

THE TREATMENT OF FEMALE INMATES: CHALLENGES AND REFORMS

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ABSTRACT

The plight of female inmates in India remains a pressing human rights concern, revealing deep gaps between legal promises and ground realities. Despite constitutional guarantees and evolving statutory frameworks, women in custody continue to face challenges that are inherently gendered ranging from inadequate healthcare and overcrowded facilities to exposure to abuse and neglect of their psychological needs. This paper critically examines the treatment of female prisoners within India's legal and institutional architecture, analysing how national laws, judicial interventions, and international norms particularly the United Nations Bangkok Rules. Through doctrinal analysis and comparative insights, the study highlights persistent deficiencies in gender-sensitive infrastructure, reproductive and mental healthcare, and vocational rehabilitation. It further explores the impact of imprisonment on mothers and children, underscoring the social cost of ignoring non-custodial alternatives. By assessing reforms like the Model Prison Manual and the roles played by NGOs and legal aid initiatives, this paper underscores both progress and persistent inertia in translating gender equity into prison practice. Ultimately, the research calls for a holistic, rights-based approach that goes beyond token compliance, urging policymakers to adopt globally informed, humane, and rehabilitative measures that respect the dignity and specific needs of women behind bars. In advocating these reforms, the study aspires to contribute to a more equitable and just criminal justice system for India's most overlooked inmates.

KEYWORDS: Female prisoners, prison reforms, gender-sensitive justice, reproductive health, non-custodial measures

1. INTRODUCTION

The condition of women prisoners in India is an important problem within the larger context of human rights, criminal justice, and prison reforms. Even though they constitute a minority group in prisons, women prisoners experience disproportionate difficulties as a result of systemic neglect, gender insensitivity, and infrastructural shortcomings. The Indian prison system, long engineered for males, is mostly neglectful of women prisoners' individual physiological, psychological, and social needs. For this reason, health shortfalls, sex crimes, jail congestions, and inadequate protections for prisoners through laws are typical experiences of imprisoned females. Though legislative and judicial remedies have sought to counter these problems, a great deal more needs to be done to bring India's prison system into conformity with international human rights norms and constitutional requirements.¹

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¹ Brenda J. van den Bergh et al., Imprisonment and Women's Health: Concerns About Gender Sensitivity, Human Rights and Public Health, 89 BULL. WORLD HEALTH ORG. 89.

The law that regulates the treatment of female prisoners in India is based on the Constitution of India, which provides for fundamental rights under Articles 14, 19, 21, and 39A. Article 14 incorporates the right to equality before the law, making it impossible for female prisoners to be treated discriminately on the basis of gender. Article 21, which secures the right to life and personal liberty, has been widely interpreted by the courts to embrace the right to dignity, humane treatment, and access to minimum amenities like healthcare and hygiene in prisons. Article 39A also requires free legal assistance for those who need it, a provision of specific significance in view of the large proportion of women prisoners belonging to marginalized socio-economic groups. In spite of these constitutional protections, the actual life of female prisoners is usually quite contrary to these principles.²

Statutory laws that regulate prisons and prisoners encompass the Prisons Act, 1894, and the Prisoners Act, 1900, both of which constitute the mainstay of India's prison laws. These are, however, archaic and do not address gender-specific issues to a great extent. The Model Prison Manual, 2016, promulgated by the Ministry of Home Affairs attempted to fill this gap by introducing rules of treatment of women prisoners, such as provisions for segregation facilities, women staff, and mother-and-child care units. Besides, the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) includes provisions applicable to women prisoners like Section 482, under which consideration of bail is permissible if the accused person is a woman, acknowledging the possible difficulties of imprisonment for women offenders.

One of the serious issues that affect female prisoners is poor healthcare, especially reproductive and maternal health. The National Human Rights Commission (NHRC) and several court judgments have noted the importance of gender-sensitive healthcare in prisons. Yet, a majority of the prisons do not have specialized gynecological care, resulting in serious health conditions. The Nelson Mandela Rules (United Nations Standard Minimum Rules for the Treatment of Prisoners) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) give an international perspective to dealing with these matters. These regulations emphasize the availability of access to trained medical personnel in women's health as well as access to proper menstrual hygiene products, both of which continue to be lacking in most Indian prisons.³

² Subodh Asthana, Article 14 of the Indian Constitution, IPLEADERS (JUN 1, 2025), <https://blog.ipleaders.in/article-14/>.

