

Condition of Women in Prison: The Rehabilitation and Reintegration

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Abstract: This research paper is made with the aim to understand the condition of female prisoners in India. In our country women are represented as goddess and also in ancient times women were treated differently than they have been treated today. we can see many examples in our Vedic history where women were highly respected and viewed as someone who is from higher status. But now there are many crimes happening against women. In many cases, women were also committing crimes. We can see lots of examples in today's world where women are misusing laws and trying to escape from the eye of law. Both women and men are treated equally before law, this applies for all the prisoners also irrespective of their gender. There are certain laws which governs the women prisoners in India, at the same time, we should also not forget that many women are put into a situation to commit crime and also the inmates exploited many women prisoners. This paper identifies the problems faced by the women prisoners and the law which governs the female prisoners in India. This paper also tries to compare the position of India with other countries to suggest that India could also adopt other countries policies into our law to safeguard and to ensure women prisoners rights. the rehabilitation and reintegration of women prisoners were also discussed in this paper.

Keywords: prisoners, reintegration, situation, irrespective

Introduction

The challenges faced by women in India is a very crucial topic for discussions. Women who are strong and independent also faces lots of challenges both mentally and physically. When we speak about the challenges faced by women, it is important for us to address the challenges faced by the women prisoners in India. Prisons really create a negative impact in the minds of the first-time offenders. The Indian prison system was designed in such a manner that the restoration of criminals is the first and foremost duty of every prison administration.

There are lots of scenarios where female prisoners were abused and tortured by the inmates, one such most talked about prison abuse is about Ms. Soni Sori, a tribal activist who was arrested put into prison. She was often sexually harassed by the inmates and often made to sit naked inside the cell where stones have been inserted into her private parts.¹ Cases like Soni Sori issue is what makes today's world to concentrate more on development of women's safety inside the prison.

According to the NCRB (National crime record Bureau) report on Prison statistics, the women offenders have increased from 1319 in 2021 to 1330 in 2022, though the difference is very less, it is something that should not be taken as a normal thing. To understand why women are indulging in criminal activity, we have to first understand the root causes which influences women to commit crime. Women in India is usually seen as

¹ Divya Arya, *Soni Sori : India's fearless tribal activist*, BBC News, March 22, 2016
(<https://www.bbc.com/news/world-asia-india-35811608>)

innocents and weaker gender and when we hear something about women criminality, it is difficult to accept and most of the time the society sides with the women and justifies her act.

Since, women occupy a minority position in the total prison occupants across the nation, the women's prisons are often neglected or very less improvement have been done. Mostly women indulge in criminal acts such as theft like stealing money or jewels, murder where in some cases the victims were the abusers and most common criminal act done by women is passing of drugs.² Women who are incarcerated suffer from mental health disorders and in some of the cases they are the victims of substance abuse.

1. Legal framework

• Indian constitution

The Indian constitution is the foundation of basic rights of the citizens. Everyone is equal and every human life should be respected was the core ideology behind the making of the constitution. According to Article 14 of the constitution ensures that everyone in India is treated equally by the law regardless of their background, social status, or any other factor. Article 14 is all about fairness and justice. This article has two main parts i.e., equality before the law and equal protection of the law. Article 15(3) allows the state to make special provisions for women and children. This means that the government can create laws or policies that benefit women and children specifically. The idea article 15(3) is to promote the welfare and empowerment of women and children, who may have historically faced discrimination or disadvantages. These two articles will apply to the women prisoner also.

Article 21 of the Indian Constitution ensures right to life and personal liberty and this right also applies to the prisoners irrespective of their gender. In the landmark case of Charles Sobhraj v. Superintendent³, Tihar jail, the court emphasized that there should be a need to balance the prisoner's constitutional rights and the need for prison security and discipline. The court also said that though prisoner's retain certain fundamental rights, they are subject to reasonable restrictions. In another case, the apex court of India ensured that prisoners can exercise their constitutional and statutory rights in order to protect them⁴.

