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# Silent Victims of the Criminal Justice System: Children with Incarcerated Parents

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## ABSTRACT

*Griselda Blanco, Al Capone, Charles Sobhraj, Pablo Escobar, Ted Bundy, and Surinder Koli are names that may ring a bell as some of the most infamous criminals globally. However, one aspect that many might overlook, aside from their notorious reputations, is that they all share a commonality: they have left behind families, including children. These children, innocent and uninvolved in their parents' crimes, are forced to confront the challenges stemming from their parents' actions. The issue of parental incarceration is increasingly recognized as a significant social concern, with deep and enduring effects on children's well-being and development. This abstract delves into the psychological, emotional, educational, and social repercussions faced by children who have one or both parents behind bars, as well as the various policies, judgments, and laws in India and other countries aimed at supporting the welfare of children with incarcerated parents. Studies show that these children face a heightened risk of mental health issues, academic struggles, social stigma, and potential entanglement with the criminal justice system. The absence of a parent due to incarceration often results in financial difficulties, disrupted caregiving situations, and trauma from separation, all of which exacerbate their vulnerability. This paper highlights the critical need for focused interventions, supportive policies, and community programs that cater to the specific needs of these children, with the goal of breaking the cycle of intergenerational incarceration and fostering resilience and stability in their lives.*

**Keywords:** *Children of Incarcerated Parents (COIPs), hidden victimhood, attachment theory, social learning theory, intergenerational transmission, social stigma, prison visitation rules, rehabilitation, alternative sentencing.*

## I. INTRODUCTION

### A. Background

Hidden victimhood arises when society creates a specific image of what a victim should be – their behaviour, the crimes they endure, and their backgrounds. Those who do not conform to this image may find it challenging to see themselves as victims or believe they won't be

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viewed positively as such, making them less likely to seek support. Norwegian Criminologist Nils Christie proposed the concept of the 'Ideal Victim' – someone who is innocent, vulnerable, respectable, disconnected from the perpetrator, and capable of leveraging their victim status. Individuals who do not meet these criteria are often deemed 'unacceptable' victims and, according to Christie, may be seen as phonies or unworthy of sympathy. Invisible victims are those who encounter barriers—whether physical, emotional, or systemic—that remain unseen. The experiences of victimization they endure frequently remain unacknowledged, neglected, or inadequately reported.<sup>3</sup> While global literature highlights the negative educational, emotional, and social outcomes for children of prisoners, there is limited understanding of the vulnerabilities faced by this group in India. Children of Incarcerated Parents (referred to as 'COIP') are frequently overlooked in research and policy within India. Although their needs are being acknowledged, they remain largely invisible in discussions about child rights and social justice, which affects their access to services intended for all children. The absence of a database for this group complicates the development of policies and interventions. In a time when the rights of prisoners are increasingly recognized, it is crucial to focus on the rights of the silent, invisible, hidden, forgotten, or ignored victims of the criminal justice system, particularly, the children of these incarcerated individuals.

### **B. Problem statement**

COIPs form a quiet group, frequently facing stigma, social exclusion, and disrupted growth paths. They remain a largely misunderstood and highly vulnerable population. The ongoing discussions about their potential guilt, lacking any supporting evidence, have shifted focus away from the crucial need to safeguard their childhood and recognize that their rights should not be compromised due to their parent's supposed criminal actions.

### **C. Objectives**

This paper aims to examine the experiences, challenges, and possible interventions from a multidisciplinary perspective, concentrating on the following:

1. To investigate the experiences of children with incarcerated parents in India.
2. To recognize the psychological, social, and educational effects on these children.
3. To evaluate how the criminal justice system supports or overlooks these children.

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<sup>3</sup> Dr. Mukesh Kumar Chaurasia et al., *Invisible Victims: How Crime Affects People Usually We Don't See*, 10 *IJNRD*, February 2025, at 143, 143.

### D. Scope and Methodology

The research employs qualitative techniques such as case studies, interviews with impacted families, and literature reviews (including research papers, review articles, systematic reviews, books, and theses). By integrating legal, psychological, and sociological viewpoints, it reveals essential insights. The researchers have also utilized reports from specialized organizations like the National Crime Records Bureau to gather statistics and highlight the lack of available information. Additionally, case laws have been examined to comprehend the legal and social requirements of children with incarcerated parents and to formulate solutions.

## II. LITERATURE REVIEW

### A. Attachment theory

Parental imprisonment harms the bond between parent and child, which is essential for a child's growth. When the imprisoned parent is the main caregiver, this separation can result in lasting social and emotional issues. Attachment theory highlights the importance of early bonds for a child's sense of security and self-esteem. Bowlby<sup>4</sup> noted that being separated from a primary attachment figure can be traumatic. Studies show that mothers in prison tend to maintain a stronger connection with their children compared to fathers, making maternal imprisonment particularly significant. Ainsworth et al. identified three types of infant attachment: secure, insecure-anxious, and insecure-avoidant.<sup>5</sup> A fourth type, insecure-disorganized, was added by Main and Solomon in 1990.<sup>6</sup> Imprisonment can disrupt these attachments, affecting long-term social and emotional development.

- *Secure vs. Insecure Attachment:* Secure attachments develop when parents are consistently present and nurturing. When a parent is incarcerated, this reliability is broken, leading to insecure attachment styles (anxious, avoidant, disorganized) due to inconsistent care, neglect, or abandonment.
- *Anxious Attachment:* The child may become excessively clingy to caregivers, fearing abandonment. This leads to dependency issues and difficulties in trusting and forming relationships.
- *Avoidant Attachment:* The child may emotionally withdraw and become overly independent, denying their own needs.

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<sup>4</sup> I J. Bowlby, *Attachment and Loss*, New York: Basic Books, 2nd ed. (1982).

<sup>5</sup> M.D.S. Ainsworth et al., *Patterns of Attachment: A Psychological Study of The Strange Situation*, Hillsdale, NJ: Erlbaum (1978).

<sup>6</sup> M. Main & J. Solomon, *Attachment in the preschool years: Theory, research, and intervention* 121-160, (M.T. Greenberg, D. Cicchetti, & M.E. Cummings eds., University of Chicago Press 1990).

- *Disorganized Attachment*: This pattern combines anxious and avoidant behaviours, creating confusion and fear in the child towards the parent, resulting in erratic behaviour.

The intergenerational transmission of attachment suggests that a child's attachment style is influenced by the patterns established in previous generations and the dynamics of the parent-child relationship.<sup>7</sup> Many prisoners have faced trauma or loss during their formative years<sup>8</sup>, supporting Bowlby's theory. Research conducted by van IJzendoorn et al. revealed that violent offenders often have histories of childhood separation or parental loss, linking attachment insecurity to serious personality disorders.<sup>9</sup>

### **B. Social Bond Theory**

Travis Hirschi's social bonding theory<sup>10</sup> hypothesizes a negative relationship between delinquency and social bonds such that high bonds correlate with low delinquency and vice versa. According to him, there are four central factors that characterize the bond:

- *Attachment* – Emotional attachments to family, peers, and good role models reduce offending risk.
- *Commitment*– Spending on future aspirations such as education or occupation deters crime involvement among those who stand to lose something.
- *Involvement* – Participation in prosocial activities (e.g., work, sports, hobbies) takes time away from delinquency.
- *Belief* – Social norm acceptance. Individuals who believe in law and justice are less likely to violate them.