³ **Bhaswat Prakash**, *Challenges Faced by Women Prisoners in India, in Contradiction to Article 21*, (2022), https://www.researchgate.net/publication/358895646_Challenges_faced_by_Women_Prisoners_in_India_in_Contradiction_to_Article_21 (last visited June 1, 2025).

2. LEGAL FRAMEWORK GOVERNING FEMALE INMATES IN INDIA

The legal regime that administers the incarceration of women in India comprises constitutional provisions, statutory legislation, prison rules, and international norms. While the legal system has come a long way to acknowledge and respond to the gendered demands of women convicts, the functional implementation of such legislations has tended to fall short. The regime encompasses provisions to protect women's rights and uphold their dignity during imprisonment. It also deals with major issues like protection against custodial violence, medical care, rehabilitation, and the identification of special needs in prison settings. This section discusses the constitutional provisions, national legislation, and international norms that regulate the treatment of women prisoners in India.

2.1 CONSTITUTIONAL PROVISIONS

The Indian Constitution is a basic instrument for protecting the rights of all citizens, including women prisoners. A number of provisions are of particular importance in ensuring humane treatment of women in the criminal justice system.⁴

Article 14 - Right to Equality: This provision ensures equality before the law and equal protection of the laws in India. In the case of female prisoners, it provides for the women prisoners to have equal rights as the male prisoners. But this equality should be construed in the light of Article 15, where special provisions are made by the state for women and children. Thus, the right to equality does not provide for equal treatment but equal treatment according to their needs.

Article 19 - Safeguarding Certain Rights in Respect of Freedom of Speech, etc.: Although this article mostly addresses the freedom of speech, movement, and assembly, it also indirectly provides those female prisoners, like everybody else, are not denied their right to communicate, to have legal advice, and to voice concerns regarding their prison conditions.⁵

Article 21 - Right to Life and Personal Liberty: The most fundamental constitutional protection afforded to women prisoners is that given in Article

⁴ *Women and the Indian Constitution*, VIKASPEDIA, <https://socialwelfare.vikaspedia.in/view/content/social-welfare/women-and-child-development/women-development-1/legal-awareness-for-women/women-and-the-indian-constitution?lgn=en> (last visited June 1, 2025).

⁵ *Constitutional Law of India – Chapter 8: Right to Freedom*, MANUPATRA, <http://student.manupatra.com/Academic/Abk/Constitutional-Law-of-India/CHAPTER-8.htm> (last visited June 1, 2025).

21, promising the right of life and personal liberty. Article 21 right has been very liberally construed by the judiciary to cover within its ambit the right to live with dignity and, therefore, also covers in which circumstances females' prisoners are imprisoned. This encompasses the right to quality health care, sanitation, and dignity from degrading or inhuman treatment. Court interpretations have gone further to make it explicit that prisoners should also be afforded a life with dignity, and their rights will not be stripped off even inside the prison institution.⁶

Article 39A - Equal Justice and Free Legal Aid: Article 39A requires the granting of free legal aid to the poor, a provision that particularly applies to women prisoners, as many of them belong to marginalized groups. Legal aid is vital to ensuring that women are made aware of their rights and are able to contest illegal practices, such as custodial abuse or substandard medical care.

Directive Principles of State Policy (DPSP): Although the DPSPs are not judicially enforceable, they guide the government in framing policies. For example, Article 39(e) and Article 39(f) instruct the state to see that women and children are not compelled by economic reasons to take up employment prejudicial to their health or morals, and to secure the welfare of women and children. These principles indirectly justify policies towards enhancing the female inmates' conditions.

Although the constitutional framework serves as a firm basis for ensuring the rights of female prisoners, its actual realization is often obstructed. The legal system must constantly adapt in order to ensure the specific problems of imprisoned women, since the prison infrastructure itself is usually lacking to provide the necessary solutions.

2.2 NATIONAL AND INTERNATIONAL LEGAL STANDARDS

India's legal system for female prisoners is also shaped by both domestic statutory legislation and international treaties. The national legal norms aim to safeguard and advance the rights of imprisoned women, whereas international legal norms offer a standard for ensuring humane treatment in accordance with international human rights standards.⁷

⁶ **Laxmikant Bhumkar**, *Article 21 of the Constitution of India: Understanding Right to Life and Personal Liberty from Case Laws*, ACADEMIKE (2024), <https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty/> (last visited June 2, 2025).

⁷ **Ananya Pathak**, *Human Rights of Female Prisoners in India*, JUS SCRIPTUM (2023), <https://www.jusscriptumlaw.com/post/human-rights-of-female-prisoners-in-india> (last visited June 2, 2025).