Article 39-A of the constitution ensures that the state should provide legal aid services to the poor and weaker section of the society including those who are in prison. The state shall provide all the assistance for those who cannot hire a lawyer and represent themselves. The free legal aid services which are mandated by the constitution will be helpful for many women prisoners who do not have the economic benefit to hire a lawyer.

In the case of Hussainara Khatoon v. state of Bihar⁵, the court held that right to free legal aid is an essential ingredient of the rights assured in Article 21 of the Constitution.

² Reforming women's prisons, *Guidance note 13*

(https://www.unodc.org/pdf/india/womens_corner/gn_womens_prisons.pdf)

³ Charles Sobraj vs The Suptd., Central Jail, Tihar, 1978 AIR 1514

⁴ M. H. Hoskot v. State of Maharashtra, 3 SCC 544, 1978

⁵ Hussainara Khatoon v. State of Bihar (1979 AIR 1369)

- **The Code of Criminal Procedure, 1937 :**

Section 54 of CRPC which deals with the examination of an arrested person by the medical officer to record injuries. This examination can also help to discover custodial torture. Section 437(1) of the crpc emphasizes that the arresting officer should inform the arrested person about the grounds of arrest and their right to bail.

- **The prison act, 1894**

The prisons act of 1894 is an exclusive act for the prisons and the admission of the prisoners. The prisons act outlines the importance of administrating the prisoners inside the prisons and put forwards the responsibilities of prison authorities while dealing with the prisoners. According to section 4 of the Prisons act, the state government shall provide accommodations to the prisoners by constructing prisons in such a manner that it complies with the act.

The prisons act states that, every prison should have a superintendent, a medical officer, a medical subordinate, a jailer, and other officers that the state thinks necessary. Section 27(1) of the act mandates separation of male and female prisoners to prevent sexual exploitation and the Section 33(1) says that indigent women prisoners should be provided with clothing and bedding. Every prisoner shall be examined upon his admission and for the female prisoner's examination shall be carried out by the matron by the orders of the medical officer. This act also speaks about the employment of civil and criminal prisoners. The prisons act also contains the provisions for the offenses happening inside the prison and also gives punishment.

- **The national model prison manual**

The model prison manual is a comprehensive guide for prison administration in India. The model prison manual covers various aspects of prisons and rights of prisoners such as the prisoner rights and privileges, health and hygiene of inmates, visitation and communication, educational and vocational training, rehabilitation, and classification of Prisoners.

According to the model prison manual, a prisoner is a person who is kept in jail or prison under the custody of the competent authority if he or she commits any wrong which is prohibited by the law which is in force. The model prison manual concentrates on the health of the Inmates and provides for a hospital inside the prison with separate wards for men and women.

Further, the model prison manual of 2016 mandates that the inmates should be admitted to mental health institutions if they show any mental health issues and that the counsellors and psychiatrists be available to prisoners from time to time. It even provided that death row prisoners should be also be given the facility of mental health examination and the therapy sessions should also give to them. One of the important changes made in the model prison manual of 2016 is that it incorporated separate chapter on legal aid. It discusses about the importance of setting up of legal aid in every prison and that the prisoners should be educated on the topic.

The 2016 model prison manual has brought forth many changes in respect to the administration of women prisoners. It provided for the screening of women prisoners for determining any kind of sexually transmitted diseases and the presence of trauma or mental health issues. It also provided for the screening of blood-borne diseases in women.

The model prison manual concentrated heavily on educating the women prisoners of their health and well-being and creating awareness on how prevent diseases. Moreover, it restricts certain punishments like close confinement to pregnant inmates and inmates who are with their infants. It also mandates to give nutritional care

for the children and made sure that the children have drinking facilities and special care should be given to women during their pre-natal and post-natal period.

- **The Universal Declaration of Human Rights**

The UDHR plays a vital role in safeguarding the basic human rights of the citizens all over the world. the UDHR also provides for the treatment of the prisoners also. Article 3 of the UDHR provides for the protection of life, liberty, and security of the person.

These rights are also applicable to the Prisoners. It also provides protection from torture, cruelty, and inhumane treatment of a human being. The universal declaration of human rights also states that violation against women should be prohibited and it also stresses that women should be equally treated with men. The UDHR also states that speedy trial should be given to the prisoners to protect their dignity⁶.

