the more heinous crimes against person or property: such as murder, rape, robbery, and housebreaking, or of attempts to commit such crimes.

3<sup>rd</sup>: Males accused of simple theft, receiving stolen goods, perjury, forgery, fraud, and similar offenses or of conspiracy to commit offenses of this nature.

4<sup>th</sup>: Males accused of affray, assault, and offenses commonly described as ordinary misdemeanors.

5<sup>th</sup> to 8<sup>th</sup>: Males convicted of the above-mentioned offenses, respectively.

9<sup>th</sup> and 10<sup>th</sup>: Accused and convicted Females”(Report of the India Committee on Prison Discipline, 1838).

The PDC recommended that the system for classification be a corrective means to prisons where there were “*about a hundred percent of very different characters.*” The classification system recommended by the PDC report 1838 was a corrective mechanism to be used in a prison where there were “*about hundred percent of very different characters*” ” (Report of the India Committee on Prison Discipline, 1838). The type of crime committed was seen as proportionate to how ‘*bad*’ the ‘*character*’ of a person is, i.e., depraved habits, and that ‘*bad characters*’ could negatively influence, and thus tamper with, the reformatory potential of those who were ‘*less bad*’ or ‘*innocent.*’ The basic idea was the type of crime committed was linked with how ‘*bad*’ the ‘*character*’ (i.e., depraved habits) of the offender was perceived to be. ‘*Bad characters*’ were also considered to have the capacity to influence, and thus tamper with negatively, the reformatory potential of those who were ‘*less bad*’ or ‘*innocent.*’ This perception was influenced by many things, including, but not limited to, the offender's caste, social background, etc. This suggests criminality seemed similar to a contagious disease that could spread at contact.

This idea of Indian criminality being akin to a disease points to the concept of race being used as a way to explain deviant behavior. Indian criminals were often discussed within the 1838 PDC report as being beyond help and reform. One statement in the 1838 PDC report suggested that the difficulty of moral reform was due to an Indian criminal differing less from ‘*that of his countrymen than would be the case in more civilized and moral countries*’” (Report of the India Committee on Prison Discipline, 1838, Pg. 97). This meant that the so-called ‘*depraved habits*’ of the criminal were something that was linked with the Indian identity itself. The 1838 PDC report clearly stated that “*the morality of an Englishman is based so differently from that of an Indian*” (Report of the India Committee on Prison Discipline, 1838, Pg. 119). Additionally, the report cited the ‘*many entire castes who are criminals by hereditary calling,*’ further distancing criminals in India from their British counterparts by using caste and race to categorize the Indian identity as criminal by nature and therefore justifying a harsher approach to prison reform ” (Report of the India Committee on Prison Discipline, 1838, Pg. 17). This also affected the way that the colonial authorities perceived Indian women offenders. At one point, one colonial official about the so-called ‘*criminal tribes*’ commented that the women were “*almost as bad*” as the men.

#### **Women and the Colonial Prison:**

While it is apparent through the use of classificatory measures to segregate women that the colonial jail enterprise was aware of the existence of women criminals, they remained at the periphery of the system. This was primarily because of the low proportion of female prisoners usually interned in colonial jails. In 1856, prison returns for Bengal showed female prisoner numbers were frequently in single digits while the men numbered in the hundreds in just one jail. Arrah jail in Shahbad, for example, recorded 424 males and just three females (Mouat, 1857-1858).

Because of their small numbers in prison, women confined to prisons in India were often not given the attention afforded to men in the same situation. Sen’s research, which was focused on the prisons of the Punjab, revealed that mortality rates for female prisoners were higher than males, and men typically received more rations (Sen, 2012). According to Sen, attention was given to female convicts in the later nineteenth century, but even up until the 1870s, prison reform did not prominently feature women. Even so, by 1870, most prisons in the Punjab region provided women matrons and separate wards for female prisoners.

While the feature of women was decidedly short, two clear recommendations for the care of female prisoners were made in the 1838 PDC report. Firstly, women must be separated from male prisoners, presumably to 'protect' them from sexual contact and secondly, physical punishment should only be used on female prisoners as a last resort. Beyond this, the 1838 PDC report was largely silent on women's particular issues, expecting to advise that they should not be put to work on physically demanding tasks such as the tread-wheel (Report of the India Committee on Prison Discipline, 1838).

Punishment or efforts to deter women from crime were therefore complicated by the fact that, unlike children, prison administrators were reluctant to whip or flog female prisoners. Much earlier in the century, Britain was also ambivalent about inflicting corporal punishment on females, as evidenced by the 1817 Bill, which proposed abolishing public whipping for the sentence of females ('Bill to Abolish Punishment of Public Whipping on Female Offenders,' 1817). The 1864 Act, which authorized the punishment of whipping in India, also specified that females were not to be whipped (A Collection of the Acts Passed by the Governor General of India in Council, 1865). Physical punishment was, therefore, gendered, indicating a reluctance to inflict pain on women even though children, who were often small and vulnerable, were not given the same consideration.

### **Gendering Colonial Criminality:**

Gendered characterization, as showcased within the system of classification adopted by the Colonial authorities, played a significant role not only in adjudging cases of violence against women but also in formulating moral bases of criminality and techniques employed in controlling, punishing, and 'rehabilitating' prisoners in Colonial India. For native women, criminality was often located at the intersection of the relationship between the domestic and the public sphere, and deviation from patriarchal norms was usually considered to fall within the realm of criminality.

To contextualize this observation, it is essential to note that scholars of female criminality in early modern Europe opined that deviating from gendered norms around proper speech, mannerisms, and actions was often seen as the basis for criminal acts. Andrea Knox presents that *"female crimes in the early modern period (in Europe) came to be defined increasingly as verbal and disruptive"* and were influenced by *"(Protestant) reformation and the accompanying ideas of familial control"* (Knox, 2002). They also characterized the organization of prison regimes. Nicole Hahn Rafter states:

*"Men's reformatories, like other state prisons for adult males, received only felons. Women's reformatories, in contrast, received mainly misdemeanants and fewer offenders- violators of city ordinances against intoxication, women convicted of vagrancy, fornication, 'lewd and lascivious carriage,' and other offenses against public order. The creation of separate prisons for women thus was accompanied by legislative and judicial legitimation of the double standard that required women to conform to a more difficult morality".* (Hahn-Rafter, 1985)

A similar stance was adopted within Colonial India. Distinctly, however, the reform and rehabilitation of female criminals by colonial administrators was considered to be symbolic of their superiority and paternalism. Satradu Sen explains:

*"On the one hand, the female jail contained the agents of moral corruption. Indian women who entered the orbit of the colonial justice system were seen as dangerously out of control: oversexed and impulsive, not only 'fallen' but liable to drag men and other women down with them. On the other hand, the female jail held the perceived victims of Indian society, who were desperately in need of British protection."* (Sen, 2002)

F. J. Mouat, the Inspector General of prisons of Lower Bengal in 1860, described female criminality as a consequence of their lower status and treatment in native culture, where they tended to be *"victims of societal cruelty."* Thus, the reformation of native women in the colonial jail symbolized the colonial project.