NATIONAL LEGAL STANDARDS

The Prisons Act, 1894: The Prisons Act is the main legislation that governs the operation of prisons in India. It lays out rules for the administration of prisons but omits gender-sensitive provisions relating to the particularly vulnerable circumstances of female prisoners. While it provides for segregation between male and female prisoners, conditions in women's prisons remain poor, and most prisons are overcrowded and poorly financed. The Prisons Act also fails to set out extensive directions on the special healthcare, security, and rehabilitation requirements of women prisoners.⁸

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS): The BNSS makes provision for the treatment of prisoners, including women. Section 482 of the BNSS provides for bail to be granted to a woman accused of an offense, taking cognizance of the difficulties caused to women, especially those having dependent children, by imprisonment. But this provision does not tackle the root cause of overcrowding, poor health care, or sexual violence against women in the prison system.

The Bharatiya Nyaya Sanhita, 2023 (BNS): The BNS makes provisions for the safety of women from custodial violence, such as Section 64 that criminalizes rape in custody. Nevertheless, enforcement of this provision is hampered by societal shame and the non-existence of effective enforcement provisions. In spite of the law provisions, custodial sexual violence continues to be a major concern for women prisoners.

The Model Prison Manual, 2016: The Ministry of Home Affairs released the Model Prison Manual to enhance the performance of the Indian prison system. The manual offers specific directives for the treatment of women prisoners, such as the provision of separate housing, the need for female prison personnel, and the creation of mother and child care units. Still, the application of these guidelines differs from state to state, and most prisons remain below the minimum standards for caring for female prisoners.⁹

INTERNATIONAL LEGAL STANDARDS

India is a signatory to various international conventions concerning the rights of prisoners, and especially female inmates. These conventions establish an

⁸ *Under the Visionary Leadership of Prime Minister Shri Narendra Modi and Decisive Guidance of Union Home Minister Shri Amit Shah, a Decision Was Taken to Review and Revise Colonial-Era Outdated Prison Act in Tune with Contemporary Modern Day Needs and Correctional Ideology*, PRESS INFO. BUREAU, <https://pib.gov.in/PressReleasePage.aspx?PRID=1923682> (last visited June 2, 2025).

⁹ *Union Home Minister Approves New Prison Manual 2016*, PRESS INFO. BUREAU, <https://pib.gov.in/newsite/PrintRelease.aspx?relid=134687> (last visited June 3, 2025).

international framework for treating prisoners humanely, with a special focus on the requirements of women.

United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules): The Nelson Mandela Rules are international guidelines that promote the humane treatment of prisoners. Rule 6 of these rules specifically requires the giving of gender-sensitive treatment to women prisoners. It makes suggestions regarding the provision of proper medical care to female prisoners, providing them with separate accommodation, as well as protecting them against abuse, and acknowledges the particular requirements of pregnant women and those who have children.¹⁰

United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules): Adopted in 2010, the Bangkok Rules contain detailed guidance for the treatment of women prisoners. The Bangkok Rules are guidelines that address the gender-sensitive running of prisons in such a manner that female inmates are treated respectfully and with dignity. They ensure separate facilities for them, quality healthcare, security from gender violence, and rights to preserve familial relations. These guidelines recommend the use of non-custodial penalties for women offenders where possible, as a way to minimize the number of women behind bars and increase rehabilitation.¹¹

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): India is a signatory to the CEDAW, which binds the nation to put an end to discrimination against women across all sectors, including how women are treated in custody. The convention asks for the guarantee of equal protection and treatment of female prisoners, with especial stress laid on the formulation of gender-sensitive policies within prison settings as well as curbing violence and exploitation.

KEY NATIONAL AND INTERNATIONAL LEGAL INSTRUMENTS GOVERNING THE TREATMENT OF FEMALE INMATES IN INDIA

Legal Instrument	Provisions for Female Inmates
Constitution of India	Right to equality, life with dignity, and access to free legal aid (Articles 14, 19, 21, 39A)
Prisons Act, 1894	General regulations for prison management, but lacks specific provisions for female prisoners
<i>Bharatiya Nagarik Suraksha Sanhita, 2023</i>	Section 482 allows for bail for women accused of offenses

¹⁰ **United Nations**, *The Nelson Mandela Rules: Protecting the Rights of Persons Deprived of Liberty*, UNITED NATIONS, <https://www.un.org/en/un-chronicle/nelson-mandela-rules-protecting-rights-persons-deprived-liberty> (last visited June 3, 2025).