- **United nations standard minimum rules for the treatment of Prisoners (Mandela rules)**

The Mandela rules give rules and regulations for the prison management. The United Nations standard minimum rules for the treatment of Prisoners (Mandela rules) were adopted by the United Nations on December, 2015. It gives basic rules for the protection of prisoners both men and women.

Rule 28 of the Mandela rules says that special care for pre-natal and post-natal women should be given and also necessary arrangements shall be made in every prison for the childbirth and that the prison should help in the development of the child. Rule 29 of the Mandela rules says that Child is kept in the prison with the mothers considering the special interest of child. The children in the prisons shall never be considered as prisoners. Basic care and nutritional foods shall be given to the children who are in prison.

Drinking water facilities shall be given to the female inmates and children and that they should not be denied of nutritional care. Rule 48 of the Mandela rules says that pregnant women and women with infants should never be put in restraint.

- **United Nations Rules for the treatment of women prisoners and non-custodial measures for women offenders (the Bangkok rules)**

One of the aims of the Bangkok rules is that standard minimum rules should be applicable to everyone without discrimination. It is applicable to every woman who are deprived of liberty, criminal, or civil inmates and untried or convicted women prisoners. The reason behind introducing Bangkok rules is that many rules which was made before 50 years or so only contained less provisions for the Women prisoners. Some of the rules in the Bangkok rules is as follows:

Rule 4 – this rules states that women prisoners should be kept in a prison which is close to their home or place because of the caretaking benefits.

Rule 5 – this rules states about the personal hygiene of the women prisoners. It provides that the women who are incarcerated should be given free hygiene benefits like providing free sanitary towels and basic hygiene facilities.

Rule 6 – Medical screening should be conducted on women prisoners to determine sexually transmitted diseases and blood borne diseases. The test to identify HIV can also be taken by the competent medical authorities. The

⁶ The Universal declaration of human rights

women prisoners shall also be tested for any drug dependencies and also should be given therapies and counseling by the medical authorities. The medical officer inside the prison shall also examine the women prisoner for any symptoms of sexual abuse and provide necessary treatments.

Rule 7 – if the medical officer finds out that any female who are taken to prison has been sexually abused then it is the duty of the officer to inform the person about the legal actions that could take. They should be informed of the help that they can get and also can help the female prisoner to file a case with the judiciary. If the female prisoner does not want to press charges, then it is the duty of the officers inside the prison to give necessary care and treatment for the prisoner to overcome the effects of the sexual abuse.

Rule 9 – children who are accompanying their mothers should also be screened upon arrival to determine any possible nutritional defects. The child should be given basic care and facility inside the prison.

Rule 16 – the prison officers should take necessary education and awareness to prevent suicide and self-harm among the female prisoners. They should be given proper therapy in order to overcome the abuse or trauma they have experienced.

Rule 32 – women prison officers should be given proper training as that of men officers. They should be taught to handle the situation well inside the prison.

Rule 37 – The juvenile female inmates should be given educational and vocational training inside the prison so that after their release they could reintegrate with the society.

Rule 49 – Children who are in prison along with their mothers should never be treated as prisoners⁷.

2. The condition of women prisoners – exploring the condition of female inmates in India, United states of America and South Africa:

Women prisoners are more likely to experience trauma when in jail and this condition further worsens the mental wellbeing of trauma survivors. Women who are incarcerated usually come from an abusive environment and the government does not consider on how jail life can be traumatizing for women when it goes unnoticed. women prisoners who are isolated and continuously checked by the male officers even while showering and dressing are likely to experience severe mental torture and develop the PTSD symptoms.

This is something that we do not talk often and it is even not properly addressed by the government unless and until anyone files a case or unless something goes wrong and it becomes a national issue.

In the famous case of *Semelbauer v. Muskegon County*⁸, the ACLU of Michigan filed a case against the Muskegon County jail, Michigan on behalf of eight female inmates. The plaintiffs alleged that the male prison guards at the Muskegon County jail are permitted to watch female inmates while they change clothes, shower and use the bathroom and that they were denied of basic hygiene products such as toilet paper and sanitary items. The court ordered that the plaintiffs was to be paid damages and asked the defendants to change their policies on jail administration such as cross gender viewing, providing necessary hygiene products.