Cullen and Agnew reported that delinquency is influenced by these individual factors but collectively, they discourage crime.<sup>11</sup> Good conduct is promoted by strong social bonds; weak ones increase crime risk.

Not only must children deal with emotions about their parent's actions, but they must sometimes defend the "secret of their parents' imprisonment" at school and among their

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<sup>7</sup> Peggy C. Giordano et al., Linking Parental Incarceration and Family Dynamics Associated with Intergenerational Transmission: A Life-course Perspective, National Library of Medicine (April 29, 2019, 7:48 PM) Criminology. 2019 Apr 29;57(3):395–423.

<sup>8</sup> J. Bowlby, Forty-four juvenile thieves: Their characters and home lives, XXV International Journal of Psycho-Analysis, 19–52 (1944).

<sup>9</sup> Van IJzendoorn et al., Attachment representations of personality-disordered criminal offenders, 6 American Journal of Orthopsychiatry, 449–459 (1997).

<sup>10</sup> Travis Hirschi, Causes of Delinquency 10 (Univ. of Cal. Press 1969).

<sup>11</sup> Francis T. Cullen & Robert Agnew, Criminological Theory: Past to Present: Essential Readings 35 (Oxford Univ. Press 2011).

friends.<sup>12</sup> Hirschi best explains this phenomenon by saying that if a person is indifferent to other's opinions and expectations, they are, to that degree, unbound by societal norms. They are free to stray from the path. Because COIPs are held academically to a lower standard, lack a socially bonded model or negative model, and have limited exposure to conventional lifestyles, the potential for deviation and non-conventional, or criminal behaviour, increases.

### **C. Social Learning Theory**

Social Learning Theory, a significant framework developed by Albert Bandura in the mid-20th century, elucidates the process by which individuals acquire behaviours through observation, imitation, and reinforcement. This theory underscores the role of various influences, including peer dynamics, media exposure, parental attitudes, and educational experiences, in shaping delinquent behaviour. The influence of parents is particularly crucial; permissive parental attitudes towards deviant conduct increase the likelihood of children emulating such behaviours.<sup>13</sup> Children learn by observing and mimicking their caregivers, who serve as influential models of acceptable behaviour. Edwin Sutherland's Differential Association Theory<sup>14</sup> expands upon this concept, asserting that the process of learning criminal behaviour mirrors that of acquiring any other behaviour. He posited that early, frequent, and significant interactions contribute to the development of attitudes towards lawbreaking. Although family plays a pivotal role, subsequent research<sup>15</sup> indicates that peers also significantly influence behaviour, particularly during adolescence when social connections gain prominence. Furthermore, investigations into intergenerational transmission<sup>16</sup> reveal that children may not always recognize the indirect effects of familial influences on their behaviour, thereby perpetuating behavioural patterns across generations.

### **D. Social labelling theory**

The widely held belief that children of incarcerated parents are significantly more likely to face incarceration themselves in adulthood is recognized across academic, political, and administrative domains. This assertion aligns with various criminological theories concerning

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<sup>12</sup> Carol F. Hairston, Focus on Children with Incarcerated Parents: An Overview of the Research Literature, Annie E. Casey Found. (Oct. 2012), <http://www.aecf.org/KnowledgeCenter/Publications.aspxpubguid=7BF48C4DF8-BBD9-4915-85D7-53EAF941189%7D>.

<sup>13</sup> Joan E. Grusec & Jacqueline J. Goodnow, Impact of Parental Discipline Methods on the Child's Internalization of Values: A Reconceptualization of Current Points of View, 30 Dev. Psychol. 4, 5 (1994).

<sup>14</sup> Edwin H. Sutherland, Principles of Criminology 152 (4th ed., Lippincott 1947).

<sup>15</sup> Ronald L. Akers, Social Learning and Social Structure: A General Theory of Crime and Deviance 65 (Transaction Publ'rs 2011); Dana L. Haynie, Friendship Networks and Delinquency: The Relative Nature of Peer Delinquency, 18 J. Quantitative Criminology 99, 102 (2002); Frank M. Weerman, Delinquent Peers in Context: A Longitudinal Network Analysis of Selection and Influence Effects, 49 Criminology 253, 258 (2011).

<sup>16</sup> David P. Farrington et al., Family Factors in the Intergenerational Transmission of Offending, 19 Crim. Behav. & Mental Health 109, 113 (2009).

child attachment and criminal conduct. Nevertheless, the Annie E. Casey Foundation has determined that this frequently cited statistic lacks support from credible research.<sup>17</sup> The foundation uncovered evidence indicating that this claim is not only erroneous but may also contribute to the stigmatization of children with incarcerated parents, as they risk being mischaracterized as future criminals and perceived as societal threats. Studies conducted by Murray, Farrington, and Sekol<sup>18</sup> categorize these children as being at high risk for antisocial behaviours, including delinquency and criminal activities. However, their findings present 'empirical evidence' that parental incarceration does not correlate with an increased likelihood of mental health issues, substance abuse, or academic underachievement, thereby contesting the notion that these children are categorically 'at risk' for such difficulties. Van de Rakt and Nieuwebeerta examined social labelling theories,<sup>19</sup> positing that stigma, harassment, and ridicule may exacerbate delinquent behaviour. They contend that a reluctance to engage in schooling and inadequate socialization can result in diminished academic success and subsequent difficulties in the job market. Furthermore, systemic bias may influence the treatment of these children throughout their lives. Ultimately, Hirschi's belief attribute, in conjunction with the concerns raised by the Casey Foundation, implies that labelling children of incarcerated parents as inherently predisposed to criminality could detrimentally affect their social and emotional growth. Some children may internalize this stigma, further complicating their future prospects.

### **E. Ecological systems theory**

Bronfenbrenner's Ecological Theory<sup>20</sup> delineates four interrelated systems that influence human development:

- a) *Microsystem* – The immediate surroundings, encompassing familial relationships, where parental involvement plays a pivotal role in a child's growth.
- b) *Mesosystem* – The interrelations among various microsystems, such as the experiences of home and prison visits, which affect emotional responses and interactions.

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<sup>17</sup> Carol F. Hairston, Focus on Children with Incarcerated Parents: An Overview of the Research Literature, Annie E. Casey Found. (Oct. 2012), <http://www.aecf.org/KnowledgeCenter/Publications.aspx?pubguid=%7BF48C4DF8-BBD9-4915-85D7-53EAF9C941189%7D>.

<sup>18</sup> Joseph Murray, David P. Farrington & Ivana Sekol, Children's Antisocial Behavior, Mental Health, Drug Use, and Educational Performance After Parental Incarceration: A Systematic Review and Meta-Analysis, 138 Psychol. Bull. 175, 180 (2012).

<sup>19</sup> Marieke van de Rakt, Joseph Murray & Paul Nieuwebeerta, The Long-Term Effects of Paternal Imprisonment on Criminal Trajectories of Children, 49 J. Res. Crime & Delinq. 81, 85 (n.d.).

