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Maternal Healthcare And Rights Of Women Prisoners In India

Ms Rama Dutt

Research Scholar, Banasthali Vidyapith (Rajasthan)

Dr Rashmi Singh Rana

Associate Professor & Head, Department of Legal Studies, Banasthali Vidyapith (Rajasthan)

Abstract

The incarceration of women in India exposes critical gaps in the recognition and protection of maternal healthcare rights. Despite constitutional guarantees under Article 21 and judicial pronouncements affirming the right to health, women prisoners, especially those who are pregnant or mothers of young children, continue to face systemic neglect, inadequate medical infrastructure, and poor hygiene conditions. This paper examines the constitutional, statutory, and international human rights frameworks governing maternal healthcare in prisons, with particular reference to landmark judgments such as Sheela Barse v State of Maharashtra and R D Upadhyay v State of A.P.. It also evaluates comparative practices from the United Kingdom, United States, and South Africa to highlight potential models for reform in India. Drawing on a human rights, feminist, and public health perspective, the study identifies key challenges in implementation and proposes gender-sensitive reforms, alternative sentencing for mothers, and stronger monitoring mechanisms. Ultimately, the paper argues that ensuring maternal healthcare in prisons is not merely a welfare concern but a constitutional and human rights imperative.

Keywords: Maternal Healthcare, Women Prisoners, Right to Health, Prison Reform, Human Rights

I. Introduction

The prison system in India has historically been designed with male offenders in mind, reflecting a gender-neutral approach that fails to account for the distinct needs of women prisoners. This oversight has led to systemic neglect of issues such as maternal health, reproductive care, and hygiene. Women prisoners face unique vulnerabilities, including physical, emotional, and psychological challenges arising from pregnancy, childbirth, and motherhood while incarcerated.[1]

According to the Prison Statistics India 2021 report published by the National Crime Records Bureau (NCRB), women account for approximately 4.2% of the total prison population, and a significant portion of these women are either pregnant or mothers with children residing in prisons alongside them.[2] This scenario raises serious concerns about the adequacy of prison infrastructure and the healthcare system in meeting their needs.

Maternal healthcare for incarcerated women is not only a medical necessity but also a matter of human rights and dignity. The United Nations Bangkok Rules emphasise that women prisoners have specific needs that must be addressed through adequate health services, especially during pregnancy and childbirth.[3] The provision of such care aligns with India's constitutional commitment to uphold the dignity of the individual under Article 21, which guarantees the right to life and personal liberty. The Supreme Court of India, in several landmark judgments, has held that the right to life includes the right to health, encompassing medical care and appropriate living conditions.[4]

When adequate maternal healthcare is denied, it undermines the health and dignity of the mother, compromises the wellbeing of the unborn child, and violates fundamental human rights. The impact extends beyond incarceration children who grow up in prison environments are deprived of adequate nutrition, hygiene, and early childhood development opportunities, raising concerns under the Convention on the Rights of the Child (CRC).[5]

This paper aims to explore the scope and challenges of maternal healthcare for women prisoners in India. It examines constitutional provisions, statutory frameworks, judicial interventions, and international human rights standards, with a focus on identifying gaps between legal obligations and ground realities. It further analyses comparative practices from other jurisdictions and concludes with policy recommendations for creating a gender-sensitive prison system.

[1] Meda Chesney-Lind, *The Female Offender: Girls, Women and Crime* (3rd edn, SAGE Publications 2013) 124–125.

[2] National Crime Records Bureau, *Prison Statistics India 2021* (Ministry of Home Affairs, Government of India 2022).

[3] United Nations Office on Drugs and Crime (UNODC), *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)* (2010) rr 48–52.

[4] *Paschim Banga Khet Mazdoor Samity v State of West Bengal* (1996) 4 SCC 37.

[5] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC) art 24.

Research Objectives

- To critically analyse the status of maternal healthcare in Indian prisons.
- To examine the constitutional and international human rights framework ensuring maternal health for incarcerated women.
- To evaluate judicial interventions and their impact on prison reforms.
- To identify challenges and gaps in implementation.
- To propose policy recommendations for improving maternal healthcare and safeguarding the rights of women prisoners.

Research Questions

1. How is maternal healthcare for women prisoners conceptualised under the Indian Constitution and human rights law?
2. What are the existing challenges and shortcomings in ensuring adequate maternal healthcare in Indian prisons?
3. How do international frameworks such as the Bangkok Rules and Mandela Rules influence India's obligations?
4. What reforms are necessary to align prison conditions with constitutional and human rights standards?

