

Women Prison Inmates & Their Children at Bachha Barrack During Pandemic Covid 19

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Abstract:

In view of the successive directions issued by the Supreme Court (SC) in the recent landmark case of “Re inhuman conditions in 1382 Prison”² court has identified emerging trend of increasing number, vulnerable condition of women prison inmates and their children in prisons across India. “An estimated number of 1,320 children are living with the mother women prison inmates including under trials, convicts. “The number of women inmates in Indian prisons increased upto 11.3%, in a span of few years from 2011 to 2015, Roughly 1,817 children are found living in prisons with their mothers as on the year 2014 across different prison in the country”.³ The Parliamentary Standing Committee on Empowerment of Women (submitted its report on ‘Women in Detention and Access to Justice’ 2017⁴ reiterated the issues concerning women inmates and their children. In keeping with these, certain landmark legal, regulatory, judicial directives exist to safeguard the interest of women inmates and their children. However in Pandemic Covid 19, the condition of bachha barrack remains extremely vulnerable children of women inmates. Due to overcrowding, the covid 19 pandemic makes it difficult for covid safety protocols to be followed. The existing condition of diet, medicines, education of children remains suspended during pandemic Covid 19.

Keywords: Women Prison, Baccha Barrack, Covid 19, Women in detention, education of children

I. National Legal, Judicial Developments & International Convention on Women Inmates & their Children at Bachha Barrack in Prison:

The Constitution of India under Directive Principles of State Policy provides for “provision for maternity relief” and “to secure opportunities for healthy development of children provision for early childhood care and education to children below the age of six years”. In keeping with these constitutional directions, supreme court of India in *People's Union for Civil Liberties (PUCL) vs. Union of India*⁵, *Laxmi Mandal vs Deen Dayal Harinagar Hospital*⁶ has held that “motherhood and childhood are entitled to special care and assistance and all children providing for the right to nutrition and medical care of the newly born child including breastfeeding”.

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² WP Civil No. 406/ 2013 Order dated 27 March 2018.

³ India Spend Report, 17,000 Women In Prisons In 2014 available at <http://archive.indiaspend.com/making-sense-of-breaking-news/17000-women-in-prisons-in-2014-9-with-their-children-87661> (last visited 30.05.2022)

⁴ PARLIAMENT OF INDIA, LOK SABHACOMMITTEE ON EMPOWERMENT OF WOMENTHIRTEENTH REPORT

‘WOMEN IN DETENTION AND ACCESS TO JUSTICE’, (2017-2018) available at https://eparlib.nic.in/bitstream/123456789/783396/1/16_Empowerment_of_Women_13.pdf (last visited May 30, 2022).

⁵ W.P. (C) 8853/2008.

⁶ W.P. (C) Nos. 8853 of 2008 & 10700 of 2009.

The Prison Act 1894 provides provisions for health of prison inmates and hospital for prisoners. The Model Prison Manual 2016 provides a separate chapter on “Women prisons” including child birth in prison, pregnancy, duration of pregnancy, women personnel staff, crèche facilities and there is a separate chapters on “Welfare of the Children of the Women Prisoners”⁷. Besides, there is India’s international treaty obligation to child right after ratification of United Nation Child Right Convention (UNCRC) 1989⁸, there is directive on the state parties to ensure the enjoyment of the highest attainable standard of health for children with emphasis on primary health care.

The Indian judiciary in keeping with legislative provisions, treaty mandate has considered the vulnerable plight of women and children living in prison and their particular condition. In *R.D. Upadhaya vs. State of Andhra Pradesh and ors*⁹, Supreme Court (SC) dwelt on the plight of children living in prison with their mother and the court opined that “these children are languishing for none of their fault, but per force, have to stay in jail with their mothers; due to tender age or no one is available at home, in their absence to take care of them.” Accordingly, SC issued guidelines to the concerned prison authorities for children in jail for their legit entitlements as food, shelter, medical care, clothing, education and recreational other basic minimum facilities as a matter of right.