⁷ United Nations Rules for the treatment of women prisoners and non-custodial measures for women offenders (the Bangkok rules)

⁸ *Semelbauer v. Muskegon, County*, 1:14-cv-01245, (W.D. Mich.)

Prison Conditions, Occupancy rate and healthcare gaps:

In India, according to the reports of the NCRB there are 1,537 women prisoners with 1,764 children as on 31st December, 2022. Among them there are 1,312 undertrial prisoners with 1,479 children and 198 convicted women prisoners with 230 children.

The women prisoner's occupancy rate in India is low compared to the men.

Though women occupy minority rate in the total prison occupancy rate in India, it is important to note that the occupancy rate of women prisoners are increasing by 5%.

Table 1.1 – State wise occupancy rate of women prisoner in women jails

S.No	list of states	Occupancy rate of Women jails
1	Mizoram	168.8
2	Tripura	156
3	Maharashtra	130.9
4	Bihar	110.4
5	Delhi	99.3
6	Telangana	98.5
7	West Bengal	96.8
8	Punjab	71.2
9	Karnataka	70
10	Kerala	59.1
11	Andhra Pradesh	49.6
12	Gujarat	48.5
13	Rajasthan	47.7
14	Odisha	38.2
15	Uttar Pradesh	31.2
16	Tamilnadu	30.2

Table 1.2 - State-wise occupancy rate of women prisoner in jails except the women jails.

S.No	States	Occupancy rate
1	Uttarakhand	166.5
2	Bihar	150.9
3	Uttar Pradesh	144.4
4	Chhatisgarh	117.4

5	Maharashtra	105.6
6	Jammu & Kashmir	100
7	Madhya Pradesh	99.7
8	West bengal	91.8
9	Jharkhand	87.5
10	Goa	86

The above table consists of the state- wise total occupancy rate of women prisoner in jails except the women jails. The above data is taken from the NCRB report on Prison statistics 2022.

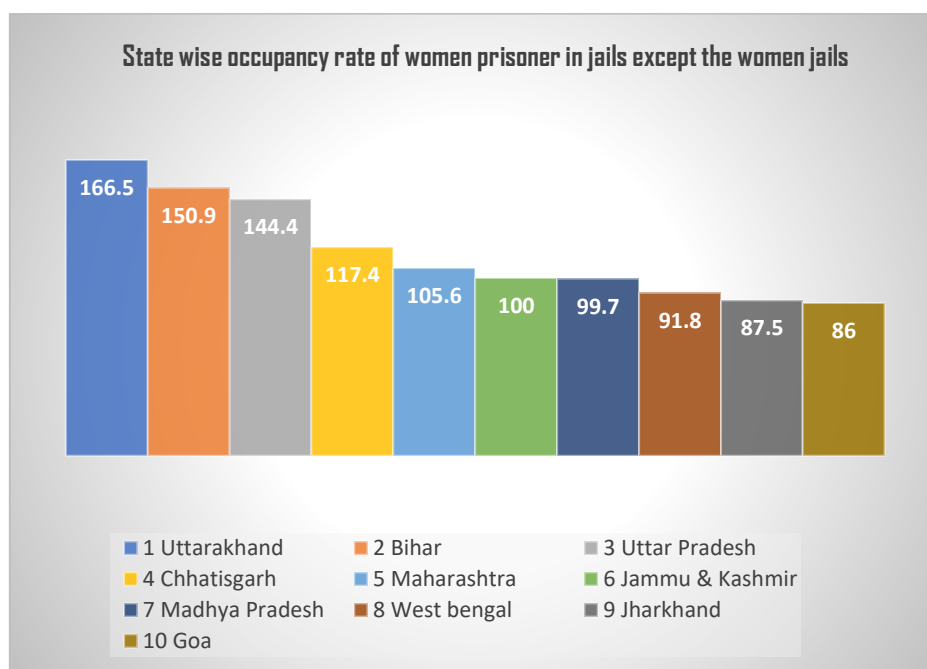


Chart 1.1 – pictorial depiction of state wise occupancy rate of women prisoner in jails except the women jails

According to the NCRB report of 2023 on Prison statistics, the occupancy rate of inmates in female prisons 60.1% with a population of 4,258. 16 states in India have exclusively prisons for women, whereas in other states female prisoners and men prisoners are kept in separate sections in the same prison facility.

