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# **WOMEN PRISONERS AND THEIR CHILDREN**

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*“The seeds of success in every nation on earth are best planted in woman and children”*

*-- ---Joyce Banda*

*Former President of Malawi*

## **Abstract**

Not all are born with a golden spoon—some face struggles from birth, especially the children of women prisoners. Women, as the architects of their own destinies, create, nurture, and protect life, but they remain a vulnerable group in prison due to their gender. The needs of incarcerated women are often overlooked, particularly when it comes to their role as mothers. The imprisonment of women has a profound impact on the development of their children, affecting them mentally, physically, and socially. When a mother is incarcerated, it has a damaging and hostile effect on her child's emotional and physical well-being, which can hinder their overall growth and development. The bond between a mother and her child is a sacred gift, and this relationship should be protected by the state. As stated in Article 25, paragraph 2 of the Universal Declaration of Human Rights 1948, motherhood and childhood are entitled to special care and assistance. Children, who are the future of any nation, remain a vulnerable group when it comes to the enjoyment of their human rights, largely due to their inability to fully comprehend their circumstances. Incarceration of women presents unique challenges, and their children often face vulnerability. This paper discusses the challenges faced by these children, focusing on the situation of women prisoners in India, their rights, and the issues they encounter. It also examines international guidelines and Supreme Court rulings protecting the rights of these children and proposes improvements in prison conditions for both women prisoners and their children.

## Introduction

Indian prisons are not only seen as institutions for punishment but also as centers for reformation, reflecting Mahatma Gandhi's belief that criminals should be treated as patients and that jails should function like hospitals. While India's criminal justice system is based on the reformatory theory of punishment, the situation for women prisoners is quite different. The imprisonment of women, particularly mothers, has a severe impact on the emotional and developmental growth of their children. Women prisoners are often the most vulnerable group in prison due to their gender, and their conditions are often more distressing than those of male prisoners. The living conditions in prisons are dire, and prison administration plays a crucial role in the criminal justice system.

The incarceration of mothers with dependent children is particularly concerning, as the prison environment negatively affects both the mother and the child's well-being and development. The rising number of women incarcerated in India has highlighted the gender-specific needs of female prisoners within the criminal justice system. The social consequences of female incarceration are far more significant than those of male incarceration. The imprisonment of mothers presents a significant challenge for India's criminal justice system, particularly in addressing the complex psychological and social issues it creates for incarcerated parents and their children.

The role of women in India has evolved significantly over time, with women transitioning from traditionally domestic roles to active participants in the professional and social spheres. Historically, women were revered in the Vedas and Upanishads as symbols of motherhood and divinity, symbolizing their central position in society. Over the years, women have made remarkable strides in fields ranging from education and politics to business and the arts, contributing alongside their male counterparts. However, this societal shift hasn't come without its challenges. The pressures of balancing familial responsibilities with professional aspirations, rising stress levels, and societal expectations have led to new issues, including increasing involvement in criminal activities among women. Factors such as family disorganization, marital discord, and unfulfilled aspirations are contributing to this concerning trend.

Furthermore, the conditions of women prisoners in India remain a critical issue, as they are often among the most vulnerable and marginalized groups within the prison system. When a

woman is imprisoned, the challenges multiply, especially if she is a mother responsible for a child. The lack of adequate care facilities for children in such situations and the emotional and physical toll on mothers in prison highlight the urgent need for reforms in the justice system to ensure the humane treatment of women in incarceration.

**Women prisoners face several challenges during imprisonment. The following are some of the key issues:**

**1. Overcrowding of prisons**

Overcrowding is a major issue in Indian prisons, including women's facilities. It occurs when the number of inmates exceeds the prison's capacity, leading to poor hygiene, lack of sleep, and other health problems. Women's prisons, especially those with children, suffer more from overcrowding due to limited facilities. This can also have psychological effects, as prisoners are forced to live in confined spaces. As per Prison Statistics India 2022, NCRB<sup>1</sup>, there were 34 women jails in India. Overcrowding also has psychological effects on prisoners as they are forced to live in such close quarters with one another.