In *Re 1382 Inhuman Condition of Prison*.¹⁰ The SC constituted a committee headed by former SC Judge to look into and recommend measures for health, education, development of skills, rehabilitation and social reintegration of children of these women inmates.

At international level, United Nation Convention on Rights of Child (UNCRC), 1989, states that right of the child to enjoyment of highest attainable standard of health, facilities for treatment of illness and this imposes obligation on state to ensure that no child is deprived of his or her right of access to such health care services. The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), 2010¹¹ and The UN Standard minimum rules for treatment of prisoners (Mandela Rules), 2015¹² makes provision for a child to stay with his or her parent in prison based on the best interests of the child concerned. Failing these, there are many problems facing the women inmates and their children in prison.

II. Issues & Challenges against Women & their Children at Bachha Barrack:

I. Provision for Breast Feeding Facility: There is no breastfeeding kit as feeding bottle, nipple, thermos, towel, breast milk pump, sterilizer, hot water, breast milk feed substitutes for children in infancy stage of 0 – 5 years admitted in prison with their mother. During infancy breast milk is indispensable for growth development absence of same is detrimental to health, survival of child. Several women inmates may not lactate their babies who may not be in a condition to breast feed themselves for various reasons as cleft palette no breast milk feed substitute is available. Only such inmates well off, having

⁷ Press Information Bureau, Government of India, Ministry of Home Affairs, 21-January-2016 Union Home Minister approves New Prison Manual 2016 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=134687> (Last visited May 30, 2022)

⁸ Convention on the Rights of the Child, UN General Assembly resolution 44/25, 20 November 1989 (2 September 1990), Article 24, 1 available at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (Last visited May 30, 2022)

⁹ (2007)15 SCC 337

¹⁰ (WP Civil No. 406/ 2013) Order dated 25 September 2018.

¹¹ UN General Assembly, United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules): note / by the Secretariat, 6 October 2010, A/C.3/65/L.5, available at: <https://www.refworld.org/docid/4dcbb0ae2.html> (Last visited May 30, 2022).

¹² UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules): resolution / adopted by the General Assembly, 8 January 2016, A/RES/70/175, available at: <https://www.refworld.org/docid/5698a3a44.html> (Last visited May 30, 2022).

regularly family visitors secure breast milk feed substitutes or milk powder from their family visitors subject to permission from prison authorities. But women inmates deserted by their husbands or their families' migrants are deprived of same. There is no source to procure the same inside the prison.

The Model Prison Manual, 2016 refers to provisions for supplemental nutrients, adequate and timely food for breast-feeding mothers and in *R.D Upadhyay 1996* that "prison having bachha barrack should have child friendly support services in prison including scope for integrating breast milk feeding provisions to be provided by the prison authorities". The Ministry of Women and Child Development Government of India report Women in Prison – India, 2017 and United Nations Rules for treatment of women prisoners and non-custodial measures for women offenders also commonly called as Bangkok Rules 2011 directs qualified health practitioner to encourage Inmates for breastfeeding and their children.

India has maximum infant deaths in the world as per the Lancet study stating around 5.5 million infant deaths in the world every year, more than 750,000 children in India die before completing the first year of their lives. The lack of breast milk or breastfeeding for children in India accounts for a major reason for such rising number of infant death in India. To ensure supply of breast milk kit including breast feed milk substitutes or milk powder or towel, quib, thermos facilitate for breast feeding should be provided in prison.

ii. Provision for Lactation, Breast Milk Feed Substitute & Baby Food Supplements: There are special diet calorie intake under State Prison Manual, Rules. In prison children of all age groups are largely served same food as adults only with addition of milk, egg fruits served weekly not regularly. In prison there is lack of clean, filter drinking water, children are unable to digest hard boiled rice, chapatti which is served to adults leading to digestion problems, stomach pain for children. All India Jail Manual Committee, (Mulla Committee) 1957-1959 recommends separate diet accompanying women prisoners their children, special diets on religious festivals for children and national days and also for non-labouring and labouring prisoners, nursing women, provision for *clean* drinking water to be supplied to prisoners. The Ministry of Women and Child Development Government of India Report titled as Women in Prisons, 2017 Prison Authorities to supply special diet, fortified food and nutrient supplements provided to pregnant and lactating women as well as their children to improve the health of prison inmates. The Model Prison Manual 2003 recommends "prescribing the scale of diet for prisoners by state government with due consideration to classified needs, habits and modes of living of the prisoners and climatic conditions of the place.