<sup>20</sup> Urie Bronfenbrenner, Toward an Experimental Ecology of Human Development, 32 Am. Psychol. 582, 586 (1977).

c) *Exosystem* – External frameworks that indirectly impact individuals, including community resources and institutional policies, which significantly affect how families of incarcerated individuals obtain support and services.

d) *Macrosystem* – The overarching societal influences, such as economic, legal, and political frameworks, that determine the experiences of families during incarceration and their treatment by society. These interconnected systems work together to shape development, especially in the context of incarceration, where family dynamics, societal perceptions, and institutional practices collectively determine outcomes.

### III. GLOBAL PERSPECTIVES ON THE IMPACT OF PARENTAL INCARCERATION

The incarceration of parents represents a significant yet often overlooked global concern that impacts millions of children, particularly in affluent countries where data is more readily available. Studies indicate that roughly 2.6 million children in the United States<sup>21</sup> and 800,000 in Europe<sup>22</sup> are affected. Nevertheless, reliable data for low and middle income nations remains scarce, reflecting a broader pattern in which research predominantly concentrates on wealthier countries.

#### Legal provisions around the world for children of incarcerated parents

Countries around the world have created varying legal provisions for addressing parental incarceration and its effects on children. Some nations oppose the idea of children living with incarcerated parents, while others believe that the benefits of such arrangements significantly surpass the downsides. Legal frameworks differ across countries, influenced by the distinct social, cultural, and economic conditions in various regions.

##### 1. China

Chinese legislation seemingly prohibits children from residing in correctional facilities with their incarcerated mothers. Rather, the Criminal Procedure Law stipulates that a woman who has been sentenced to imprisonment or criminal detention may be granted the opportunity to serve her sentence outside of prison temporarily if she is either pregnant or nursing her infant.<sup>23</sup>

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<sup>21</sup> Julie Poehlmann-Tynan & Kristin Turney, A Developmental Perspective on Children With Incarcerated Parents, 15 Child Dev. Persp. 3, 7 (2021).

<sup>22</sup> Susan Minson, Direct Harms and Social Consequences: An Analysis of the Impact of Maternal Imprisonment on Dependent Children in England and Wales, 19 Criminology & Crim. Just. 519, 523 (2018).

<sup>23</sup> Xingshi Susong Fa [Criminal Procedure Law], art. 254 (adopted by Nat'l People's Cong., July 1, 1979, last amended Mar. 14, 2012, effective Jan. 1, 2013), 1996 Laws of China 63-88 (amendment & Eng. translation).



## **2. England & Wales**

In England and Wales, there exist specialized mother and baby units within women's prisons, distinct from the general inmate population, designed to enable mothers to keep their infants with them under certain conditions.<sup>24</sup> Admission to these units is not guaranteed; it is determined by an admissions board led by a social worker. The availability of these facilities is quite limited, with only seventy-seven spots nationwide<sup>25</sup>, while approximately 120 women in custody give birth annually.<sup>26</sup> The criteria for admitting a mother and her baby consider various factors, such as: a) the child's best interests, b) the need to uphold order and discipline within the mother and baby unit, and c) the health and safety of other mothers and infants in the facility.<sup>27</sup> Typically, children depart from the unit by the age of eighteen months, or sooner if deemed beneficial for the child. There are rare instances where a child may be permitted to remain longer, but the prevailing expectation is for the child to exit the unit by eighteen months or earlier. A separation plan is established by a team as soon as the mother arrives at the unit, with the mother actively participating in the process.<sup>28</sup>

## **3. France**

Under French legislation, incarcerated mothers are permitted to retain custody of their children until the child reaches the age of eighteen months. The interregional director of penitentiary services has the authority to extend this period upon the mother's request, following consultation with a specialized commission. This commission comprises various professionals, including a psychiatrist, a pediatrician, a psychologist, and a probation officer.<sup>29</sup> Although the exact number of mothers cohabiting with their children in French correctional facilities remains uncertain, it is suggested to be quite limited.<sup>30</sup> A report from 2013 by the Comptroller General overseeing the French prison system indicated that, of the 1,794 designated spaces for women within the system, only sixteen (4.3%) were allocated for mothers with children.<sup>31</sup> Furthermore, the report noted that there seemed to be no significant

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<sup>24</sup> Prison Service Order: Women Prisoners, PSO 4800 (2008).

<sup>25</sup> Ministry of Justice, Women Prisoners, <https://www.justice.gov.uk/offenders/types-of-offender/women> (last updated Sept. 4, 2012).

<sup>26</sup> Direction de l'Administration Pénitentiaire [Penitentiary Administration Directorate], Monthly Statistics of Committed and Detained Population in France, 12, 18 (Dec. 1, 2013).

<sup>27</sup> Mother and Baby Units, PSI 16/2011, <http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/psi-54-2011.doc> (2011).

<sup>28</sup> Law on Children Residing with Parents in Prison, Law Libr. Cong.

<sup>29</sup> Code de procédure pénale [Code of Criminal Procedure] art. D401 (Fr.).

<sup>30</sup> *Supra* note 26.

<sup>31</sup> Contreleur général des Lieux de Privation de Liberté, Avis du 8 août 2013 du Contreleur général des lieux de privation de liberté relatif aux jeunes enfants en prison et à leurs mères détenues [Opinion of Aug. 8, 2013, of the Comptroller General of Places of Deprivation of Liberty Regarding Young Children in Prison and Their Detained Mothers] 4 (Aug. 8, 2013) (Fr.).

issues in accommodating mothers with children, suggesting that, unlike the general overcrowding prevalent in the French prison system<sup>32</sup>, there are adequate facilities to satisfy this particular need.<sup>33</sup>

#### **4. Sweden**

Swedish legislation allows infants to live with their incarcerated parents when it is deemed to be in the child's best interest, contingent upon the approval of the local Social Services Committee.<sup>34</sup> The gender-neutral regulations introduced in 2011 provide this right to both mothers and fathers, emphasizing the importance of the early developmental stages of a child while generally limiting the duration of cohabitation. In cases where children cannot be adequately cared for within the prison environment, they are placed in foster care. Additionally, alternative sentencing options, including probation and electronic monitoring, are extensively employed, with approximately 14,000 individuals currently serving noncustodial sentences. Pregnant inmates may have their sentences deferred, and they are entitled to comprehensive prenatal, delivery, and postnatal care that is on par with that provided to the general population. Sweden's forward-thinking approach prioritizes child welfare within its criminal justice framework.

#### **5. Switzerland**

According to Swiss legislation, expectant mothers and those with young children are granted access to specific types of incarceration that prioritize the welfare of the child, with individual cantons (states) responsible for the execution of these regulations. Although two initiatives aimed at establishing a minimum age for the separation of children from their imprisoned mothers were not approved, it is common for children to remain with their mothers until they reach the age of three, at which point a more diverse social environment is considered crucial for their growth. Cantons have developed mother-child prison units that offer specialized services, including staff trained in childcare, appropriate living conditions, and daycare options. Nevertheless, smaller correctional facilities face ongoing challenges in delivering these essential services, revealing inconsistencies in the application of these provisions throughout the nation.

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<sup>32</sup>- Direction de l'Administration Pénitentiaire [Penitentiary Administration Directorate], Statistique mensuelle de la population écrouée et détenue en France [Monthly Statistics of Committed and Detained Population in France] 12, 18 (Dec. 1, 2013) (Fr.).

