Prisons without Walls: Reformation, Rehabilitation in India, With Special Reference to Assam

Beauty Neog[1], Prof. (Dr.) Thaneswar Kalita[2]

[1]Research Scholar, Dept. of Law, Royal School of Law and Administration, The Assam Royal Global University, Guwahati, Assam.

[2]Professor, Dept. of Law, Royal School of Law and Administration, The Assam Royal Global University, Guwahati, Assam.

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ABSTRACT

Despite constitutional and judicial commitments to reformative justice, Indian prisons remain overcrowded. The countrywide occupancy rate is 120.8%, according to *Prison Statistics India 2023* from the National Crime Records Bureau. Open correctional institutions (OCIs) provide a way to reduce this strain while also encouraging rehabilitation. As of December 31, 2022, there were 91 open prisons across the States and Union Territories, according to the Ministry of Home Affairs. In *Rama Murthy v. State of Karnataka* (1997), the Supreme Court approved of open prisons. The Model Prison Manual 2016 and the Model Prisons and Correctional Services Act 2023 now provide a normative basis for open prisons. This article investigates open prisons as a reformation tool using a doctrinal and secondary-data approach. *Suhas Chakma v. Union of India*, 2026 INSC 198, decided on February 26, 2026, serves as its primary point of reference. In that case, the Court determined that OCIs were widely under-used, that women were barred from a number of State systems, and that the eligibility requirements were rigid and inconsistent. Assam demonstrates the gap between policy and practice. Its only open prison, at Jorhat, has held only about one-fifth of its capacity, while Assam's closed prisons were overcrowded. Assam is among nine States that expressly prohibit the transfer of women to OCIs. Although there is positive evidence on open prisons, there is a dearth of reliable Indian data on recidivism. Through liberalised conduct-based eligibility, gender-inclusive facilities, vocational and wage-linked rehabilitation, and rigorous outcome monitoring, the article suggests a calibrated expansion of open prisons in Assam.

Keywords: Open prisons, Open correctional institutions, Prison reform; Rehabilitation, Overcrowding, Article 21, Model Prison Manual 2016.

1. INTRODUCTION

1.1. Overview of the Subject

India's prisons are overcrowded compared to their original capacity. The National Crime Records Bureau (NCRB) reports a national occupancy rate of 120.8% for 2023.[1] Open correctional institutions (OCIs), sometimes referred to as open prisons, are bar-less, wall-free facilities where carefully chosen prisoners reside and work under little supervision. They perform the rehabilitative function that Indian courts have historically linked to punishment while also offering a means of reducing overcrowding. As of the end of 2022, the Ministry of Home Affairs (MHA) reported 91 open prisons in the States and Union Territories.[2] The Supreme

1 Nat'l Crime Recs. Bureau, Ministry of Home Aff., *Prison Statistics India 2023* (India).

2 Ministry of Home Aff., *Unstarred Question No. 1830*, Rajya Sabha (Dec. 11, 2024) (India), https://rsdebate.nic.in/bitstream/123456789/753703/1/PQ_266_11122024_U1830_p221_p223.pdf (last visited Oct. 12, 2026).

Court had authorised the institution in *Rama Murthy v. State of Karnataka*,[3] and the Model Prison Manual2016 and the Model Prisons and Correctional Services Act 2023 offer a normative template for open institutions.[4]

Practice lags far behind principle. In *Suhas Chakma v. Union of India*, decided on February 26, 2026, the Supreme Court found that OCIs are largely under-used, that women are excluded from several State systems, and that eligibility rules are rigid and inconsistent, and it issued time-bound directions to the States.[5] Assam's position is examined in Part 6.

1.2. Research Problem

This article addresses the issue of use rather than availability. At 120.8% nationwide in 2023,[6] India's prison population is significantly above capacity; yet OCIs are few and under-used, housing less than 1% of all prisoners (Part 5). Assam is examined in Part 6. The Supreme Court's ruling of February 26, 2026 requires every State to assess, develop, and monitor its open facilities.[7]

The research reviewed for this article does not comprehensively address the reasons why Assam's open prison is under-used, and there is little Indian data on recidivism with which to determine whether open prisons lower re-offending. The problem is thus both analytical (what the existing data can and cannot demonstrate) and practical (how to make OCIs work in Assam).

1.3. Review of Literature

A review of the literature helps the researcher better comprehend the research problem. The researcher has read a variety of materials, such as legislation and manuals, court rulings, journal articles, reports, news, and commentary. The following works are examined:

1.3.1. Model Prison Manual 2016, Chapter XXIII (Open Institutions), by the Ministry of Home Affairs[8]

The Ministry of Home Affairs published the Model Prison Manual 2016 as a guide for managing Indian prisons. Open institutions are covered in the Manual's Chapter XXIII, which deals with the objectives of open institutions, the selection of prisoners, and their management. It serves as a benchmark for evaluating State rules, particularly those of Assam.

The Manual's limitation for the purposes of this article is that it is a model rather than a legally enforceable document. It gives the States a framework but does not compel them to adopt it, and it says very little about how open institutions actually function.