iii. Prison Canteen: The existing Prison Canteen barely have any child suitable products as diapers, milk powder, breast milk feed substitutes, thermos, bottle rather prison canteen has all daily life style commodities, eatables, toiletries for the adult inmates. The eatables available in canteen including snacks are not readily consumable by the children in the age group of zero to six years. In *R.D. Upadhyay v. State of Andhra Pradesh*, Supreme Court directs prisons having bachha barrack including pregnant, mother women inmates, children in the stage of infancy a conducive conditions for facilitating child birth outside prison related infrastructure for well-being of children of women inmates. It is suggested prison should ensure availability of child specific provisions in canteen.

iv. Education & Recreation: It is found that not necessarily all prisons have school or balwadi located inside the prison premises. In the condition of school is dilapidated with these balwadi confined to one small room designated as balwadi with one or two teachers, these children are found sitting on maze in absence of bench and desk, there is dearth of timely distribution of school uniform, stationary , school books , no mid-day meal distribution in these prisons. The living in bachha barrack are within the age bracket of 2 to 6 years are taken to same balwadi but these children are not provided age appropriate

educational conditions are not available for children in the prisons. The medium of instruction in education in school is regional language. There is no distribution of writing notebooks, textbooks, and other stationery for the children. There is barely any playground, toys, recreational opportunities associated with these *bachhis* inside the prisons for these children. The toys are usually contributed by civil society organizations, some of these toys are found broken, old, rusted leading to cuts, injuries among the children.

The Model Prison Manual 2016 education and recreational opportunities. The Ministry of Women and Child Development Government of India Report on Women in Prison – India 2017, In *R.D. Upadhyay vs. State of Andhra Pradesh & Ors*, the SC directs the children of female prisoners living in the jails to be given proper education and recreational opportunities. Further, *In Re Inhuman Conditions in 1382 Prisons* recommends crèche and nursery school in every prison civil society and NGOs as well as other experts in prison. But these are not sufficiently complied.

III. Glaring inconsistencies with Prison Laws, Manuals on Bachha Barrack:

a. Lodging & Segregation arrangements in Bachha Barrack:

The Prison Act, Manual states that *bachha* barrack should not have mixing up of convicts and under trials, But in actual practice as seen in prisons, women under trials, convicts charged with prostitution, drugs and child related offences as kidnapping, abduction old age women convicts facing serious offences as murder are placed in *bachha* barrack due to issues of overcrowding of inmates in all prisons as strongly reinforced in the landmark PIL of *Re In Human Conditions on 1382 Prisons* where as per the Act, Manual these categories of inmates are to be separated and segregated. Thus the very underlying objective of the same is defeated in *bachha* barrack failing such segregation and separation hence clear violation of Prison Act and Manual.

b. No Strict compliance with Age directive in Bachha Barrack:

Following the Prison Act, the Prison Manual of different States set a prescribed minimum age limit beyond which the child may not be allowed to stay with the mother inside *Bachha* barrack in prison. This age limit is not uniform in all State's Prison Manuals and this largely varies from 4 years to 6 years across all States in India.

Under respective State Prison Manual, there are discretions for Superintendent of Prison to extend stay of child in prison with mother inmates beyond age limit specified in Manual but specific grounds for same are not mentioned. In practice such extension are granted on grounds of sickness or disability of child or loss of family members nor there is compulsion on these prison authorities to record reason in writing for exercise of such discretion.