**2. Inadequate Staffing**

The lack of adequate staff in women's prisons contributes to poor conditions and an unsafe environment. Male staff often manage female inmates, which is undesirable. It is crucial for female staff to be hired, and for trained professionals such as psychologists and social workers to address issues specific to women prisoners.

**3. Lack of Family Support**

Long-term incarceration often results in a breakdown of family ties and a lack of support. In some cases, societal norms prevent family members from supporting women who have been convicted, leading to further isolation.

**4. Poor Nutrition and Medical Care**

Many women prisoners come from marginalized backgrounds and lack access to nutritious food and basic healthcare. The shortage of female medical staff further exacerbates their health conditions.

**5. Inaccessibility of Legal Services**

Illiteracy and lack of awareness about legal rights are common among female prisoners, resulting in prolonged imprisonment. Their socio-economic conditions also hinder

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<sup>1</sup> Sourced from ncrb.gov.in.



access to quality legal representation, making it difficult for them to secure a fair trial. Educating inmates about their legal and human rights is essential to address this issue.

## 6. Vulnerabilities of pregnancy and childcare

The Indian criminal justice system significantly lack agenda specific perspective of needs of women prisoners in the absence of gender, specific health facilities, incarcerated, mothers and their children often subjected to severe health concerns and simultaneously implement the rehabilitation of incarcerated, mothers, specially pregnant woman, nursing, mother and the development of their children<sup>2</sup>. Pregnant and lactating women face special vulnerabilities in Women prisons due to the absence of adequate pre-natal and post-natal care, the mother and child pose risk of many health issues.

## 7. Sanitation and hygiene

Most prisons lack basic facilities of sanitation and hygiene, although there is prescription in the prison manual to ensure one toilet and one bathing cubicle for every person. Lack of Water supply is another issue which aggravates the low level of sanitation and hygiene. Prisoners are also provided with very limited clothing and they do not have opportunity to wash them regularly.<sup>3</sup>

An article in *The Hindu*<sup>4</sup> reported findings from the National Crime Records Bureau (NCRB) revealing that there are currently 23,772 women in Indian prisons, with 77% of them falling within the reproductive age group of 18 to 50 years and likely to menstruate. Despite recommendations outlined in the 2016 Model Prison Manual, the availability of sanitary napkins in these prisons has been found to be inadequate. Many states have not implemented essential provisions, such as providing adequate water and washroom facilities for female prisoners. The study also highlighted that prison authorities often rely on sanitary napkins donated by non-governmental organizations (NGOs). However, many women inmates reported that the quantity of sanitary napkins provided was insufficient and the quality was subpar. This situation underscores the urgent need for improvements in hygiene and health facilities for female prisoners.

<sup>2</sup> Anil S.Kumar and T.Manikanta, “ Problems of women prisoners and their children” , INDIAN SOCIAL SCIENCE JOURNAL , Vol. 1 No.2 ,2012 p.44

<sup>3</sup> Zeinab Jafri “Women Prisoners: Causes, Conditions and their Rights” IOSR Journal of Humanities and Social Sciences Volume 26, Issue 10, Series 1 (October.2021)13-19.

<sup>4</sup> *The Hindu* May 28, 2024.

### **Children of women prisoners and problems faced by them**

Children are considered the most valuable asset of any nation, comprising 39% of India's total population. They play a crucial role in shaping the future of a country, and therefore, must be afforded the necessary rights for their mental and physical development. However, children remain one of the most vulnerable groups in society, especially when one or both parents are incarcerated. This vulnerability becomes even more pronounced when the mother is the one imprisoned. The impact of incarceration extends beyond the affected parent—it also deeply affects their children. Separation from a parent, particularly a mother, can have long-lasting emotional, psychological, and developmental consequences for a child. These children often face social stigma, financial instability, and a lack of emotional support, which can hinder their growth and overall well-being. The impact of parental incarceration can be observed to be different based on paternal and maternal incarceration.<sup>5</sup>

Children of incarcerated parents are often silent victims, as they are deprived of basic necessities and opportunities crucial for their development. When the mother is the one incarcerated, these children face even greater disadvantages. Whether living with their mother in prison or outside, they are deprived of the care, emotional support, and nurturing that mothers typically provide in shaping a child's future. This deprivation often leads to long-term negative consequences for the child's well-being. In addition to the emotional toll, children of women prisoners frequently experience social stigmatization, leading to feelings of isolation. The absence of their mother can hinder their mental and physical development, contributing to a range of problems such as social exclusion, behavioral issues, and difficulty in education. They may also face health challenges due to lack of adequate care and support. The impact of maternal incarceration extends far beyond the prison walls, affecting the child's future prospects and well-being.

