



BEHIND BARS, BEYOND RIGHTS: THE LEGACY OF SHEELA BARSE AND THE REBIRTH OF PRISON JUSTICE IN INDIA

AUTHOR – ADVAITH SRI KRISHNA DATTA MAMIDAN & KAMAL KUMAR MISHRA

STUDENTS AT SYMBIOSIS LAW SCHOOL NOIDA

BEST CITATION – ADVAITH SRI KRISHNA DATTA MAMIDAN & KAMAL KUMAR MISHRA, BEHIND BARS, BEYOND RIGHTS: THE LEGACY OF SHEELA BARSE AND THE REBIRTH OF PRISON JUSTICE IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (12) OF 2025, PG. 836-841, APIS – 3920 – 0001 & ISSN – 2583-2344

FACTS OF THE CASE

Barse had presented her investigation as a journalist and social activist in the national news when, she claimed, the difference in treatment meted out to women prisoners was alarming in India. In her investigations and interviews with women inmates in Bombay's Central Jail, she found that out of the fifteen women interviewed by her, five had suffered torture, both physical and psychological, at the hands of police officers. To her utter dismay, two of the foreign national detainees alleged that their counsel had fraudulently taken away their jewelry and money under the pretext of legal fees. On this scale of human rights violation,¹⁵⁷⁸ Sheela Barse decided to write to the Supreme Court of India, requesting that the Court take some action. The Supreme Court recognized the gravity of custodial violence against women and entertained her letter as a writ petition under Article 32. The Court then took suo motu cognizance of the matter, extending the inquiry regarding legal aid to undertrials, treatment of prisoners, and failure of the system in protecting the fundamental rights of the prisoners.

The Supreme Court then tasked the Director of the College of Social Work, Nirmala Niketan, Bombay, with conducting an independent investigation into the matter. The Director's report corroborating all the allegations further stated that¹⁵⁷⁹ the absence of legal representation for female inmates made their situation vulnerable to custodial abuses, forced confessions, and judicial indifference. The report further stated that many imprisoned lacked legal representation and prolonged detention to be the subjects of a defective justice system. Regarding the findings,¹⁵⁸⁰ the report drew attention to the failure of the District and Sessions Judges to conduct the regular prison inspections statutorily required. Also, there were no standard operating procedures for addressing complaints of custodial violence, leaving the inmates without any avenue for redress. Based on this very report, the Supreme Court issued notices to the State of Maharashtra and other authorities for their failure to protect the rights of female prisoners.

Considering that the abuse against women in custody was a widespread problem, the Court took cognizance of the case beyond the Bombay Central Jail and thus dealt with broader systemic failures in India's prison system. As such, this case became a landmark in providing free legal aid to indigent prisoners, implementation of human rights into jails, and laying down standards for the humane treatment of detainees. The case initiated future reforms to ensure that prisoners, especially women, would not be denied their constitutional rights.

¹⁵⁷⁸ Sheela Barse v State of Maharashtra (1983) 2 SCC 96, para 4

¹⁵⁷⁹ M H Hoskot v State of Maharashtra (1978) 3 SCC 544, para 11

¹⁵⁸⁰ Sunil Batra v Delhi Administration (1980) 3 SCC 488, para 17

ISSUES

The Supreme Court was ordered to decide the following principal legal matters in *Sheela Barse v. State of Maharashtra (1983)*:

1. Whether the custodial mistreatment of female prisoners violates ¹⁵⁸¹Article 21 of the Indian Constitution (Right to Life and Personal Liberty).
2. Whether state authorities have an obligation under ¹⁵⁸²Article 39A to provide legal aid to indigent prisoners.
3. Whether the absence of judicial oversight in prison administration amounts to a violation of prisoners' fundamental rights under ¹⁵⁸³Article 14.

PETITIONERS ARGUMENTS

Sheela Barse said that the brutal treatment of female prisoners is a violation of their fundamental rights under ¹⁵⁸⁴Articles 14, 21, and 39A of the Indian Constitution. She asserted that they retain their constitutional rights notwithstanding such custodial torture, arbitrary detention, and denial of legal aid. The petitioner stated that the condition of police violence, third-degree torture, forced confessions, and inhumane conditions in prison were themselves products of judicial negligence and state inaction. She asserted that many detainees faced denial of equality and fair trial simply because they lacked competent legal representation, which resulted in their prolonged detention without trial. She is also dismayed at the failure of the prison authorities in protecting the rights of inmates, especially in providing for the presence of female officers during the interrogation of females. She prayed to the Supreme Court for protecting female prisoners by instituting immediate measures such as an inspection of the prisons at regular intervals and ensuring prompt application of provisions of free legal aid to prevent further human rights violations.