In the United States of America between the years 1980 to 2022, the number of women prisoners increased from 26,326 to 180,684. Though the covid period saw a substantial downfall, the situation totally reversed on 2022 when united states of America saw a 18% increase in the women prisoners throughout the country⁹. there were

⁹ Kristen M. Budd, Incarcerated Women and Girls, July 24, 2024. (<https://www.sentencingproject.org/fact-sheet/incarcerated-women-and-girls/>)

more than 85,000 women were sentenced with more than one year in state or federal jails in the USA at the end of 2023. This means there is 4% rise of female prisoners compared to the 2022 statistics of Prison Report series.¹⁰

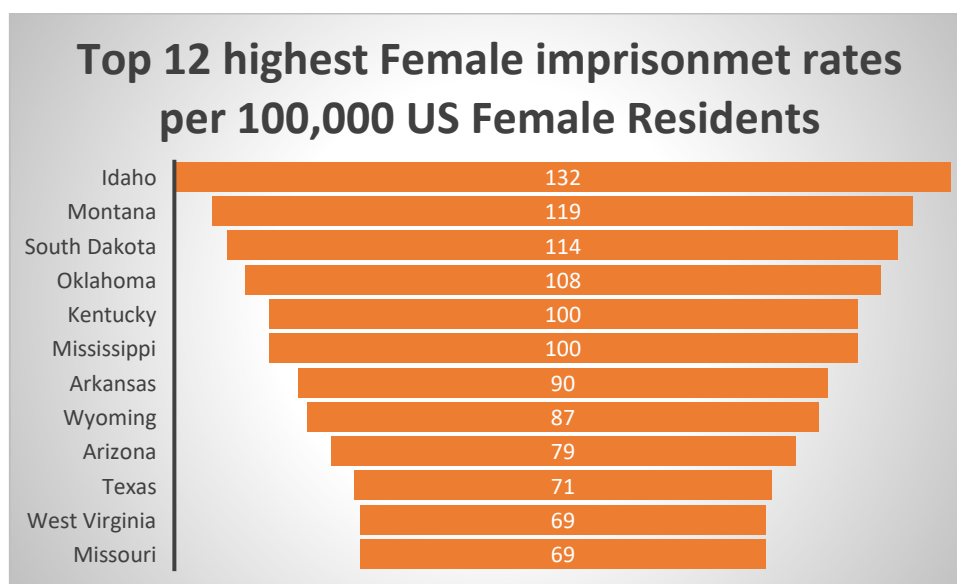


Chart 1.2 – female imprisonment rate in the United States Of America¹¹

(source: Carson, E.A., & Kluckow, R. Prisoners in 2022 – Statistical (2023), Bureau of Justice Statistics).

The above Chart 1.2 shows that Idaho State in the US has the highest female imprisonment rate as per the 2023 statistics on prisoners. Among those females who are incarcerated, 46% of women were arrested for violence, 19% of them were incarcerated for Property crimes, 25% of them were imprisoned for drug offenses and 10% of women prisoners were arrested for creating disruptions in the Public Order.¹²

In South Africa,

According to the 2018 data by the World Prison Brief, South Africa was the 12th highest country to have the incarcerated rate of women Prisoners. According to the 2024 data on total incarcerated female rate by the World prison Brief, South Africa has 3% of total incarcerated women rate. The female prison population was 7.4 per 100,000 national population¹³.

Healthcare gaps:

In the United States, A research on Women's mass incarceration: the whole pie, 2024 reports that self-medication with drugs or alcohol, health problems and trauma are the most common factors leading to women criminality while studying about the female incarceration rate in the United States¹⁴.