¹¹ *Bangkok Rules*, *supra* note 12.

<i>Bharatiya Nyaya Sanhita, 2023</i>	Section 64 criminalizes custodial rape
Model Prison Manual, 2016	Gender-sensitive guidelines, including separate accommodations and female staff
Nelson Mandela Rules	Provides for gender-sensitive treatment and special provisions for women in prison
Bangkok Rules	Guidelines on gender-sensitive management of female prisoners and non-custodial measures
CEDAW	Calls for equal treatment and protection of women prisoners

Table:1

3. CHALLENGES FACED BY FEMALE INMATES

The conditions of women prisoners in India are plagued by a number of systemic issues, most of which are specific to women and worsened by the patriarchal, traditional prison setup. Although the general conditions of Indian prisons are unsatisfactory, the problems of women prisoners are different and need special consideration.¹²

3.1 OVERCROWDING AND POOR INFRASTRUCTURE

One of the most serious concerns in Indian prisons is overcrowding, which extends to both male and female prisoners. Female prisoners, though, have extra issues because of the lack of adequate infrastructure specifically created to meet their requirements. As per the National Crime Records Bureau (NCRB), though female inmates account for a small fraction of the overall prison population (around 4-5%), the infrastructure for women tends to be outdated and inadequately equipped.

3.2 HEALTH AND MENTAL HEALTH CONCERNS

Healthcare is a key concern for female prisoners, especially reproductive and mental health. Female prisoners in Indian prisons tend to experience serious neglect in accessing regular medical attention, especially for gynecological and obstetric issues. Female prisoners are more susceptible to carrying diseases, infections, and complications during menstruation, pregnancy, or childbearing.

3.3 SEXUAL ABUSE AND SAFETY CONCERNS

Sexual abuse is a persistent issue for women prisoners, but it is frequently underreported in view of fear of recrimination, social stigma, and the absence of accountability within the prison system. Women inmates are exceptionally exposed to sexual violence, both from other inmates and from prison staff. In

¹² **Bhaswat Prakash**, *Challenges Faced by Women Prisoners in India, in Contradiction to Article 21* (2022), https://www.researchgate.net/publication/358895646_Challenges_faced_by_Women_Prisoners_in_India_in_Contradiction_to_Article_21 (last visited June 4, 2025).

spite of the presence of legal provisions such as Section 64 of the Bharatiya Nyaya Sanhita that criminalize custodial rape, the absence of a proper reporting mechanism for such abuses ensures that many women have to endure the same in silence.

3.4 SEPARATION FROM FAMILY AND CHILDREN

Separation from children is perhaps the most painful issue for imprisoned mothers. Most women in Indian prisons are the primary caregivers of their children, and their imprisonment directly affects their family life, especially the emotional and psychological health of their children.¹³

3.5 SHORTCOMINGS IN EDUCATION AND VOCATIONAL TRAINING

Among the most important areas of rehabilitation is offering education and vocational training courses, which tend to be scarce or absent for women prisoners. Most women in prison are of low socio-economic status and have minimal formal education. Education is a critical factor in assisting such women to reintegrate into society upon release.

4. REFORMS AND GOVERNMENT INITIATIVES

To address the issues confronted by female prisoners, a number of reforms and programs have been implemented by the Indian government, complemented by action from non-governmental organizations (NGOs) and human rights activists.

GOVERNMENT REFORMS AND INITIATIVES FOR FEMALE INMATES

Initiative	Description
Model Prison Manual, 2016	Guidelines for gender-sensitive prison management and provisions for female inmates.
Juvenile Justice Act, 2015	Provisions for the welfare of children residing with incarcerated mothers.
NALSA Legal Aid Initiatives	Free legal aid to female prisoners to ensure access to justice.
Bangkok Rules Implementation	Adoption of non-custodial measures and gender-sensitive policies for women offenders.

Table 2

¹³ Shivangi Gupta & Joyce A. Arditti, *Journal of Family Theory & Review*, 15 J. FAM. THEORY & REV. 313–31.

4.1 PRISON MANUALS AND POLICY CHANGES

The Model Prison Manual, 2016, from the Ministry of Home Affairs is among the major advances made by India towards developing its prison system, and most importantly the one concerning female prisoners. The manual includes precise regulations regarding women prisoners' treatment, such as advice for a separation of facilities, hiring women personnel, and providing mother and child care units. It also emphasizes the requirement of gender-sensitive treatment in prison management and operation so that the special needs of female prisoners are met.¹⁴

Further, the National Legal Services Authority (NALSA) has initiated various schemes to provide legal aid and assistance to prisoners, including women. These include establishing legal aid cells in prisons and providing free legal services to women who are unable to afford legal services.