¹⁵⁸¹ INDIA CONST. art. 21.

¹⁵⁸² INDIA CONST. art. 39A.

¹⁵⁸³ INDIA CONST. art. 14.

¹⁵⁸⁴ Constitution of India, art 21, 14 39A

Petitioner has also heavily depended upon the Supreme Court's landmark precedents that protect the constitutional guarantees of prisoners and impose the state the duty to treat detainees fairly. She also argued that the failure of the district and sessions judges to conduct routine jail inspections has aggravated the problems of human rights violations in prisons. She has further stated that the right to equality and fair trial under ¹⁵⁸⁵Article 14 is being violated as undertrial female prisoners are systematically denied access to legal representation. Furthermore, she pointed out that the fact that no lady police officer is present during interrogation makes women prisoners at risk of sexual and physical abuse, thus needing immediate judicial intervention. She further brought to the notice of the court the example of foreign detainees being cheated by their own legal representatives, evidencing the endemic nature of legal neglect in Indian prisons. She begged the Supreme Court to declare legal aid an enforceable right, to mandate judicial oversight of jails, and to enact gender-sensitive reforms that would keep female detainees from further exploitation.

Petitioner's reliance was also on landmark judgments of the Supreme Court which strengthen the constitutional protection available for prisoners and the state's obligation to ensure a fair treatment to detainees. She further argued that the failure of district and sessions judges to conduct routine inspections of jails had aggravated problems of human rights violations in prisons. She has claimed, moreover, that undertrial female prisoners are statutorily denied access to legal representation, thereby rendering ¹⁵⁸⁶Article 14 of the Constitution inoperative to the extent of denying equality and fair trial considerations. Furthermore, she argued that it is not possible to have interrogation conducted in the absence of lady police officers, as this puts women prisoners at risk of sexual and physical abuse and requires immediate intervention from the

¹⁵⁸⁵ INDIA CONST. art. 14.

¹⁵⁸⁶ *Id*

judiciary. She also drew attention to issues affecting foreign detainees who fall victims to cheating by their own legal representatives, which signifies the pervasive nature of legal neglect in Indian prisons. Legal aid should henceforth be perceived by the Supreme Court as a right that can be enforced, that judicial oversight is imposed on jails, and that gender-sensitive reforms are instituted so as to prevent further exploitation of female detainees.

Sheela Barse demanded sweeping reforms in the prison system to put an end to custodial violence through regular monitoring, to enforce the provisions of legal aid with the utmost rigor, and to conduct surprise inspections of prisons. She sought compensation for victims of custodial torture while emphasizing that prisoners cannot be legally abused as non-persons. She pointed out that the loss of basic rights for any prisoner undermines the rule of law, making Supreme Court intervention necessary in order to monitor that the prisons, law enforcement, and legal aid committees all abide by constitutional mandates. The petitioner insisted that judicial accountability and independent legal scrutiny are necessary to uphold the constitutional rights of female prisoners and to secure compliance with human rights standards within the criminal justice system.

RESPONDENT ARGUMENT

The Maharashtra government put up a spirited argument against the allegations of custodial violence and denial of legal aid by dubbing them exaggerated and unsubstantiated claims. The respondents stated that those specific prisoners had never made any complaints, and that the state had put in place sufficient safeguards to prevent such instances of human rights violations. According to the state, strong safeguards for the welfare and protection of prisoners already existed under laws like the Prisons Act of 1894 and the Criminal Procedure code. It asserted further that issues such as the internal administration of prisons and the conduct of the police are internal governance

issues, judicial oversight would interfere with enforcement of the law and prison administration. Moving on, the respondents argued that legal aid was certainly not a matter of enforceable right but a matter of policy left to the discretion of the state authorities. The argument is also made that the reforms in the prisons are in progress, and the police are within their rights.

