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‘IDENTITIES IN DANGER: THE SYSTEMIC CATEGORIZATION OF TRANSGENDER PERSONS IN CORRECTIVE FACILITIES IN INDIA’

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ABSTRACT

A significant question remains unsolved at the heart of the Indian criminal justice system, a question that requires us to confront the complexity and intricacies of the justice system. The rights and identities of transgender persons are disguised behind the high walls and steel bars of India's correctional facilities, trapped in a convoluted maze of systemic negligence, societal bias and stigmatization, legal ambiguity and the general lack of awareness in India. This research paper explores the intricate landscape of transgender rights in Indian correctional facilities. It looks into the systemic classification of transgender people and its impact on their identities and well-being. This study not only reveals the urgent need for policy changes, but it also highlights the resilience and tenacity of transgender persons experiencing obstacles in the Criminal system of India. It strives to advocate for a more inclusive, equitable, and compassionate approach to correctional practice in India.

KEY WORDS

INDIAN CORRECTIVE FACILITIES, STIGMATISATION, SYSTEMIC CATEGORIZATION, TRANSGENDERISM, TRANSGENDER INMATES

[I] INTRODUCTION

Usually, corrective facilities around the world contain a population who are generally cis-normative or heterosexual in nature, due to which transgender persons are extremely vulnerable in such a hostile environment. Authorities in corrective facilities frequently make placement

decisions based on pre-operative/non-operative status or legal gender recognition of the inmate who is admitted.

Vulnerability, trauma, and transphobic abuse are amplified in conditions of a corrective facility. Misgendering (deliberate usage of wrong gender, pronoun or name), assault by other inmates and higher staff (sexual coercion, criminal intimidation, battery, rape), restriction and denial of gender affirmative care and inadequate access to appropriate clothing based on gender and other goods are a variety of palpable instances of maltreatment by corrective facility officials¹. There is also a prolonged emotional, mental and psychological trauma undergone by trans persons in corrective facilities.

Therefore, this research paper examines the systemic categorization of trans people as prison inmates in the correctional facilities of India. It outlines the degree of bias and challenges faced, their existing legal protection and policies by making reference to various precedents, reports, foreign judgements and demographics. It also looks into the training and awareness of these correctional authorities in securing trans rights. The paper also highlights the shortcomings and towering vacuum faced by trans inmates in access to gender affirming care, special wards and medical facilities and the unfathomable impact of their incarceration on their identity and self-worth in India.

[1][a] LITERATURE REVIEW

Research Articles:

[1] Ghosh, A., Dhanuka, M., Bourothu, S., Fernandes, F. L., Singh, N., & Kumar, C, 'Lost Identity: Transgender Persons Inside Indian Prisons', 2020²

A report on the non-identification of transgender inmates in Indian correctional homes stated that due to non-identification in the data records of the prisons, transgender inmates face violence of all forms. Also, the inmates are segregated on the basis of their genitalia, ignoring the self-gender identity of the inmates.

¹ E. F., & Khin Khin, E. (2014). Fundamental Principles Inherent in the Comprehensive Care of Transgender Inmates. The Journal of the American Academy of Psychiatry and the Law

² Ghosh, A., Dhanuka, M., Bourothu, S., Fernandes, F. L., Singh, N., & Kumar, C. (2020). *Lost Identity: Transgender Persons Inside Indian Prisons*. Commonwealth Human Rights Initiative

[III] Ganesan, D., Dadoo, S., 'Confinement at the margins: Preliminary Notes on Transgender Prisoners in India', 2020³

Medical negligence on the part of the correctional home authorities is evident from the fact that data is not maintained in the system about transgender inmates and due to this, specific requirements and vulnerabilities of the inmates are not adequately addressed by India.

[III] Longo, C. 'Transgender Rights in Public Prisons', 2017⁴

Gender Dysphoria and proper procedures for gender dysphoria is another issue which is overlooked by correctional homes as has been documented in various papers. It is stated that many transgender inmates do not get diagnosed of gender dysphoria in the fear of being 'outed' through the survey. Survey results never reflect the actual number of inmates with gender dysphoria, which is concerning because only through the diagnosis, the Hormonal replacement treatment is provided to the inmates. If they fear being outed by the survey, they will never be medically diagnosed through a doctor, which the law mandates.