In order to set a uniform permissible minimal age limit for a child to be allowed to stay with mother inside *Bachha* barrack in prison, in *R.D. Upadhyay vs. State of Andhra Pradesh & Ors*, the Supreme Court (SC) lays down the age of child to be allowed to stay upto 6 years for all prison across different states in India, though this is not necessarily given effect or implemented as yet. The State Prison Manuals have not been revised in keeping with this judicial decision. In line with the SC direction, the Model Prison Manual 2016 states that “a child up to 6 years of age shall be admitted to prison with his mother if no other arrangements, for keeping him with relatives or otherwise, can be made”. The medical officer shall determine the age of children not born in prison for the purpose of this provision.

Further the Model Prison Manual 2016 and The Ministry of Women and Child Development Government of India, Women in Prison – India, report 2017 states that “no child shall be admitted into or retained in prison if he has attained the age of 6 years”. The superintendent shall inform the directorate of social welfare about all children of that age for placing them in home run by the social welfare department. Such children shall be kept in protective custody until their mother is released or the child attains such an age as to be able to earn

his own livelihood". But in actual practice in most prisons in bachha barrack has child above 7 years of age. It is commonly contended by prison authorities that placement process of child with family member or institutional agency is faced with procedural constraints, delay and follow up on the same.

c. No separate screening, Form, Register, Record keeping on children's Health:

It is found across different prisons that on the admission of child with their mother in prison, there is no separate screening, record keeping in registers on the basic particulars of child as age, sex, weight, height, disability and state of health of children. Only the mother is subject to medical screening at the time of admission in prison and the health screening forms are maintained for the same as per rules laid down in Prison Manual. In absence of such preliminary health screening records, there is no scope for assessing status of health of child or otherwise. Supreme Court in *RD Upadhyay Vs State of Andhra Pradesh & Ors* directs for establishment of pediatric ward, regular medical examination by the Lady Medical Officer for each child to monitor their physical growth and records to be maintained. Though there are periodic paediatric visits and health camps by prison authorities, only records of women inmates are duly maintained not their children which is drawback against health of children.

d. Typical Health Problems & Absence of Paediatric Ward for children in Prison:

The children in bachha barrack are subject to typical health problems, risks arising out of lack of hygiene, sanitation, cleanliness in prison. There are commonly reported issues of rat movements, insects, snails and the children experiencing rat or insect bites. There is lack of hot water in barrack, many children are bathed, washed in cold water leading to fever, flu, and pneumonia among other health risks. The bachha barrack has iron bars and many of these are ever rusted. There is possibility for cuts, injuries. But there is no first aid kit in prison.

There are respiratory problems and skin itching, rashes, other problems as scabies due to overcrowding, high density of population, non-healthy hygienic habits practiced by inmates as lack of regular bath, wash, consumption of tobacco leading to health problems among children. There is absence of paediatric ward or paediatrician in the barrack.

The children in bachha barrack are not provided any separate sleeping space, bed, mattress, blanket towel in cotton for children. In bachha barrack there is only one sleeping mat for women, child and for keeping their belongings. Children are found sleeping on ground causing cold, cough, and body pain affecting health of child. In *R.D. Upadhyay vs. State of Andhra Pradesh & Ors*, SC directs "Children shall be regularly examined by the Lady Medical Officer to monitor their physical growth and shall also receive timely vaccination. The Model Prison Manual 2016 directs Children in prison shall be provided with adequate clothing suiting the local climatic requirements.

At international level, United Nations Rules for Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules) best interests of children". The United Nations Standard Minimum Rules for Treatment of Prisoners (Mandela Rules), 2015 directs "Child-specific health-care services.

e. Infrastructure & Staff for Bachha Barrack:

In prison there is lack of appropriate age specific and child friendly and conducive infrastructure as creche, balwadi for early education, paediatric ward for health diagnosis, playground for recreation of children in most of the prisons. There is acute shortage of appropriate staff both in gender, number in these prisons considering the increasing number of inmates. There is barely any mid wife or nurse or lady caretaker or attendant for bachha barrack, this is significant for day to day supervision, care, washing of child. While mother inmates may be busy in activities as cleaning barracks or wash, toilet other activities.