According to NCRB statistics, the total number of woman prisoners in India on 31st December 2022 were 23,772 out of which 18,146 were under trials and there were 1537 women prisoners with 1764 children with them. Out of which 1312 women were under trials and 4240 woman prisoners out of 23772 were lodged exclusively in women prisons. The highest female occupancy rate was reported in Uttarakhand, which was followed by Bihar and Uttar Pradesh. A majority of female inmates were in the age group of 30 - 50 years (51.5%), followed by 18-

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<sup>5</sup> Insha Ashraf and Saina Farhad, "Children's Experiences of Parental Incarceration", PALGRAVE HANDBOOK OF GLOBAL SOCIAL PROBLEMS, 1st ed..2022 pp 1-12.

30 years (28%)<sup>6</sup>.

Mother prisoners often face significant challenges in meeting the basic needs of their children while incarcerated, especially given the limited resources available in prison. The prison environment itself is inherently detrimental to the development of children. The quality of food, nutrition, education, healthcare, and medical facilities provided to children in prison are often subpar, impeding their natural growth and well-being. Children of imprisoned parents, especially those with mothers in the criminal justice system, often face various challenges such as emotional stress, behavioral problems, antisocial behavior, difficulties at school like suspension or expulsion, and financial hardship. Additionally, some children may even be more prone in engaging in criminal activities themselves. Parental incarceration represents just one of many separations and stressful situations that these children face, often exacerbating the challenges they must endure in their formative years.

Children of women prisoners face numerous challenges that deeply affect their emotional, psychological, and social well-being. Some of the major problems they experience are:

- 1. Isolation:** Children living in prisons with their mothers often experience profound isolation. They are surrounded by female prisoners but have limited or no communication with the outside world. This isolation can severely hinder their social development and make them feel disconnected from society.
- 2. Lack of care:** Inside prisons, children may not receive proper care, food, or nutrition. The prison environment is not designed for children, and as a result, their physical and developmental needs are often overlooked or inadequately addressed.
- 3. Stigma:** The imprisonment of a parent brings a sense of shame and social stigma to children. They may face social rejection or even ostracism from their community or neighborhood. In some cases, the family might be forced to leave their home or community, experiencing humiliation and hostility. This stigma can lead children to become withdrawn, introverted, and unable to interact socially.
- 4. Psychological problems:** The experience of living in a prison environment can be extremely traumatic for younger children. They may suffer from anxiety, nightmares, and flashbacks related to the arrest or traumatic events surrounding their mother's

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<sup>6</sup> Prison Statistics of India , 2022 - NCRB, Ministry of Home Affairs

incarceration. These psychological issues can persist for years and affect the child's overall development.