<sup>33</sup> Controleur général des Lieux de Privation de Liberté (Fr.).

<sup>34</sup> Ch. 2:5 § Fängelselag [Prison Act], Svensk Författningssamling [SFS] 2010:610 (Swed.).

#### IV. INDIAN CONTEXT

Global research has consistently shown that COIPs are profoundly impacted by their parents' imprisonment. Numerous studies highlight a range of negative consequences linked to parental incarceration<sup>35</sup>, including behavioural problems<sup>36</sup>, academic difficulties<sup>37</sup>, delinquency<sup>38</sup>, school dropout rates<sup>39</sup>, and social challenges such as stigmatization<sup>40</sup> and disrupted family dynamics.<sup>41</sup> Additionally, these children often experience deteriorating physical health<sup>42</sup> and material hardships. The adverse effects can differ based on the gender of the incarcerated parent; for example, children are more likely to remain with their non-incarcerated parent when their father is imprisoned compared to when their mother is incarcerated. Zoann K. Snyder, Teresa A. Carlo, and colleagues noted in their article that 'Perhaps the most notable difference between incarcerated mothers and fathers is who cares for their children in their absence,'<sup>43</sup> indicating that maternal incarceration often leads to significant disruptions in caregiving.<sup>44</sup> A separate study involving 102 mothers revealed that their children, averaging ten years old, had moved an average of three times over the past five years, with some reporting as many as 15 relocations.<sup>45</sup> This instability is primarily due to the burden placed on relatives who take in these children, who are already under stress. Consequently, these children, through no fault of their own, may inadvertently add to the strain on their caregivers, making them vulnerable to exploitation and abuse.<sup>46</sup> In the absence of supportive legislation or government policies aimed at assisting caregivers,<sup>47</sup> many children

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<sup>35</sup> Mohd. Dilshad, Uttar Pradesh: Dad in Jail & Abandoned by Mom, Homeless Kid Living with Dog Melts Many Hearts, *Times of India* (Dec. 18, 2020), <https://timesofindia.indiatimes.com> (last visited Apr. 25, 2025).

<sup>36</sup> Travis A. Fritsch & John D. Burkhead, Behavioral Reactions of Children to Parental Absence Due to Imprisonment, 30 *Fed. Probation* 85 (1981).

<sup>37</sup> B.J. Myers, T.M. Smarsh et al., Children of Incarcerated Mothers, 8 *J. Child & Fam. Stud.* 19, 25 (1999).

<sup>38</sup> Asha Bhandari, Women Prisoners and Their Dependent Children: A Study of Jaipur and Jodhpur Central Jails in Rajasthan, 65 *Soc. Bull.* 371, 378 (2016).

<sup>39</sup> Ashton D. Trice & Jo Anne Brewster, Effects of Maternal Incarceration on Adolescent Children, 19 *JPCP* 27, 33 (2004).

<sup>40</sup> Joyce A. Arditti et. al., Saturday Morning at the Jail: Implications of Incarceration for Families and Children, 52 *IJAFS* 200, 208 (2003).

<sup>41</sup> *Supra* note 36.

<sup>42</sup> Neelam Sukhrmani & Shivangi Gupta, Children of Incarcerated Parents, 57 *IP* 201, 205 (2020); Prayas, Forced Separation: Children of imprisoned mothers (An exploration in two cities) 46 (2002). Available at: <https://www.tiss.edu/uploads/files/Dharmadikari.pdf>. (last visited on April 25, 2025).

<sup>43</sup> Zoann K. Snyder et. al., Parenting from Prison: An Examination of the Children's Visitation Program at Women's Correctional Facility, 32 *MFR* 34, 39 (2002).

<sup>44</sup> J. Murray & D.P. Farrington, Parental Imprisonment: Effect on Boy's Antisocial Behavior and Delinquency through the Life Course, 46 *JCPP* 175, 182 (2005).

<sup>45</sup> Susan Greene et. al., Cycles of Pains: Risk Factors in the Lives of Incarcerated Mothers and their Children, 80 *PJ* 16, 23 (2000).

<sup>46</sup> HAQ: Centre for Child Rights India, Submission to the Committee on the Rights of the Child for the Day of General Discussion on Children of Imprisoned Parents 5 (Comm. on Rts. of Child, 2011), <https://ohchr.org> (last visited Apr. 25, 2025).

<sup>47</sup> *Supra* note 38.

of incarcerated parents are compelled to engage in child labor or, in severe cases, prostitution,<sup>48</sup> to help support their households, often at the expense of their education.<sup>49</sup>

The safety of children affected by paternal incarceration is not guaranteed. Numerous studies indicate that a major social repercussion of imprisonment is divorce, which often leads to a deterioration in the bond between mothers and their children.<sup>50</sup> Joyce A. Arditti specifically highlights that the relationship between mothers and their children can become unstable following a father's incarceration, frequently due to the mother's changing romantic relationships.<sup>51</sup> An article in the Times of India reported on a 9-year-old boy discovered sleeping on the street after being abandoned by his mother following his father's imprisonment.<sup>52</sup> Such instances are not uncommon. Even when mothers strive to maintain family unity in the absence of their husbands, they often encounter financial difficulties, as the responsibility for both earning and caregiving falls entirely on them. The material struggles of these families are exacerbated by factors such as unemployment, societal stigma, poor health, illiteracy, and lack of adult support for childcare. The situation is further complicated when one or both parents are incarcerated, or when one parent is imprisoned for the murder of the other, leaving children to either fend for themselves or rely solely on relatives. Research on this demographic is limited. It is difficult to fathom the challenges these children face alone. A report from HAQ: Centre for Child Rights India to the Committee on the Rights of the Child recounts an incident where an eleven-year-old girl had been caring for her three younger siblings for the past two months after both parents were taken into custody.<sup>53</sup> Following the loss of one or both parents to the criminal justice system, numerous children are reported lost.

Recent media reports highlighted a case involving a couple who were wrongfully imprisoned for five years, during which time their children were reportedly placed in an orphanage by the authorities. The couple's son was five and their daughter three at the time of their incarceration, and they have not seen their children since.<sup>54</sup> Additionally, in instances of spousal homicide, children who reside with the relatives of the deceased parent often

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<sup>48</sup> *Id.*

<sup>49</sup> D. Johnston, *Effects of Parental Incarceration*, in Katherine Gabel & Denise Johnston (eds.), *Children of Incarcerated Parents* 85 (Lexington Books, 1995).

<sup>50</sup> J.P. Martin & D. Webster, *The Social Consequences of Conviction* 152 (Heinemann, London, 1971).

<sup>51</sup> Joyce A. Arditti, *A Family Stress-Proximal Process Model for Understanding the Effects of Parental Incarceration on Children and Their Families*, 5 *CFPRP* 73, 79 (2016).

<sup>52</sup> Mohd. Dilshad, *Uttar Pradesh: Dad in Jail & Abandoned by Mom, Homeless Kid Living with Dog Melts Many Hearts*, *Times of India* (Dec. 18, 2020), <https://timesofindia.indiatimes.com> (last visited Apr. 25, 2025).