### **Sex Segregation:**

An essential factor that was focused heavily on in the reform reports of the PDC was the issue of sex segregation. The importance of sex segregation to British notions of propriety and morality is evident in the conversations of Mary Carpenter, who was an advocate of education and sex segregation in jails of the colony. While visiting the prisons in Bombay and Calicut, she was *"horrificed by what she saw as the mixing of male and female inmates in colonial jails, by the supervision of female prisoners by male employees of the prison, and by the casual mingling of women who might be saved and those who were evidently beyond salvation"* (Sen, 2002). This did have some effect on colonial administrators, for example, Dr. J.M. Donnelly, the Inspector General of Prisons in British Burma, *"ordered that an entirely separate women's ward be constructed immediately in Shwegyeen"* (Sen, 2002). This showcases that despite financial constraints, the colonial administrations placed a great deal of importance on instituting a gender binary through sex segregation, apparently in the interest of prison discipline.

### **Conclusion:**

In conclusion, the treatment of female prisoners in colonial India has left a lasting legacy that continues to impact the contemporary penal system. The biases and systemic issues entrenched during the colonial era remain evident today, revealing a troubling continuity. By delving into the colonial experience of women in prisons, this section highlights the persistent similarities between past and present conditions. It is clear that the structures and prejudices inherited from this period still influence the treatment of female inmates. Recognizing this historical continuity is crucial for addressing and reforming the deep-rooted issues within our current prison system. It is imperative to critically reassess and dismantle these inherited practices to move forward, fostering a more just and equitable system for all.

### **Section 2**

Within this section, we seek to explore the legislative reforms within three jurisdictions of South Asia, namely India, Bangladesh, and Pakistan, and attempt to analyze the similarities and differences between the passing of these laws and the stringent implementation of the legislation. These three countries were primarily chosen because they carried the colonial legacy forward after becoming separate states and how their past legislation has effectively shaped their current legislation. Interestingly, all three countries have established and attempted to move forward to progressive legislation, yet the effective implementation of these laws has not transpired. So far, These three countries have tried to bridge the gap between the colonial laws and their legislation by curating a more progressive and reformative approach to prison laws; however, they have fallen short of the practical application of these laws.

Within these three jurisdictions, the treatment of female prisoners, as encapsulated within the domestic laws and the international treaties that these three countries are attempting to adhere to, is looked at with a critical lens to gauge if more work is required to be done. In terms of the problems that female inmates are confronted with, we have narrowed it down to five challenges that they face, including the provision of healthcare, food, victimization, motherhood, programming and treatment, and work, which pertains to vocational training.

#### **The Prison Laws in India**

Following the colonial legacy that the British had cemented for the creation of prisons and treatment of female prisoners after the subcontinent had splintered into two independent countries, India carried the colonial legacy forward with the Prison Act 1894 and later on, promulgated its legislation to advance the rights of prisoners, particularly female inmates (Biswas, 2016; Lakshmi, 2017).

Within the Indian Constitution, Article 14 provides equal protection of laws to all women, while Article 15 prohibits gender discrimination. Before the establishment of these rights, the government of India passed the *Protection of Human Rights Act of 1993*. It constituted a body known as the National Commission of Human Rights to promote and protect human rights.



India has also ratified various International Conventions and Human Rights Instruments, committing to securing women's equal rights. Key among them is the ratification of the *Convention on Elimination of All Forms of Discrimination against Women (CEDAW)* in 1993. Article 12 (2) of this Convention provides that States Parties shall ensure to women appropriate services in connection with pregnancy, confinement, and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation (Garg & Singla, 2012).

Within the *United Declaration of Human Rights*, which India has signed, Article 3 states that everyone has the right to life, liberty, and security, while Article 5 states that no one shall be subjected to torture or cruel, inhuman, degrading treatment or punishment. Furthermore, "Article 10 (1) of the *International Covenant on Civil and Political Rights* states that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" and Article 6(1) states that every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life" (Garg & Singla, 2012). One can see that under both International treaties and domestic law, the rights of female prisoners are protected; however, under the Indian Constitution, female prisoners have a right to legal representation; in case they don't have any, the government will provide for them, the right to a fair trial, a right to remain silent, a right to privacy and dignity, the right to medical examination in case of physical and sexual abuse during custody, right to bail, right to presumption of innocence, right to legal aid, right to non-prejudice, and right to appeal (Anand et al., 2023).

Apart from international treaties and conventions, within the realm of domestic law, The *Model Prison Manual of 2016* offers comprehensive instructions for the effective management and administration of prisons, which requires implementing gender-sensitive approaches while safeguarding the rights of incarcerated women, which include ensuring their access to healthcare services, vocational training opportunities, and educational initiatives. According to the NCRB, prisons spend half of the money they get on food (in 2019, this fraction was 47.9%). The *Model Prison Manual of 2016* has notified the number of calories each prisoner must get daily: men, between 2,320 kcal and 2,730 kcal per day, and women, between 1,900 kcal and 2,230 kcal per day. The manual also makes special provisions for pregnant and lactating women, who, it acknowledges, "need more proteins and minerals than [others]". (Sen, 2021)

Other than the rights in the Constitution, there is the Prison Act of 1894, a legislative enactment regulating the organizational and operational aspects of correctional facilities within India's jurisdiction. This mandate ensures that prisoners, including women, are treated humanely, are provided with adequate provision of services, and are safeguarded from any form of abuse. Within this act are the maintenance and officers of the prison, including staff appointment, admission, removal, and discharge of prisoners. Apart from the abovementioned aspects, it also lays down guidelines for under-trial prisoners, such as civil or under-trial prisoners, who shall have access to commodities from outside the prison subject to examination of the goods being received. Such prisoners shall provide themselves with clothing and beddings. No part of food, bedding, or clothing belonging to civil and under-trial prisoners shall be allowed to be transferred to convicted prisoners. Moreover, the Act also lays directions for caring for prisoners' health within the prison premises. Prisoners shall be subject to regular medical check-ups, and sick prisoners shall receive proper medical care and attention. (Anand et al., 2023)

However, the Prison Act of 1894 deals more with the smooth functioning of prisons than reforming and rehabilitating prisoners. This act has a colonial approach that deflects from the contemporary ideology of reformation of prisoners on humanitarian grounds to become responsible citizens rather than to advocate punitive and disciplinary measures of taming the prisoners. (Bahl, 2017) In addition to that, according to statistics, 80 percent of prisoners are

still awaiting trial and have to live in inhumane conditions, with a lack of proper food, medicinal facilities, and essential services. Even though prisoners have been given bail, they have not been properly released.