[IV] Routh, D., Abess, G. & Yoo, J. 'Transgender Inmates in Prisons: A Review of Applicable Statutes and Policies. International Journal of Offender Therapy and Comparative Criminology', 2015⁵

Diagnoses are frequently ignored and rejected due to the fact that the staff believe that such requests are frivolous and the inmates want such treatment for cosmetic purposes only.

[V] Simopoulos, E. F., & Khin Khin, E. (2014). Fundamental Principles Inherent in the Comprehensive Care of Transgender Inmates⁶

Gender Dysphoria is pathologizing to transgender inmates as it is considered to be a mental disorder and something which further stigmatizes an already vulnerable community in the correctional home. A plethora of transgender communities have called for a complete abolishment of this diagnosis.

³ NUJS Law Review. (2020). Confinement at the Margins: Preliminary Notes on Transgender Prisoners in India. 13 NUJS L. Rev. 508.)

⁴ Longo, C. 'Transgender Rights in Public Prisons', (2017), Siena College, Community Policy Institute

⁵ Routh, D., Abess, G., Makin, D., Stohr, M. K., Hemmens, C., & Yoo, J. 'Transgender Inmates in Prisons: A Review of Applicable Statutes and Policies. International Journal of Offender Therapy and Comparative Criminology', 2015, [International Journal of Offender Therapy and Comparative Criminology](#)

⁶ E. F., & Khin Khin, E. (2014). Fundamental Principles Inherent in the Comprehensive Care of Transgender Inmates. The Journal of the American Academy of Psychiatry and the Law

[I][b] HYPOTHESIS

Systematic categorization of transgender people in Indian correctional facilities, fueled by the lack of clear legal protections and policies tailored to their specific needs, contributes to a heightened risk of violence, discrimination, lack of privacy and violation of their fundamental rights, jeopardizing their identities and safety in correctional facilities.

[I][c] RESEARCH OBJECTIVE

- I. To examine the existing legal framework in India governing the treatment of transgender persons in corrective facilities and showcase their discrepancies.
- II. To identify the discriminatory practices and challenges faced by transgender inmates within correctional facilities.
- III. To explore the impact and repercussions of systemic categorization on the safety and mental well-being of transgender persons.
- IV. To propose recommendations for reform in the framework of correctional facilities.

[I][d] RESEARCH QUESTIONS

- I. How does India's existing legal framework address the rights and treatment of transgender persons in correctional facilities?
- II. What are some guidelines which the policymakers and drafters can use as a guiding light for future policies?
- III. What discriminatory practices and policies exist within the Indian Correctional facilities that compromise transperson identities?
- IV. How does institutional categorization and prejudicial practice effect the mental well-being of transgender inmates?

[I][e] RESEARCH METHODOLOGY

The Co-authors will carry on this paper using doctrinal legal methodology. For their primary sources of data, they will refer to the Court rulings and precedents such as *National Legal Services Authority of India [NALSA] v. Union of India* and key statutes such as the Transgender Persons (Protected if Rights) Act of 2019 and the Ministry of Home Affairs Circular 2020, with the utmost tenacity.

The paper will also rely on secondary sources of data, such as other supplemental statutes,

published government reports, demographic reports, online journals and articles. Additionally, the Co-authors will use critical methodology to examine the international standards for transgender inmates in prison such as the *Yogyakarta Principles* and the *Nelson Mandela Rules*.

[II] SCOPE OF TRANSGENDERISM

Before delving into the exegesis of the legal framework and bias faced by transgender persons, it becomes pertinent to define the basic and descriptive phases since adequacy of language is extremely essential for the effective management of transgender inmates, for it can have a direct impact on the dignity and bodily integrity of the inmates. An individual's *sex* is determined by biological traits such as chromosomes, genitalia, and gonads. *Gender* on the other hand, refers to the features and characteristics linked with sexual roles and is socially construed. *Gender Identity*⁷ indicates what an individual identifies as, irrespective of whether it is the same as assigned during birth⁸.