¹⁰ Prisoners Series, 2023, Bureau of Justice Statistics.

¹¹ Carson, E.A., & Kluckow, R. Prisoners in 2022 – Statistical (2023), Bureau of Justice Statistics.

¹² Carson, E.A., & Kluckow, R. Prisoners in 2022 – Statistical (2023), Bureau of Justice Statistics

¹³ World Prison Brief, 2024

¹⁴ Alex Kajstura & Wendy Sawyer, Women's mass incarceration: the whole pie, 2024, March 5, 2024

The healthcare gaps in the women prisons are very evident. Most of the women in prisons were denied of basic health care facilities. In the US, approximately 6 to 10% of women prisoners are pregnant and were denied of basic post-natal treatments inside the prison¹⁵.

The findings from the women's pathways to prison conducted by the gender, health and justice research unit, university of cape town says that women in prisons states that women in south African prisons are not getting quality foods and they reported that the vegetables are rotten since the male officers who prepares food gives away all rotten things for women prisons and they take all the quality meat and foods for themselves. since the cooking is done in male prisons, most of the foods are not up to the nutritional level due to the discrimination politics played the male prison guards. Sometimes, the female prisoners are only getting coffee for their breakfast which led to many health problems¹⁶.

Moreover, most of the women in south African prisons are not getting medical treatment while they are pregnant and as a result of this, babies are born with nutritional deficiencies.

The south African women Prison population is in minority and often understudies or neglected. Many women prisoner reported that they are denied or not able to avail basic health care or the necessary requirements to sanitation health. Though the Constitution of Republic of South Africa in its article 35(2) states that all individuals even women who are incarcerated have the right to conditions of imprisonment which is in par with the human dignity, the dignity of women prisoners are always not looked upon and thus they are emotionally, physically, and mentally destroyed within the four walls of the prison.

Period Poverty is one most prevalent issue in the South African Prisons. Female inmates are not getting sanitary pads and this was made even worse during the COVID situation. Many women reported that due to overcrowding in prison, they are not getting required sanitary products to look after reproductive health and most of the female inmates were examined with trauma, stress, and anxiety due to overcrowding.

One of the most heinous crimes which is happening in South Arican prisons is rape and it has directly affected many women mentally and also physically which led to development of diseases like HIV and other sexually transmitted disease¹⁷.

The health care in women prison is a highly discussed topic. Though there are laws and constitutional guarantees, the women prisoner in India are often deprived of health facility. Most of the females who are incarcerated in India shows symptoms pf abuse, anxiety and various mental health issues and they were not treated properly since our society treats mental illness like anxiety and PTSD as myths. The prison inmates are said to have more mental stress and trauma than that of the population outside the prison.

Many research says that sexually transmitted diseases and HIVs are evident in females who are incarcerated. Needle sharing and substance abuse often led to the development of tuberculosis among the prison inmates¹⁸.

The healthcare gaps should be addressed by the government very efficiently as the main aim of our Country is the reformation of prisoners. If prisoners were not given proper care, there is a possibility that it can affect their minds and lead them to involve in violence with other inmates.

¹⁵ American College of Obstetricians and Gynaecologists. (2011). Health care for pregnant and postpartum incarcerated women and adolescent females. Committee Opinion No. 511. Obstetrics and Gynaecology, 118, 1198-1202

¹⁶ Women's Pathways to Prison, Gender, Health and Justice Research Unit, University of Cape Town (2012)

¹⁷ Janice Kathleen Moodley., & Bianca Rochelle Parry., & Marie Claire Van Hout, Incarceration, menstruation and COVID-19 : a viewpoint of the exacerbated inequalities and health disparities in South African correctional facilities, October 25, 2022.

¹⁸ Singh S, Prasad R, Mohanty A., High prevalence of sexually transmitted and blood-borne infections amongst the inmates of a district jail in Northern India

3. Rehabilitation and Reintegration

Counseling and therapy:

Women who are incarcerated are more likely to have mental health issues than a free woman. So, every woman in prison shall be given mental health therapies and activities which calms and resolves their stress. The prisons all over the world which consists of women prisoners should have access to broad range of psychological therapies and therapeutic treatment which may include counselling, psychotherapy, group therapy and such other therapies which are important to the mental health issues¹⁹.