5. **Family disintegration:** Parental incarceration often leads to the breakdown of family bonds. Children, especially older ones, may become alienated or rebellious, running away from home, or getting involved in delinquent behavior due to a lack of stability and support.
6. **Child neglect:** The absence of a mother deprives the child of essential maternal love, care, guidance, and emotional support. The child may be left to rely on relatives or neighbors, who may not be equipped to provide the care and attention that the child needs, leading to neglect.
7. **Lack of educational support:** Children in prison may not have access to adequate educational facilities or resources. The lack of a structured learning environment can affect their intellectual growth and future prospects. Without proper education, these children face a significant disadvantage compared to their peers.
8. **Financial hardship:** The incarceration of a mother often leads to severe financial hardship. Many families of incarcerated women face economic difficulties, as they may lose their primary breadwinner. This financial strain can result in homelessness or a lack of access to basic needs like food, clothing, and shelter.
9. **Estranged siblings:** Siblings may become estranged from one another during their mother's incarceration, especially if they are placed in different care arrangements or have to live with different relatives. This can lead to emotional distance between siblings and further disrupt the child's sense of family and support.
10. **Lack of trained staff:** There is often a lack of trained professionals, such as psychologists or social workers, to address the psychological and developmental needs of children in prison. Without adequate support, these children's emotional needs go unmet, leading to long-term developmental issues.
11. **Physical illness and depression:** Children living in prison are at an increased risk of physical illness and depression. The prison environment, combined with poor nutrition, limited healthcare, and psychological stress, can lead to physical ailments. These children may also struggle with mental health issues, such as depression, anxiety, and other emotional disturbances, as a result of the traumatic experiences associated with their mother's incarceration.

A leading study in regard to the condition of children of inmates residing in jail was conducted by **Tata Institute of Social Sciences, Mumbai**<sup>7</sup> part of the study, revealing how environment wreak havoc in the psyche of the children and blights their lives is extracted here under:

Contact with the adult criminal justice system can be detrimental to children and families. Living in custody among woman, accused or convicted for committing various crimes can never be normal for any child of tender age of six years or below. The prison environment is just not conducive for holistic development of children. Many children were born in prison, never experience a normal family life, sometimes till the permitted age of six years, the confinement of children along with your mothers leads to confinement of their psyche due to prolong stay in a negative and custodial environment, the socialization patterns of these children get severely affected. The only image of male figures is that of authoritative police and prison officials. They are unaware of the concept of a home as a normal children understand the effect of the environment on their psyche is so strong that boys may be found impersonating and talking like a female gender having grown-up only among woman confined in female ward, there are common instances of children getting frequently transferred with their mother from one prison to another, which leads to their uprooting and unsettling. Such children become violent and aggressive or alternatively show withdrawn behaviour in prison. They also become victims of physical beatings by their mothers, who sometimes take out their frustration on their loved ones.

### **Rights of Children of Women Prisoners**

As observed by High Court of Judicature in *Smt. Rekha vs State of U.P*<sup>8</sup> Children hold nature's promise to unquenchable optimism in the world riven by constant strife. Children are the most precious assets of mankind, but also the most wonderful segment of human species. The children have always been regarded a separate class in law.

The framers of the Indian Constitution recognized that children are the nation's most valuable asset and understood their unique needs. As a result, a dedicated space for children was included in the Constitution, reflecting the importance of their welfare within the broader constitutional framework. Therefore, the state must ensure that children, as citizens of India, enjoy the fundamental rights granted to them by the Constitution, including:

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<sup>7</sup> Children of Women Prisoners , The Invisible Trial , Prayas 2018

<sup>8</sup> Criminal Misc. Bail Application No. 25993 of 2024.



## 1. Right to Protection of Life and Personal Liberty

Article 21<sup>9</sup> of the Constitution envisions an environment and support systems that foster children's growth, promoting a well-rounded personality, exemplary character traits, and good health and wellness. Education, which contributes to children's intellectual development, is also included under Article 21. The constraints of prison should not prevent children from benefiting from the rights guaranteed by this article.

## 2. Right to education

Article 21(A)<sup>10</sup> elevates the rights of education of children between 6 to 14 years of age to fundamental rights.

The Supreme Court in *Avinash Mehrotra vs. Union of India and others*<sup>11</sup> observe that education occupies a sacred place within our constitution and culture.

The Right to Education Act of 2009, which was enacted following the provisions of Article 21 of the Indian Constitution, provides a legal basis to ensure free and compulsory education for all children in India. Section 3<sup>12</sup> of the Right to Education Act 2009, vests the right of free and compulsory education in children. Section 4<sup>13</sup> of the RTE Act deals with special provision

<sup>9</sup> Article 21 – No person shall be deprived of his life or personal liberty except according to procedure established by law.

<sup>10</sup> Article 21(A) Right to education- The state shall provide free and compulsory education to all children of age of 6 to 14 years in such a manner as state may by law determine.