<sup>53</sup> HAQ: Centre for Child Rights India, *Submission to the Committee on the Rights of the Child for the Day of General Discussion on Children of Imprisoned Parents* 5 (Comm. on Rts. of Child, 2011), <https://ohchr.org> (last visited Apr. 25, 2025).

<sup>54</sup> Anuja Jaiswal, *UP: After 5 Years in Jail for Crime They Didn't Do, Couple Can't Find Kids*, *Times of India* (Jan. 23, 2021), <https://timesofindia.indiatimes.com> (last visited Apr. 25, 2025).

encounter animosity from those relatives when they seek to maintain contact with the imprisoned parent. A study of sixty incarcerated mothers revealed that when their children were cared for by the mothers' in-laws, the mothers had minimal opportunities to see their children, with many having not seen them since their arrest.<sup>55</sup> It is noteworthy that despite the long-standing existence of imprisonment as a punitive measure, discourse surrounding prisons has predominantly centred on the experiences of those incarcerated. The challenges faced by the families of incarcerated individuals, while not novel, have largely been overlooked, particularly regarding the implications of imprisonment on the rights of those outside prison walls. Although there has been a recent increase in attention towards the spouses of the imprisoned, the focus on the impact of parental incarceration on children has largely been restricted to its correlation with delinquency.

## **V. LEGAL FRAMEWORK**

The Universal Declaration of Human Rights, 1948 asserts that human rights are inherent and emphasizes the protection afforded to children, including those with incarcerated parents. This protection encompasses social security, an adequate standard of living, equal treatment, free education, and parental rights in educational matters. The Convention on the Rights of the Child, 1989 reinforces these principles by prioritizing the best interests of children, prohibiting discrimination, and mandating that states ensure children's welfare. It safeguards children's rights to reside with their parents whenever feasible, to visit incarcerated parents, and to be shielded from harm, neglect, and exploitation, while also ensuring access to healthcare and education. India's Constitution further protects children's welfare through Article 15(3), which permits special provisions, and Article 21A, which guarantees free education for children aged 6 to 14. Article 24 prohibits hazardous child labour, while Articles 39(e) and 39(f) prevent inappropriate work and promote healthy development. Article 45 advocates for early childhood care and education, and Article 51A mandates that parents ensure their children's education. The National Charter for Children, 2003 upholds these rights by ensuring survival, protection, and freedom, which includes health, nutrition, security, and education. It mandates immunization, mental health care, hygiene practices, and social security for underprivileged children. By emphasizing free primary education and protection from exploitation, this framework guarantees comprehensive development, particularly for children of incarcerated parents, thereby ensuring their stability and well-being.

### **A. Guidelines laid down by Courts**

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<sup>55</sup> *Supra* note 36.

The Supreme Court has played a pivotal role in recognizing the rights of children affected by parental incarceration. In *Sheela Barse v. Children's Aid Society*<sup>56</sup>, the Court exposed the neglect and abuse faced by children in observation homes, leading to revised guidelines that emphasized enforceable rights rather than mere sympathy. Similarly, the *Birndavan Sharma v. State (NCT of Delhi)*<sup>57</sup> ruling highlighted the vulnerability of children left behind due to parental imprisonment, urging institutional frameworks to support their welfare and reinforcing their constitutional protections under Articles 21 and 39(e) & (f).

India's commitment to child rights was further strengthened with its ratification of the UN Convention on the Rights of the Child in 1992. The *RD Upadhyaya v. State of Andhra Pradesh*<sup>58</sup> case set a framework for the care of children living in prisons, directing improvements in medical care, education, and accommodation for juveniles. The Tata Institute of Social Sciences (TISS) study '*Forced Separation: Children of Imprisoned Mothers*'<sup>59</sup> influenced several Supreme Court guidelines, including the child's right to food, shelter, education, and weekly visits to incarcerated mothers.

Despite these judicial directives, implementation remains inconsistent. A 2015 study on children in Uttar Pradesh prisons revealed ongoing deficiencies in nutrition, education, and healthcare, emphasizing that "a prison can never provide a familial environment."<sup>60</sup> It found that children maintaining regular contact with separated parents showed improved emotional resilience and cognitive development, reinforcing the need for structured parental interaction.

The Allahabad High Court, in *Bachchey Lal v. State of UP*<sup>61</sup>, recommended dedicated housing units, enhanced nutrition, and structured collaboration between child welfare agencies. Legislative advocacy led to the establishment of the Galabhet Programme<sup>62</sup>, replacing restrictive visitation policies with direct interactions between incarcerated mothers and their children.

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<sup>56</sup> *Sheela Barse v. Children's Aid Society*, 1987 SCR (1) 870.

<sup>57</sup> *Birndavan Sharma v. State (NCT of Delhi)*, CrI. 927/2002 (High Court of Delhi).

<sup>58</sup> *RD Upadhyaya v. State of Andhra Pradesh*, AIR 2006 SC 1946.

<sup>59</sup> Policies and Programmes for Children of Prisoners: A Policy Document, Tata Inst. of Soc. Sci., [https://tiss.ac.in/uploads/files/Policies\\_and\\_Programmes\\_for\\_Children\\_of\\_Prisoners\\_A\\_Policy\\_Document.pdf](https://tiss.ac.in/uploads/files/Policies_and_Programmes_for_Children_of_Prisoners_A_Policy_Document.pdf) (last visited Apr. 25, 2025).

<sup>60</sup> Shilpi Sarkar & Sandhya Gupta, A Case Study on Prison Conditions for Young Children of Imprisoned Mothers in a Selected Prison of Uttar Pradesh, India, 10 Indian J. Psychiatric Nursing 38, 42 (July 2015), DOI: 10.4103/2231-1505.260569.

<sup>61</sup> *Bachchey Lal v. State of UP*, Criminal Writ-Public Interest Litigation No. 2357 of 1997 (Allahabad High Court).

<sup>62</sup> Dr. Shyam Jadhav & Ms. Surekha Sale, Galabhet Program Impact Assessment.

A Bombay High Court *Suo Moto PIL*<sup>63</sup> mandated systematic assistance for children of incarcerated women, calling for increased budget allocations, improved prison facilities, and legal safeguards for minors. It emphasized the importance of implementing child protection protocols and the regular relocation of female inmates nearer to their children.

In *Re: Right to Privacy of Adolescents*<sup>64</sup>, the Supreme Court ruled that children living in prisons with parents convicted under the POCSO Act must be classified as needing protection and care under the Juvenile Justice Act. The ruling mandated compulsory schooling for prison-residing children, eliminating parental discretion in education. Rule 339(f) of the UP Jail Manual, 2022, mandates that children over the age of four must attend educational institutions outside of prison facilities.

The *Smt Rekha v. State of UP*<sup>65</sup> case further spotlighted judicial concerns over systemic failures affecting children. Justice Bhanot highlighted that imprisonment cannot hinder the basic rights of children as outlined in Article 21. Despite longstanding judicial recognition, prison conditions continue to hinder education and welfare access for affected children.