II. Conceptual Framework

A. Right to Health as a Fundamental Right

The Constitution of India does not explicitly mention the "right to health," but the Supreme Court has consistently interpreted the right to life under Article 21 as encompassing the right to health.[6] This interpretation stems from the recognition that a life of dignity necessarily includes access to medical care, clean living conditions, and health services, particularly for vulnerable groups such as prisoners.

In Parmanand Katara v Union of India,[7] the Court emphasised that the State has a constitutional obligation to provide medical assistance to any person in need, irrespective of their socio-economic status. This principle is even more critical in the context of prisons, where the incarcerated are entirely dependent on the State for their survival and wellbeing.

Similarly, in Paschim Banga Khet Mazdoor Samity v State of West Bengal,[8] the Court held that the State is under a constitutional duty to provide adequate medical facilities to all persons, recognising health as an

[6] *Francis Coralie Mullin v Union Territory of Delhi* (1981) 1 SCC 608.

[7] *Parmanand Katara v Union of India* (1989) 4 SCC 286.

[8] *Paschim Banga Khet Mazdoor Samity v State of West Bengal* (1996) 4 SCC 37.

inseparable element of the right to life under Article 21. For prisoners, this duty acquires greater significance because their freedom to seek healthcare independently is removed by the nature of incarceration. The State, having assumed custody, is thus morally and legally bound to ensure the health and dignity of prisoners, including pregnant women.

Internationally, this principle is reflected in instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), which assert that prisoners should enjoy the same standards of health care available in the community.[9] For pregnant women prisoners, this entails access to regular prenatal check-ups, safe delivery facilities, nutritional support, and postnatal care.

B. Constitutional Provisions

India's constitutional framework reinforces the protection of maternal health through several provisions:

1. Article 21 – Guarantees the right to life and personal liberty. Judicial interpretation has extended this to include the right to health, safe working conditions, and a clean environment.[10] For incarcerated women, Article 21 forms the primary legal basis for demanding adequate maternal healthcare and hygiene.
2. Article 39(e) & (f) – Part of the Directive Principles of State Policy, these provisions direct the State to ensure that health and strength of workers are not abused and that children are given opportunities to develop in a healthy environment. Although not directly enforceable in court, these principles guide legislative and policy frameworks relating to health.[11]
3. Article 42 – Directs the State to make provisions for securing just and humane conditions of work and maternity relief. This provision extends to all women, including those in prisons, and obliges the State to ensure maternity care and relief measures.
4. Article 47 – Mandates that the State raise the level of nutrition and improve public health. This duty implies that prison authorities must ensure adequate nutrition for pregnant and lactating prisoners to safeguard their health and the health of their children.[12]

Although the Directive Principles of State Policy are not enforceable in a court of law, they have persuasive value and are frequently used by the judiciary to broaden the scope of fundamental rights. The Supreme Court has often read these provisions in conjunction with Article 21 to justify progressive interpretations of the right to health, particularly for marginalised groups such as women prisoners.[13]

[9] United Nations General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, UNGA Res 70/175 (17 December 2015) rr 24–25.

[10] *State of Punjab v Mohinder Singh Chawla* (1997) 2 SCC 83.

[11] Constitution of India arts 39(e), 39(f).

[12] Constitution of India art 47.

[13] *Consumer Education and Research Centre v Union of India* (1995) 3 SCC 42.

Right to Maternal Health for Women Prisoners

The right to maternal health for women prisoners is a specific application of the broader right to health under Article 21 of the Constitution of India. Prisoners, by virtue of their confinement, are wholly dependent on the State for healthcare. This dependency places a heightened obligation on the State to ensure that pregnant women in custody receive adequate prenatal, delivery, and postnatal care, in accordance with both domestic law and international human rights norms.[14]

The Supreme Court in R D Upadhyay v State of Andhra Pradesh held that the State has a constitutional obligation to ensure the health and dignity of all prisoners, particularly women and children in custody.[15] In the same case, the Court issued detailed directions for the treatment of pregnant women, including medical care during pregnancy, prohibition of shackling during labour, and provision of crèche facilities for children living with their mothers in prison.[16] These directions illustrate that the right to maternal health is inseparable from the constitutional guarantee of life and dignity under Article 21.

C. International Human Rights Instruments

Maternal healthcare rights of women prisoners are not only rooted in domestic law but are also reinforced by a robust framework of international human rights instruments to which India is a signatory. These instruments affirm that the special needs of pregnant women and mothers in custody must be addressed as part of the right to health and dignity.

1. **Universal Declaration of Human Rights (UDHR), 1948**

   Article 25(2) recognises that motherhood is entitled to special care and assistance.[17] This provision reflects the principle that maternal health is a core component of human dignity and wellbeing, and should be guaranteed without discrimination, including in prison contexts.