Some of these female offenders often face the problem of overcrowding, where there is a lack of personal space, which is exacerbated by the restricted access to reproductive health services and mental health support. Of the 1,350 prisons in India, just 31 are reserved for women, and only 15 states and union territories have separate women's jails. Everywhere else, female prisoners are housed in smaller enclosures within men's prisons – a prison within a prison. (Anand et al., 2023)

The women's-only jails have an occupancy rate of 56.09%, according to the National Crime Records Bureau (NCRB) data for 2019. The country's 410 district jails have an average occupancy rate of 129.71%. In December 2019, women's jails could accommodate 6,511 female prisoners but housed only 3,652. The occupancy rate for women in other prisons is higher, at 76.7%, but still gives the impression that women prisoners don't have a space problem. (Sen, 2021)

In one of the case studies conducted in the Byculla prison, one of the prisoners, named Meera, who was in jail for a dowry-related case, raised the issue of the complete lack of privacy that persists within jails, so much so that she craves silence. Since there remains little to no impunity to maintain privacy, the authorities at Byculla prison decided to move a step forward and install CCTV cameras in the women's barracks, a move which several prisoners resisted. Meera was later transferred to solitary confinement on account of instigating the other female prisoners regarding the CCTV cameras in the women's barracks. While there is no specific provision within the Indian legislation regarding using solitary confinement as a punitive measure, Section 29 of the Prison Act states that "No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison and such prisoners must be examined by Medical Officer at least once a day, if confined for more than 24 hours." (Mittal, Gupta & Scholar, 1980) Furthermore, within the Byculla jail, numerous female prisoners reported the lack of feeling of control over one's body when they were stripped naked. (Sen, 2021)

Meanwhile, in Kolkata's Presidency Correctional Facility, a prisoner reported that the toilet was inside the room where previously 44 other female inmates resided. Naturally, one of the issues that other female inmates unanimously confronted was the lack of hygiene and sanitation. Menstrual pads were usually thrown in the toilet, and only 12 menstrual napkins were given to menstruating women. These women were given gauze bandages and cotton to make their pads in case of heavier flows. Since the women's prison was enclosed within the giant male prison of the Presidency's section, the women prisoners had little to no say in providing the food and cooking. One of the prisoners reported that insects and caterpillars were often found in the rice and brinjal.

Throughout this overview of India's legislation regarding the treatment of female prisoners, there are significant loopholes that are required to be addressed. This includes providing female inmates with timely legal aid, promulgating gender-sensitive training for the prison staff, expanding or creating a separate prison facility for female inmates to evade overcrowding, and creating an effective mechanism to monitor the harassment and abuse that female inmates have to undergo regularly. (Biswas, 2016; Anand et al., 2023)

### **Bangladesh**

Like the Indian jail system that was especially cemented by the British, the Bangladeshi jail system is also a product of British colonialism that was built primarily to punish criminals and detain political activists. Since the prisons were constructed predominantly for male prisoners, with little to no provision of basic amenities like proper sanitation and privacy, women were detained in separate areas. Owing to the harsh and brutal conditions in jail, numerous female convicts died. However, after Bangladesh became independent in 1971,

specific improvements began, manifesting in better living conditions, access to education, and vocational training (Hamid & Begum, 2018). Nevertheless, violence and neglect persist among these female prisoners.

Within the legal framework that has developed within Bangladesh for the rights of female prisoners, there exist international treaties and conventions that have laid down the foundation for how women prisoners are to be treated. Bangladesh is a party to many international human rights agreements that deal with the rights of female inmates either directly or indirectly.

One of the international treaties Bangladesh abides by is the United Nations Basic Minimum Guidelines for the Treatment of Prisoners, commonly known as the Mandela Rules. Following the Mandela Guidelines, all inmates must be treated with respect and dignity, have access to medical care and education, and not be tortured or subjected to other types of cruel, brutal, or humiliating treatment or punishment (Nusrat, 2023). Bangladesh is also a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which addresses gender-based violence and discrimination against women. Apart from CEDAW, Bangladesh also abides by the Bangkok Rules, a crucial international legislation about women's prisoner's rights, enacted by the UN assembly in 2010. The Bangkok Rules place a strong emphasis on the necessity to consider the unique requirements and vulnerabilities of women convicts, including their health, social, and family backgrounds, and to make sure they have access to resources for rehabilitation and medical care. (Nusrat, 2023)

Moving on to Bangladesh's legislation, Article 27 of the Constitution guarantees equality to all citizens, while Article 35 protects in terms of trial and punishment, which also applies to women prisoners. Moreover, the Prisons Act 1894 mandates that female inmates be housed separately from male inmates and ensures adequate amenities for prisoners. Apart from the Prisons Act 1894, the Special Benefit for Women Convicted in Prisons Act 2006 mandates that prisoners serving sentences longer than one year be entitled to unique benefits, including concessions, after serving 50% of their sentence. Such benefits may include conditional release, aftercare services by the Department of Social Services for social rehabilitation, and vocational training in various trade courses. (Hamid & Begum, 2018; Toma, 2023).

Other than the abovementioned legislation, there is the Bengal Jail Code of 1864, which states that the Civil Procedure Code, Penal Code, and Criminal Procedure Code must be adhered to, which governs aspects of inmates' incarceration, penalty execution, and prisoners' appeals. In addition to that, there remains the Prisoners Code of 1900, which provides provisions for the removal of prisoners who are mentally ill to a lunatic asylum under the Lunacy Act. Legal assistance is offered to those in need, including women in jail, under the Legal Aid Services Act of 2000. Moreover, through its district-level legal aid committees, the National Legal Aid Services Organization (NLASO) offers free legal assistance to women convicts. (Nusrat, 2023)

Despite the prevalence of these laws, some loopholes exist within Bangladesh's criminal justice system. For instance, female inmates are often subjected to rape and molestation at the hands of the members of the Law Enforcement Agency (LEA). Moreover, inadequate healthcare, poor hygiene and nutrition, and overcrowding remain a pressing issue in correctional facilities. Nevertheless, the Prisons Act of 1894 and the Rules for the Superintendence and Management of Jails in Bangladesh only provide general medical care provisions and limit the treatment of prisoners to instances when they are ill (Nusrat 2023, 19). Furthermore, the Rules for the Superintendence and Management of Jails in Bangladesh have no dietary requirements for pregnant inmates (Toma, 2023).

