

## Children of Incarcerated Parents

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Psychosocial health of children of incarcerated parents is a critical area of concern and yet acutely neglected in India. Despite Supreme court guidelines on ensuring age-appropriate care for children living along with their mothers in prison, there is variance in practice, which compounds the disadvantage of being a prisoner's child. The children left behind at home due to parental incarceration also experience vulnerabilities that emanate from their pre-existing socio-economic disadvantages, the continued interface of the child with the criminal justice system, as well as societal perception towards them. This results in a pronounced effect on their health, and educational, social and emotional wellbeing. Conscious efforts are required for strengthening the factors that could mitigate the adverse consequences of parental incarceration coupled with a debate on penal populism and the social and economic costs associated with the same.

**Keywords:** *Children of prisoners, Emotional consequences, Visitation, Women in prison.*

Children of incarcerated parents continue to be a largely misunderstood and yet, a very vulnerable group. The extensive discourse on the possibility of their culpability without evidence to support the same, has driven attention away from the fact that their childhood needs to be protected and that their entitlements cannot be denied by virtue of their parent's alleged involvement in offending behavior.

Children of incarcerated parents are broadly divided into two broad categories – those who can live along with their mother in the prison (up to the age of 6 years) and those that are left behind when their parent(s) is/are incarcerated. Children left behind could be living with the remaining parent, with other kin caregivers, in a child-care institution, or on their own as an only child household. Information with respect to the number of these children is missing except in the case of children living along with their mothers in the prison. Nonetheless, considering the fertility rate and the prison population within the reproductive age group [1], an extremely rough estimate of children of incarcerated parents could be more than 8 lakh in the country. The number of children living along with their mothers in prisons across India, was 1942 at the end of 2016 [1].

Research has been conducted in greater measure on children living with their mothers in the prison, largely due their visibility and access within a single place. On the other hand, children living outside have been an invisible population.

### CHILDREN LIVING IN THE PRISON

It is well established that the early childhood years are most critical for the physical, emotional, social and cognitive development [2]. The social and physical environment in interaction with biology exercise an influence on development beginning prenatally and continuing through infancy and childhood and even later [3]. Prisons do not offer the physical and social environment that is conducive for a child's development. It is in this context that interventions are required if children (below the age of 6 years) are to stay along with their mother in the prison. The Honorable Supreme Court in its judgment in *RD Upadhyay vs. State of Andhra Pradesh and Others* [4] citing the recommendations made by the All India Committee on Jail Reforms [5] have laid down guidelines for care provision with respect to this category of children. They have emphasized that the child should not be treated as an undertrial or convict while in jail with his/her mother, is entitled to age-appropriate food, shelter, medical facilities and opportunities for education and recreation. Children's physical growth must be monitored regularly along with provisions for vaccination within the prison. Every prison is required have a creche (for children aged 0-3 year) and nursery facility (for children aged 3-6 year), which should preferably be located outside the prison premises. Before sending a pregnant woman to jail, the competent authority must ensure that the jail has proper facilities for pre-natal and post-natal care. Lactating and pregnant women are

entitled to a special diet within the prison. Besides those considered to be high-risk prisoners, the jail authorities are to arrange temporary release for childbirth in a government hospital. Suspension of sentence can also be considered as an option in case of casual offenders. To protect the long-term interest of the child, the birth certificate is not expected to carry the place of birth as the prison but instead the locality within which the prison is located. In the absence of official data on the compliances with respect to these guidelines, reliance is being placed upon some state-specific studies in order to understand the situation of children living within prisons with their mothers.

Research has revealed that separate space is not earmarked for female inmates and their children in all prisons [6]. In cases where separate barracks have been earmarked, the challenge of overcrowding may remain [7]. Inadequacy of space pinches children's development since prisons are locked up after sunset in most places.

The creche and nursery can offer an opportunity to the children to escape from the prison environment, for a few hours, besides being a space for education, recreation and supplementary nutrition. Notwithstanding the Supreme Court guidelines, the facility of a creche as well as nursery has been found to be available only in some jails [7-10]. Further, the quality of the nursery/creches, where available, has been found to be discrepant in terms of availability of teachers, play material, presence of a child-centered library and teacher-student ratio [6-9]. Recreational opportunities for children also vary from being provided with a few toys [9] to having few swings in a ground [7] which, at times, may be utilized for drying clothes [7]. Opportunity for using the swings is only available in the afternoon, which works as a disadvantage for children, particularly in summers [7]. The television sets were available in most prisons but were found to be largely used for viewing serials that cater to the interests of the women inmates rather than children. In a few prisons, children were reported to be occasionally taken for picnics, with the support of non-governmental organizations [10]. Quantity of food provided to the children has also been found to be inadequate and the mothers reported that no special diet was provided to the weak and unhealthy children [9]. There were also variations in respect of provision of age-appropriate diet for children. In some cases, specific efforts were made to provide diet to children in accordance with their nutritional requirements [10] but in other cases, female prison inmates had to share their food with their children [8]. A separate dietary plan in case of pregnant inmates was found to be missing in all the studies. Thus, variations are visible across prisons despite the incorporation of the court guidelines in the Model Prison Manual, 2016 [11].