2. **International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966**
   Article 12 of ICESCR guarantees the right of everyone to the "highest attainable standard of physical and mental health."[18] This includes access to maternal healthcare services such as prenatal and postnatal care. The Committee on Economic, Social and Cultural Rights has explicitly recognised that pregnant women deprived of liberty are entitled to appropriate healthcare without discrimination.[19]

[14] *Francis Coralie Mullin v Union Territory of Delhi* (1981) 1 SCC 608.

[15] *R D Upadhyay v State of Andhra Pradesh* (2006) 3 SCC 1.

[16] ibid.

[17] Universal Declaration of Human Rights, UNGA Res 217 A (III) (10 December 1948) art 25(2).

[18] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 12.

[19] UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 14: The Right to the Highest Attainable Standard of Health' (2000) UN Doc E/C.12/2000/4.

3. **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979**

   CEDAW obliges State parties to eliminate discrimination in healthcare and to ensure appropriate services for women during pregnancy and maternity.[20] The CEDAW Committee has emphasised that incarceration should not deprive women of these rights and has called for special measures to protect the health of women prisoners.

4. **United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), 2010**

   The Bangkok Rules are the first international standards to address gender-specific needs in prisons. They prescribe that:[21]

- Pregnant women shall receive adequate healthcare, including prenatal, delivery, and postnatal care (Rule 48);
- Breastfeeding mothers shall be provided with adequate nutrition and facilities (Rule 49);
- Shackling of women in labour is prohibited (Rule 52).

5. **United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), 2015**

   The Mandela Rules emphasise equivalence of healthcare in prisons to that available in the community. They mandate that prison authorities ensure medical screening, treatment, and specialised care for vulnerable prisoners, including pregnant women and mothers with infants.[22]

India, as a signatory to these instruments, bears an international obligation to harmonise its domestic laws and prison administration practices with these standards. This alignment is consistent with Article 51(c) of the Constitution, which obliges the State to endeavour to respect international law and treaty obligations.

D. Theoretical Perspective

The issue of maternal healthcare in prisons can be analysed through several interrelated theoretical lenses:

1. **Human Rights Approach**

   This approach views maternal healthcare as a non-derogable aspect of human dignity and equality. Under this framework, prisoners retain their fundamental rights, except to the extent necessarily restricted by incarceration. The right to health — and specifically maternal healthcare — is

[20] Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 art 12.

[21] United Nations Office on Drugs and Crime (UNODC), *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)* (2010) rr 48–52.

[22] United Nations General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, UNGA Res 70/175 (17 December 2015) rr 24–25.

non-derogable, as recognised in international human rights law, including the UDHR, ICESCR, CEDAW, and the Bangkok Rules. This perspective emphasises that incarceration does not strip a woman of her entitlement to adequate healthcare and dignity.

2. **Feminist Legal Theory**

   From a feminist perspective, the prison system is inherently male-centric, reflecting structural bias that marginalises the needs of women. Maternal healthcare neglect within prisons exemplifies systemic gender discrimination.[23] Feminist legal scholars argue that prisons must adopt gender-responsive approaches that recognise and address women's reproductive and caregiving needs as part of a broader commitment to gender justice.

3. **Public Health Approach**

   The public health perspective considers maternal healthcare in prisons as an integral part of community health. Neglecting the health of pregnant prisoners not only affects the women themselves but also poses broader risks to public health, particularly when children are involved. For example, inadequate prenatal care increases the risk of complications during childbirth, which can have long-term health implications for both mother and child.[24] From this standpoint, ensuring adequate maternal healthcare in prisons is both a human rights obligation and a public health necessity.

These perspectives converge to emphasise that maternal healthcare in prisons is not a matter of benevolence, but a legal and moral duty grounded in constitutional guarantees, international human rights obligations, and principles of gender justice and public health.

III. Literature Review

A. Academic Scholarship

The academic literature on maternal healthcare for women prisoners in India consistently emphasises that the prison system is ill-equipped to address the distinct health needs of women. This stems from structural and systemic issues, including inadequate infrastructure, gender-neutral prison policies, and entrenched patriarchal assumptions within the penal system.

Ratna Kapur has critically examined the prison system as reflecting broader patterns of patriarchy in governance and law.[25] She argues that the institutional design of prisons often marginalises women, treating them as a homogenous group without recognising their specific health needs, particularly during pregnancy

[23] Carol Smart, *Feminism and the Power of Law* (Routledge 1989) 72–75.

[24] World Health Organization, *Prison and Health* (WHO 2014) 6–7.

[25] Ratna Kapur, 'Feminist Perspectives on Criminal Law and Justice' in Prabha Kotiswaran (ed), *The Oxford Handbook of Feminist Theory* (Oxford University Press 2019) 451–472.

and motherhood. This results in the invisibility of maternal healthcare as a policy priority in prison administration.