Notwithstanding the legal provisions for legal aid and representation, women incarcerated in Bangladesh encounter difficulties in accessing legal services, attributable to their limited knowledge of their legal rights and inadequate institutional support. Even though the Legal Aid Services Act of 2000 and the Code of Criminal Procedure of 1898 enshrine the provision

of legal aid and representation, several reports of insufficient enforcement of these provisions have been reported. For instance, the Legal Aid Office in Bangladesh is grossly understaffed and lacks the necessary resources to offer legal aid services to all prisoners, particularly women. This has resulted in many women prisoners being unable to access legal representation and, in some instances, compelled to represent themselves in court (Nusrat 2023, 21).

Women in prisons are often subjected to physical and sexual abuse, poor living conditions, and inadequate medical care. Additionally, they also have to face discrimination based on their gender, ethnicity, and socioeconomic status. The abuse and harassment that these female inmates undergo regularly range from pat-down searches to arbitrary searches and excessive surveillance of prisoners. There have been numerous cases where these inmates have been raped by individuals in positions of authority, which law enforcement agencies ignore.

In addition, in 2006, the Bangladesh government passed the Special Facilities for Women Prisoners Act, which offers specific benefits to women prisoners, including conditional bail, training, and aftercare. However, certain prisoners are ineligible for these privileges, such as those with death sentences or those convicted under explosive and narcotic laws. Despite this new legislation, it fails to address gender-specific women's rights, which is a major concern, especially for pregnant women who are residing within the prison premises (Toma, 2023).

Therefore, while Bangladesh has an impressive set of legislation that should cater to a myriad of rights for female inmates, it falls short when it comes to proper implementation. Although Bangladesh has come a long way in shedding off its colonial skin for the prison's construction, it is essential to remember that Bangladesh has specific areas that need shedding light on.

#### **Pakistan**

Carrying the colonial legacy forward, the foundation for Pakistan's jail system had also been curated by the British. The colonial legacy can be seen reflected in the Prison Acts of 1894, which remains authoritative today and was later subject to revision in 1978. Even though prison authorities no longer consult the act, the act does remain legally in force. So far, few amendments have been made to the Prison Act 1894 to bring them in conformity with UN standards and norms. (Rehman, 2017)

Following the Prisons Act 1894, the Prisoners Act 1900 was passed to consolidate the rules on how the law enforcement authorities must deal with the prisoners. Later on, to implement these acts, the Pakistan Prison Rules were developed as the core jail manual, which outlined the obligations and prohibitions of prison authorities. The Prison Rules include several regulations that are specific to the governance of female prisons and female prisoners. They include the right to personal hygiene for women and the right to be administered only by women personnel. Furthermore, it is mandated that women are to be detained in facilities near their home districts and that children can accompany their inmate mothers up until a specific age (Afzal, 2023).

Apart from the legislation on a national level, legislation about prisoners on a provincial also exists. For instance, the Sindh Prisons and Correctional Services Act 2019 provides an updated model of the federal act and acts as a mechanism to oversee prison governance in the province. Similarly, the KP Prison Rules 2018 also achieve the same aim. Additionally, there are international treaties that Pakistan is a signatory of, including the International Covenant on Civil and Political Rights (ICCPR), which emphasizes the fact that all people are to be treated with dignity and respect, and CEDAW, which addresses discrimination against women. Like Bangladesh, Pakistan is also subject to non-binding sets of prison rules that are internationally recognized including the Bangkok Rules and the Mandela Rules. However, these rules need to be more authoritative in actual enforcement. These rules seek to ensure that medical assistance and access to personal hygiene are adequately and regularly available

to such inmates. Crucially, they also emphasize the various means and strategies of reintegrating women offenders into society and require the training of prison staff on trauma response and gender-sensitive rights.

According to Aftab,

“The Mandela Rules are non-binding rules about the generally accepted minimum standards for prisons and a minimum set of rights for all prisoners. These Rules were developed by the United Nations Office On Drugs and Crime in 2015 and adopted by the UN General Assembly. Specifically for female prisoners, these Rules require ‘special accommodation’ as to pre-and post-natal care in women's prisons. They also require gender-specific considerations when handling female prisoners”. (Afzal, 2023)

Similar to India and Bangladesh, Pakistan needs to improve implementation of these laws. For instance, Rule 18 of the Pakistan Prison Rules holds that female medical workers must screen female inmates at admission. However, a disproportionately low number of such workers are appointed, exhibiting a need for more implementation. This requires a reallocation and reapportioning of funds dedicated to more female medical staff, specifically for inmates. Additionally, incarcerated women can be trained to provide primary medical care, which will not only serve the purpose of access to healthcare but will also prove to be a means of reintegration into society upon release. (Afzal, 2023)

Furthermore, Rule 305 of the Pakistan Prison Rules, building upon Section 27 of the Prisons Act of 1894, mandates that in facilities housing both male and female prisoners, women are to be kept entirely separate from their male counterparts and to ‘prevent their seeing, conversing or holding any communication with the male prisoners.’ Such separation is a characteristic of prison systems globally, however, this setup poses a unique security risk in the event of jailbreaks by male prisoners or the abuse of power by male prison guards, who may force entry into female prison barracks, as recognized under Rule 43 of the Bangkok Rules.

Another characteristic of Pakistan's system of female incarceration is the geographical placement of women's prisons. According to Rule 4 of the Bangkok Rules, female inmates should be held in facilities close to their home districts to maintain family contact. In Pakistan, however, 27% of female prisoners are detained far from home, making it difficult for family members to visit (Justice Project Pakistan, 2022). This isolation is particularly damaging for women with children, as the disruption of family ties can have severe emotional consequences and hinder their chances of successful reintegration upon release.

Moreover, there is a concerning lack of accessible mechanism for women prisoners to report abuse. Rule 7 and 25 of the Bangkok Rules require and seek legal redress. Despite this the United Nations Office on Drugs and Crime (UNODC) has reported instances of harassment and sexual violence by prison staff in Pakistani jails. This highlights the urgent need for formal procedures that enables women to report abuse, ensuring accountability and protection.

### **Conclusion**

Looking collectively at all three jurisdictions of India, Pakistan, and Bangladesh, one can see how, within South Asia, the treatment of female inmates differs from that of male inmates. Even if international treaties and conventions have emphasized and reiterated that women prisoners have to be treated with dignity and respect, there needs to be more stringent implementation and regulations of the laws governed by the international treaties and the domestic laws of these three respective countries. In theory, the legislation promises that female inmates are to be provided with a particular set of rights, such as the right to a fair trial and the right to receive legal aid; however, there is a need to ensure that specific laws are made that ensure that a particular section of the prison population, mainly women are catered to, such as pregnant women, which was the case for Bangladesh.