1.3.2. Suhas Chakma v. Union of India (2026) by the Supreme Court of India[9]

In *Suhas Chakma v. Union of India*, the Supreme Court looked into the state of the nation's OCIs using data provided by the States. It found that eligibility requirements were rigid and uneven, that OCIs were under-used, and that women were barred from a number of State systems.

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3 *Rama Murthy v. State of Karnataka*, (1997) 2 SCC 642 (India).

4 Ministry of Home Aff., *Model Prison Manual 2016*, ch. XXIII (India) [hereinafter Model Prison Manual 2016]; Model Prisons and Correctional Services Act, 2023 (India) [hereinafter Model Act 2023]; *see also* Ministry of Home Aff., *Prison Reforms*, https://www.mha.gov.in/en/divisionofmha/Women_Safety_Division/prison-reforms (last visited Oct. 12, 2026).

5 *Suhas Chakma v. Union of India*, 2026 INSC 198 (India Feb. 26, 2026), https://www.sci.gov.in/view-pdf/?diary_no=199352020&type=j&order_date=2026-02-26&from=latest_judgements_order (last visited Oct. 12, 2026) [hereinafter *Suhas Chakma*].

6 Nat'l Crime Recs. Bureau, *supra* note 3.

7 *Suhas Chakma*, *supra* note 7.

8 Model Prison Manual 2016, *supra* note 6, ch. XXIII.

9 *Suhas Chakma*, *supra* note 7.

With the assistance of State Monitoring Committees and a High-Powered Committee to frame Common Minimum Standards, the Court issued time-bound directions. This article uses the ruling as its primary source and point of reference for its core figures, including the cost data for Rajasthan. Its limitation is that it records the position at a certain point in time. It does not show whether Assam has complied since then.

1.3.3. Leave the Door Open? Prison Conditions and Recidivism by Giovanni Mastrobuoni and Daniele Terlizzese[10]

Giovanni Mastrobuoni and Daniele Terlizzese study Italian prisons, including the open-cell prison at Bollate, to see whether the conditions of incarceration affect the probability of re-offending after release. An earlier working paper by the same authors reports that recidivism falls by around ten percentage points for every additional year spent in an open prison.[11]

One of the work's strongest points is its causal design, which is unusual in this field. Its limitation for this article is its setting. The direction of the findings supports the case for open conditions, but the size of the effect cannot be carried over to Assam, since Italian sentencing, welfare, and labour markets differ from Indian ones.

1.3.4. The Open Prisons of Rajasthan by Smita Chakraburtty[12]

For a study for the Rajasthan State Legal Services Authority, Smita Chakraburtty (2017) conducted interviews with 428 inmates in 15 open prisons in Rajasthan. According to press and legal reports, it concluded that open prisons were better and cheaper than closed ones. The same coverage reports that about one in 45 prisoners in Rajasthan's open prisons absconded in 2015, compared to about one in 481 in closed prisons throughout the country.[13]

The findings are presented here as reported; the author has not reviewed the report itself, and the report should be obtained and examined before the figures are relied on. The study is valuable because it provides large-scale Indian data from the State with the best-known open prisons, and because it documents both the benefits and the risk of absconding.

1.3.5. Reformation and Rehabilitation of Surrendered Dacoits: A Case Study of Open Prisons of Madhya Pradesh[14]

This 1979 article in the Indian Journal of Social Work examines the reformation and rehabilitation of surrendered dacoits in the open prisons of Madhya Pradesh. A 100-inmate interview schedule was used together with participant observation.

The study is an early Indian example of the kind of interview-based approach planned for the primary stage of this research. Its limitations are its age and its particular group of subjects, which prevent it from describing current practice or the position of ordinary prisoners.

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[10] Giovanni Mastrobuoni & Daniele Terlizzese, *Leave the Door Open? Prison Conditions and Recidivism*, 14 Am. Econ. J.: Applied Econ. 200 (2022).

[11] Giovanni Mastrobuoni & Daniele Terlizzese, *Harsh or Humane? Detention Conditions and Recidivism*, https://papers.sioe.org/paper/1654.html (last visited Oct. 12, 2026).

[12] *Open Prisons Are Cheaper, Better, Says Study*, Civil Soc'y, https://civilsocietyonline.com/spotlight/open-prisons-are-cheaper-better-says-study/ (last visited Oct. 12, 2026) (reporting Smita Chakraburtty, *The Open Prisons of Rajasthan* (2017) (report for the Rajasthan State Legal Services Authority), which the author has not examined directly).

[13] *Why Open Prisons Are the Solution to India's Overcrowded Prisons*, IndiaSpend/Sabrang, https://sabrangindia.in/why-open-prisons-are-solution-indias-overcrowded-prisons/ (last visited Oct. 12, 2026).

[14] *Reformation and Rehabilitation of Surrendered Dacoits: A Case Study of Open Prisons of Madhya Pradesh*, 40 Indian J. Soc. Work 41 (1979), https://www.ojp.gov/ncjrs/virtual-library/abstracts/reformation-and-rehabilitation-surrendered-dacoits-case-study-open (last visited Oct. 12, 2026).

1.3.6. The Closed and the Open Prison: Contested Imaginaries and the Limits of Openness by Trishna Senapaty[15]

Trishna Senapaty's work is an ethnography of an open prison in Rajasthan. It questions what "openness" means to the people who live and work there, and how open an "open" prison really is.