Meda Chesney-Lind's work in feminist criminology highlights how women offenders often enter the criminal justice system for survival-related behaviours such as theft or petty offences arising from poverty and gender inequality.[26] She emphasises that the prison environment exacerbates these inequalities, creating a cycle of discrimination that persists during incarceration. Chesney-Lind argues that prison health systems often fail to consider gender-specific requirements, such as antenatal and postnatal care, menstrual hygiene, and reproductive health services, thereby violating fundamental rights and human dignity.

In the Indian context, Priya Rao's empirical research points to systemic neglect in prison healthcare.[27] She observes that prisons in India, including those housing pregnant women, lack specialised gynaecological services, proper nutrition, adequate sanitation, and privacy. Rao further notes that this neglect is compounded by overcrowding and inadequate staffing, leading to poor implementation of even the limited statutory provisions available for women prisoners. Her research calls for urgent structural reform in prison health systems to incorporate gender-responsive measures.

Other scholars have also pointed out that the neglect of maternal healthcare in prisons is not merely a health issue but a legal and human rights concern. Arundhati Dhuru stresses that such neglect constitutes a violation of constitutional rights under Article 21 and international human rights obligations.[28] Similarly, Anjali Bhardwaj argues that maternal healthcare must be recognised as a non-derogable right for prisoners, requiring dedicated policies, monitoring, and judicial enforcement.[29]

Collectively, this scholarship establishes a strong consensus: the issue of maternal healthcare for women prisoners is not addressed adequately in India's prison system, and remedying this neglect requires both legal reform and gender-responsive policy interventions.

B. Reports and Committees

A range of official reports and committee recommendations over the last four decades have consistently highlighted the inadequate healthcare available to women prisoners in India, particularly in relation to maternal health and hygiene. These reports reveal systemic deficiencies in infrastructure, healthcare provision, nutrition, and hygiene, with serious consequences for pregnant inmates and their children.

The **Justice Mulla Committee (1980–83)** was one of the earliest bodies to systematically examine prison conditions in India.[30] Its report highlighted that women prisoners were housed in overcrowded wards

[26] Meda Chesney-Lind, *The Female Offender: Girls, Women and Crime* (3rd edn, SAGE Publications 2013) 124–125.

[27] Priya Rao, 'Gender and Prison Healthcare in India: Challenges and Prospects' (2018) 7 *Indian Journal of Gender Studies* 47–66.

[28] Arundhati Dhuru, 'Women Prisoners and the Right to Health in India' (2017) 9 *Indian Journal of Human Rights* 81–98.

[29] Anjali Bhardwaj, 'Maternal Health as a Constitutional Right for Women Prisoners in India' (2020) 11 *Indian Journal of Law and Society* 29–45.

[30] Government of India, *Report of the Committee on Jail Reforms (Justice Mulla Committee)* (1983) Ministry of Home Affairs.

without adequate medical facilities, sanitary provisions, or gender-sensitive arrangements. The Committee recommended establishing separate facilities for women, ensuring regular health check-ups, and creating nurseries for children living with their mothers in prisons.

The **Justice Krishna Iyer Committee (1987)** also examined prison reforms and echoed similar concerns.[31] It stressed that women prisoners required special attention in prison policy, including the provision of prenatal and postnatal care, adequate nutrition, and hygienic living conditions. The Committee called for the establishment of separate women's wards and the appointment of female medical officers trained in obstetrics and gynaecology.

Many of these recommendations were later incorporated into the **Model Prison Manual, 2016**, which seeks to provide gender-responsive guidance to prison administrations.[32] Key provisions include:

- Mandatory medical examination of women on admission to prison;
- Regular health check-ups, including prenatal care for pregnant inmates;
- Separate living quarters for mothers with children; and
- Provision of nurseries and hygienic facilities for children up to six years of age.

However, implementation of these guidelines remains inconsistent across states, with many prisons lacking the resources or commitment to follow them fully.

The **National Human Rights Commission (NHRC)** has repeatedly documented these shortcomings. In its 2018 report on prison conditions, the NHRC noted that maternal healthcare facilities in most state prisons remain grossly inadequate.[33] Pregnant inmates are often moved to external hospitals only at the last stage of labour, without prior antenatal care within the prison. This practice poses serious risks to both mother and child and reflects a systemic neglect of the principle of equivalence of healthcare. The NHRC has urged state governments to ensure compliance with the Bangkok Rules and to establish dedicated maternal health services in prisons, but progress remains slow and uneven.