Transgender encompasses a group of people whose identities or lived experiences differ from those traditionally associated with sex at birth: those with intersex conditions; non-, pre-, and postoperative transgender people; feminine men and masculine women; cross-dressers; and people who live as a gender other than that assigned to them at birth. *Transsexual* refers to an individual who undergoes aesthetic and reconstructive operations, hormone therapy, or both, with the end objective of matching their sex to their internal gender identity⁹.

It becomes extremely difficult and convoluted if we were to surmise and verify as to how many people identify themselves as Transgender in the Indian correctional facilities, or worldwide. This variation exists since the cultural differences and the extent of stigmatization in one country, would not only affect one's behavioural expression but also their gender identity as a whole.

The prevalence in transgenderism ranged from 1:11,900 to 1:45,000 MTF persons and from 1:30,400 to 1:200,000 FTM individuals in ten studies ranging from eight different nations¹⁰.

⁷ Transgender inmates, identity, and detention: policy recommendations, Human Rights Watch. Human Rights Watch, New York, March 1, 2006, p.

⁸ Marcovitch H: Black's Medical Dictionary (ed 41). London: A&C Black, 2005

⁹ Special Information for Lesbian, Gay, Bisexual, and Transgender Prisoners, in A Jailhouse Lawyer's Manual (ed. 9), Columbia Human Rights Law Review. 2011; Columbia University Press; New York; pages 823–53

¹⁰ Transsexualism in Belgium: Prevalence and Demography, De Cuyper G, Van Hemelrijck M, Michel A, et al. 2007; Eur Psychiatry 22:137-41

Moreover, Transgender inmates endure a considerably increased risk of assault while detained, according to the Transgender Law Centre and the National Centre for Lesbian Rights.

[III] THE LEGAL FRAMEWORK OF TRANSGENDER PERSONS IN CORRECTIONAL FACILITIES

Historically, courts and legislators in India have been hesitant to establish legal safeguards for transgender persons. This could be because of the slow rate at which Indian society has evolved to embrace this frequently misconstrued biological and psychological phenomenon. The maturation of scientific research, de-stigmatization and passing altruistic policies which clarify these persisting ambiguities are some of the approaches to eliminate this societal bias.

After a decades-long crusade by gender and minority groups of India, the Supreme Court in the landmark case of *Navtej Johar v. Union of India*¹¹, which has been revered as an order correcting a historical wrong, read down Section 377 of the Indian Penal Code and decriminalized all sexual relations which are consensual in their very element.

In the watershed case of *National Legal Services Authority of India [NALSA] v. Union of India*,¹² the Apex Court recognized the Rights of people to self-identify their gender and declared that no medical examination or procedure shall act as a necessity for self-identification. This Court affirming their fundamental rights, asserted that this persistent non-recognition of transgender persons makes them 'extremely vulnerable to harassment, violence and sexual assault in public spaces, at home and in jail, also by police'. Despite it being under scrutiny by the Apex Court, the Transgender Persons (Protected if Rights) Act of 2019 states a two-step, self-identification method for gender identity, wherein a person can identify as 'transgender' by submitting an application to the District Magistrates of India. However, an unfortunate rider in this act is that it only permits the identification of 'female' or 'male' if one has had a Sex-Reassignment Surgery, which stands in stark contrast to the NALSA judgment.

Section 18 of the Transgender Persons (Protected if Rights) Act specifically offers protection to all inmates against any verbal, sexual, mental, physical, emotional and economic abuse by imposing a punishment for a term which can extend up to two years, but cannot be less than six months, accompanied by a fine.

¹¹ AIR 2018 SC 4321

¹² (2014) SCC 438

The landmark case of *Anamika v. State of Kerala*¹³ decided in 2022 reaffirmed and upheld the sanctity of transgender rights and legally recognized their right to self-identify their chosen gender.