The work serves as a useful caution. A favourable cost figure or a low absconding rate does not by itself prove that an open prison is rehabilitative. The author has not viewed the whole text and knows the work only from a listing of a talk. It is used here only as a caution, and no conclusion of this article rests on it.

1.3.7. Surviving Behind Bars: An Analysis of the Conditions of Female Inmates and Their Children in the Prisons of Assam[16]

This report, which examined the conditions of female inmates and their children in six Assam prisons, was published in 2024 by the National Law University and Judicial Academy, Assam. It is pertinent to this article because Assam does not allow women to be transferred to OCIs, and any change in eligibility must take into account the fact that women are now housed solely in closed prisons.

1.3.8. Beyond Bars: Understanding the Potential of Open Prisons in India by Moiz K. Rafique[17]

Moiz Rafique's article on the history of open prisons in India covers the earliest jail committees, the first open camps, and the NCRB's position in 2022. It is commentary rather than peer-reviewed research. It is used to locate facts, not to attest to them.

1.3.9. Are Open Prisons Potentially Rehabilitative? (The Wire)[18]

This commentary discusses a 2022 study conducted across States on the position of women, work outside the prison, and eligibility periods. It raises the same three points as the 2026 ruling. The underlying study is not identified in the sources consulted, so it must be found and read before submission.

1.4. The Significance of the Study

The 2026 ruling turns a long-standing recommendation into a requirement with a deadline, which makes the research timely. States are now required to show what they have done, and Assam has little published analysis to draw on. In a single account, the article gives the Assam Directorate of Prisons, the State Monitoring Committee, and the courts that will monitor compliance the information, the legal position, and the available options. It also identifies the primary data (interviews and requests under the Right to Information Act) that a later study would need in order to test the hypothesis, and gives researchers a map of sources. The study's practical importance lies in showing that capacity already exists at Jorhat, so that reform is more a matter of changing rules and practice than of establishing new institutions.

1.5. Research Objectives

1. To investigate the concept, history, and legal basis of open prisons in India.

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[15] Trishna Senapaty, *The Closed and the Open Prison: Contested Imaginaries and the Limits of Openness* (talk), Einaudi Ctr. for Int'l Stud., Cornell Univ., https://einaudi.cornell.edu/engage/events/closed-and-open-prison-contested-imaginaries-and-limits-openness (last visited Oct. 12, 2026).

[16] *Surviving Behind Bars: An Analysis of the Conditions of Female Inmates and Their Children in the Prisons of Assam* (Nat'l L. Univ. & Jud. Acad., Assam 2024), https://dlnluassam.ndl.gov.in/items/ad42cf10-72e8-4a32-a1d0-d9b93b719c18 (last visited Oct. 12, 2026).

[17] Moiz K. Rafique, *Beyond Bars: Understanding the Potential of Open Prisons in India*, Bar & Bench, https://www.barandbench.com/view-point/beyond-bars-understanding-potential-of-open-prisons-india (last visited Oct. 12, 2026).

[18] *Are Open Prisons Potentially Rehabilitative?*, The Wire, https://thewire.in/rights/are-open-prisons-potentially-rehabilitative (last visited Oct. 12, 2026).

2. To evaluate the evidence on their impact on cost, overcrowding, and rehabilitation.

3. To contrast Assam's present OCI situation with national best practice (Rajasthan, Kerala, and Maharashtra).

4. To determine the administrative, social, and legal obstacles in Assam, especially the exclusion of women.

5. To provide Assam with a time-bound reform strategy in accordance with the 2026 ruling.

1.6. The Scope of the Study

The article uses Assam as a case study to discuss open correctional institutions (OCIs) for convicted prisoners in India. It draws comparisons with Rajasthan, Kerala, and Maharashtra, which the sources recognise as best-practice States, and with international norms and the Italian evidence. Its legal analysis covers the Supreme Court's ruling of February 26, 2026 and the High Court orders reported after it. Its empirical analysis is based mostly on NCRB data and the Assam Directorate of Prisons' population returns, chiefly those for January 2022, and does not include primary data.

1.7. Research Questions

1. Does the under-use of Assam's open prison stem from restrictive eligibility requirements, the lack of provision for women, and weak administrative follow-through?

2. Do Assam's eligibility requirements and gender exclusion conflict with the Model Prison Manual 2016 and constitutional standards?

3. Does comparative evidence justify the use of open prisons as a reintegration strategy, given the data on absconding and recidivism?

4. Can reforms make OCIs workable in Assam's social and geographic context?

1.8. Hypothesis

The working hypothesis, which must be tested rather than assumed, is that under-use in Assam results mainly from restrictive eligibility, a lack of gender-inclusive provision, and weak administrative follow-through, and the data suggest, but do not establish, that this is not due to a shortage of suitable prisoners.

1.9. Research Methodology

The study is a doctrinal and secondary-data study with three components: (a) doctrinal analysis of statutes, manuals, and judgments; (b) secondary-data analysis of the NCRB's Prison Statistics India and the population returns of the Assam Directorate of Prisons; (c) a comparative case study of Rajasthan, Kerala, and Maharashtra. The planned fourth component, primary data collected through semi-structured interviews with prison officials and eligible inmates and through requests under the Right to Information Act, subject to official permission, has not been carried out. This article therefore reports no primary data.