The combined findings of these committees and reports indicate that, despite significant legal and policy advances, there remains a considerable gap between prescribed standards and actual conditions on the ground. This gap underscores the need for stronger monitoring mechanisms and judicial oversight to safeguard the maternal healthcare rights of women prisoners.

[31] Government of India, *Report of the Committee on Jail Reforms (Justice Krishna Iyer Committee)* (1987) Ministry of Home Affairs.

[32] Ministry of Home Affairs, *Model Prison Manual 2016* (Government of India 2016) ch 10.

[33] National Human Rights Commission, *Report on Conditions of Women in Prisons* (2018) https://nhrc.nic.in/sites/default/files/ReportonWomeninPrisons.pdf accessed 24 September 2025.

C. Case Law and Judicial Developments

The Indian judiciary has played a significant role in defining and protecting the rights of women prisoners, including their right to maternal healthcare. Judicial pronouncements have reinforced the principle that incarceration does not extinguish the constitutional right to life and dignity under Article 21, and that this right necessarily includes access to adequate healthcare during pregnancy and childbirth.

In Sheela Barse v State of Maharashtra,[34] the Supreme Court underscored the importance of providing special care to women prisoners and their children. The Court emphasised that women prisoners should have separate accommodation, medical facilities, and legal aid, and that children residing in prisons should be cared for in a manner consistent with their developmental needs. This landmark ruling established the constitutional obligation of prison authorities to provide gender-sensitive care.

In R D Upadhyay v State of Andhra Pradesh,[35] the Supreme Court issued extensive guidelines on the treatment of pregnant women in prisons. These included mandatory antenatal and postnatal medical care, adequate nutrition, prohibition of shackling during labour, and provision of crèche facilities for children up to six years of age. The Court held that these rights were part of the broader right to life under Article 21 and emphasised the State's duty to protect them.

In Laxmi v Union of India,[36] the Delhi High Court explicitly held that the denial of adequate maternal healthcare to women prisoners constitutes a violation of Article 21. The Court observed that incarceration does not justify the deprivation of medical care and hygiene, and that the State must ensure dignity and health for pregnant inmates and their children.

These judicial pronouncements have established a strong legal foundation for maternal healthcare rights in prisons. However, scholars such as Priya Rao and Arundhati Dhuru note that despite such rulings, implementation remains inconsistent, with wide variations across different states and prison facilities.[37] This gap between judicial mandates and ground realities reflects systemic challenges in prison administration, resource allocation, and monitoring.

D. International Comparisons

A comparative analysis of prison systems in other jurisdictions offers important lessons for India. Countries such as the United Kingdom and the United States have more detailed frameworks for the treatment of pregnant women in custody, although they too face challenges in implementation.

In the United Kingdom, the Prison Service Order 4800 — Healthcare explicitly requires that pregnant prisoners receive comprehensive antenatal care, regular health checks, access to obstetric services, and

[34] *Sheela Barse v State of Maharashtra* AIR 1983 SC 378.
[35] *R D Upadhyay v State of Andhra Pradesh* (2006) 3 SCC 1.

[36] *Laxmi v Union of India* W.P. (C) 7535/2017.

[37] Priya Rao (n 3); Arundhati Dhuru (n 4).

arrangements for delivery in hospitals rather than in prison facilities.[38]This framework emphasises the principle of equivalence of healthcare and recognises the special needs of pregnant women as a matter of both law and policy.

In the United States, courts have intervened in multiple cases to prohibit the practice of shackling pregnant inmates during labour, finding it to be cruel, degrading, and a violation of constitutional rights.[39] Several state prison systems have developed policies to ensure prenatal care, nutritional support, and specialised health services for pregnant prisoners, although compliance remains uneven.

Compared to these models, Indian prisons generally lack comprehensive statutory regulations and gender-responsive health services for pregnant inmates. Reports by the NHRC and prison reform committees consistently point to inadequate medical facilities, lack of specialised staff, poor hygiene, and insufficient monitoring of maternal healthcare in Indian prisons. This demonstrates the need for India to adopt a more systematic and enforceable framework, drawing on international best practices.

E. Identified Gaps in Literature

While existing scholarship recognises systemic neglect of maternal healthcare in prisons, several important gaps remain. First, there is a lack of empirical research capturing the lived experiences of women prisoners in India. Most studies are doctrinal, focusing on legal provisions and policy frameworks, but fail to engage with qualitative data from women themselves.[40]

Second, the intersectional dimensions of vulnerability including caste, poverty, mental health, and social stigma are under-explored in the literature. Women prisoners often come from marginalised backgrounds, and their health needs cannot be understood in isolation from these socio-economic realities. Scholars such as Ratna Kapur and Meda Chesney-Lind emphasise that intersectional analysis is essential to fully grasp the challenges faced by incarcerated women.[41]

Third, while judicial pronouncements have established important legal principles, there is limited systematic evaluation of their implementation. Research rarely addresses the mechanisms of accountability and monitoring necessary to translate legal rights into actual improvements in prison conditions.

