



# STRUGGLE OF CHILDREN LIVING WITH THEIR IMPRISONED MOTHER IN INDIAN JAIL

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**Abstract:** Women inmates are commonly the only or primary source of livelihood for minor children. This means that the mother's imprisonment cannot be viewed in isolation. The difficulties that women prisoners face roots from the fact that jails have traditionally been created to address the requirements of men. The children's experiences with their mother's imprisonment affect every aspect of their lives, and not just their relation with their mother. It is close to emotional distress, but with added stigma and, in many cases, less support from new career educators and many others. Not unexpectedly, it generally leads to aggressive, violence and anti-social behavior in children. The effect on the children, of course, vary according to their age and the response of their family and community.

This present paper is an attempt to study and understand the various challenges faced by children who are living with their imprisoned mother in jails, and how this impacts children with respect to their personal life, relationship with mother, personality formation, and any mental or physical sufferings. This study will help forensic and correctional psychologist to understand the reasons as to why such children commit illegal activities. This study will further help in preventing such crimes by understanding how such children can be provided with proper care and benefits so that they can become responsible citizen in the society.

**Keywords - Forensic Psychology, children, women inmates, behavior, challenges, crimes.**

## I. INTRODUCTION

The judicial system of an arrested person serves as an important and useful starting point for comprehending his or her family's situation. Thereby, the word "Children of prisoners," especially women inmates whether they are awaiting trial, prosecuted, or convicted could correspond to any of the following sub-groups:

- a. Children born to women while they are in prison
- b. Minors such as breast-feeding newborns who are allowed to be taken in the police custody with their mothers.
- c. Children taken into penal custody with their mothers, who have been afterwards sent outside which can either be before or following the attaining predefined age-limit, while the mother continues to remain imprisoned.
- d. Minors taken into police custody with their mothers who leave with their mothers (such as bail/discharged/acquittal/completion of sentence).
- e. Children who are left outside when one or both parents are arrested.

Among all the mentioned sub groups, the most vulnerable are the minor children in the prison. A woman in prison (whether convicted or not) is legally entitled to keep her very young children with her. These would typically be children under the age of five, including some variation based on the local administration rules. The Supreme Court of India, in the R D Upadhyay versus the State of Andhra Pradesh, 2006 directed all States and Union territories to let children live with their mothers till they turned six.

The rationale behind this judgement was that separating the child from her mother at such young age could have a devastating impact. But once a child turns six, he is supposed to be handed over to suitable surrogate or transferred into protective custody in a home and brought to prison to meet the mother at least once a week.

Some of the common issues faced by such mothers and children are as follows:

1. A missing child, or losing custody while in prison, is the most common reality for women trapped in the Criminal justice system. It is common to such a level that it has been accepted as a 'part of the punishment.' In each prison at least ten (10) women eagerly seek help of Child welfare Committee (CWC) to find out about the wellbeing of their children living outside.
2. Many women have reported about the ordeal they faced just to get their child to recolonize her. Most of the times women are moved from one prison to another, making it impossible for her to meet her child, who will be in institutional care.
3. In the prison, time around 5 p.m., is called as Bandi time or lockdown where every prisoner must return to their respective barrack. The adult women have accepted such drill but the little kid is unable to spend rest of his time in an iron cage. Many kids are visibly traumatized and they are seen to scream hysterically making it impossible for the mother to control them.
4. In most prisons, as prescribed in the State's prison manual, children and pregnant women are entitled to special diet but much of this exists only on paper and not in reality. For eg: As per rule book, a growing child will only get 150 ml of milk or just one fist of puffed rice because the prison superintendent would not allow more. Because of such circumstances, the child's growth is retarded or in the worst case, the child dies.
5. Many incidents have occurred where the pregnant mother goes to jail and later when the child is born, she kills the newborn and dispose of the body. A woman inside the jail suffers lot of mental traumas, aggression, due to which she vents her anger on kids and beats them to death.

Even the Upadhyay judgement is aligned with the international standards such as the United Nation's Rules for the treatment of Women Prisoners (UN Bangkok Rules) and the UN Minimum Standards for treatment of the Prisoners (The Mandela Rules) which highlights fifteen important aspects including health, education, and overall physical and mental growth of a child in jail. However, the execution of this ruling leaves much to be anticipated. There is an age restriction after which children cannot be admitted or kept inside. Male inmates, in general, do not have access to this facility. The assumption is obviously that infants or very young children require their mothers more than their fathers and therefore, they, should not be separated from the aforementioned. Some children's stays are brief based on how long their mother is incarcerated, while others may stay for a very long time. There are children who are born in jails and hence they never know what a "normal" life is like, particularly in those whose stays are extended, the detrimental consequences of prison setting life and the compelled adjustment of young kids to the prison setting are very evident. Therefore, there is real concern such kids. Preschools are supposed to be provided by prison administrations. Sadly, they are centered in correctional facilities wards with convicted (women) inmates.