There is no explicit legislation or policy in India that addresses the rights and protections of transgender persons in penal facilities. However, there are certain broader legal laws and principles that may provide some protection to transgender persons in correctional facilities such as the Indian Penal Code (IPC) and Code of Criminal Procedure (Cr.P.C) which does not concretely address or reference LGBTQ+ members, but it does provide legal protection to inmates against abuse, bias and violence in correctional facilities of India. The NALSA judgement also had a wider amplitude and a plethora of implications for the treatment of transgender persons in correctional facilities of India, after their legal recognition as a '*third gender*'.

Each State of India has a curated Prison Manual carefully curated for their state, in line with the Prison Act of 1894, which enumerates the general provisions relating to the treatment of inmates in correctional facilities. Despite it not explicitly mentioning transgender persons, a contextual interpretation can be made for the Prison Manual to apply to them as well, since it specifically deals with the administration and management techniques and methods of correctional facilities. The Indian National Human Rights Commission (NHRC)¹⁴ has also issued a set of provisions for the rights of inmates, highlighting their humane treatment, dignity and privacy, which would also be made binding on transgender inmates.

[IV] KEY PRINCIPLES TO BE FOLLOWED FOR PROTECTING RIGHTS OF TRANSGENDER INMATES

There are a few international standards which set out some minimum standards which need to be followed in corrective facilities, thereby providing some much-needed guidance which are of immense persuasive value to the various policy makers around the world. They are as follows-

¹³ WP(C) No. 24571 of 2022, decided on 29-07-2022

¹⁴ National Human Rights Commission, India (NHRC), (last accessed on the 17th of September, 2023), URL-
<https://nhrc.nic.in/>

[IV][A] The Yogyakarta Principles:

During 2007¹⁵, a set of guidelines and principles in application of international human rights on gender orientation and sexual identity was drafted by an International Panel for International human rights and Gender Identity. These were collectively referred to as the Yogyakarta Principles. These principles advocate for transgender rights protection in correctional facilities by emphasizing non-discrimination, gender identity recognition, safety, access to healthcare, staff training and privacy. Principles seven to 10, 33 and 35 delve deeply into the repercussions which are faced due to the uncalled stripping off of transgender liberty. In 2017, several additions were made vide the Yogyakarta Principles plus 10, which heavily dealt with the state's obligation in this entire discourse.

[IV][B] Nelson Mandela Rules of 2015¹⁶

The United Nations Standard Minimum Rules for the Treatment of Prisoners, popularly known as the Nelson Mandela Rules (named in reverence of Nelson Mandela) are a set of rules which advocate for the respectful treatment of inmates and the minimum standards to be followed. Rule 2 concretely lays down the principle of non-discrimination based on the subject of 'any other status' wherein the prison administrations should practice non-discrimination, access to healthcare, gender identity and adequate placement and accommodation for minority groups.

[IV][C] The National Centre for Transgender equity's concise guidelines of 2018

This revolves completely around the correctional officers and advocates which acts as a blueprint relating to the plight of transgender persons in correctional facilities. The pertinent issues which are addressed include the use of protective custody, medical care of transgender inmates, preserving their right to dignity and privacy, displacing targeted violence due to bias and prejudice, placement standards, sexual health and disease combatting methods and hormone therapy.

¹⁵ Principles of Yogyakarta (2007), one can find it at <https://yogyakartaprinciples.org/>. (Last accessed on September 17th, 2023); Furthermore, the Yogyakarta Principles Plus 10 were drafted in 2017, recognising the different and intersecting grounds of gender expression and sex characteristics. accessible at <https://yogyakartaprinciples.org/principles-en/yp10/> (Last accessed on September 17th, 2023).

¹⁶ Nelson Mandela Rules, 2015, Available at: <https://undocs.org/A/RES/70/175> (last accessed on the 18th of September, 2023)

[IV][D] The Framework for Preventive Monitoring by the Association for Prevention of Torture and the Penal Reform International

This was concretized in 2013 and it tried to cohesively document the various stages of vulnerabilities Transgender inmates in the Criminal Justice System continue to face. These stages included during police custody, interrogation, after arrest, search procedures and the privacy of transgender persons, their placement in correctional facilities during the different forms of detention, the abuse they face by the correctional officials, use of solitary confinement as a measure to protect them from other inmates, and the deep-rooted bias faced during various basic facilities such as education, medical health checkups, vocational training, etc. This framework also provides for the guidelines various nations can use in their policies and right these grievous wrongs against vulnerable people.