## **B. Policies for children of prisoners**

### **National policies**

The 2016 Model Prison Manual was developed by the Bureau of Police Research and Development under the Ministry of Home Affairs, and is intended for adoption by states with necessary adaptations to fit local contexts. The Manual includes several recommendations concerning the children of incarcerated individuals, which are as follows:

- Establish a crèche and nursery school in every prison accommodating children.
- Upon reaching the age of six, children should be entrusted to the care of their family members or placed in protective custody at a suitable children's home.
- The transition of a child from maternal care should be conducted with sensitivity to the child's needs, ensuring that appropriate alternative arrangements are in place beforehand.
- Prison authorities must ensure that their facilities are designed to meet the needs of children in their care.<sup>66</sup>

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<sup>63</sup> The Bombay Court in a *Suo Moto PIL* No. 107/2014 (Oct. 12, 2017).

<sup>64</sup> *Re: Right to Privacy of Adolescents*, 2024 Latest Caselaw 520 SC.

<sup>65</sup> *Smt Rekha v. State of UP*, 2025: AHC:9210.

<sup>66</sup> Ministry of Women & Child Dev., Prison Report Compiled, [https://wcd.nic.in/sites/default/files/Prison%20Report%20Compiled\\_0.pdf](https://wcd.nic.in/sites/default/files/Prison%20Report%20Compiled_0.pdf) (last visited Apr. 25, 2025).

The Ministry of Women and Child Development administers a centrally sponsored Child Protection Services (CPS) Scheme, previously known as the Integrated Child Protection Scheme, aimed at assisting children in challenging situations. The primary responsibility for implementing this scheme lies with State Governments and Union Territory Administrations. Institutional care is provided through Child Care Institutes (CCIs) as a means of rehabilitation.<sup>67</sup>

The Juvenile Justice (JJ) Act of 2015 serves as the principal legislation concerning children in India. According to Section 2 (14) (vi) of the JJ Act, a child without parents or whose parents have abandoned or surrendered them is classified as a “child in need of care and protection.” The Act establishes a framework of service delivery structures that include both institutional and non-institutional care to ensure the holistic well-being of children in distress. The execution of the Act is primarily the responsibility of the States and Union Territories.<sup>68</sup>

### States/UTs

1. **Kerala<sup>69</sup>:** The Government of Kerala provides financial assistance to children of prisoners through an annual budget of Rs 20 lakhs, with Rs 15 lakhs allocated for basic education and Rs 5 lakhs for professional studies<sup>70</sup>. Benefits range from Rs 300 to Rs 1000 per month depending on the level of education, with eligibility criteria including Below Poverty Line status and both parents being incarcerated, verified by a report from a District Probation Officer. Applications are processed via Prison Superintendents, and aid is directly transferred to beneficiaries' bank accounts. Additionally, a loan-linked rehabilitation scheme offers up to Rs 15,000 to dependents of indigent convicts for viable self-employment projects, with a 30% subsidy capped at Rs 10,000, provided families meet income limits and other eligibility criteria. Funds are disbursed by District Probation Officers upon approval from the Director of Social Justice.

2. **Delhi<sup>71</sup>:** The Scheme for Financial Sustenance, Education & Welfare of Children of Incarcerated Parents (2014) provides educational and welfare assistance for children aged 5–18 years in Delhi, treating them as Economically Weaker Section (EWS) children. Benefits include free education, uniforms, books, and fee waivers in government, aided, or private

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<sup>67</sup> Ministry of Women and Child Development, Posted On: 12 March 2020 5:16PM by PIB Delhi.

<sup>68</sup> Ministry of Women & Child Dev., Posted on: Mar. 12, 2020, 5:16 PM by PIB Delhi, <https://pib.gov.in/PressReleasePage.aspx?PRID=1606115> (last visited Apr. 25, 2025).

<sup>69</sup> Self-employment scheme for dependents of prisoners.

<sup>70</sup> Kerala Gov't Grants Rs 20 Lakh Aid for Education of Children of Prisoners, New Indian Express.

<sup>71</sup> Delhi State Legal Services Auth., Scheme for Financial Sustenance, Education & Welfare of Children (2014), <http://dlsa.org/wp-content/uploads/2015/12/Scheme-for-Financial-Sustenance-Education-Welfare-of-Children-2014.pdf> (last visited Apr. 25, 2025).



schools, alongside protective measures like fit institution placement, medical care, and free legal aid for interaction with incarcerated parents. Eligibility is based on criteria such as parental incarceration (minimum 30 days), residence in Delhi for five years, and income not exceeding Rs. 2 lakhs annually. Financial assistance ranges from Rs. 3,500 for the first child to Rs. 6,500 for multiple children, provided schooling requirements are met. This support aims to uphold education and welfare for children until age 18 or their parents' release.

3. **Maharashtra<sup>72</sup>**: Bal Sangopan Yojana, launched in 2008 by the Department of Women and Child Development, aims to support vulnerable children, including orphans, homeless children, and those left behind by incarcerated parents or rescued from exploitation. It assists children aged 0–18 years by providing care in a family-like environment when their parents are unable to do so. The scheme also aids children from distressed families, including those with single, divorced, or hospitalized parents, to continue their education. Beneficiary children receive Rs. 2250/- per month under the program, fostering confidence and stability for their growth and development.

4. **Assam**: The National Commission for Protection of Child Rights (NCPCR) identified 5–6 children aged 0–6 years living with their mothers in Assam prisons, but noted they receive limited attention. The Assam Child Protection Society (SCPS) supports children under child protection laws, street children, and those from single-parent households, offering shelter homes and open shelters for street children. These shelters are accessible by choice or through police and Child Welfare Committees (CWCs). Assam has 60 child protection officers, and SCPS requested Prayas to conduct a workshop in June 2021 on issues and responsibilities concerning children of prisoners, aiming to empower officers to address these concerns independently.

5. **West Bengal**: West Bengal was probably the first state that started implementing a project titled 'Integrated developmental support programme to prisoners' children living back home in community for mainstreaming and reintegration' using Public-Private Partnership model<sup>73</sup> (West Bengal Correctional Services, n.d.). This project was launched on 24 September 2006 and aims to address psychosocial needs of children and provides support for education.

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<sup>72</sup> Women & Child Dev. Dep't, Maharashtra Gov't Schemes, <https://womenchild.maharashtra.gov.in/content/homecontent/schemes.php> (last visited Apr. 25, 2025).

<sup>73</sup> West Bengal Correctional Services, in Partnership with National Legal Services Authority & Voluntary Organizations, Prisoners' Welfare Fund, WB/DTP/Pt.I/CPS/2008/58.

## **VI. EXPERIENCES OF CHILDREN WITH INCARCERATED PARENTS**

### **A. Children living inside prisons**

Early childhood development is shaped by a combination of social, environmental, and biological factors, yet prison settings fail to meet the necessary standards for holistic growth. While some correctional facilities provide accommodations for children living with their incarcerated mothers, issues such as overcrowding and inadequate resources persist. The absence of structured creche and nursery programs deprives these children of essential educational and recreational opportunities. Even in prisons where such facilities exist, inconsistent teacher availability, poor infrastructure, and limited access to age-appropriate learning materials hinder cognitive and emotional development. Nutritional provisions remain inadequate, forcing incarcerated mothers to share their meals, and a distinct dietary plan for pregnant inmates is largely absent despite the integration of directives within the 2016 Model Prison Manual.<sup>74</sup>

Healthcare accessibility poses another significant challenge, as prison medical facilities are not equipped to address the needs of young children. Investigations into correctional facilities reveal maternal dissatisfaction with medical care, particularly regarding severe health issues, and while vaccinations are generally administered, their effectiveness is contingent upon availability.<sup>75</sup> Studies focusing on children born in prisons or those raised there from infancy highlight developmental delays in literacy, numeracy, and language comprehension due to a lack of stimulating environments.<sup>76</sup> Exposure to incarceration disrupts their understanding of the outside world, often reducing experiences beyond prison walls to court visits, fostering social isolation and cognitive disorientation.