The government should ensure that qualified medical personalities should help the women prisoners during their therapy and counselling session. Counselling helps women to open up and address the cause which led them to involve in crime. This will be helpful for them if they find the right way to overcome the issue rather indulging in crime.

Educational and vocational training:

Educational and vocational training is very important for prisoners especially female inmates. When women enter the real world after being in prison, their view of society will be very different. Some women may experience difficulty in leading a normal life after being released. It will be very difficult for them to adapt easily and also financial insecurity comes as a burden as most of the women who are back from the prison are most likely to get abandoned by their family. So, educational, and vocational training inside the prison will help them to start a new life once they are released.

Women with vocational training and skills are most likely to secure jobs after release from prison. Most of the women prisoners are single mothers so the trainings will support the children's education also if the mothers are skilled.

The findings from the women's pathways to prison conducted by the gender, health and justice research unit, university of cape town says that women in prisons reported that they want to be educated on financial management, entrepreneurship, small business development, car mechanics and other practical studies.

the findings also states that women's work in prison ranges from sewing to hairdressing. In minister of justice and constitutional development v. Prince, the court emphasized that prisons must provide rehabilitation through training and development which also includes vocational and educational programs as constitutional imperatives²⁰.

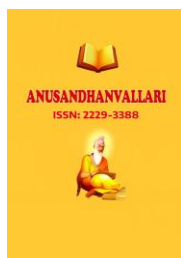
Health and wellness:

Addressing Trauma and abuse should be the major concern of women prisons all over the world. As stated, before most of the women prisoners who are incarcerated experienced trauma and abuse before coming to the prison. If the female inmates were taken care mentally and physically inside the prison they could lead a dignified life outside the prison.

One of the recommendations in this article is that every prison should have separate rehabilitation institute and mental illness institute so that it could avoid the difficulty of sending the prisoner to another institution and discharging them from that institution and back to prison.

¹⁹ Ann-Marie Bright., & Agnes Higgins., & Annmarie Grealish, Women's experience of prison based mental health care

²⁰ Women's Pathways to Prison, Gender, Health and Justice Research Unit, University of Cape Town (2012)



Exercise should be made compulsory so that female prisoner's health and mental stance will be kept in check. Exercising reduces stress and helps them to concentrate to rehabilitate and change their mindset.

Economic empowerment

Women in Prisons indulge in commercial works inside the prison and they earn according to the work done by them. The money earned inside the prison will help them in the outside world. but that amount will be very less to start a new life so the government should take initiative to provide minimum amount of money for women who comes from poor background and women who are with child.

Because lack of money will again lead them indulge in theft or other kind of criminal activity to provide for themselves and for their child since it will be difficult to secure job immediately after release from prison. Educational and vocational training will help them but empowering them economically will really change their way of living and thinking.

4. Conclusion

Nelson Mandela has once said that the life spent inside Prison was very Harsh. The prison system all over the world is created to reform the prisoners and change them into a new person after their release but in most of the countries the reforms inside the prison is not up to the mark. One of the most important issues that the government all over the Globe should concentrate is on the topic of condition of women prisoners. The living condition of women prisoners in some of the jails in India is very poor that they are not getting proper health facilities. Addressing the problems inside the prison will help the inmates as it directly influences their way of living. Awareness about the women criminality and what causes them to cause crimes should be discussed in media and it should be telecasted to the public. The government should make sure that the statistics of women prisoner should be updated from time to time so that they could bring necessary changes to the women prison system. In this article, the most commonly discussed factor for the women criminality was abuse and mental health issues. The state government in every state should educate young girls and should conduct awareness programs on mental health. A safe environment for women will help them to lead a normal life whereas an environment where they are constantly abused and violated will lead to commit crime and most of the murders committed by women was the direct result of the abuse experienced by them. Many laws and regulations especially for the women prison inmates should be introduced and many economic empowerment programs should be established to care for the female inmates after their release.