Supreme court in *R.D. Upadhyay vs. State of Andhra Pradesh & Ors* “that in the event of a woman prisoner falling ill, alternative arrangements for looking after any children falling under her care must be made by the jail staff.” This Court directs for child conductive environment, staff for prisons having bacha barrack.

IV. Contemporary Issues of Pandemic Covid 19 & Impact on the Women Prison Inmates and their children in Bachha Barrack:

During outbreak of Covid 19 Pandemic, the prisons had worst impact as prison have a huge overcrowding issue which exposes an alarming risk. This is most crucial for children who are in their infancy stage of 0 to 6 years who are languishing with their mother in bacha barrack in prisons. In June 2020, in Maharashtra, around 26 children, all between 0- 6 years of age, lodged with their mothers in district women’s prison in Mumbai. Around 20 women and five children have tested positive for Covid-19 in district women’s prison in Mumbai. These children in prison since the lockdown started have been moved to a separate ward with their parents by the prison authorities. In district women’s prison in Mumbai, there are total of 11 children in jail, there is an anganwadi outside the jail set up but owing to COVID-19 pandemic thus facility is suspended¹³. The Child Welfare Committee (CWC) took cognizance of this and CWC recommends for special arrangement to move both children and their mothers to a safer space on an urgent basis¹⁴.

V. Legal Regulations & Schemes for Women the Women Prison Inmates and their children in Bachha Barrack:

1. The Ministry of Home Affairs, Government of India, Prevention and Control of Covid-19 in Prisons and Correctional Homes¹⁵ –

- The Prison Authorities in consultation and coordination with State Health Authorities, may conduct early testing and detection of Covid-19 positive cases, timely isolation and treatment both at the point of entry in prison.
- The State Health Authorities in consultation with prison authorities need to devise a protocol on 'Managing Covid-19 positive prison inmates'.
- All newly admitted individuals should be thoroughly screened for fever and respiratory tract symptoms with particular attention to those with co-morbidities. Appropriate quarantine arrangements may be devised.

2. The Ministry of Home Affairs Government of India addressing mental health issues of inmates and staff in Prisons and Correctional facilities during Covid-19¹⁶.

- Incarcerated populations may face many vulnerabilities during the pandemic, including anxiety, stress, deprivation of support from families, concern about the wellbeing of their family members etc., which may impact their mental wellbeing. Mental health of prisoners is therefore an area of focus and concern.
- To start a dedicated helpline for prison staff to address their mental health issues and worries.

¹³The Hindu, Byculla prison’s anganwadi leads the way MUMBAI, MAY 16, 2022, available at <https://www.thehindu.com/news/cities/mumbai/byculla-prisons-anganwadi-leads-the-way/article65417342.ece>(last visited 31.05. 2022)

¹⁴The Wire, COVID-19: Maharashtra Women Prisons Hit Hard, Safety of Children a Prime Concern, 10/MAY/2020 available at <https://thewire.in/rights/women-jails-maharashtra-coronavirus-cases-rise-children>(last visited May 30, 2022)

¹⁵Government of India, Ministry of Home Affairs, Prevention and Control of Covid-19 in Prisons and Correctional Homes -in continuation of Advisories dated March 12, 2020 and May 2, 2020 available at https://www.mha.gov.in/sites/default/files/PreventionControl COVID19_22042021_0.pdf (last visited 31.05. 2022)

¹⁶ Government of India, Ministry of Home Affairs, addressing mental health issues of inmates and staff in Prisons and Correctional facilities during Covid-19, available at