Furthermore, throughout these three jurisdictions, the notion of abuse and the provision of inadequate healthcare has remained a mitigating factor for female inmates to be able to stay

in prison. Usually, the abuse and harassment they undergo daily are at the hands of police officers, which tend to go unreported owing to corruption and lackluster policies. The accessibility of healthcare, especially for reproductive and menstrual healthcare, is yet to be taken into account by all three countries that effectively address the needs of female inmates. While these three countries have strived to promulgate laws to cater to the humane treatment of female prisoners, not all three countries have managed to efficiently implement the modern prison laws that have been ironically made to address the plight of incarcerated women. While Bangladesh has yet to create laws that cater specifically to pregnant imprisoned women, India and Pakistan generally have a wide range of laws that require stringent implementation. For the former, the inclusion of extensive vocational training programs for incarcerated women could aid them in honing their skills, thus acting as a reformatory approach for women once they are released. Whereas, for the latter, the accessibility of proper legal aid within the prison for incarcerated women could prove to be a great leap forward for these offenders to avail justice timely.

### **Section 3:**

Within this section, we aim to contextualize both the colonial legacy and the cross-jurisdictional analysis between the post-colonial countries of the sub-continent, namely India, Pakistan, and Bangladesh. This is done by drawing upon our experience of observing the prison system closely.

This section is based on a structured observational visit to District Jail, Kasur. Five interviews with female inmates were conducted in the presence of the Assistant Superintendent, which may have limited the openness of their responses. No audio or video recordings were allowed and data was collected through field notes. As such, the findings reflect institutional narratives and observed practices but should be interpreted with caution due to the constraints on inmate self-expression and researcher access.

### **Classificatory logistics:**

Classificatory logistics within the District Jail, Kasur, was quite apparent in how the jail itself was structured. Generally speaking, the distinctions between prisoners were roughly the same as in the PDC report 1838. This is particularly important as the PDC report considers women offenders as a classification within themselves, requiring no further classification beyond the general distinction between convicted and undertrial. Even distinction was not strictly maintained with the District Jail Kasur. However, this lack of distinction and isolation might be due to the low number of convicted female offenders. At our visit, there was only one convicted woman offender. The female prisoners all lived in one long dormitory and were provided bunk beds, and they were free to interact with each other as they pleased.

Interestingly, in our conversation with the Assistant Superintendent and the Superintendent, there was a lack of isolation between convicted and undertrial prisoners. Both lamented the inability to stop the interaction between so-called 'hardened' criminals and those who were 'new' to crime. This conversation was quite reminiscent of the fears of 'moral contamination' expressed by colonial officials.

### **Rehabilitation v. Punishment:**

Furthermore, in our discussion on the 'type' of people that the jail usually saw, both officials expressed pessimism on the concept of rehabilitation of the prisoners, commenting that the prisoners were "just not interested" in opportunities to "better" themselves. This is eerily similar to the viewpoints of the colonial authorities in their comments regarding the "depraved habits" of the natives. In her dealings with the prisoners, the Assistant Superintendent used a rigorous tone, and the prisoners displayed signs of being afraid of her. When asked why she had to use that tone, she commented that it was necessary to maintain order and that otherwise 'these people' would take advantage of her. This points to the idea that the prison is essentially a punitive institution.

### **Health:**

In our experience of visiting the District Jail, Kasur, one thing that emerged was the focus on the physical health of the prisoners. Both the Superintendent and the Assistant Superintendent of the prison boasted of the medical care available to the prisoners. For women, typically, a female doctor was available throughout the working hours daily. She had her station in the same office as the Assistant Superintendent. Medicines were also available and kept in a locked cupboard in the same office. Furthermore, an ultrasound machine was also present but was not currently being used. During our visit, we were told that the female doctor was absent because she was on leave. She was substituted by the male doctor, who visited for around 30 minutes and checked patients under the supervision of the Assistant Superintendent. This was the only time we observed the strict sex segregation rules being relaxed.

In our conversations with the prisoners, they expressed satisfaction with the medical attention that they received. We were able to observe the checkup of one of the prisoners named Najma, aged 50 years, by the male doctors. She was forthcoming about her issues and symptoms to the doctor, indicating some sense of trust in the medical system.

This emphasis on the medical services available to prisoners has a colonial context. The focus on conceptions of 'contamination,' both physical and moral, is present in the PDC report of 1838. Ideas around a prison's collective "health" point to the influence of a "medico-juridical complex" in shaping prison discipline. This relationship is made most explicit by the fact that prison administration was managed by colonial medical officers until the late nineteenth century. This was also when conversations about the relationship between health and hygiene started emerging in the colonial center, and the colonies were regarded as excellent experimentation grounds. The eagerness to utilize the prison population for scientific inquiry is evident in the comments of F.J. Mouat in 1856, who claimed: "In no cases are preventive and prophylactic measures so efficacious as among bodies of men so completely under control, as are prisoners in jails."

**Segregation:**

In our experience of visiting the District Jail, Kasur, we have on perusal of the system, observed the continuance of certain practices and norms of the colonial past. We draw upon our experience of the space within which the female convicts were contained. From our observation, sex segregation was heavily maintained. While the female prison was contained within the same area as the 'main' prison, they had a completely separate wing, which was only accessible to female staff. Furthermore, the prison staff for the female wing were all female and were headed by an Assistant Superintendent (AS), who held the keys to the gate separating the female area. In talking to the Assistant and male superintendent, we learned that even the head of the entire prison staff could not enter the female area without the female assistant superintendent. When discussing this segregation, the views held by the officials reflected the justification of morality similar to the one expressed by the colonial administrators in their reasoning for sex segregation.

**Infanticide:**

A fascinating story we encountered was that of 'Ayesha' and her sister. Ayesha, a 23-year-old, and her sister, a 14-year-old, were booked under a charge of deliberately killing her infant child, who was born out of wedlock. Interestingly, while telling of her case, the Assistant Superintendent quickly emphasized the illegitimacy element in this story. While this might be explained because of the social culture in which sex out of wedlock is taboo, one cannot dismiss an undertone of colonial sentimentality that is entrenched within the system of the prison.

Most women who made up the prison population in the late nineteenth century were those who had been convicted of infanticide, especially after the promulgation of the Infanticide Act of 1870. Padma Anagol argues that these women were part of a colonial category where women were held solely guilty for a more complex social phenomenon. Furthermore, it also

contributed to the characterization of native women as being 'unchaste' and having a preponderance for 'depraved sexuality,' which influenced their proclivity towards crime (Anagol, 2002). This demonstrates the amalgamation of Victorian heteronormative ideals, patriarchal moral values, and radicalized conceptions of the native population within the conception of colonial female criminality.