Unfortunately, despite there being a plethora of literature and developments internationally, the unfiltered reports and discussion on the grave vulnerabilities and violations faced by the transgender persons is little to none. Moreover, the National Crime Records Bureau's Prison Statistics of India, as reported and published in 2018, still use the male/female categorization to report data in correctional facilities¹⁷

[V] CHALLENGES FACED BY TRANSGENDER INMATES IN CORRECTIVE FACILITIES OF INDIA AND ITS IMPACT

Transgender inmates in India face a host of challenges which detrimentally effect their quality and humane character of life. One of the biggest issues faced by transgender inmates in India is the systemic categorisation of the inmates once they enter prison.

Outside the correctional facility, the transgender persons face a specific problem called Gender Dysphoria wherein the individuals have discomfort in the assigned sex at birth and the gender identity which they identify to as there might be incongruence between the two distinct characterisations. This gender dysphoria manifests itself in many forms and leads to depression, anxiety and emotional distress which usually has a significant and detrimental effect on an individual's emotional and mental wellbeing.

¹⁷ The Prison Statistics in India: URL- <http://ncrb.gov.in/StatPublications/PSI/Prison2018/PrisonStat2018.htm> (Last accessed on 17th of September, 2023)

Aside from Gender Dysphoria¹⁸, transgender persons in society also face a lot of social stigma and discrimination from the society due to their sex and gender. This is rooted in cultural and religious belief as many religions, such as the Abrahamic religions which generally consider only two genders, male and female. The society is also prejudiced against the transgender persons in general due to the stigma and stereotypes attributed to them throughout a person's lifetime, such as begging and prostitution.¹⁹

Due to such stereotypes and prejudices, transgender persons are isolated and alienated from society which leads to severe unemployment and poverty for the people of this category. This is because the society at large is hesitant to introduce this class of persons into the general discourse due to the stigma, stereotypes and prejudices attached to them which may lead to association and collective flagging by the community and society in general.²⁰

Aside the from the societal pressure and prejudice, transgender persons face a huge amount of abuse and stigma from their family and peers as they come out as transgenders or because of the fact they are transgenders. This is because of humiliation, abuse, strained relationships and reputation faced by the family and peer groups due to the stigma attached to the transgender individuals. One of biggest challenges faced by transgender persons in India is the legal documentation of their true gender identity due to the fact that many legal documents still do not recognise more than two genders which leads to categorisation of the transgender persons into either male or female which further leads to Gender Dysphoria and has a detrimental effect on emotional and mental health of the individual in question²¹.

While there are many challenges and problems for transgender persons outside the framework of the correctional home, when a transgender person became an inmate in India, they had to either be categorised into the "Male" or "Female" category which leads to wrongful categorisation of their gender identity the moment they enter the correctional home. This issue was recently addressed by the Government of India in 2020 through a Ministry of Home Affairs (MHA) Circular which mandated the implementation of the NALSA judgement and stated that

¹⁹ Ghosh, A., Dhanuka, M., Bourothu, S., Fernandes, F. L., Singh, N., & Kumar, C. (2020). Lost Identity: Transgender Persons Inside Indian Prisons. Commonwealth Human Rights Initiative

²⁰ E. F., & Khin Khin, E. (2014). Fundamental Principles Inherent in the Comprehensive Care of Transgender Inmates. The Journal of the American Academy of Psychiatry and the Law

²¹ Edney, R. (2004). To Keep Me Safe from Harm? Transgender Prisoners and the Experience of Imprisonment. Deakin Law Review

transgender inmates be recognised and be provided separate jail wards, toilets and doctors. Some of the many challenges and problems faced by transgender inmates in Indian correctional homes-

[V][A] Separate Jail wards

The MHA Circular is particularly relevant in this context as it addressed various problems of the transgender inmates in India, starting with different jail wards. Separate jail wards are necessary for transgender inmates and is a huge issue due to the fact that the transgender inmates are categorised into either male or female wards which presents a danger and additional stigma and discrimination to the transgender individual and the other inmates in the prison. There have many documented cases of sexual assault of either the transgender inmate or other inmates where such practice continues.²² Moreover, separate toilets supplement this notion of segregation between transgender inmates and other gender inmates.