- To conduct training programs on physical and mental health training programs to be conducted to equip the staff to handle their burnout and anxiety.
3. National Human Right Commission (NHRC) India: Advisory On The Rights Of Prisoners¹⁷
- The Prison Authorities to develop collaborations and protocols with local and specialist hospitals so that inmates and staff can quickly be provided appropriate testing and treatment.
 - Display visual representation of the symptoms of the contagion in various parts of the prison.
 - Filling up vacancies of medical officers and para-medical staff on a war footing. Sufficient stocks for medicines to be maintained in all prisons. All prisons must be provided with extra budget for medicine procurements.
- 4.—National Women’s Commission (NCW), Advisory/Recommendation to all States Director General and Inspector General of Prisons, ¹⁸
- Women under trials who are charged for non-bailable offences leading to a penalty of death or life imprisonment, if found guilty, needs to be processed for bail under proviso to the Section 437 (1) (ii) of Cr.Pc., which provides for special dispensation to women and children below the age of 16 years in the matter of grant of bail should be provided prompt legal action to get them released on bail with State Legal Services Authority (SLSA)/ District Legal Services Authority (DLSA) to decongest prison during pandemic covid 19.
 - Provisions for medical check-up and services of Psychologists, Psychiatrists, Psychiatric Social Worker, Gynaecologist, on visit basis in the prison itself.

VI. Important Judicial Directions on Women Prison Inmates and their children in Bachha Barrack: –

➤ *In Re Contagion of Covid 19 Virus in Prisons*¹⁹, 2020:

The Supreme Court of India (SC) held “issue of overcrowding of prisons is a matter of serious concern particularly in present context of pandemic of Corona Virus (COVID – 19) within the prisons is controlled under Article 21 of Constitution of India. SC directs that each State/Union Territory shall constitute a High Powered Committee to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. The SC states illustratively State/Union Territory could consider release of prisoners who have been convicted or are under trial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum. SC directed Director Generals of all Prisons and Departments of Social Welfare of all the States and Union Territories to explain immediate measures for medical assistance to prisoners in jail for protecting their health and redress health crisis arising out of Covid-19.

¹⁷National Human Rights Commission, IMPACT OF COVID-19 ON HUMAN RIGHTS & FUTURE RESPONSE: ADVISORY ON THE RIGHTS OF THE PRISONERS, 28th September 2020, available at https://nhrc.nic.in/sites/default/files/Advisory%20on%20the%20Rights%20of%20Prisoners%20and%20Police%20Personnel_0.pdf (last visited on June 1, 2022)

¹⁸ National Women’s Commission, advisory/recommendation to all States Director General and Inspector General of Prisons, 22nd April, 2020, available at http://ncw.nic.in/sites/default/files/NCW%20Recommendation%20to%20DG_IG%20of%20Prisons_0.pdf (last visited on)

¹⁹ Suo Moto Writ Petition (Civil) No.1/2020

- *In Guwahati v. The State of Assam and ors. PIL*²⁰, 2020, The Gauhati High Court constituted High Power Committee (HPC) directed prison authorities to identify list of female prisoners lodged with children under age of six to be forwarded by State Government to HPC for consideration of release under bail / parole during pandemic covid 19.
- *In Hight Court on its own Motion Vs State of Maharashtra & Ors, 2021*²¹ Bombay High Court took suo motu cognisance of rising number of Covid cases in Maharashtra prisons. In this, an *amicus curie* was appointed by Court enumerating measures taken by Maharashtra State Government including quarantine centres set up inside and outside prison premises, Schools run by district administrations taken over by Maharashtra State Government to accommodate prisoners infected by COVID-19.
- *In Mohammad Sohail Ahmad vs The State of Bihar*,²² 2022 Patna High Court directed for free legal aid to under trails specially women prisoners for availing bail so as to decongest prison and protect women inmates from Covid 19. Court directed appointment of psychiatric and physiotherapist and other adequate number of doctors as per sanction limit in various jails in the State of Bihar to prevent and control the pandemic situation for women prisons inmates.
- *In Smt. Kamla Kushwah vs The State Of M.P.*²³2020 Madhya Pradesh High Court held "the issue of overcrowding of prisons is a matter of serious concern particularly in pandemic of Corona Virus (COVID - 19). Under Article 21 of the Constitution of India, it is imperative for State to ensure that spread of Corona Virus within prisons is controlled. Under this, women as class of prison inmates are permitted as an illustrative category for release on bail subject to terms and conditions of bail bond order.
- *In Ranchhodbhai Sanjabhai Damor vs The State of Gujarat*²⁴, 2020, Gujarat High Court mentions measures taken by Jail authorities for safeguarding of women inmates in Gujarat State Government prisons including provision of separate jail for female inmates, identification of separate areas for isolation, wards at women's jail.
- *In Suomotu vs State Of Kerala, 2021*,²⁵ Kerala High Court referred to Ministry of Health and Family Welfare, Government of India, Operational Guidelines for COVID 19 vaccination provides for all vaccinations needed to be recorded in CoWIN software application with registering in CoWIN seeking a mobile number and an approved photo ID proof. This created difficulties in vaccinating prison inmates, who could not provide a mobile number/ID proof.²⁶ In response to this, Director General of Kerala Prisons and Correctional Services requested, Home Department to exempt prisoners from having to produce Adhaar Card or other