Interestingly, shades of this conception can still be seen in the prison system today. While such thought patterns might not be as apparent, the subtext is relatively straightforward, especially in how the officials perceive the prisoners. In this case, the fact that the Assistant Superintendent found it necessary to heavily emphasize the illegitimate status of the child that was killed points to the fact that such conception of prisoners as being morally degenerate still exists.

### **Psychological Services**

During our visit to the District Kasur Jail, when we asked the Assistant Superintendent about the health of the female prisoners, she pointed out that the jail has psychologists who hold sessions regularly. These sessions are often made mandatory for a new prisoner, whereas group sessions are also held. While the Assistant Superintendent did not delve into further detail regarding the provision of mental health services in the Kasur Jail, she reassured us that female psychologists are usually available for weekly checkups for the prisoners and are provided with the right medicines accordingly.

Provincially, in Punjab, psychological and counseling services are being provided to female prisoners based on the need for female psychologists primarily. Psychologists and mental health experts visit jails from government hospitals regularly in most of the provinces. Moreover, prison staff is trained in providing psychological and emotional support to female prisoners, which includes listening to their complaints, praising and acknowledging good behaviors, and showing empathy and consideration. Per Rule 18 of the Pakistan Prison Rules, female medical officers screen new prisoners for new medical conditions and diseases during induction. In Punjab, this also includes a comprehensive assessment of mental health and drug dependence following the Bangkok Rules. In practice, the screening usually consists of a mental health assessment and drug addiction assessment and does not account for sexual abuse and violence. While there is a psychotherapy cell with a jail psychologist in some of the central prisons in Punjab, most prisons rely on visits from mental health specialists from government hospitals in their respective provinces.

Although the Pakistan Prison Rules entail medical screening at the time of induction, a corresponding rule may be inserted that includes a mandatory assessment of mental health care needs of women, including post-traumatic stress disorder and risk of suicide and self-harm; recording of the reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth, and any related reproductive health issues; and the existence of drug dependency, and history of sexual violence or abuse. (Ministry of Human Rights, 2021) However, as noted above, there is a need for more comprehensive psycho-social services, including counseling for victims of sexual abuse and violence as well as drug dependencies.

### **Accommodation**

Regarding accommodation, the prisoners lived together in barracks, with beds being put together in case a new prisoner was required to be accommodated. The barracks within the District Kasur Jail could accommodate at least 25 female prisoners but currently housed 19 prisoners. Within the area reserved for the prisoners' accommodation was a TV, lockers for each prisoner, and a separate space for stitching. The Assistant Superintendent further remarked that other facilities within the prison included chillers in the summers, geysers in the winters, an air cooler, and a water cooler.

In Punjab, female inmates are housed separately in designated women's barracks and are supervised exclusively by female personnel, in line with the Pakistan Prison Rules. Rule 306 of



these rules recommends that women serving sentences of two months or longer be transferred to dedicated women's prisons. However, due to the limited number of facilities, as only five exist, most women continue to be held in gender-segregated sections within general prisons. These sections are managed by female officers, including Lady Deputy Superintendent, Lady Assistant Superintendent and Lady Wardens. To ensure the ongoing safety and well-being of female inmates, prison staff conduct continuous security checks around the clock.

**Food**

During our interaction with the Assistant Superintendent, we inquired about the meals available to the prisoners. According to the Assistant Superintendent, food is excellent, and three meals a day are provided regularly to the prisoners. For Ramadan, the meals are provided twice daily, and the menu changes daily. On the other hand, female prisoners can cook for themselves in a separate kitchen and order food from their families, but it is limited to specific items. The kitchen was located separately from the barracks where the prisoners were residing, and it had a functioning stove with the necessary equipment to make food otherwise.

In terms of health for the pregnant prisoners, an adequate supply of milk is provided to expecting mothers; for instance, for pregnant women and lactating mothers, it is 500 ml, while mothers with children are provided with 467 ml of milk. Furthermore, the pregnant women were usually taken to the DHQ Hospital for weekly check-ups, whereas a gynaecologist is available at the prison for scans and ultrasounds.

When it comes to provincial treatment of pregnant prisoners, in Punjab, per the information provided by the prison authorities, female prisoners have a wholesome weekly diet plan replete with nutrients and calories. An extra special diet consisting of milk, sugar, rice, fruits, and vegetables is provided to expecting or lactating mothers. Any other food articles may also be included on the recommendation of the Women's Medical Officer. The Assistant Superintendent did not mention these details; however, we laboured under the assumption that the pregnant women were not provided a special diet yet were provided the same diet that was given to other prisoners.

**Facilities for Children**

In the District Kasur Jail, children of prisoners are permitted to reside in the facility only until they are six years old. While this is a clear age limit, the provision of educational facilities is noteworthy. A teacher, often an Islamic educator, visits the prison to provide religious instruction, though at the time of the visit, only one child was present who required education. The Punjab prison authorities report that educational facilities are available for children up to the age of six, along with other provisions aimed at their welfare. These include recreational activities such as toys and board games, summer facilities like air coolers and electric water coolers, and television sets available in female wards. Additionally, children are provided with iron beds and special meal plans. To protect them from social stigma, the Punjab Prison Rules stipulate that the birth certificates of children born in prison do not list the jail as their place of birth. Moreover, prison staff undergo special training to better understand and address the unique needs of women and children.

While these provisions demonstrate an effort to provide some level of care for children in prison, they raise concerns about the adequacy of the environment for their overall development. The six-year age limit restricts the time children can remain in prison, but it also highlights the challenge of meeting the long-term developmental needs of children in such a setting. The focus on religious education, while culturally relevant, may not provide a well-rounded educational experience, potentially limiting the children's broader academic growth and social integration. Although recreational facilities and comfort measures like air coolers and television sets are positive, they cannot replace the socialization and diverse

learning experiences that children need for healthy development, which are difficult to achieve in a prison environment. The measure to prevent stigmatization by omitting the prison as a place of birth is a step in the right direction, but it remains largely symbolic, as the child's lived experience within the prison might still lead to societal biases in the future. Furthermore, while staff sensitization training is essential, its effectiveness hinges on the actual application of this training in day-to-day interactions with women and children. In conclusion, while these efforts are commendable, they are insufficient to fully address the complex needs of children in prison. More comprehensive solutions, including external care and education outside the prison environment, are necessary for ensuring the children's long-term well-being and development.

**Rehabilitation**

During our visit to the District Kasur Jail, while we broached the topic of rehabilitation, we observed that the prisoners were only being provided rehabilitation in terms of vocational training and psychological services. While it was noted that a separate rehabilitation center existed for male prisoners who were battling addiction, there was only one female prisoner over the age of 50 who was convicted in a drug distribution case and was provided with an injection while she was undergoing withdrawals. We noted that a separate rehabilitation center should have been built for female prisoners; still, given the number of prisoners who are addicted to drugs currently, it might not have been considered necessary. However, given that only one prisoner was battling drug addiction, it would be highly doubtful if she was being given the proper medical attention by doctors, per her condition. While the Assistant Superintendent was quick to mention that doctors were always available for her, her statement pointed out that she often had difficulties in recovery and did have issues maintaining her blood pressure and sugar. That shows if she has specific doctors available for her conditions or just one doctor who only provides medical attention to her.