Earlier Indian studies have used similar approaches: a 100-inmate interview schedule with participant observation in the open prisons of Madhya Pradesh (1979),[19] and interviews with 428 inmates in 15 open prisons in Rajasthan (2017).[20]

Sources are classed as official (government records and court documents), journal (institutional or peer-reviewed journals), uploaded paper (dissertations and papers of varying quality, treated only as pointers to the

[19] *Reformation and Rehabilitation of Surrendered Dacoits*, *supra* note 16.

[20] *Open Prisons Are Cheaper, Better, Says Study*, *supra* note 14.

literature), and commentary (news and legal analysis, used to locate facts rather than to take the place of the original source). Core claims rest on official and journal sources. Before publication, any figure taken from commentary should be traced to the Assam returns, the NCRB, or the ruling.

1.10. Limitations and Ethical Considerations

There is just one open prison in Assam, so the sample size is limited. Reliable data on recidivism are scarce in India, so the Italian findings in Part 4 cannot be compared with Indian results. Some sources are opinion rather than peer-reviewed research, and before publication all figures must be traced to the Supreme Court's ruling, the NCRB, or the reports of the Assam Directorate of Prisons. The number of open prisons varies from year to year, and Assam's compliance with the 2026 directions is uncertain.

Primary research would require written authorisation from the Assam Prison Headquarters, informed consent, anonymised records, and no coercion of prisoners to take part. For this article, no such data has been collected.

2. CONCEPTS, PHILOSOPHY, AND HISTORY

An open prison dispenses with the physical apparatus of imprisonment. Prisoners are trusted to remain within the boundaries of the institution; they typically work in industry, agriculture, or paid jobs and, in some systems, live with their families. The Model Prison Manual 2016 treats open institutions in a dedicated chapter that discusses their goals, selection standards, and management.[21] Indian research identifies a number of categories, including open barracks inside or attached to closed prisons, open camps, and open colonies, which differ in the degree of freedom and family integration they allow.[22]

2.1. From Punishment to Reformation

The argument in favour of open prisons rests on the shift in penal thought from retribution to reformation, and on the constitutional recognition that prisoners remain human beings. The Supreme Court held in *Bhuvan Mohan Patnaik v. State of Andhra Pradesh* that prisoners retain all of their fundamental rights, except those that are necessarily taken away by incarceration.[23] In *Mohammad Giasuddin v. State of Andhra Pradesh*, the Court described punishment as an occasion for the reformation of the offender rather than a form of retribution.[24] In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, it read the right to life under Article 21 to include the right to live with human dignity, a principle that applies behind prison walls.[25] *Rama Murthy* drew these strands together and identified open prisons as a means of fulfilling the reformative mandate.[26] The Indian literature on correctional administration likewise treats rehabilitation as the organising purpose of the prison system.[27] On this view, an open prison is not a concession to prisoners but an institution built to realise what the Constitution and the courts already require.[28]

2.2. Historical Evolution

The history of open prisons in India is typically traced back to the jail committees of the nineteenth century, with a committee of 1836 frequently cited as an early marker. Experiments followed in the late 1940s and 1950s, including an open-air camp at Lucknow in 1949 and camps in Uttar Pradesh in the 1950s.[29] The most

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21 Model Prison Manual 2016, *supra* note 6, ch. XXIII.

22 *Value of Open Prisons in India*, Nat'l Crim. Just. Reference Serv. (abstract), https://ojp.gov/ncjrs/virtual-library/abstracts/value-open-prisons-india (last visited Oct. 12, 2026).

23 *Bhuvan Mohan Patnaik v. State of Andhra Pradesh*, (1974) 3 SCC 668 (India).

24 *Mohammad Giasuddin v. State of Andhra Pradesh*, (1977) 3 SCC 287 (India).

25 *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608 (India) [hereinafter *Mullin*].

26 *Rama Murthy*, *supra* note 5.

27 Mridul Srivastava, *Future Agenda for Correctional Administration*, Indian J.L. & Just., https://ir.nbu.ac.in/bitstreams/4113dd84-dd3e-4890-9230-6c1764f5a25f/download (last visited Oct. 12, 2026).

28 IndiaLaw LLP, *From Punishment to Purpose*, https://www.indialaw.in/blog/criminal/open-correctional-institutions/ (last visited Oct. 12, 2026).