Socialization within prisons presents further concerns. The lack of interaction with siblings and limited exposure to familial structures impede a child's ability to internalize family values and norms. Additionally, children housed in prison environments frequently encounter inappropriate language, violent altercations, and aggressive behaviours, influencing their emotional and psychological well-being. Research indicates that prolonged exposure to prison life results in heightened verbal aggression and increased participation in bullying and confrontational interactions.<sup>77</sup> These findings underscore the pressing need for structured

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<sup>74</sup> Ministry of Home Affairs, Gov't of India, Model Prison Manual (2016).

<sup>75</sup> Mohammad Shakil, *Children of Incarcerated Mothers: Study of District Jails of Aligarh & Etah*, Uttar Pradesh (Ph.D. Dissertation, Dep't of Soc. Work, Aligarh Muslim Univ. 2017).

<sup>76</sup> Gaurav Sharma, *Being a Prisoner's Child: Effects of Parents' Imprisonment on the Child* (M.Phil. Thesis, Dep't of Soc. Work, Univ. of Delhi 2013).

<sup>77</sup> *Id.*

interventions, policy revisions, and dedicated rehabilitation programs to safeguard the rights and development of children affected by parental incarceration.

### **B. Children living outside the prison**

The absence of comprehensive data on children left behind due to parental incarceration presents a major research gap. Studies, such as those by Prayas<sup>78</sup>, have highlighted their vulnerabilities, but systemic challenges persist. One of the most pressing concerns is financial instability. Families struggle to cover basic needs, often resorting to borrowing money or selling assets. Many children experience food insecurity, school dropout risks, and are sometimes pushed into child labour. Housing instability further compounds their hardship, particularly for families in rented or semi-structured homes. Mothers, unprepared for sole financial responsibility, find themselves unable to provide adequate care, making prison visits costly and infrequent.

Beyond financial constraints, health concerns are prevalent among these children, including malnutrition, respiratory infections, tuberculosis, and skin ailments due to poor hygiene. The interruption of medical treatments following parental incarceration can exacerbate their conditions, leaving them vulnerable without consistent care. Emotional distress is equally significant—caregivers report children experiencing intense sorrow, withdrawal, insomnia, and anxiety. Fear of law enforcement, particularly when children have witnessed parental arrest, often results in further psychological strain.

Feelings of resentment and hopelessness can manifest in maladaptive behaviours, including aggression or, in severe cases, suicidal tendencies. The extent of psychological impact depends on factors like the strength of the pre-incarceration bond, the duration of imprisonment, and whether it is a repeated occurrence. Some children are deliberately kept uninformed about their parent's incarceration, leading to long-term feelings of betrayal and confusion.

Interactions with the criminal justice system further distress children. Visits to prison entail long travel times, repeated security screenings, and emotionally taxing encounters with parents behind glass barriers, limiting physical contact. Corrupt practices such as bribing officials for case updates add further stress. Educational prospects suffer due to financial instability, school relocations, and caregiving responsibilities imposed on older siblings. Many

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<sup>78</sup> PRAYAS, *Forced Separation: Children of Imprisoned Mothers (An Exploration in Two Cities)* (2002), <https://www.prayas.org> (last visited May 20, 2025).

children in hostels or child care facilities struggle with isolation, longing for their families while facing social stigma from peers who label them as "orphans."

The quality of caregiving significantly impacts outcomes. In cases where caregivers lack support, children take on premature responsibilities, leading to overwhelming burdens. Additional challenges, such as the death of a caregiver or disability, further compound their vulnerability. These findings highlight the urgent need for policy interventions, structured financial support, and educational protections to safeguard children affected by parental incarceration.

## **VII. EFFECTS OF PARENTAL INCARCERATION ON CHILDREN**

### **1. Separation: the need to maintain meaningful contact with incarcerated parents**

Most interviewed children wish to keep in touch with their incarcerated parents. Their willingness largely hinges on the child-parent relationship before incarceration.<sup>79</sup> Children with a positive bond tend to desire contact, while those with a distant or harmful relationship may show resistance and indifference. They often feel powerless to decide on maintaining contact, heavily relying on caregivers. The willingness and financial means of caregivers play a crucial role in sustaining contact.

However, several practical challenges hinder regular visits to incarcerated parents. Firstly, as mentioned, caregiver finances are a concern; traveling to remote prisons is costly and tiring, a common issue across jurisdictions. Once there, prison rules often overlook children's needs, such as visiting hours that clash with school schedules. Additionally, in western countries like Australia<sup>80</sup>, the U.S.<sup>81</sup>, and Denmark<sup>82</sup>, it is required that children under the age of 18 are accompanied by an adult when visiting prisons. In contrast, Ghana<sup>83</sup> and India<sup>84</sup> suggest that children should not visit their imprisoned parents.

Alongside the challenges related to how often visits occur, the nature of interactions with incarcerated parents is also influenced. Reports consistently describe standard prison visits as negative, frightening, intrusive, and intimidating across various jurisdictions and over time.

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<sup>79</sup> Catherine Flynn, *Caring for the Children of Imprisoned Mothers: Exploring the Role of Fathers*, 21 *Child & Fam. Soc. Work* 4, 12 (2016).

<sup>80</sup> Vicky Saunders, *Child & Fam. Soc. Work*, 22 *Child & Fam. Soc. Work* S2 (2023).

<sup>81</sup> Elizabeth Beck & Sandra J. Jones, *Children of the Condemned: Grieving the Loss of a Father to Death Row*, 56 *Omega - J. Death & Dying* 191, 198 (2008).

<sup>82</sup> Henrik Oldrup, 'So We Try to Do Normal Things, Like a Family': Sociologies of Children in the Prison Visiting Room, 8 *Fam. Relationships & Soc'ys* 303, 310 (2019).

<sup>83</sup> Afua Amankwaa, *Parent-Child Contact During Parent's Incarceration: A Study of Children of Incarcerated Parents in Southern Ghana*, 109 *Child. & Youth Servs. Rev.* 104643 (2020).

<sup>84</sup> Tanveer Ahmad Khan, *Child Custody & Child Development*, 20 *J. Fam. Trauma*, 67 (2023).

Specifically, complicated security measures like long wait times, drug dogs, and personal searches are traumatic and dehumanizing according to some children's accounts. Furthermore, the close monitoring by prison staff, limits on physical contact, and the dullness of the prison setting lead to feelings of a lack of privacy and intimacy, resulting in artificial and superficial relations between children and their imprisoned parents.

In addition to the difficult prison atmosphere and absence of age-appropriate activities and intimacy, children recognize that their incarcerated parents do not fully grasp their current challenges, which further discourages them from pursuing meaningful and personal conversations. Studies show that it is emotionally challenging for children to bid farewell to their imprisoned parents, as they have to face the heart-wrenching separation again.