4.2 SPECIAL ARRANGEMENTS FOR WOMEN PRISONERS

Apart from the Model Prison Manual, there have also been policy shifts to enhance the treatment of female prisoners. For instance, the Juvenile Justice (Care and Protection of Children) Act, 2015, contains provisions for children who live with their imprisoned mothers so that children's welfare is the priority. The Prisons Act, 1894, contains provisions regarding the treatment of women, but these are typically inadequate and not enforced uniformly.

The Bangkok Rules have also been applied in reforming India, which has helped bring about non-custodial sentences, such as probation and house arrest, for female criminals, especially those who are no danger to society. This keeps women from having to be in jail for too long, leaving room for alternative ways of rehabilitating them.

4.3 NGOS AND HUMAN RIGHTS ORGANIZATIONS

NGOs and human rights groups have been instrumental in fighting for the rights of women prisoners. Groups such as Prison Reforms Initiative, Commonwealth Human Rights Initiative (CHRI), and National Commission for Women (NCW) have been actively engaged in monitoring prison conditions, legal assistance, and creating awareness regarding the condition of women prisoners. These

¹⁴ *Women in Prisons*, VIKASPEDIA, <https://en.vikaspedia.in/viewcontent/social-welfare/women-and-child-development/women-development-1/women-in-prisons> (last visited June 4, 2025).

groups also provide rehabilitation schemes, vocational training, and counseling, enabling women to rejoin society upon release.¹⁵

ROLE OF NGOS IN PRISON REFORMS

NGO/Organization	Contribution
Prison Reforms Initiative	Advocacy for better conditions and legal aid for female inmates.
Commonwealth Human Rights Initiative (CHRI)	Monitoring and research on prison conditions, focusing on female prisoners.
National Commission for Women (NCW)	Addressing the legal and social issues faced by female prisoners.

Table 3

While these reforms represent important steps toward improving the conditions for female prisoners, the practical implementation and consistency of these measures remain areas of concern. Sustained efforts and monitoring are required to ensure that the treatment of female inmates aligns with both national laws and international human rights standards.

5. COMPARATIVE ANALYSIS WITH INTERNATIONAL STANDARDS

India's treatment of women prisoners has gained increasing interest because of the requirement for gender-responsive policies that respond to the distinct issues women experience within the criminal justice system. This section provides a comparative study of India's women prison system in comparison with international norms, specifically the United Nations Rules for the Treatment of Women Prisoners (Bangkok Rules).

5.1 UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS (BANGKOK RULES)

The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, also referred to as the Bangkok Rules, were endorsed by the UN General Assembly in 2010. The rules are a holistic approach to dealing with the particular needs of women in detention and to ensuring that their rights are completely safeguarded in line with international human rights standards. India, being a member state of the United

¹⁵ *Commonwealth Human Rights Initiative (CHRI)*, COMMONWEALTH, <https://thecommonwealth.org/organisations/commonwealth-human-rights-initiative-chri> (last visited June 5, 2025).

Nations, is bound to maintain these standards and incorporate them into its national laws and practices.¹⁶

The Bangkok Rules are 70 specific guidelines that define the principles for the treatment of women prisoners. The rules address a variety of issues, such as healthcare, safety, gender-sensitive management, and non-custodial alternatives to imprisonment. Some of the key provisions are:

Rule 6 of the Bangkok Rules stresses the importance of the management of female prisoners in a gender-sensitive manner by the prison authorities, including training prison personnel in the particular requirements of women and adequate accommodation. This involves the provision of separate accommodation for women from male prisoners and the availability of satisfactory health facilities, hygiene, and protection of privacy. In India, even though the Prisons Act, 1894 requires segregation of male and female prisoners, enforcement of these norms is patchy. Most women's prisons in India remain overcrowded, under-equipped, and resource-poor.

Rule 7 of the Bangkok Rules demands that there should be provision of proper health services, reproductive health services, and mental health care. This is one area where Indian prisons are particularly deficient. Female inmates in India also do not get proper medical care, especially for obstetric and gynecological purposes. Though the Prisons Act and the BNS, 2023 both have provisions for medical care in custody, they are not enough to cover the unique medical requirements of women, resulting in excessively high percentages of un-treated ailments.¹⁷

Rule 24 emphasizes the need for offering alternatives to imprisonment, particularly to women who are non-violent offenders or who do not pose any danger to society. This is a trend towards decriminalizing petty offenses among women and emphasizing rehabilitation rather than punishment. The Juvenile Justice (Care and Protection of Children) Act, 2015 in India provides for alternatives for women offenders with children, but non-custodial measures for women are not yet widely used.