²⁰ Case No. : PIL (Suo Moto) 4/2020.

²¹ Suo moto Public Interest Litigation No. 1 of 2021.

²² Civil Writ Jurisdiction Case No. 19268 of 2021.

²³ M.Cr.C. No.15276/2020.

²⁴ CRIMINAL MISC.APPLICATION NO. 2 of 2018, IN R/CRIMINAL APPEAL NO. 1197 of 2018.

²⁵ WP(C) No.14340/2021.

²⁶ WP(C) No.14340/2021.

identity proofs, for permission to allow vaccination for all age groups of prisoners inside the Jails.

- In *Court on its own motion Vs. Union of India and others*²⁷, 2022, Punjab and Haryana High Court has constituted a High Power Committee to determine one of the criteria for release of convict and under trial prisoners is pregnant women for decongesting prison to check spread of Covid 19 pandemic.
- In *Reference (Suo Motu) vs The State Of Madhya Pradesh*²⁸, 2021, Madhya Pradesh High Court constituted High Powered Committee recommended for grant of parole of 60 days to the prisoners allowing female prisoners of 50 years and more, female prisoners with children aged about 6 years or less, pregnant female prisoners, female prisoners suffering from cancer among others, females who are either above 45 years, or pregnant, or lodged in jail with their minor children.

VII. Best Practices: State Sponsored Covid Vaccination in Correctional Institutions for Prison Inmates

- In *Suomotu vs State Of Kerala*, 2021²⁹ Kerala State Government around 13 Covid First Line Treatment Centres (CFLTC) for admitting newly remanded prisoners. Special vaccination drive is arranged specially for the prisoners in liaison with all District Collectors and District Medical Officers, local health authorities.”³⁰
- In *Lawyers Association, Guwahati v. State of Assam*³¹ Guwahati High Court directed that people working at Juvenile Justice Homes and Child Care Centres to be treated as frontline workers for the purpose of vaccination.
- In Bombay District Prison around 250 women Indian inmates, 10 foreign national women inmates were vaccinated against Covid 19.³²

Conclusion:

In view of the abovementioned issues, the condition of women inmates and their children are faced with challenges in terms of maintain adequate distance, quarantine facility, nutritious food for building immunity for children, suspension of anganwadi or schools in prison.

But the underlying issue is lack of clear policy on women prison inmates with emphasis on providing special consideration for such women inmates with children living in bacha barrack. Such women inmates ought to be given preferential and priority in release on bail, parole, vaccination. It is suggested that children with women inmates in bachha barrack deserve urgent safeguards following India's national international legal obligation for promoting best interest of child.

²⁷ CM-2-CWPIL-2022, CWP-PIL-77-2021 (O&M).

²⁸ WP-9320-2021.

²⁹ WP(C) No.14340/2021.

³⁰ WP(C) No.14340/2021.

³¹ Case No. : PIL/24/2020.

³² Times News Network , Covid-19: 3,500 inmates at Arthur Road, Byculla Women's jail , Jul 2, 2021, available at

http://timesofindia.indiatimes.com/articleshow/84075980.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (last visited June 1, 2022)