## **2. Parentification: the significance of experiencing a proper childhood**

Numerous studies indicate that COIPs often face parentification, assuming additional practical and emotional duties following their parent's imprisonment. Older siblings particularly take on the role of caregivers for their younger brothers and sisters, as well as fulfilling parental responsibilities like household chores or part-time jobs to alleviate the strain on their guardians. These children not only offer practical assistance to their families but also prioritize their parents' needs over their own. The narratives they share demonstrate an increased sensitivity to the stress experienced by their parents, along with a genuine concern for their overall well-being and mental health. For instance, certain children might hide their own difficulties and solely provide optimistic news to both their incarcerated and non-incarcerated parents. Consequently, they provide emotional support to their remaining parent while trying not to add to their emotional burdens. This empathy and sense of duty can reflect resilience and aid in forming a positive social identity.<sup>85</sup> However, these parental roles can be involuntary and overwhelming. Some children feel compelled to mature quickly, sacrificing a 'normal' childhood. Additionally, taking on parental duties, such as part-time work, can hinder their educational engagement, leading to diminished life prospects.

Furthermore, these children experience a profound sense of loss, not only due to their parents' absence but also because they feel their childhood has been stolen. They often perceive themselves as “different” from their peers, lacking the normal routines and leisure time with both parents, and missing out on the opportunities and support that other children typically enjoy. Moreover, COIPs frequently face stigma and misunderstanding, complicating their ability to experience a 'normal' childhood.

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<sup>85</sup> Ande Nesmith & Ebony Ruhland, Children of Incarcerated Parents: Challenges and Resiliency, in *Their Own Words*, 30 *Child. & Youth Servs. Rev.* 1119, 1124 (2008).

### **3. Secrecy: the need to share feelings**

The existing research highlights two aspects of secrecy. The first aspect pertains to family secrecy, where some children receive little to no information regarding their parent's imprisonment, despite many of them valuing and yearning for truth and open communication. Research indicates that unanswered questions can leave children feeling perplexed and conflicted.

The second aspect of secrecy involves children concealing their parent's incarceration from those outside the family. This behaviour often stems from family expectations or a desire to avoid potential stigma. While this approach may mitigate direct stigmatization, it simultaneously fosters feelings of isolation and loneliness. COIPs recognize their need to discuss their parent's incarceration and the emotions it evokes. Unfortunately, this need is frequently overlooked or suppressed, making it challenging to address.

### **4. Stigma and stereotyping: the need for community awareness and education**

Many COIPs often feel anxious about being judged or stigmatized by others. Research consistently shows that these children are frequently viewed or treated negatively by their peers and community members due to their parent's imprisonment. In particular, children have reported experiences of being bullied or teased by their classmates; additionally, the adults who are supposed to offer them support sometimes further alienate them. For example, certain teachers, social workers, family members, police officers, and the parents of their peers make incorrect assumptions about these children, which leads to negative expectations based on a lack of understanding and harmful stereotypes. As a result, children absorb these societal views and attitudes, which can foster feelings of self-doubt and self-stigmatization. Professionals such as teachers and counsellors are regarded as vital sources of support for these children. However, as previously mentioned, their occasionally inappropriate and insensitive actions and responses can deter children from seeking the help they need.

### **5. Perceived powerlessness: the need for agency**

In response to the incarceration of parents, many children experience a mix of negative emotions, such as sadness, anger, and shame, particularly in environments where community understanding is limited and stigma prevails. Notably, children often express feelings of powerlessness through phrases like "have to" and "no choice" when discussing their circumstances during their parents' incarceration. This reflects their struggle with a lack of control over the realities of separation and the associated challenges, which include dealing with prison regulations and the criminal justice system, facing financial hardships, managing

their care arrangements, and navigating their own life paths. Consequently, numerous studies indicate that children frequently feel anxious about the wellbeing of their incarcerated parents and caregivers, as well as concerns about potential discrimination, uncertainties, and ongoing financial difficulties for their families.

## VIII. RECOMMENDATIONS

### **Institutional support**

Although numerous children with incarcerated parents encounter considerable psychological hurdles, it is crucial to acknowledge their potential for resilience. Some children exhibit extraordinary coping abilities, especially when they benefit from robust social support systems, access to mental health services, and encouraging role models. Their coping strategies may encompass:

- **Pursuing therapy or counselling:** Gaining access to psychological assistance, like counselling or therapy, can aid children in processing their feelings, acquiring coping techniques, and enhancing their emotional regulation.
- **Supportive peer connections:** Positive friendships and supportive peer relationships can offer a sense of normalcy and emotional backing.
- **Community and family assistance:** A strong, caring extended family or community network can alleviate some of the adverse impacts of parental incarceration, granting the child the emotional stability and security they require.

### **Policy recommendations**

#### **1. Data analysis and collection**

- Establish a national database of COIPs to inform policymaking and intervention.
- Perform research and surveys on a regular basis to identify needs and vulnerabilities.
- Enshrine COIPs clearly within child protection law and policy for visibility and access to services.

#### **2. Legal framework**

- Amend the Juvenile Justice Act to include children of incarcerated parents as "children in need of care."
- Call for alternatives to incarceration for pregnant mothers and first-time caregivers, putting the child's well-being first.

- Empower CWCs and probation services to supervise and support COIPs.

### **3. Education & social welfare**

- Create state-sponsored scholarships for COIPs.
- Require school registration for kids older than four outside prison facilities.
- Facilitate peer support and school counselling initiatives to eliminate stigma.

### **4. Prison conditions and family contact**

- Improve prison creche and nursery for children of female prisoners.
- Provide prison children with housing units having child-friendly areas within prison facilities.
- Develop child-sensitive visitation guidelines for COIPs that promote regular, meaningful parental contact.

### **5. Rehab and financial aid programs**

- Expand financial aid programs like Kerala's Education Assistance Programme and Delhi's welfare scheme to be statewide.
- Develop rehabilitation programs for COIP caregivers and families.
- Implement employment-related support programs aimed at decreasing child labour and alleviating poverty.

### **6. Raise awareness and reduce stigma**

- Educate teachers, social workers, and law enforcers to handle COIP problems with professionalism and empathy.
- Promote ethical media reporting on COIP cases to avoid victimization.

## **IX. CONCLUSION**

Children with incarcerated parents face profound challenges that impact their emotional, social, and academic development. The disruption in parent-child bonds, coupled with stigma, instability, and financial hardships, often places these children at a disadvantage. Without adequate support, they are at a higher risk of experiencing long-term negative outcomes, including mental health issues, behavioural struggles, and potential entanglement with the criminal justice system.



This paper underscores the urgent need for policy reform, institutional support, and public awareness to mitigate the consequences of parental incarceration on children. Strengthening legal frameworks, enhancing educational and welfare provisions, and ensuring humane prison conditions can significantly improve the lives of these children. Additionally, fostering positive social bonds, reducing stigma, and providing financial assistance can help break the cycle of intergenerational incarceration.

Ultimately, addressing the needs of children of incarcerated parents is not just a social justice concern—it is a moral imperative. By prioritizing their well-being, society can ensure that these vulnerable children are given the support and opportunities necessary to build stable, fulfilling lives, free from the burdens unfairly imposed upon them.

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