In the absence of a pediatrician in the jail premises, the health concerns of children are not necessarily attended to adequately. Jail hospitals were not found to be properly equipped for providing treatment to small children [8]. In a more recent study undertaken in two prisons of Uttar Pradesh, mothers reported that in case of serious health-related concerns of children, the doctors from the district hospital were informed and requested to attend to the child, but the mothers were not satisfied with the medical facilities provided to their children [9]. Regarding the vaccination schedule, it was being largely followed [7-9] provided the children were available at the time that the vaccination was being administered and the vaccine was available [9].

While most of the researches have focused on the living, educational, health and recreational facilities available to children, there are very few studies that have tried to understand the physical, cognitive, social and language development amongst the children living with their mothers in prison. Reliance is thus being placed on two studies which are comparatively recent in nature and which were accessible. In one of the researches [7], which was done in a Delhi prison, the cognitive development of children was assessed through an observation checklist, (a brief recognition and naming test designed for the children by the researcher), as well as interactions with crèche staff, and language development was ascertained through interviews with the incarcerated mothers [7]. Due to the lack of a stimulating environment, children who were born in prison or had started living in the prison at a very early age, displayed difficulty in recognition of alphabets and numbers, in pronouncing words and understanding age appropriate instructions [7]. In another study also carried out in Delhi prisons [12], a school readiness instrument was used to assess the skills that help children (aged 3-6 year) to adjust better in school as well as acquire the literacy and numeracy skills. The researchers found that most of the children had been able to master lower order thinking skills such as pre-number concept, simple pattern thinking but found the tasks associated with higher order thinking skills such as sequential thinking, classification of objects, reading readiness, and relative comparison of numbers, challenging [12]. Significantly limited or no exposure to the outside world had an impact on the children's conceptual understanding of the outside world. Children were often afraid of men, including even their male relatives. Furthermore, being inside the prison for a long time was seen to transform the meaning of 'going outside' for children, restricting it in many cases to a court visit in a van [7]. In another study, the mothers stated that the absence of family life was having an effect on the social

development of their children. The child misses out on playing with siblings, and the opportunity to understand and imbibe familial values and norms is denied to the child living in the prison [9]. Another major concern is the children's exposure to profanities and violent fights in the barracks [13]. Such children were found to be more verbally abusive besides being engaged in violent fights and bullying [7].

### CHILDREN LIVING OUTSIDE THE PRISON

Research on children left behind upon parental arrest has been limited. The absence of any database of these children coupled with the lack of any documentation at the time of parental arrest, makes any research on this group a challenging process. Notwithstanding this submission, some research has been carried out by Prayas (2002), a field action project of Tata Institute of Social Sciences on children of women under trials [14]. Additionally, the authors have also completed a study on children (aged 6-18 year) of convicted prisoners (unpublished data). Another study on children of women prisoners in Aligarh and Etah jails has also been published recently [9].

Children and caregivers experience extreme financial challenges consequent to parental incarceration due to the removal of the earning family member as well as expenditure incurred due to the interface with the criminal justice system [9, 14]. These challenges manifested in having to borrow money for meeting basic necessities or taking them on credit or managing without them, skipping meals, dropping out from school or entry of children into the labor force [14]. Abject poverty may also result in the child pilfering things so as to ensure food in the family [14]. Families are forced to sell off or mortgage their assets to meet the day-to-day expenses [14]. Retaining accommodation was seen to be a challenge in some of the cases where the families were living on rent [14]. In case of kutcha houses or semi-pucca houses, repair, even if required, slides down in the priority list resulting in the house crumbling down [14]. In cases of paternal incarceration, the mothers are caught off guard due to not having stepped into the world of employment prior to the incident and in some cases not having ventured out of the houses without their spouses. Visitation (*mulaqat*) to the prison can also be financially draining for most of the families who already find themselves on the edge [14].