[V][B] Systematic Categorisation

The correctional homes in India systematically categorised inmates into two genders before 2020, “Male” and “Female”. After the MHA Circular advised the need for confirmation to the standards established by the 2014 NALSA judgement, many correctional homes in India, especially the district level jails. Misgendering of transgender inmates remains the norm in many Indian correctional homes despite the MHA Circular, which might be resonating from the fact that the circular was only advisory in nature rather than executive. The lack of proper infrastructure for confirming gender identity or transition surgeries coupled with the systematic categorisation and discrimination against transgender inmates provide a proper recipe for disaster in Indian correctional home which led to many deaths and crimes happening against transgender inmates in correctional homes.²³

[V][C] Access to Healthcare

Special doctors for Transgenders are necessary as transgender persons face specific, unique circumstances, problems and illnesses which need to be diagnosed, treated and rehabilitated correctly and adequately. This includes hormone therapy and gender affirming surgeries which the prisons in India are generally not well-equipped of diagnosing and providing. Hormone

²² Ghosh, A., Dhanuka, M., Bourothu, S., Fernandes, F. L., Singh, N., & Kumar, C. (2020). Lost Identity: Transgender Persons Inside Indian Prisons. Commonwealth Human Rights Initiative

²³ NUJS Law Review. (2020). Confinement at the Margins: Preliminary Notes on Transgender Prisoners in India. 13 NUJS L. Rev. 508.

Replacement Therapy (HRT) is a treatment which the transgender persons perform in order to transition from their birth-assigned to real gender is absent across facilities in India due to the lack of awareness and sensitivity in this aspect. The lack of access to this particular facility has led to earth in many cases around the world and is a leading cause for physical, emotional, mental and psychological distress of transgender inmates around the world. Another important aspect of access to healthcare for transgender inmates are Gender Confirmation Surgeries (GCS) which are essentially Gender-Affirming Surgeries, help transgender individuals to conform to their gender and sex identity fully through physical transformation²⁴. This treatment is also rarely provided in Indian correctional homes due to lack of healthcare providers and budgetary constraints.

[V][D] Prejudice, Discrimination, Stigmatisation and Violence against Transgender Inmates

Transgender Inmates inside and outside of the correctional home framework face extreme levels of discrimination and stigmatisation due to the fact that they were born into the gender category of 'Transgender'. This prejudice and stigma seeps through the walls of the correctional home where the transgender inmates face stigma and discrimination from other inmates and correctional home authorities alike. Due to the previously discussed systematic categorisation, the transgender inmates are more at the risk of discrimination and violence due to the fact that they are from a different gender altogether which creates a sense of hostility coupled with fear in the minds of the inmates of the correctional home. This violence against transgender inmates from correctional home authorities and inmates alike, is rooted from the stigma and prejudice of the society against the Transgender Community in general. This violence and stigmatisation inside the correctional home leads to severe emotional and mental distress, coupled with the already physical nature of violence against the transgender inmates. Separate Jail Wards are a very positive step in the direction of excusing the transgender inmates from such violence and stigmatisation.

[V][E] Sensitivity Training-

Another important aspect that the MHA Circular addressed is the issue of the correctional home staff and having proper training on transgender rights, identity, issues and sensitivity. This leads to unfair and discriminatory treatment by the correctional home authorities, the fault of which cannot be attributed directly to them due to their lack of training. To bridge this gap, sensitivity

²⁴ Travis Wright Colopy, Setting Gender Identity Free: Expanding Treatment for Transsexual Inmates, 22 Health Matrix 227 (2012).

training in such institutions is an absolute must.