On the other hand, Punjab prisons have need-based rehabilitation programs that cater to the technical, social, and mental health needs of female prisoners to facilitate their reintegration into society. Women prisoners are also provided with a resource list of mental health care providers in their communities upon release.

**Vocational Training**

For vocational training, the female prisoners were expected to learn parlour work and work on stitching and crocheting within the District Kasur Jail Prison. During our visit to the jail, we spoke to the relevant instructor, who taught them parlour work. According to the instructor, the prisoners were reluctant to learn the work, and some didn't even want to work. Only a few prisoners wanted to work and learn while staying within the premises. Some of the prisoners made handmade bangles and crafts, which were later shown to us by the Assistant Superintendent.

Since we could visit only one prison where there was quite a provision for vocational training services for female prisoners to keep them occupied, in the District Kasur Jail, there was little to no interest displayed by most female prisoners in learning a craft or skill. While observing these female prisoners, the Assistant Superintendent was keen on showing us the dresses they had stitched for younger girls and kept encouraging the prisoners to display their work. In contrast, the prisoners showed little enthusiasm to show their work. It was almost as if they were too gloomy to show their work or the Assistant Superintendent asked them to put on a show for the dresses, and they were drained from doing so every day. As students and observers, one could say that they were frustrated by the redundancy of the tasks they were required to perform every day, as a result of which they had little to no motivation to continue. While encouragement from the prison staff and officers could aid them in further honing their skills, the longer the prisoners stayed in prison, the more they got accustomed to losing motivation to perform any required tasks. As the purpose of the prison system is to

rehabilitate prisoners, the purpose may falter if the prisoners themselves are not willing to rehabilitate themselves or work on getting themselves out of prison.

When it comes to Pakistan's prison system, as a whole, vocational training programs are available for female prisoners in most provinces; female prisoners receive vocational training and education courses during their time in prison. The primary courses taught include beautician courses, domestic tailoring, machine embroidery, and hand embroidery. Religious courses, such as the Nazra Quran Course AL Lisan ul Arbi Course, are also offered because the majority of female convicts are illiterate Muslims. These seminars have empowered about 1069 convicted convicts and 882 prisoners awaiting trial in Punjab in the past four years. It is noteworthy that although a vast majority of prisoners are illiterate or have some basic religious knowledge, there are approximately 30 prisoners who have secondary and undergraduate level education in Punjab. (Ministry of Human Rights, 2021)

Nevertheless, there is a need to improve gender sensitization and training for provincial prison staff and more frequent training sessions. Despite specific courses imparting vital talents that prisoners can use, there is a dearth of life skill instruction. If female convicts are to be truly guided in improving their life post-jail, brief training on how to obtain a CNIC, how to open a bank account and be financially responsible, and how to manage access to services beyond the prison must be included. Additionally, there is a disparity in chances between male and female prisoners.

#### **Solitary Confinement:**

Within the District Kasur Jail, prisoners were placed in solitary confinement in the parlor area, which was located right next to the barracks. Occasionally, the female prisoners fight amongst each other, but they are not separately confined, according to the Assistant Superintendent. It was fascinating to observe that solitary confinement was not being enforced much as a punitive measure within this jail since it was not yielding the outcome that was expected of the female prisoners, which was to reform them. The prisoners were only placed under solitary confinement under extreme circumstances that depended on their behavior; otherwise, they were rarely confined. On the contrary, in Punjab, it is general practice that those prisoners who tend to harm other prisoners are confined in a cell and kept under observation, which has to be replicated in different provinces in line with the Mandela Rules. Furthermore, no other separate area could be used to confine them since the space in which the prisoners were located was relatively compact.

In Punjab, however, age and offense are used to categorize female inmates further. Offenders who have a propensity to hurt other inmates are placed in a cell and closely monitored. According to the Mandela Rules, which stipulate that incarceration in a cell for any reason should not be considered solitary confinement, this practice must be duplicated in several provinces.

#### **Conclusion:**

Our visit to District Jail Kasur offered valuable insight into the daily realities of incarcerated women in Punjab, yet it also revealed deep limitations within both institutional frameworks and our own access as researchers. While the prison appeared to meet the formal standards of accommodation, nutrition, medical and vocational training, these surface-level provisions cannot be taken as evidence of a rehabilitative or rights-based environment. Much of what was observed reflected the continuation of paternalistic, disciplinary logics reminiscent of colonial governance, especially in attitudes towards prisoners' morality, rehabilitation potential and legal access.

A major limitation of this study was the surveilled nature of prisoner interviews, all of which were conducted in the presence of the Assistant Superintendent. The uniformity and restraint in prisoner responses suggests institutional pressure and fear, which must be acknowledged as a critical barrier to authentic data collection. Consequently, the voices most impacted remain only partially represented in this account.

the gap between policy and practice was most evident in the domain of legal aid, where several prisoners awaiting trial had not even met their assigned lawyers. While provincial frameworks exist for legal support, these appear to function more symbolically than substantively, with long delays and poor coordination.

In terms of rehabilitation, programs such as stitching, parlour work and religious education were available, but prisoners showed little engagement. This disengagement raises questions about the quality, voluntariness and perceived value of such training. Rather than being vehicles of empowerment, these activities may reinforce a narrative of passive occupation, contributing little to long-term integration.

Interestingly, generational divides were observed as well. Older prisoners expressed a longing for familial reconnection, whereas younger inmates were more reserved, detached or vague in articulating their desires post-release, these subtle differences point towards differentiated emotional needs and underscore the importance of individualized psychosocial support.

Overall, while the prison staff appeared cooperative and the physical infrastructure functioned, the systemic issues of power imbalance, limited inmate agency and procedural inefficiencies remain pressing. Reform efforts must go beyond formal compliance with rules and instead prioritize the lived experiences, autonomy and dignity of incarcerated women. Further research should aim to access prisoners' voices independently and expand the scope of inquiry beyond institutional narratives.

#### **Concluding Remarks:**

The prison regime, as present in Pakistan today, is the product of the utopic vision of the colonial administrators of the colony, married with the post-colonial undertaking of a newly independent state struggling to find its identity. Within this regime, women hold an extraordinary position as they are the affectees of both the colonial enterprise and the new age understanding of prison experiences.