<sup>11</sup> 2009(6) SCC 398.

<sup>12</sup> **Section 3 -Right of child to free and compulsory education**

1 [(1) Every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.]

2. For purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.

(3) A child with disability referred to in sub-clause (A) of clause (ee) of section 2 shall, without prejudice to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and a child referred to in sub-clauses (B) and (C) of clause (ee) of section 2, have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995:

Provided that a child with "multiple disabilities" referred to in clause (h) and a child with "severe disability" referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) may also have the right to opt for home-based education.]

<sup>13</sup> **Section 4 -Special provisions for children not admitted to, or who have not completed, elementary education.**

Where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age:

Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time-limits, as may be prescribed.

for children who were not admitted to or have not completed elementary education, whereas , Section 13 of the Act directs no capitation fees and provide for screening procedure of admission and Section 14 of the act mandates that no child shall be denied admission in the school for lack of age proof.

The children who reside with their parents in jail also suffer from various disadvantages, owing to their special and adverse circumstances, the children come within the category of section 2(d)<sup>14</sup> of Right to Education Act 2009 was observed by Allahabad High Court. *in Smt. Rekha vs State of U. P.*<sup>15</sup> While hearing the bail plea of a mother living in prison with her minor son, the court also issued directions to state authorities to ensure the welfare of children residing in prisons with their parents, emphasizing their rights to education and life under Article 21 of the Constitution.

The Indian Constitution ensures the following rights for children through various articles:

1. **Article 14:** Guarantees equality before the law and equal protection of the law for all individuals, including children.
2. **Article 15:** Prohibits discrimination on the grounds of race, religion, caste, sex, or place of birth.
3. **Article 23:** Protects children from trafficking and being forced into bonded labor.
4. **Article 24:** Prohibits the employment of children in hazardous work until they reach the age of 14.
5. **Article 39(e):** Safeguards children from abuse and exploitation.
6. **Article 39(f):** Ensures equal opportunities and facilities for children to grow in a healthy manner.
7. **Article 45:** Provides for free and compulsory education for children until they reach the age of 14.

Despite constitutional mandate, protecting the rights of children, several committees in India were set up to address the condition of women prisoners and the children in the prison. In the

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Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.

<sup>14</sup> **Section 2(d) - "child belonging to disadvantaged group" means** [a child with disability or] a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification.

<sup>15</sup> *Supra* note 8.

year 1980, the government of India set up a committee on general reform under the chairmanship of Justice, A N Mulla, the primary objective of the committee was to review existing laws, rules, and regulations, aligned with the broader goal of safeguarding society and rehabilitating offenders in India. The Mulla committee submitted its report in 1983. The opinion of the committee was that prison condition in India is critical and criticized by every section of media press etc. The Committee also depicted harmful effects of prison culture on offenders of non-serious crime<sup>16</sup>.

The committee provided key recommendations to improve the conditions of women prisoners. These included ensuring separate housing for women with gender-specific requirements and proper toilet facilities. Bail to undertrial women prisoners should be granted generously, and all responsibilities concerning women inmates should be carried out by female officers and staff. Pregnant women should receive proper nutrition, healthcare, and, if necessary, be sent to local maternity hospitals for delivery. Prisons should not be listed as a birthplace for children born there, and women should be allowed to follow their cultural norms.

The 1987 National Expert Committee, headed by Justice Krishna Iyer, proposed further improvements. They recommended that women should not be arrested unless involved in serious crimes, and if arrested, they should not be detained between sunset and sunrise without a female police officer present. Bail should be granted swiftly for bailable offenses, and women should only be kept in female wards, with facilities tailored to their needs and those of their children. Women should not be forced to undergo police investigations at the station and should have their legal rights upheld. Police must inform the family of arrested women immediately. Additionally, data related to crimes, arrests, and resolutions should be systematically recorded, and officers violating these policies should face consequences. The committee emphasized the importance of checking and improving the conditions of women prisoners regularly.