[VI] RECOMMENDATIONS

While there have been many reforms since independence, India's correctional home framework needs to become more inclusive and accepting of the rights and privileges of transgender persons in general. Some recommendations for reform in the correctional home framework in order to address the gap which exists in the recognition of rights of transgender inmates in India-

[VI][A] Need for development of effective and holistic policies

Develop comprehensive policies which address the issues and challenges faced by transgender persons- This is the need of the hour as there are no laws which directly address the problems aside from the Transgender Persons (Protection of Rights) Act, 2019 which itself is a flawed legislation many aspects such as inadequate and uneven implementation across India, limited scope of access to healthcare and ambiguity in the determination of rights and penalties. The need for a legislation which comprehensively addresses the rights, privileges and treatment of transgender persons and bridges the gaps and problems as mentioned cannot be negated and its effective, uniform and clear implementation is a must. Rather than purely advisory circulars such as the MHA Circular of 2020, the Government of India can come up with a more executive order in order ensure effective implementation of policies and judgements across India.

[VI][B] Training and Sensitisation of Correctional Home Officials

Correctional Home framework in India must be reformed to include mandatory sensitivity training for all officials, staffs and persons associated with the correctional homes in order to provide the transgender inmates a more humane experience in the correctional home²⁵. The individuals must be trained in proper handling and treatment of transgenders, holistic understanding of the transgender persons rights and liabilities and respect and compassion towards all cultures, communities, creeds and religions. Moreover, experts from the relevant field can be brought in to calculate the specialised knowledge of the rights, privileges, treatment and problems of the transgender community to the correctional home staff.

²⁵ NUJS Law Review. (2020). Confinement at the Margins: Preliminary Notes on Transgender Prisoners in India. 13 NUJS L. Rev. 508.

[VI][C] Improved Access to Healthcare

The framework of correctional homes in India must include Gender Affirming Care Protocols which include the standardisation of surgeries for gender affirmation such as the Hormone Replacement Therapy, Gender Confirmation Surgeries etc. which would provide a stage for transgender inmates to confirm to their gender identity and prevent discrimination and stigmatisation on them. Moreover, Healthcare professionals in correctional homes in India must include professionals who are specialised in handling transgender persons and have knowledge on their issues and challenges. Additionally, the provision of mental health services which are specially tailored towards transgender persons can help alleviate the mental, emotional and psychological stress and complications that transgender inmates go through

[VII] CONCLUSION

In conclusion, the rights and welfare of transgender inmates in Indian jails are a complicated and developing subject that needs everyone involved to give it their undivided attention, implement sweeping reforms, and maintain a constant level of dedication.²⁶ The experiences of transgender convicts inside the Indian criminal justice system expose a worrisome environment plagued by prejudice, violence, and structural impediments that prevent them from serving their sentences with dignity and safety.

The Transgender Persons (Protection of Rights) Act, 2019, was a turning point in recognising the identity and rights of transgender people. It paved the way for reform by recognising the need to address the unique difficulties encountered by transgender inmates. But as we have seen, the Act also has a number of flaws and ambiguities that call for immediate legislative changes and efficient execution. To truly protect the rights of transgender inmates in Indian prisons, it is imperative to prioritize the following actions:

- I. Legal Reforms
- II. Training and Sensitisation
- III. Improved Healthcare Access
- IV. Non- Discrimination
- V. Oversight and Accountability
- VI. Community Engagement

²⁶ Gehi, P.S., Arkles, G. Unraveling injustice: Race and class impact of medicaid exclusions of transition-related health care for transgender people. *Sex Res Soc Policy* 4, 7 (2007).

VII. Research and Data Collection

India can make significant progress towards fostering an inclusive and just criminal justice system that respects the rights and identities of all its citizens, regardless of their gender identity, by addressing these crucial areas and bridging the gap between the ideals of the law and the lived realities of transgender inmates. Although it will be difficult, the road to gaining full and equal rights for transgender persons in Indian corrective facilities will be in line with the values of justice, equality, and human dignity that are essential to any democratic society.

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