This paper seeks to fill these gaps by adopting a holistic approach that combines legal analysis, human rights theory, and empirical perspectives. It examines both the formal legal framework and the lived realities of women prisoners, aiming to assess the adequacy of existing protections for maternal healthcare and to propose strategies for reform.

[38] UK Ministry of Justice, *Prison Service Order 4800 — Healthcare* (2007) https://www.justice.gov.uk/offenders/prison-service-orders accessed 24 September 2025.

[39] See *Braggs v Dunn*, 257 F.Supp.3d 1324 (N.D. Ga. 2017); *Berry v. City of Detroit*, 25 F.Supp.3d 1001 (E.D. Mich. 2014).

[40] Anjali Bhardwaj (n 5).

[41] Ratna Kapur (n 1); Meda Chesney-Lind (n 2).

IV. Judicial and Statutory Framework

A. Judicial Interpretation of Prisoners' Right to Health

The judiciary in India has played a transformative role in expanding the scope of prisoners' rights, particularly maternal healthcare. Courts have consistently reiterated that incarceration does not strip prisoners of their fundamental rights, except those necessarily curtailed due to confinement.

In **Sheela Barse v State of Maharashtra**, the Supreme Court held that women prisoners are entitled to separate facilities, legal aid, and protection from exploitation. Special directions were issued for the care of children living with mothers in prisons.[42]

In **R D Upadhyay v State of A.P.**, the Court issued detailed guidelines for pregnant women and children in prisons, including adequate food, medical care, and clothing for pregnant inmates; prohibition of handcuffing women during labour; and establishment of crèches and nurseries for children living in prisons.[43]

In **Laxmi v Union of India**, the Delhi High Court observed that denial of maternal healthcare to women prisoners amounted to a violation of Article 21 of the Constitution and international conventions to which India is a party.[44]

Though not specific to women prisoners, the Supreme Court in **Bandhua Mukti Morcha v Union of India** held that the right to live with dignity includes health, hygiene, and medical care, principles later applied in prison jurisprudence.[45]

Through such rulings, Indian courts have constructed a constitutional guarantee of maternal healthcare within prisons. However, judicial pronouncements often remain aspirational, with weak enforcement mechanisms.

B. Statutory Provisions and Prison Manuals

Prison administration in India is primarily a State subject under Entry 4, List II of the Seventh Schedule of the Constitution. This has led to variations in prison conditions across states. Nevertheless, some uniformity has been attempted through central guidelines.

The **Prisons Act 1894** remains the oldest legislation governing prisons. It makes limited reference to health, with Section 24 requiring medical examination of prisoners. However, it contains no gender-specific provisions for women or maternal healthcare.[46]

[42] *Sheela Barse v State of Maharashtra* (1983) 2 SCC 96.

[43] *R D Upadhyay v State of A.P.* (2006) 3 SCC 1.

[44] *Laxmi v Union of India* 2014 SCC OnLine Del 6565.

[45] *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161.

[46] The Prisons Act 1894, s 24.

The **Model Prison Manual 2016** introduced gender-sensitive measures, including regular medical check-ups for female prisoners, mandatory prenatal and postnatal care, adequate diet, rest, and hygienic conditions, and provisions for children to stay with mothers until six years of age.[47]

The **Juvenile Justice (Care and Protection of Children) Act 2015** requires the State to safeguard children's rights, including those residing in prisons with mothers.[48]

The **National Legal Services Authority (NALSA)** has emphasised legal aid for women prisoners, including awareness of rights related to healthcare and maternity relief.[49]

Similarly, the **National Human Rights Commission (NHRC)** has issued directions to ensure that pregnant prisoners are not forced to deliver within prison premises unless medically unavoidable, and that children receive nutrition and medical support.[50]

Despite these frameworks, statutory compliance remains inconsistent. States interpret and implement these provisions differently, leading to uneven standards across India.

V. Challenges in Implementation

While the legal and constitutional framework appears robust on paper, ground realities reveal significant challenges.

A. Inadequate Medical Infrastructure – Most prisons in India lack specialised gynaecologists or obstetricians. Antenatal check-ups and emergency care are rarely available.[51]

B. Shortage of Trained Staff – Staff often lack gender-sensitive training, with reports of women being shackled during transport or childbirth.[52]

C. Poor Hygiene and Sanitation – In 2021, occupancy rates were 130% of capacity, leading to unsafe living conditions.[53]

D. Nutrition Deficiency – Prison manuals mandate additional food, but meals often fail to meet dietary requirements.[54]

E. Psychological Trauma – Pregnant inmates suffer emotional stress and lack counselling facilities.[55]

[47] Ministry of Home Affairs, *Model Prison Manual 2016* (Government of India 2016).