The Hon'ble Supreme Court in *R. D. Upadhyaya v. State of Andhra Pradesh & Ors*<sup>17</sup> while taking into account the situation of children residing with their incarcerated parents, the following directives were issued:

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<sup>16</sup> The report of All India Committee on Jail Reforms (1980-1983) chaired by Mr. Justice AN Mulla.

<sup>17</sup> Writ Petition(C) 559 of 1994.

1. **Child in jail with Mother:** A child shall not be treated as an undertrial or convict while in jail with their mother. The child is entitled to food, shelter, medical care, clothing, education, and recreational facilities.
2. **Pregnancy**
  - a. Authorities must ensure that the jail has facilities for child delivery and pre/post-natal care before sending a pregnant woman to jail.
  - b. Upon admission, the woman must be medically examined, and relevant details must be reported.
  - c. Gynaecological examination and proper care shall be provided at the District Government Hospital.
3. **Childbirth in Prison**
  - a. Temporary release or parole should be granted for delivery outside prison, except in high-security cases.
  - b. Births in prison shall be registered without mentioning the prison.
  - c. Facilities for naming rites shall be provided.
4. **Female Prisoners and Children:**
  - a. Female prisoners may keep children under 6 years old in jail.
  - b. After 6 years, the child must be placed in a suitable institution or with a surrogate.
  - c. Protective custody shall be provided, with regular visits allowed.
  - d. If a female prisoner dies, the child's care shall be arranged by the District Magistrate.
5. **Food, Clothing, and Care:**
  - a. Children shall receive clothing suitable to the climate, nutritional food, and regular medical check-ups, including vaccinations.
  - b. Separate utensils and clean drinking water shall be provided.
  - c. Arrangements for child care should be made if the mother falls ill.
6. **Education and Recreation:**
  - a. Children will be given education and recreation, with a creche and nursery available for care.
  - b. Children under three years will be cared for in the creche, and those between 3 and 6 in the nursery, ideally outside the prison.
7. **Sub-Jails:** Children should not be kept in sub-jails unless they are equipped with proper facilities for their well-being.
8. **Avoid crowded barracks:** Children must not be kept in crowded barracks with adult

prisoners, especially violent offenders, to ensure their healthy psychological and social development

### **International agreements on children's rights and women prisoners and their children.**

The UNCRC,<sup>18</sup> adopted in 1989 and ratified by India in 1992, is an international treaty that outlines children's rights globally. It aims to protect and promote the rights of every child, emphasizing the best interests of the child in all actions and decisions. India has implemented key laws such as the Right to Education Act and the Juvenile Justice (Care and Protection) Act to align with its UNCRC obligations. The UNCRC categorizes children's rights into four main areas:

1. **Right to Survival:** This includes the right to life, the highest standard of health, nutrition, and living conditions, with the state's responsibility to ensure resources for survival and development.
2. **Right to Protection:** This protects children from exploitation, abuse, neglect, and degrading treatment, ensuring special protection during emergencies and conflicts.
3. **Right to Development:** This covers the right to education, early childhood development, social security, and access to recreation, aiming to create a nurturing environment that supports children's growth.
4. **Right to Participation:** This ensures children can express their views, access appropriate information, and exercise freedom of thought, conscience, and religion.

Article 2 of the UNCRC underscores non-discrimination, ensuring that children's rights apply regardless of their background, including sex, ethnicity, religion, or family situation. This treaty serves as a global framework for safeguarding children's rights, requiring states to uphold these rights in both law and practice.

The Universal Declaration of Human Rights<sup>19</sup> affirms that childhood deserves special care and assistance.

The United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the *Nelson Mandela Rules*<sup>20</sup>, were adopted by the UN General Assembly, including India, on

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<sup>18</sup> The United Nations Convention on the Rights of Child.

<sup>19</sup> Article 25, Universal Declaration on Human Rights, 1948.

<sup>20</sup> UNODC (United Nations Standard Minimum rules for Treatment of Prisoners), The Nelson Mandela Rules.