These children experience health problems such as cough, cold, pneumonia, tuberculosis, typhoid, malaria, epilepsy, as well as skin and dental problems [9, 14]. Skin problems increased if there was no one to bathe the children or wash their clothes. Malnourishment was a serious concern due to food shortages or the absence of

any elder person to cook in the family [14]. Children become dependent on others for the provision of a proper meal [9]. Treatment of children having an illness requiring prolonged medication were often stopped after the mother's incarceration [14]. At times, even essential medication was not provided on account of lack of attention or limitation of resources. Minor health concerns got aggravated due to lack of required medical attention [9].

Children experience feelings of loneliness and sadness particularly during the initial period of their parent's imprisonment. Caregivers report their inability to sleep for several days, not being able to eat, retracting into a shell, and excessively crying [14]. Self-care may also get affected due to the trauma of separation. There are feelings of fear which are related to having witnessed the crime scene, fear of leaving the mother alone in the prison, fear of the remaining parent, if he is abusive, or fear of the police (having witnessed the treatment that was meted out to the mother) [14].

On the other hand, there are also others who are angry and disappointed with the mother for having to bear the consequences of incarceration [14]. A few children may also hold feelings of resentment against the incarcerated parent particularly if they are responsible for the death of a loved one [14]. Disturbed or deviant behavior may also be seen in some of the children largely triggered by the consequences of parental incarceration. A feeling of hopelessness may result in suicidal behavior [14].

The emotional consequences on children are contingent on whether the child is able to understand the implications of imprisonment, the duration of imprisonment (with a shorter duration resulting in lesser consequences), pre-incarceration relationship with the caregiver, and single or repeated incarceration (with a first time incarceration of the mother having a serious effect on the child) [14].

In some families, children are not informed about parental incarceration due to the belief that the same may have an adverse consequence on them or at times in consideration of their young age. However, non-disclosure, over a period of time, can also result in a feeling of betrayal amongst the children.

The continued interface of the children with the criminal justice system also affects them in several ways. Even while the opportunity for visiting the parent is available in the prison, the procedures associated with the same can be extremely unpleasant for some. The repeated checking is viewed by some children as a violation of their body boundaries and some of them do

not like the look of suspicion that the police officers may hold for them. Prisons are not designed keeping in mind the effect that it may have on young children [13]. For many children, a prison visitation means long hours of travel followed by repeated security checks, and then finally a conversation with a parent across a glass barrier, with, most often, no opportunity for touching the parent. The court visits by the children also exposes them to the unethical practice of paying bribes to various functionaries in order to meet their parent, getting information for the case or making payments to the prosecutor [14].

Education stands a chance of being a major casualty. Continuance of children in schools can become challenging in the absence of means to pay school fees, for their uniform, books and other essential things or to even provide for supplementary academic support. Residential transitions due to parental imprisonment could also result in temporary educational cessation. When schools are located at a distance, discontinuation in case of adolescent girls due to the absence of anyone to accompany them and the perception of insecurity has also been seen [14]. At times, the need to take care of younger siblings can also cause drop-out [9].

Children of prison inmates may also be living in child care institutions, registered under the Juvenile Justice legislation or even in hostels, but by and large they feel discomforted with this provision. They were found to long for their parents as well as their siblings who were at times separated from them because of institutionalization [14]. For children living in hostels, the absence of visitors made them the subject of ridicule by others by being referred to as 'orphans' [7].

The effect of parental incarceration on children living outside is, to a certain extent, determined by the quality of caregiving available. However, caregiver's own abilities are governed by various factors including their age, their physical abilities, the support available to them by their own families, as well as their financial wherewithal [14]. In cases where children have to assume the role of caregivers, they are overstretched and find it challenging to cope with the situation if other forms of support are not available over a prolonged period of time [14]. In the presence of other co-occurring adversities such as death of a caregiver in close proximity of incarceration or disability of a child, the effects of parental incarceration become more pronounced.

## CONCLUSION

Internationally, children of incarcerated parents are recognized as 'orphans of justice' but this recognition does

not always translate into the desired attention that needs to be given to this group, as is evident through this review. This population, on their own, feel under-empowered to advocate for their entitlements. Concomitantly, adherence to the colonial legacy of law without any significant changes has also resulted in penal populism without necessarily examining alternative forms of sentencing which could serve the dual purpose of 'repairing the harm' and mitigating the effect of parental offending on children. More attention to the concerns of these children, and research in their social, emotional and health needs would definitely be helpful in improving their status.

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