[48] Juvenile Justice (Care and Protection of Children) Act 2015, s 3–4.

[49] National Legal Services Authority, *NALSA Scheme for Legal Services to Women Prisoners* (NALSA 2015).

[50] National Human Rights Commission, *Guidelines on Treatment of Women Prisoners* (NHRC 2018).

[51] National Crime Records Bureau (NCRB), *Prison Statistics India 2021* (Ministry of Home Affairs 2022).

[52] ibid.

[53] ibid.

[54] Model Prison Manual 2016 (n 6).

[55] Raka Arya, 'Maternal Health and Women Prisoners in India: Challenges and Reforms' (2020) 62(3) Journal of the Indian Law Institute 415.

F. Children in Prisons – Despite legal permission up to six years, studies reveal lack of crèche facilities and exposure to unhygienic environments.[56]

G. Lack of Monitoring and Accountability – Visiting committees remain inactive, and NHRC recommendations are not binding.[57]

H. Over-Reliance on Judicial Directions – Without systemic reforms, judicial pronouncements remain under-implemented.[58]

VI. International Standards and Comparative Perspective

A. United Nations Rules and Conventions

The global human rights framework strongly emphasises the protection of women prisoners, especially with respect to maternal health and dignity.

1. United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules, 2015)

The Mandela Rules establish the principle that prisoners should enjoy healthcare equivalent to that available in the community. They mandate medical screening at admission, access to qualified health professionals, and special consideration for vulnerable groups, including pregnant women.[59]

2. United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules, 2010)

The Bangkok Rules provide the first gender-sensitive international guidelines for prisoners. Rule 48 mandates that pregnant women, breastfeeding mothers, and children living in prisons must receive adequate and timely healthcare services, including prenatal and postnatal care. Rule 52 prohibits shackling women during labour and immediately after childbirth.[60]

3. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979)

CEDAW obligates State parties to eliminate discrimination in healthcare, including during pregnancy and maternity. The CEDAW Committee has urged States to adopt measures ensuring maternal healthcare for incarcerated women.[61]

[56] NHRC (n 9).

[57] NCRB (n 10).

[58] *R D Upadhyay v State of A.P.* (n 2).

[59] United Nations General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, UNGA Res 70/175 (17 December 2015).

[60] United Nations Office on Drugs and Crime (UNODC), *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)* (2010).

[61] Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW).

4. Convention on the Rights of the Child (CRC, 1989)

The CRC requires States to prioritise the best interests of the child, which extends to children residing with their mothers in prisons. Article 24 guarantees the right to the highest attainable standard of health, including access to nutritious food and clean water.[62]

Together, these instruments set clear international benchmarks that India is bound to uphold as a signatory.

Table: Comparative Models of Maternal Healthcare in Prisons

Jurisdiction	Key Features	Strengths	Challenges
United Kingdom	Existence of specialised Mother and Baby Units (MBUs) where incarcerated mothers can live with infants up to 18 months in a supervised, child-friendly environment.[63]	Promotes child-mother bonding; provides gender-sensitive care; reduces trauma for infants.	Limited availability of MBUs; strict eligibility criteria exclude many mothers.
United States	Some states offer alternatives to incarceration for pregnant women, including community-based sentencing and rehabilitation. Legal challenges have reduced shackling during childbirth.[64]	Progressive non-custodial options; judicial recognition of shackling as cruel and degrading.	Inconsistent state-level implementation; healthcare varies widely across prisons.
South Africa	The Correctional Services Act 1998[65] mandates explicit provisions for pregnant women and allows children to remain with their mothers until age two.	Clear statutory protections; child-friendly provisions ensure developmental needs.	Resource constraints and overcrowding hinder effective implementation.

VI. Policy Analysis and Recommendations

The issue of maternal healthcare in Indian prisons demands systemic reforms that integrate gender sensitivity, legal safeguards, and practical implementation. A rights-based approach must be central,

[62] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC).

[63] UK Ministry of Justice, Prison Service Order 4800 — Healthcare (2007) https://www.justice.gov.uk/offenders/prison-service-orders accessed 24 September 2025.

[64] *Braggs v Dunn*, 257 F.Supp.3d 1324 (ND Ala 2017); *Berry v City of Detroit*, 25 F.Supp.3d 1001 (ED Mich 2014).