The people questioned the idea of systemic failure in granting legal aid to female detainees and claimed that all imprisoned persons, who wanted to have access to legal aid, have legal assistance made available to them. According to them, the state has mechanisms in place, such as helplines or forums, to redress any allegations regarding custodial violence, and the petitioner has overstepped her jurisdiction by generalizing individual cases as a systemic problem. Apart from this, the government emphasized that the responsibilities for the inspection of prisons belonged to judicial officers, and any failure in carrying out inspections could not be fastened upon the state but dealt with judicial administration. The respondents also contended that it was not legally required to involve female police officers in interrogations and could argue that the state was not responsible for procedural arrangements made in criminal investigations. They also stated that prisoners can seek legal remedy through the existing channels available, without the need for Supreme Court intervention.

It was maintained by the State of Maharashtra before the Supreme Court that the petition should be dismissed, as the executive must maintain law and order. It was argued by respondents that there was no point for the judiciary to meddle in administrative authority's decisions, particularly regarding prisoners and law enforcement. Their counter to the petitioner's evidence was forthright; according to the respondents, the concerns now being raised were too trivial to justify a call from government policy plainly far more than adequate in responding to them. The petitioners

further contended that the procedures followed by the police, interrogation methods, and the manner in which legal aid was made available are all within the parameter of an existing legal framework, and any changes to that must be made through the legislature and not by way of judicial activism. Therefore, the state insists that to impose further restrictions on any level of mechanism set by the Supreme Court would practically impair state officials' authority to exercise on conduct matters.

ANALYSIS OF LAW

The Supreme Court examined the constitutional and statutory provisions related to prisoners' rights, custodial safeguards, and access to legal aid. The main question before the Court was whether, notwithstanding their incarceration, female prisoners retained their rights under ¹⁵⁸⁷Articles 14, ¹⁵⁸⁸21, and ¹⁵⁸⁹39A. The Court maintained that prisoners do not lose their fundamental rights upon incarceration, and the right to legal representation and humane treatment formed an inextricable part of Article 21 (Right to Life and Personal Liberty). The Court further observed that denying access to legal aid for female prisoners set up a discriminatory regime affecting their right to equality under Article 14. The Court went on to examine the role of judicial officers as well as prison authorities in ensuring legal representation and whether their default in upholding these rights could be asserted as a violation of constitution.

The Court invoked landmark judgments emphasizing prisoners' rights. In *M.H. Hoskot v. State of Maharashtra* in 1978, the Supreme Court held that legal aid is a fundamental aspect of a fair trial and is to be given to poor prisoners. Likewise, in ¹⁵⁹⁰*Sunil Batra v. Delhi Administration* in 1980, it held that prisoners are not to be subjected to arbitrary cruelty or denied access to justice. Further, it cited the case of ¹⁵⁹¹*Maneka*

Gandhi v. Union of India (1978), wherein ¹⁵⁹²Article 21 was held to include the right to live with dignity within the ambit of the right to life. The Court also analyzed ¹⁵⁹³Sections 303 and 304 of the CrPC that accord the right to legal representation and state-sponsored legal aid for indigent prisoners. The Court held that non-provision of legal aid to women detainees was a violation of these statutory provisions, thus heightening the need for an intervention by the court.

From this analysis, the Court found that prisoners, especially women detainees, must be provided legal aid and protected from custodial abuse. The State is under a constitutional obligation under ¹⁵⁹⁴Article 39A (Equal Justice and Free Legal Aid) to see that indigent prisoners can avail of lawyers. The Court also stated that the procedural safeguards to prevent torture, ill-treatment, and neglect of law must be adhered to by the police authorities with respect to detainees. The Court further stated that the judicial officers supervising prison administration must undertake regular inspections and that prison authorities shall be accountable for the violation of these fundamental rights. The ruling set a precedent for greater legal protection for prisoners and asserted that these prisoners' right to life and dignity is recognizable even in prison walls.

The Supreme Court declared that denial of legal aid and custodial violence upon women prisoners are violations of their most basic human rights under the Articles 14, 21, and 39A of the Indian Constitution. It stated that prisoners do not cease to be beneficiaries of constitutional rights even while they remain in incarceration. According to justice, the paramount right to representation could never be waived, and inhuman treatment had to be protected against. The Court elaborated that the state authorities were obliged to provide legal aid to indigent prisoners by law and the refusal to do so amounted to the denial of the

¹⁵⁸⁷ INDIA CONST. art. 14.