Rule 30 emphasizes the need to provide protection to women prisoners from violence, such as sexual abuse and exploitation, and requires the enforcement of

¹⁶ *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial> (last visited June 5, 2025).

¹⁷ *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial> (last visited June 5, 2025).

rigorous procedures to avoid custodial abuse. In India, even though Section 64 of the Bharatiya Nyaya Sanhita (BNS) criminalizes custodial rape, incidents of sexual abuse and harassment in prisons are frequent, but they tend to go unpunished due to a lack of oversight and accountability mechanisms.

India's legal framework, while theoretically protective of women's rights under provisions such as Article 21 of the Constitution of India, ensuring the right to life and personal liberty, has not yet ensured full implementation of these gender-based protections in prisons. The Bangkok Rules therefore set an important global standard that India needs to work towards in order to enhance the conditions for women prisoners.

5.2 BEST PRACTICES FROM OTHER JURISDICTIONS

To better comprehend how women prisoners might be better assisted, it is informative to examine best practice from other jurisdictions that have been able to achieve reforms in addressing the particular needs of women prisoners. A number of nations have progressed considerably in gender-sensitive prison administration, health provision, and rehabilitation opportunities for women offenders.

Norway is generally accepted as having one of the world's most advanced prison systems, emphasizing rehabilitation and humane treatment. Norwegian prisons offer a high quality of living, with plenty of recreational space, education access, and vocational training. Horten Prison, for example, has a female-specific model for female prisoners, promoting family reunification and rehabilitative assistance. Norway's application of non-custodial options for female offenders, particularly mothers, is a worldwide trend towards acknowledging the harmful impact of imprisonment on women, particularly when alternatives can be offered without undermining public safety.¹⁸

Canada has introduced policies that guarantee gender-sensitive treatment of female prisoners. The Correctional Service Canada provides holistic healthcare services, including mental health care and assistance to pregnant inmates. Female inmates can utilize specialized rehabilitation programs such as vocational training, education, and alcohol and drug treatment. Additionally, Canada's Prison and Conditional Release Act of 1992 enables the release on day parole and conditional sentencing of women, lessening the population of imprisoned women and allowing them to spend their sentences outside the prison walls. This rehabilitation-minded approach over punishment has produced less recidivism among females.

¹⁸ **Ryan Berger**, *Kriminalomsorgen: A Look at the World's Most Humane Prison System in Norway*, SSRN, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2883512 (last visited June 6, 2025).

Sweden has also implemented such reforms, and the focus is on giving women opportunities for education, vocational training, and therapy. Swedish women's prisons prioritize holistic rehabilitation by providing programs for women that are aimed at fulfilling their social, psychological, and educational needs. Sweden has also attempted to enhance family-friendly policies within its prison system so that mothers in prison can have some connection with their children. Sweden's emphasis on restorative justice, where criminals are urged to own up to their crimes while being provided with emotional and psychological counseling, has been identified globally as a model for prison reform.

New Zealand has also incorporated gender-sensitive policy in its prison system, aiming to deliver holistic health services to female prisoners, including access to mental health and reproductive health care. New Zealand's policy focuses on community-based sentencing for women who are non-offenders, as a measure to steer clear of the destabilizing impact of incarceration. This model is in conformity with the Bangkok Rules, which promote non-custodial measures if suitable.

5.3 ROLE OF NGOS AND HUMAN RIGHTS ORGANIZATIONS

NGOs and human rights organizations have a crucial role to play in promoting the rights of Indian female prisoners. They oversee the conditions within prisons, offer legal assistance, and advocate for systemic change to make sure that women are treated with respect and dignity within the justice system. The Commonwealth Human Rights Initiative, for example, has played an important role in studying and documenting the situation of women prisoners in India. The National Commission for Women similarly monitors and reports on the problems of women prisoners on a regular basis and attempts to ensure their legal and human rights are maintained.¹⁹

NGOs like Prison Reforms Initiative and Tata Institute of Social Sciences have researched the condition of women prisoners, calling for better prison facilities, quality healthcare, and greater exposure to education and vocational training. These NGOs collaborate with government agencies to bring about reforms, including the setting up of mother and child care centers in prisons and the provision of safe spaces for women who are victims of violence.