29 Rafique, *supra* note 19.

well-known establishment, the Sanganer Open Air Camp in Rajasthan, was established in 1963 and served as a model for other States.[30] The All-India Committee on Jail Reforms (1980–83) devoted a section of its report to open-air jails and proposed their expansion.[31]

Assam's prison administration has a separate lineage. According to the Assam Prison Headquarters, prison administration in the State began in 1826, was reviewed by a Jail Reforms Committee in 1956, and is now governed by the Assam Prisons Act 2013.[32] Research on colonial Assam documents how prison labour was organised for the colonial economy; this history is significant because open prisons must be distinguished from labour camps.[33] The Assam Jail Manual of 1987 continues to be a reference text for the State's older practice.[34]

3. CONSTITUTIONAL AND LEGAL FRAMEWORK

3.1. Statutes and Manuals

Prisons are a State subject under the Constitution.[35] The colonial Prisons Act 1894 still provides the basic statutory scheme in many States. The MHA has issued two model instruments to guide State legislation: the Model Prison Manual (2003, revised 2016) and the Model Prisons and Correctional Services Act 2023, section 50 of which empowers States to establish open correctional institutions.[36] Since the Centre can only make recommendations, the practical impact of these models depends on State adoption. Some States have incorporated the Manual's chapter on open institutions into their own manuals; the Himachal Pradesh Prison Manual 2021 is an example.[37] The MHA has also sent the report *Women in Prisons* to the States, emphasising attention to women prisoners, including the availability of open facilities for them.[38]

3.2. Judicial Doctrine

Since *Rama Murthy*, the Supreme Court has often addressed the subject of open prisons as part of its oversight of prison conditions. In its ongoing proceedings on inhuman conditions in 1382 prisons, the Court directed States to expand and use open prisons.[39] In *Suhas Chakma v. Union of India*, an order of August 20, 2024 required States to report on their open correctional institutions, and the Court warned those that had not supplied information.[40] Press reports of that hearing document the Court's frustration with non-compliance.[41]

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30 *Id.*

31 Bureau of Police Rsch. & Dev., Ministry of Home Aff., *Implementation of the Recommendations of the All-India Committee on Jail Reform (1980–83)*, vol. II, § 24, at 566–96 (India).

32 Assam Prison Headquarters, *Institutional History*, Gov't of Assam, https://prisons.assam.gov.in/taxonomy/term/5813 (last visited Oct. 12, 2026).

33 *Prison Labour in Colonial India: A Case Study of Assam*, Space & Culture, India, https://spaceandculture.in/index.php/spaceandculture/article/view/621 (last visited Oct. 12, 2026).

34 B.P. Saraf & A.K. Saraf, *Assam Jail Manual* (GLR Publ'g House 1987).

35 India Const. sched. VII, List II, entry 4; Prisons Act, 1894, No. 9 of 1894, India Code.

36 Model Prison Manual 2016 & Model Act 2023, *supra* note 6 (Model Act 2023, § 50).

37 Himachal Pradesh Prison Manual 2021, https://hpprisons.nic.in/Docs/2022/Prison%20Manual,%202021.pdf (last visited Oct. 12, 2026).

38 Ministry of Home Aff., *Letter on the Report Women in Prisons* (Nov. 2, 2018) (India), https://xn--i1b5bzbybhfo5c8b4bxh.xn--11b7cb3a6a.xn--h2brj9c/sites/default/files/2022-12/WomeninPrisons_02022021%5B1%5D.pdf (last visited Oct. 12, 2026).

39 *In re Inhuman Conditions in 1382 Prisons*, W.P. (C) No. 406/2013 (India Feb. 21, 2018) (order), https://api.sci.gov.in/supremecourt/2013/18545/18545_2013_Order_21-Feb-2018.pdf (last visited Oct. 12, 2026).

40 *Suhas Chakma v. Union of India*, Diary No. 19935/2020 (India Aug. 20, 2024) (order), https://api.sci.gov.in/supremecourt/2020/19935/19935_2020_3_48_54900_Order_20-Aug-2024.pdf (last visited Oct. 12, 2026).

41 *Supreme Court Warns States/UTs Which Haven't Given Information on Open Prisons*, LiveLaw (Aug. 2024), https://www.livelaw.in/amp/top-stories/supreme-court-warns-statesuts-which-havent-given-information-on-open-prisons-267673 (last visited Oct. 12, 2026).

3.3. Suhas Chakma v. Union of India (2026)

The judgment of February 26, 2026 is the most significant ruling on open prisons since *Rama Murthy*. On the data presented to it, the Court found that OCIs were largely under-used, that women were excluded from several State systems, and that eligibility rules were rigid and inconsistent across States.[42] It recorded that Assam's OCI occupancy was about 20% and noted that Assam was one of nine States whose rules expressly bar the transfer of women to OCIs.[43] Commentary summarising the operative directions reports that eligibility is to turn on conduct and readiness rather than on mechanical criteria, and that OCIs are to function as rehabilitation centres rather than labour camps.[44] The Court also ordered the creation of State Monitoring Committees and a High-Powered Committee, reported to be chaired by Justice S. Ravindra Bhat, to frame Common Minimum Standards, and it fixed deadlines for compliance. The operative directions appear at paragraph 73 of the judgment (2026 INSC 198).[45,46]

The ruling changes the legal position in Assam in a way that earlier soft-law instruments could not. Where the Model Manual invited States to act, the Court now requires every State to assess, expand, and monitor its open facilities within a fixed timetable.

4. COMPARATIVE EVIDENCE AND INTERNATIONAL STANDARDS

Rule 4 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) treats reintegration as a central purpose of imprisonment, and Rule 89 recognises the desirability of open institutions within a differentiated prison system.[47] The Bangkok Rules supplement them with standards for women prisoners, including attention to their particular reintegration needs.[48] Guidance prepared by the OSCE's Office for Democratic Institutions and Human Rights explains how these standards translate into practice.[49] These instruments are not binding in the way a statute is, but Indian courts have drawn on international standards in reading Article 21, and they supply benchmarks against which Assam's practice can be measured.