¹⁵⁸⁸ INDIA CONST. art. 21.

¹⁵⁸⁹ INDIA CONST. art. 39A.

¹⁵⁹⁰ *Sunil Batra v. Delhi Administration*, (1980) 3 SCC 488,

¹⁵⁹¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹⁵⁹² INDIA CONST. art. 21.

¹⁵⁹³ Section 304, 303 CrP

¹⁵⁹⁴ INDIA CONST. art. 39A.

right to equality and fair trial. Besides, alleged discrimination is gender-based since interrogation must have female officers present, and there should have been separate detention areas for women-prisoners-action in this regard must be taken on an urgent basis.

COURTS REASONING

The Court rejected the defence of Maharashtra, which asserted that the existing statutes already included sufficient safeguards and therefore the intervention by the court was unnecessary. The Court determined that state authorities were largely responsible for protecting the rights of female prisoners, condemning the abuse and inordinate stakes of detention without trial against them. The judgment decried the apparent lack of inspections of the jails with the district and sessions judges, which were adding to the absence of accountability and oversight. It asserted that similar exploitation of foreign detainees by their own legal representatives is symbolic of systemic neglect that demands immediate intervention. Legal aid availability, as held by the Court, is in no way simply the catering of a state policy, but is rather a constitutional right under Article 39A of the Constitution, which ought to be made available by all the authorities of the state including prisons and the legal aid committees.

In its last verdict, the Honorable Supreme Court directed a slew of orders that would bring cracked reform in prisons and would hold the judiciary accountable. The order was to the Inspector General of Prisons in Maharashtra for tight monitoring mechanisms and that prisoners should be informed of their right to legal aid at the time immediately after arrest. The State Legal Aid Board was also directed to assign lawyers for undertrial prisoners, women inmates, and the case of interrogation must be by policewomen only. It stated that any Prison official failing to obey these guidelines would be criminally liable. It reiterated that inmates are entitled to constitutional protection despite being under lock, and any fault in the protection

must be rectified in legal and institutional reform.

CONCLUSION

The judgment of the Supreme Court in ¹⁵⁹⁵Sheela Barse v. State of Maharashtra (1983) heralded a historic moment for the protection of the rights of prisoners; especially women in custody. This judgment reaffirmed that prisoners, although in custody, do not surrender their rights under ¹⁵⁹⁶Articles 14, ¹⁵⁹⁷21, and 39A. Access to legal aid, protection from custodial torture, and gender-specific reform of prisons became the hallmarks of this judgment by the court and initiated a reform process in prison administration and judicial oversight. The judgment held the state responsible for denial of legal representation and provision of humane conditions thereby setting precedent for following cases with issues of prisoner rights and custodial violence. The direction issued by the Court would thus not only subject prison administration to stricter scrutiny but also lay down mechanisms to legally protect undertrial prisoners against arbitrary treatment.

Such an example was the Supreme Court ruling of 1980 in the case of Khan vs. State. Custodial torture and the denial of access to legal aid remain important ongoing issues in the Indian prison system. Judgments show with clarity the procedural or systemic defects in law enforcement and prison administration, requiring a continuing oversight of the courts for legal reform. It has made it compulsory for law enforcement officers, prison officials, and the judicial authorities to act in unison to preserve the rights of detainees. It was seminal in developing the meaning of Article 21 to broaden its scope so that prisoners' rights are respected and made accessible to justice. The ruling further stressed compulsory legal aid services, which later impacted legislative policies as the Legal Services Authorities Act in 1987, as well as the Mental Healthcare Act of 2017.

¹⁵⁹⁵ Sheela Barse v State of Maharashtra (1983) 2 SCC 96

¹⁵⁹⁶ INDIA CONST. art. 14.

¹⁵⁹⁷ INDIA CONST. art. 21.



The Sheela Barse case remains a landmark decision in the fight against custodial violence and for the enforcement of prisoner rights. The judgment made it clear that legal aid is not a luxury; it is a necessity and no prisoner should be deprived of this right merely because he cannot afford it. The judgment also laid down standards for judicial accountability, requiring that prisons be inspected regularly and any violation of the rights of the detainee be condemned. The case is still acting as a guiding precedent for legal reforms in the administration of prisons, reiterating the fact that access to justice and humane treatment form a core part of India's justice delivery system.