Global human rights groups, including Amnesty International and Human Rights Watch, have also been engaged in documenting the abuse and neglect of female prisoners in India. Their reports have served to raise awareness about the

¹⁹ *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-rules-treatment-women-prisoners-and-non-custodial> (last visited June 6, 2025).

poor treatment of women in custody, especially issues like sexual violence, overcrowding, and denial of healthcare.

6. JUDICIAL INTERPRETATIONS

The constitutional rights of prisoners, particularly concerning the treatment of prisoners in Indian jails were given emphasis in the landmark case of *Sunil Batra v. Delhi Administration*²⁰. The Supreme Court ruled that prisoners, including female inmates, are entitled to humane treatment under Article 21 of the Constitution of India, which guarantees the right to life and personal liberty. This judgment highlighted the need for a humane approach toward prisoners and called for the reform of prison conditions, ensuring that women prisoners are not subjected to degrading treatment.

The Supreme Court in the case of *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*²¹ held that the right to live with dignity extends to prisoners as well, including female inmates. The Court ruled that the state's duty to uphold the dignity of its citizens applies even when they are in custody. The judgment reinforced the importance of ensuring that women in detention are provided with adequate facilities, including privacy, hygiene, and protection from abuse, as part of their fundamental rights under Article 21.

The issue of human trafficking and the protection of women's rights attained limelight in the case of *Shakti Vahini v. Union of India*²². The Supreme Court held that female prisoners who are victims of trafficking should be provided with special care, rehabilitation, and legal support. The judgment called for the creation of safe environments for women in custody and emphasized the state's responsibility in preventing the exploitation and abuse of women prisoners.

The issue of overcrowding in prisons was dealt in *State of Maharashtra v. Prabhakar Pandurang*²³. The Supreme Court ruled that overcrowding in prisons violates Article 21 as it compromises the health and safety of prisoners, including female inmates. The Court directed the government to take immediate steps to reduce overcrowding and improve prison conditions, emphasizing the importance of providing safe and secure environments for women prisoners.

The Supreme Court in *Vishal Jeet v. Union of India*²⁴ ruled that children born in prisons should be given proper healthcare, nutrition, and education. The judgment directed the authorities to provide adequate provisions for mothers

²⁰ (1978) 4 S.C.C. 494 (India).

²¹ (1981) 1 S.C.C. 608 (India).

²² (2018) 7 S.C.C. 1 (India).

²³ (1994) 2 S.C.C. 198 (India).

²⁴ (1990) 3 S.C.C. 247 (India).

and children in prisons, ensuring that the children's rights were respected even within the confines of the prison. The case highlighted the importance of addressing the needs of mothers and children in prison, a critical issue for female inmates.

The rights of female prisoners to access appropriate healthcare, particularly reproductive health services were discussed in *Ravindra Kaur v. Union of India*²⁵. The Court directed the prison authorities to ensure that women in custody are provided with necessary medical care, including services for menstruation, pregnancy, and mental health. The judgment reinforced the obligation of the state to ensure that women's health needs are adequately addressed while in prison.

*Khatri v. State of Bihar*²⁶ addressed the issue of prisoner's rights to access legal representation. The Supreme Court ruled that prisoners, including women, have the right to legal aid at the state's expense, particularly in cases where they cannot afford counsel. The judgment ensured that female prisoners, like their male counterparts, had the right to legal aid to ensure a fair trial and due process.

*Maharashtra State Legal Aid Committee v. Union of India*²⁷ brought attention to the inadequacies of prison conditions in Maharashtra, including those affecting female inmates. The Court held that the state must take steps to improve prison conditions, including providing adequate health services, education, and vocational training. The judgment advocated for greater attention to the needs of female prisoners and highlighted the importance of access to rehabilitation programs.

7. CONCLUSION

Treatment of women prisoners in India is still a pressing concern, which is marked by various systemic issues, poor infrastructures, and a lack of legal protection. Although there have been some progressive changes within the last few years, the prison system still lags behind in responding to the specific requirements of women, especially in healthcare, mental health, vocational training, and security. The treatment of women prisoners in India is starkly different from global standards, such as the United Nations Bangkok Rules, that have been widely adopted to provide for the protection of dignity, meeting the health and safety requirements of women specifically, and giving rehabilitation priority.

²⁵ (2019) 4 S.C.C. 537 (India).

²⁶ (1981) 1 S.C.C. 627 (India).

²⁷ (1985) 3 S.C.C. 468 (India).