The strongest causal evidence on open conditions comes from outside India. Giovanni Mastrobuoni and Daniele Terlizzese studied Italian prisons, including the open-cell prison at Bollate, exploiting the quasi-random assignment of prisoners to institutions of different severity. They report that recidivism fell by around ten percentage points for every additional year spent in an open prison.[50] The final version of the study was published in the *American Economic Journal: Applied Economics*.[51] There are two important cautions. The Italian setting differs from India's in sentencing, social welfare, and labour markets, so the magnitude of the effect cannot be transposed. And, as commentators note, India lacks reliable recidivism data of its own, which makes it hard to test whether the Italian results would hold.[52] The comparative evidence indicates a direction of travel rather than a forecast.

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42 *Suhas Chakma*, *supra* note 7.

43 *Id.*

44 IndiaLaw LLP, *supra* note 30.

45 *Prisons Without Walls*, India Legal, https://indialegallive.com/cover-story-articles/il-feature-news/open-prisons-supreme-court-suhas-chakma-ruling/ (last visited Oct. 12, 2026).

46 *Supreme Court Issues Nationwide Directions to Expand Open Prisons*, Bar & Bench (Mar. 3, 2026), https://www.barandbench.com/news/supreme-court-issues-nationwide-directions-to-expand-open-prisons (last visited Oct. 12, 2026).

47 G.A. Res. 70/175, annex, United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), rr. 4, 89 (Dec. 17, 2015) [hereinafter Nelson Mandela Rules].

48 G.A. Res. 65/229, annex, United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) (Dec. 21, 2010) [hereinafter Bangkok Rules].

49 OSCE Office for Democratic Insts. & Hum. Rts., *Guidance Document on the Nelson Mandela Rules*, https://www.osce.org/odihr/389912 (last visited Oct. 12, 2026).

50 Mastrobuoni & Terlizzese, *Harsh or Humane?*, *supra* note 13.

51 Mastrobuoni & Terlizzese, *Leave the Door Open?*, *supra* note 12.

52 *India's Open Prisons*, Reasons to Be Cheerful, https://reasonstobecheerful.world/?p=9937 (last visited Oct. 12, 2026).

5. OPEN PRISONS IN INDIA: DATA, COST, AND OUTCOMES

According to NCRB data, there were 91 open prisons at the end of 2022, holding about 4,473 inmates out of a total prison population of about 5.73 lakh, which is under one percent of all inmates.[53] Open-prison counts differ by year across sources, and later NCRB-derived data give a higher figure, so any citation should name its year. Journalistic assessments ask why India, given its overcrowding, does not use more open prisons.[54]

Cost is the clearest advantage. The Supreme Court recorded that Rajasthan spends about Rs. 49.60 per prisoner per day in open prisons, as against about Rs. 333.12 in closed prisons, or roughly one-seventh as much.[55] Commentary on the judgment repeats the figures.[56] Because the institutions compared differ in inmate profile and security level, the comparison indicates a lower cost per head rather than a like-for-like saving.

Safety is the standard objection. IndiaSpend, using 2015 data, reports that about one in 45 prisoners absconded from Rajasthan's open prisons, as against about one in 481 in closed prisons nationwide.[57] The author has not checked the figures against the original NCRB data, and they are not like-for-like. A person who walks away from an open prison has breached trust rather than broken out of custody, and the figures cover a single State in a single year. If the reported figures are accurate, they indicate that open prisons carry an absconding risk that policy must manage rather than ignore; the conduct-based selection and monitoring proposed in Part 8 respond to that risk.

Indian research on rehabilitation is scarce but suggestive. A 2017 study by Smita Chakraburtty for the Rajasthan State Legal Services Authority, which interviewed 428 prisoners across 15 open prisons in Rajasthan, is reported to have found open prisons cheaper and better than closed ones.[58] Press accounts describe Sanganer as an institution where prisoners work and live with their families.[59,60] An earlier study (1979) of surrendered dacoits in the open prisons of Madhya Pradesh used a 100-inmate interview schedule and participant observation to examine reformation and rehabilitation.[61] A more recent multi-State study, discussed in The Wire, examined eligibility periods, work outside the prison, and the position of women.[62] And Trishna Senapaty's ethnography of a Rajasthan open prison questions how "open" an "open" prison actually is, a warning against taking the label at face value.[63]

6. A SPECIAL REFERENCE TO ASSAM

6.1. The Jorhat Open Air Jail (Mahendra Nagar Open Air Jail, Jorhat)

The Open-Air Jail at Jorhat has a capacity of 100. According to the Directorate of Prisons' population statement as on January 31, 2022, the prison held roughly 21 inmates, while closed facilities such as Guwahati

53 Nat'l Crime Recs. Bureau, Ministry of Home Aff., *Prison Statistics India 2022* (India); *NCRB Releases Prison Statistics India Report 2022*, LiveLaw, https://livelaw.in/news-updates/ncrb-releases-prison-statistics-india-report-2022-243973 (last visited Oct. 12, 2026); *NCRB Open Jail and Jail-Type Series*, Dataful, https://dataful.in/datasets/22982/ (last visited Oct. 12, 2026).