In this essay, we have tried to discover the relationship of the experience of women in prisons with the colonial heritage of the prison system itself. We have further attempted to contextualize the post-colonial undertaking of the state in its treatment of women offenders by developing a cross-jurisdictional contract with other similar post-colonial states, such as India and Pakistan. Our research has sought to address the fundamental question of why the treatment of women differed from that of men, revealing deep-seated biases and systemic issues that persist to this day and how this affects the purported purpose of rehabilitation of offenders as propagated by the prison regime.

The findings of this research hold significant implications for future reforms. By understanding the historical roots of current practices, policymakers and advocates can better address the gender-specific challenges faced by female prisoners. This study illuminates the need for a more equitable and just penal system and paves the way for targeted interventions and policy changes that can dismantle inherited prejudices.

#### **Bibliography**

- Afzal, Qurat-ul-Ain. 2023. "The State of Female Prisoners in Pakistan." *Research Society of International Law*. <https://rsilpak.org/2023/the-state-of-female-prisoners-in-pakistan/>.
- Akhter, Tahsina. 2014. "Women Prisoners in Bangladesh: Some Sociological Insights for Reform." In *International Conference on Social Sciences and Humanities*. [https://www.ocerints.org/Socioint14\\_e-publication/papers/446.pdf](https://www.ocerints.org/Socioint14_e-publication/papers/446.pdf).
- Anagol, Padma. 2002. "The Emergence of the Female Criminal in India: Infanticide and Survival under the Raj." *History Workshop Journal* 53(1): 73–93. <https://doi.org/10.1093/hwj/53.1.73>.

- Anand, Shritu, Ritu Singh Meena, and Arun Kumar. 2023. "Rights of Women Prisoners: A Study." *International Journal of Law Management & Humanities* 6(1): 1459. <https://ijlmh.com/paper/rights-of-women-prisoners-a-study/>.
- Bahl, Shagun. 2017. "Prison Laws in India – The Forgotten Law." *iPleaders*. <https://blog.ipleaders.in/prison-laws-india/>.
- Beattie, J.M. 1986. "Punishment 1750–1800: The Emergence of Imprisonment." In *Crime and Courts in England, 1660–1800*, 520. Oxford: Oxford University Press.
- Biswas, Dolly. 2016. "Human Rights of Women Prisoners in India: A Critical Analysis." *Indian Journal of Law and Justice* 7(2): 140. <https://ir.nbu.ac.in/items/acf17d0d-c27e-4c53-8cc5-41e5d1276fde>.
- Blomberg, Thomas G., and Karol Lucken. 2000. *American Penology: A History of Control*. New York: Aldine de Gruyter.
- "Bill to Abolish Punishment of Public Whipping on Female Offenders." 1817. *House of Commons Parliamentary Papers*. <https://statutes.org.uk/site/the-statutes/nineteenth-century/1817-57-george-3-c-75-abolishing-public-whipping-of-women/>.
- Foucault, Michel. 1995. *Discipline and Punish: The Birth of the Prison*. Translated by Alan Sheridan. New York: Vintage Books. (Original work published 1975).
- Hamid, M. Abdul, and Hosneara Begum. 2018. "Education Training and Human Rights of the Prisoners in Bangladesh." *International Journal of Educational Studies* 1(2): 26–70. <https://ideas.repec.org/a/ajo/ijoest/v1y2018i2p26-70id19.html>.
- Justice Project Pakistan. 2022. "Fact Sheet: Women and Juveniles in Pakistan's Prisons." [https://jpp.org.pk/wp-content/uploads/2022/11/2022\\_JPP\\_Final\\_FACT\\_SHEET.pdf](https://jpp.org.pk/wp-content/uploads/2022/11/2022_JPP_Final_FACT_SHEET.pdf).
- Kasera, Pamini. 2020. "Rights of Women Prisoners in India." *SSRN Electronic Journal*. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3621467](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3621467).
- Lakshmi, A. Puvi. 2017. "Status of Women Prisoners in India." *Afro-Asian Journal of Anthropology and Social Policy* 8(1): 22–34.
- Lebacqz, Karen. 2014. "Redemptive Suffering Redeemed." In *Suffering and Bioethics*, 262–274. <https://doi.org/10.1093/acprof:oso/9780199926176.003.0013>.
- Martin, J. Wiener. 1990. *Reconstructing the Criminal*. Cambridge: Cambridge University Press.
- Mittal, Yatin, Himanshu Gupta, and L.L.M. Scholar. 1980. "Rights of Female Prisoners in India According to Prison Manuals: A Critical Analysis."
- The Ministry of Human Rights. 2021. *Plight of Women in Pakistan's Prisons*.
- Mouat. 1858. *Report on the Jails of the Lower Provinces (1857–1858)*.
- Nusrat, Monisa. 2023. "Women Prisoners' Right in Bangladesh: Laws, Flaws, and Realities." PhD diss., East West University.
- Rafter, Nicole Hahn. 1985. "Gender, Prisons and Prison History." *Social Science History* 9(3): 237–238.
- Rehman, Sanah Ehsan ur. 2017. "Women in Imprisonment: A Gender Sensitized Approach for Reform in Criminal Justice System of Pakistan." *Pakistan Law Review* 8: 137–164.
- Report of the India Committee on Prison Discipline. 1838. Baptist Mission Press, Bengal.
- Sen, Jahnavi. 2021. "'Buzz of a Mosquito... But With the Sound of Grief': The Lives of India's Women Prisoners." *The Wire*. <https://thewire.in/women/india-women-prisoners-rights>.
- Sen, Satadru. 2012. *Disciplined Natives: Race, Freedom and Confinement in Colonial India*. Delhi: Primus Books.
- Sen, Satadru. 2002. "The Female Jails of Colonial India." *The Indian Economic and Social History Review* 39(4): 417–438.
- Spierenburg, Pieter. 1995. "The Body and the State: Early Modern Europe." In *The Oxford History of the Prison: The Practice of Punishment in Western Society*, edited by Norval Morris and David J. Rothman. New York: Oxford University Press.
- Stokes, Eric. 1959. *The English Utilitarians and India*. Oxford: Oxford University Press.

Toma, Dilruba Akter. 2023. "Women Prisoner's Right to Health in Bangladesh from Human Rights Perspectives." *Jus Corpus Law Journal* 4: 809.

"A Collection of the Acts Passed by the Governor General of India in Council for the Year 1864." 1865. Calcutta: Military Orphan Press.

<https://catalog.hathitrust.org/Record/100627900>.

Knox, Andrea. 2002. "Female Criminality and Subversion in Early Modern Ireland." In *Crime, Gender, and Sexuality in Criminal Prosecutions*, edited by Louis A. Knafla. Greenwood Publishing Group. <https://archive.org/details/crimegendersexua0017unse>.