December 17, 2015. These rules establish minimum standards for prisoner treatment, emphasizing respect, dignity, and the protection of human rights. Rule 28<sup>21</sup> and Rule 29<sup>22</sup> specifically address the rights of children of women prisoners.<sup>23</sup>

The **Bangkok Rules**, adopted by the UN General Assembly in 2010, provide a framework for the treatment of women prisoners and address the needs of their children. These rules emphasize non-custodial measures for female offenders and were the first international guidelines for the criminal justice system's approach to women and their children. India is a signatory to the Bangkok Rules<sup>24</sup>.

### **Improved conditions of Prisons in India and way forward:-**

Creche and nursery facilities available for children in different states in India<sup>25</sup>:

1. **Bihar:** The state provides excellent facilities for children, with the option for children to live with their mothers inside the jail.
2. **Gujarat:** All jails in Gujarat have Anganwadi facilities for the children of female prisoners. Additionally, the state has established an Anganwadi within the prison campus, outside the main prison walls.
3. **Karnataka:** Children under six years old are allowed to stay with their mothers in the prison. Nurseries with educational play areas are available to entertain and educate the children. They are also sent to Anganwadi centers located within the prison premises, where they receive special diets, extra clothing, and utensils.
4. **Maharashtra:** The Byculla District Prison, the only women's prison in Maharashtra, has set up a crèche facility outside the prison premises in accordance with guidelines issued in the RD Upadhyaya case. The crèche is designed to be child-friendly and is equipped with key amenities including running water, child-appropriate toilets, CCTV

<sup>21</sup> **Rule 28** - In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

<sup>22</sup> **Rule 29** 1. A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for: (a) (b) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent; Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists. 2. Children in prison with a parent shall never be treated as prisoners.

<sup>24</sup> UNODC Bangkok rules, United Nations Office on Drugs and Crimes (UN Rules for treatment of women, prisoner, and non-custodial measures for women offenders with their commentary)

<sup>25</sup> Prison Statistics India 2022, NCRB, Ministry of Home Affairs

surveillance, and access to clean drinking water. The first model creche in Maharashtra, Nanne Kadam Balwadi, was launched in January 2023.

5. **Punjab:** Modern crèche facilities have been established in six jails in Punjab, including the central jails in Patiala, Faridkot, Firozpur, Kapurthala, Amritsar, and Ludhiana. These facilities cater to the children of incarcerated women, with teachers deployed for their education.
6. **Delhi:** Incarcerated women in Delhi are allowed to keep children up to the age of six with them. To ensure a conducive environment for the children's emotional and physical well-being, a well-equipped crèche and playschool, run in collaboration with the India Vision Foundation, operate within the jail. Children above the age of five are sent to residential schools or hostels in collaboration with the India Vision Foundation and with the child Welfare Committee. Children above three years old receive nursery school education from a special provider, Cambridge Foundation School.

In India, various schemes support women prisoners and their children, focusing on welfare, rehabilitation, and empowerment. Key programs include:

1. **Ujjwala Scheme:** Assists trafficked women, including those in prison, with rehabilitation and skill development.
2. **Swadhar Greh Scheme:** Under Ministry of Women and Child Development this scheme provides shelter, legal aid, and vocational training to women in distress, including released prisoners.
3. **Integrated Child Protection Scheme (ICPS):** Ensures care for children in prison, focusing on nutrition, education, and emotional support.
4. **State-Specific Programs:** Various states, like Madhya Pradesh and Maharashtra, offer local initiatives for education and vocational training.
5. **Prison Education Programs:** Provide educational opportunities for women prisoners, often through National Open Schooling or local boards.

These programs aim to improve living conditions, provide skills for reintegration, and ensure the well-being of both women prisoners and their children.

To improve conditions for women prisoners and their children in India, key steps include providing timely legal aid, specialized assistance for trafficking, domestic violence, and child custody cases, and creating child-friendly areas within prisons with healthcare, education, and

play facilities. Rehabilitation programs that include job placement assistance, financial support, and mental health counseling are crucial. Children should receive proper education, nutrition, and psychological care. Strengthening Child Welfare Committees (CWC), promoting restorative justice for minor offenses, and training staff to nurture a supportive environment are crucial. Post-release support, reducing stigma, and implementing guidelines issued in RD Upadhaya case will aid reintegration.