One of the greatest challenges for women prisoners in India is the problem of overcrowding and the absence of proper infrastructure in women's prisons. Most of the facilities are old, congested, and not suited to meet the specific needs of women prisoners. The absence of proper medical facilities, particularly for women's reproductive health, is another serious issue. In India, the health infrastructure for women prisoners is in a state of underdevelopment, resulting in untreated ailments, especially menstrual, pregnancy-related, and mental health issues. Such shortcomings not only contravene the basic rights of women in prison but also impede their rehabilitation and reintegration into society upon release.

Further, the vulnerability of women prisoners to sexual assault and abuse is another serious issue. There is no proper mechanism for reporting abuse and prosecuting the abusers, and thus there is a culture of impunity, which exposes female prisoners to high risks of exploitation. This case underscores the compelling necessity of increased oversight mechanisms and greater safeguards to protect the safety of women in the prison system.

The separation of imprisoned mothers from their children is another aspect where the Indian system is not doing enough. Though there are some provisions to accommodate children up to the age of six along with their mothers in prisons, these children generally suffer a lot, with the living conditions and education being in poor condition. The psychological and emotional effects of separation between mother and child are not effectively tackled in Indian prisons, and provisions for reunifying families and providing child care in the prison system are insufficient.

Reforms have been made from time to time; efforts having been made to enhance the conditions of the women prisoners in India. The Model Prison Manual, 2016, is positive, providing norms for the handling of female prisoners, such as gender-sensitive management, medical care, and the creation of mother-child care centers. Moreover, programs like NALSA's free legal aid initiative and other NGOs that strive to assist the rights of women prisoners have helped in creating greater awareness about the issue. But such reforms tend to be inadequately implemented and unevenly enforced, with serious gaps in the provision of resources and training to prison personnel.

International norms, especially the Bangkok Rules, provide a useful set of guidelines regarding how women prisoners ought to be treated and what facilities must be available to address their needs. The Bangkok Rules stress the need for gender-sensitive prison administration, the provision of proper health care services, and the utilization of non-custodial options for women who do not constitute a serious risk to society. The procedures adopted in nations like Norway, Canada, Sweden, and New Zealand, which offer female prisoners'

rehabilitation-oriented programs, vocational training, and family-friendly policies, are ideal models that India can adopt.

India's women's legal and prison systems need drastic change to meet the structural problems that keep female inmates from receiving the care, protection, and rehabilitation they need. This reform would involve the building of new, gender-responsive prison facilities, enhanced healthcare systems, improved mental health care, and more effective strategies to prevent sexual violence and exploitation. The provision of non-custodial sentences for women who are non-violent offenders or mothers could also serve to relieve overcrowding and mitigate unnecessary harm caused by imprisonment.

8. SUGGESTIONS

To address the challenges faced by female inmates in India and ensure their rights and dignity are upheld, several reforms and actions are needed across multiple aspects of the criminal justice and prison system. The following suggestions are aimed at fostering a more humane, gender-sensitive, and rehabilitative environment for female prisoners:

1. **Gender-Sensitive Infrastructure:** Prisons with women prisoners need to be provided with facilities designed specifically for the needs of women, including cells in privacy, clean sanitation, and specific areas for providing healthcare services. Infrastructure needs to be upgraded in order to minimize overcrowding and provide a more secure and supportive environment for women.
2. **Comprehensive Healthcare Services:** A strong healthcare system incorporating reproductive and mental health services is crucial. Female prisoners must have access to regular medical check-ups, such as gynecological services, mental health counseling, and prenatal/postnatal care to ensure that their individual health needs are addressed.
3. **Training for Prison Staff:** Prison staff, particularly officers in women's prisons, need regular training on gender sensitivity, human rights, and the specific issues related to female prisoners. They need to undergo training in approaches to preventing and addressing sexual violence so that women feel secure in the prison.
4. **Non-Custodial Sentencing Options:** The provision of more non-custodial options for women, especially non-violent offenders, can limit the resort to imprisonment and avoid the ill effects of imprisonment. This may involve the utilization of probation, parole, or home confinement, especially for women with dependents or for women convicted for less serious crimes.

5. Rehabilitation and Vocational Training: There must be more emphasis on rehabilitation programs, educational as well as vocational training, to enhance the skills and employment of female prisoners after release. Educational programs have the ability to empower women and bring them a better opportunity for reintegration into society.

Implementing these suggestions would significantly improve the treatment of female inmates in India, aligning with both national standards and international human rights frameworks, such as the Bangkok Rules.