54 *Open-Air Prisons Are a Humane Solution to Overcrowded Jails. So Why Doesn't India Use Them More?*, Scroll.in, https://scroll.in/article/1076983/open-air-prisons-are-a-humane-solution-to-overcrowded-jails-so-why-doesnt-india-use-them-more (last visited Oct. 12, 2026).

55 *Suhas Chakma*, *supra* note 7.

56 *Supreme Court Issues Nationwide Directions to Expand Open Prisons*, *supra* note 48.

57 *Why Open Prisons Are the Solution to India's Overcrowded Prisons*, *supra* note 15.

58 *Open Prisons Are Cheaper, Better, Says Study*, *supra* note 14.

59 *Should Rajasthan's Open Prisons Be Replicated Across the Country?*, The Wire, https://cms.thewire.in/law/rajasthan-open-prison (last visited Oct. 12, 2026).

60 *Sanganer Open-Air Camp: Prison Where Prisoners Live with Their Families*, LiveLaw, https://www.livelaw.in/amp/articles/sanganer-open-air-camp-prison-where-prisoners-live-with-their-families-276867 (last visited Oct. 12, 2026).

61 *Reformation and Rehabilitation of Surrendered Dacoits*, *supra* note 16.

62 *Are Open Prisons Potentially Rehabilitative?*, *supra* note 20.

63 Senapaty, *supra* note 17.

Central Jail and Nalbari District Jail were running far above capacity at the same time.[64] Jorhat's occupancy varied between 20 and 26 inmates in 2015 and in 2021–22, and overcrowding in Assam's closed prisons has been reported for years.[65] An NHRC note on the Jorhat jail records educational and agricultural activity,[66] and a study of lifers by Shantanu Chakravarty, published as *The Second Sentence: A Tale of Lifers*, includes the Jorhat open prison among the institutions it examined.[67] The Supreme Court in 2026 recorded Assam's OCI occupancy at about 20%.[68]

6.2. Why Is the Open Prison Under-Used?

Occupancy of about one-fifth, beside closed prisons with populations far above capacity, suggests, but does not establish, that the supply of prisoners is not the limiting factor. On the January 2022 figures, Jorhat alone could house roughly 79 more prisoners. The factors most often suggested are restrictive eligibility, the exclusion of women, staffing, land, and limited awareness among officials and prisoners. The secondary data used here cannot show which of these predominates. They are consistent with the working hypothesis but do not prove it. Open-prison capacity, the number of eligible prisoners, actual transfer decisions, and institutional barriers are separate factors that need separate evidence, which could come only from Right to Information requests and conversations with officials and eligible prisoners.

6.3. Barriers and Compliance After 2026

Since the 2026 ruling, High Courts have been monitoring compliance. An August 2026 Tripura High Court order on open correctional infrastructure is one example from a neighbouring North-East State.[69] The Goa High Court has looked to the Rajasthan model as Goa prepares its first OCI.[70] Rajasthan's experience also carries a warning on land: reports describe hundreds of prisoners left in limbo after the State allotted open prison land to a hospital.[71] Assam's own compliance with the Court's directions, including the constitution of a State Monitoring Committee, has not been verified for this article and should be confirmed before publication.

7. OPEN PRISONS AND GENDER

The Supreme Court listed Assam among nine States whose rules expressly bar the transfer of women to OCIs.[72] Other States take a different course. Kerala, Maharashtra, and Rajasthan house women in open facilities, including the open prisons at Yerwada and Poojappura and in Rajasthan.[73,74]

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64 Directorate of Prisons, Gov't of Assam, *Fortnightly Prison Population Statement as on 31 Jan. 2022*, https://prisons.assam.gov.in/sites/default/files/swf_utility_folder/departments/dirprisons_webcomindia_org_oid_7/this_comm/fortnightly_prisons_population_as_on_31-01-2022_including_dfn.pdf (last visited Oct. 12, 2026).

65 Pranjal Bhuyan, *No Solution in Sight to Overcrowding in Jails*, Assam Trib., https://assamtribune.com/no-solution-in-sight-to-overcrowding-in-jails (last visited Oct. 12, 2026).

66 Nat'l Hum. Rts. Comm'n, *Central Jail Jorhat*, https://nhrc.nic.in/sites/default/files/UK_Jorhat_Jail_04122019.pdf (last visited Oct. 12, 2026).

67 *Assam Jails Have Not Been Able to Reform Inmates*, Assam Trib., https://assamtribune.com/assam-jails-have-not-been-able-to-reform-inmates (last visited Oct. 12, 2026) (reporting Shantanu Chakravarty, *The Second Sentence: A Tale of Lifers*).

68 *Suhas Chakma*, *supra* note 7.

69 High Court of Tripura, *Order on Open Correctional Infrastructure* (Aug. 2026) (India), https://www.livelaw.in/pdf_upload/2026/08/28/tripura-hc-open-correctional-infrastructure-696739.pdf (last visited Oct. 12, 2026).