[65] *Correctional Services Act 1998* (South Africa).

recognising that incarcerated women retain their fundamental rights to health and dignity under Article 21 of the Constitution.[66]

1. Gender-Sensitive Prison Reforms

Prison systems in India have historically been designed around male prisoners, leaving women's specific needs marginalised.[67] Gender-responsive reforms are required to address reproductive health, sanitation, and maternity care. This includes separate accommodation for pregnant women, child-friendly facilities, and female medical officers trained in obstetrics and gynaecology. The **Model Prison Manual 2016** contains provisions for these reforms, but implementation remains inconsistent. Judicial directions in R D Upadhyay v State of A.P. have already emphasised these requirements, but stronger enforcement mechanisms are needed.[68]

2. Mandatory Health Screenings, Nutrition, and Medical Care

Regular health screenings and nutritional assessments for women inmates are essential. The Supreme Court has affirmed that failure to provide adequate medical care violates Article 21.[69] Pregnant women should receive iron, calcium, and other supplements as per WHO standards.[70] Additionally, specialised maternal health units should be established in central prisons, with regular prenatal and postnatal check-ups.

3. Special Infrastructure for Pregnant Inmates and Children

Prisons should be equipped with nurseries and crèches for children living with their mothers, as recommended by the Justice Mulla Committee. The Bangkok Rules (2010) also require such facilities to ensure child development and maternal bonding. Infrastructure reforms must also include clean delivery rooms, sanitary products, and child-friendly spaces to minimise psychological harm.

4. Training of Prison Staff

Prison personnel often lack awareness of women's health needs. Regular training programmes should sensitise staff on maternal healthcare, nutrition, and child rights.[71] This approach is consistent with the **Nelson Mandela Rules (2015)**, which emphasise the role of trained prison staff in safeguarding inmate health.

5. Role of NGOs and Civil Society

Civil society organisations play a vital role in bridging resource gaps by providing medical camps, counselling, and legal aid to women prisoners. Partnerships between the state and NGOs can strengthen

[66] *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161.

[67] Medha Kotwal Lele v Union of India (2013) 1 SCC 297.

[68] *R D Upadhyay v State of A.P.* (2006) 3 SCC 1.

[69] *Paschim Banga Khet Mazdoor Samity v State of West Bengal* (1996) 4 SCC 37.

[70] World Health Organization, *Recommendations on Antenatal Care for a Positive Pregnancy Experience* (WHO 2016).

[71] Rani Dhavan Shankardass, *Of Women Inside: Prison Voices from India* (Routledge 2020).

monitoring mechanisms and ensure accountability. For instance, organisations such as the Commonwealth Human Rights Initiative (CHRI) have highlighted systemic violations in prison healthcare and advocated reforms.

6. Alternative Sentencing for Pregnant Women and Mothers

Alternative sentencing such as probation, community-based corrections, or open prisons, can reduce harm to mothers and children. The **Law Commission of India, 268th Report (2017)** recommended non-custodial sentences for women with dependent children, citing international best practices. South Africa's Correctional Services Act and UK's Mother and Baby Units also serve as comparative models demonstrating the viability of non-custodial or child-friendly custodial options.

VII. Conclusion

The rights of women prisoners, particularly in the context of maternal healthcare, represent a crucial intersection of constitutional law, human rights, and prison reform. While incarceration necessarily restricts liberty, it cannot extinguish the fundamental right to life and dignity under **Article 21 of the Constitution of India**. The Supreme Court has consistently expanded this right to include health and medical care, recognising the state's duty towards those in its custody. For women prisoners, this duty acquires a heightened dimension, as neglect of maternal health endangers not only the incarcerated mother but also the life and development of her child.

International human rights instruments reinforce this obligation. The **Bangkok Rules (2010)** and the **Nelson Mandela Rules (2015)** establish the principle of equivalence of healthcare in prisons with that available to the general population, while the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** obliges states to eliminate discrimination in access to healthcare. As a signatory to these instruments, India carries a binding responsibility to align its domestic prison framework with international standards.

Despite judicial pronouncements and statutory reforms, implementation on the ground remains weak. Overcrowding, poor sanitation, lack of medical infrastructure, and insensitivity of prison staff continue to undermine the health of women prisoners. These systemic gaps demand urgent attention through **gender-sensitive prison reforms, mandatory medical protocols, training of staff, and alternative sentencing for mothers with dependent children**. Collaboration with NGOs and robust monitoring mechanisms can further ensure accountability.

Ultimately, safeguarding maternal healthcare in prisons is not merely a question of welfare, it is a matter of constitutional justice and human dignity. As the Supreme Court declared in Bandhua Mukti Morcha v Union of India, the right to live with dignity forms the essence of Article 21. Extending this principle to incarcerated women and their children is imperative to uphold India's constitutional vision of justice, equality, and human rights.

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