70 *HC Taps Rajasthan Model for Insights on Goa's Open Jail*, The Goan, https://www.thegoan.net/goa-news/hc-taps-rajasthan-model-for-insights-on-goas-open-jail/149899.html (last visited Oct. 12, 2026).

71 *Hundreds of Prisoners in Limbo as Rajasthan Govt Allots Open Jail Land to Hospital*, Outlook, https://outlookindia.com/national/hundreds-of-prisoners-in-limbo-as-rajasthan-govt-allots-open-jail-land-to-hospital (last visited Oct. 12, 2026).

72 *Suhas Chakma*, *supra* note 7.

73 India Law LLP, *supra* note 30.

74 *Open Jails for Women*, Legal Serv. India, https://www.legalserviceindia.com/Legal-Articles/?p=31556 (last visited Oct. 12, 2026).

The bar is open to challenge on constitutional grounds. Article 14 permits classification only on an intelligible differentia that has a rational nexus with the object of the rule.[75] The object of an OCI is reintegration. A prisoner's sex bears no evident relation to her readiness for it, and individualised assessment, rather than a categorical bar, is the way to test readiness. Even though Article 15(3) permits the State to make special provision for women, a rule that withholds a rehabilitative opportunity is not a special provision in their favour. International standards point the same way: the Nelson Mandela Rules treat reintegration as a purpose of imprisonment, and the Bangkok Rules require attention to the particular needs of women prisoners.[76] Article 21, as read in *Mullin*, protects the dignity of prisoners and, with it, their prospects of rehabilitation.[77] The MHA has likewise drawn the States' attention to women in prisons.[78] These are the author's arguments, not holdings; the sources consulted for this article do not show whether the Court rested its direction on women's inclusion on Article 14. The provision itself should be traced to the Assam Prisons Act 2013 or the prison rules made under it, which this article has not yet examined.

The position of women in Assam's prisons is also a matter of record. In 2024, the National Law University and Judicial Academy, Assam surveyed six Assam prisons to examine the conditions of women inmates and their children.[79] Any women's unit at an OCI would have to address the needs of mothers with children.

8. A REFORM MODEL FOR ASSAM

The following proposals are the author's own, drawn from best-practice States and from the Court's directions, and are intended to fit within the timetable the Court has set.

1. Conduct-based eligibility. Replace rigid, category-based thresholds with an individualised assessment of conduct and readiness, as the Court's directions contemplate and the Model Prison Manual permits.[80,81]

2. Gender inclusion. Remove the bar on the transfer of women, and set up a women's unit with provision for mothers who have their children with them.

3. Wages and labour. Offer vocational training and wage-linked work, including employment outside the institution where feasible. In a State with a history of colonial prison labour, the OCI should be a rehabilitation centre rather than a labour camp.[82]

4. Family and healthcare integration. Provide health services and permit family contact and, where practicable, family accommodation, as Sanganer does.[83]

5. Infrastructure and land. Fill the existing capacity at Jorhat first, and secure tenure of any additional land against reallocation, as the Rajasthan hospital episode shows is necessary.[84]

6. Monitoring and evaluation. Report on occupancy, women's transfers, wages earned, absconding, and post-release outcomes, using NCRB categories as the baseline dataset. The Assam Directorate of Prisons

75 India Const. arts. 14, 15(3), 21.
76 Nelson Mandela Rules, *supra* note 49, r. 4; Bangkok Rules, *supra* note 50.
77 *Mullin*, *supra* note 27.
78 Ministry of Home Aff., *supra* note 40.
79 *Surviving Behind Bars*, *supra* note 18.
80 IndiaLaw LLP, *supra* note 30.
81 Model Prison Manual 2016, *supra* note 6, ch. XXIII.
82 *Prison Labour in Colonial India*, *supra* note 35.
83 *Sanganer Open-Air Camp*, *supra* note 62.
84 *Hundreds of Prisoners in Limbo*, *supra* note 73.

would be responsible for this, reporting to the State Monitoring Committee.[85] Monitoring released OCI inmates would also begin to close the gap in Indian recidivism data.[86]

In sequence, the State could (i) audit eligible convicts in its closed prisons and the capacity of Jorhat within the first three months, under the Assam Directorate of Prisons; (ii) the State government to amend its rules to adopt conduct-based eligibility and remove the bar on women within the Court's deadlines; and (iii) the Assam Directorate of Prisons to begin phased transfers and a women's unit, with a first annual report to the State Monitoring Committee on the indicators above.

9. CONCLUDING REMARKS

Open prisons are a low-cost, legally endorsed instrument of reformation that India uses very little. Assam shows the pattern clearly: a prison at only about one-fifth of its capacity, beside overcrowded closed prisons, and a rule that excludes women altogether. The comparative and Indian evidence on cost and rehabilitation is encouraging, and it is honest about absconding and the lack of recidivism data. After *Suhas Chakma*, the question for Assam is no longer whether to use open prisons but how quickly and how well. A calibrated expansion built on conduct-based eligibility, gender-inclusive facilities, wage-linked rehabilitation, and systematic outcome monitoring would answer the Court's directions and give the reformative promise of Article 21 practical content.

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