As of December 31, 2021, there were 1650 women incarcerated with 1867 children according to data from the National Crime Records Bureau (NCRB). These women prisoners included 216 convicted criminals who were accompanied by 246 children as well as 1,418 women prisoners who were awaiting trial. Women inmates in India are recurrently housed in just a distinct terrarium within regardless of the fact same prison as male inmates, that a central like Delhi's Tihar is described as a "prototype" prison and has a for women. Because they were raised in a confined prison setting, their children commonly lack social abilities and have restricted access to higher education. Children or young kids are kept apart from their mother after the age six and often accommodate in state-run facilities until either their mothers are released or they are old enough to support themselves. Older children are accommodated in state-run childcare facilities until they turn 18 if there are no caregivers available. According to the 2018 Prayas report, "Children of Women Prisoners: The Invisible Trial", siblings may become estranged during the process. Some kids take care of younger siblings or deal with the family's financial troubles.

They might stop communicating with their mothers. Meetings are typically only arranged after female inmates complain to the jail superintendent about not seeing their children in a while. Despite laws mandating this, young kids are unable to regularly visit their mothers because state childcare facilities have little or no staff. Women who are incarcerated are frequently undertrials, spouse murder convicts or dory case convicts.

## II. BRIEF REVIEW OF LITERATURE:

Neelam Sukhramani and Shivangi Gupta (2020) conducted research on “Children of Incarcerated Parents” which concluded that the disadvantage of being a prisoner's child is made worse by the fact that, despite Supreme Court guidelines guaranteeing age-appropriate care for children living with their mothers in jail cell, there is variability in practice. Due to their pre-existing socio-economic drawbacks, their ongoing contact with the criminal justice system, and how society views them, children who are left at home while their parents are in prison also face vulnerabilities. Prisoners' health, as well as their educational, social, and emotional wellbeing, are significantly impacted by this.

According to the report given by “Women in Prisons” (2018), of the Ministry of Women and Child development, [ it was added that In India, the number of women in prison is steadily rising. Women in prison, many of whom are still awaiting trial, face several challenges in their daily lives. If the woman has a child, her responsibilities as a caregiver should be taken into consideration when selecting the prison, and the woman should, to the greatest extent possible, have the option of choosing the prison. Children must not be treated like criminals when they are kept in the prison. The facilities provided should be tailored to the children in the care of the administration.

To make sure that children in prison have access to basic amenities like education, day care, recreation, and a healthy lifestyle, NGOs, schools, and pediatricians can be involved. The administration of the prison shall endeavor to provide children with an environment that is as like that of a child outside of prison as is reasonably possible for their upbringing. In another survey conducted by Shilpi Sarkar and Sandhya Gupta (2015) on “Life of children in prison: The Innocent victims of mothers’ imprisonment”, it was found that the children incarcerated are basically the innocent victims of mother's confinement were primarily without father and other family members' love and affection along with no enough places to relax. It was also seen that such children were constantly exposed to criminogenic influences from other inmates, such as abusive language and frequent fights. The vulnerable prison environment in which the innocent children are living may in the future foster low self-esteem and problematic behavior. Furthermore, mothers in prison expressed concern regarding their children's future behavior, education, and social lives.

According to Vijay Raghavan, professor at the Centre for Criminology and Justice at the Tata Institute of Social Sciences, Mumbai, and project director of Prayas, a field action project working on “Social work intervention Criminal Justice” mostly in Maharashtra, Women inmates receive minimal investment usually due to their low numbers, which makes it economically unviable to create separate infrastructure for them. He further added that it is also the same with children in jail, because their numbers are typically lesser in number and then added that life in custody surrounded by women inmates can never be even close to normal for a child of age sex or even less than that.

## III. OBJECTIVE

The objective of this research paper is to study and understand the various challenges faced by children who are living with their imprisoned mother in jails, and how this impacts children with respect to their personal life, relationship with mother, personality formation, and any mental or physical sufferings.

## IV. METHODOLOGY

The data have been taken from previous conducted researches, surveys and further from National Crime Records Bureau (NCRB), Ministry of Women and Child development and have been collated and studied to find the issues and challenges faced by children who are the innocent victims because of the crime committed by their mothers

## V. CONCLUSION

The execution of the provisions is found to be largely lacking and female prisoners face a variety of problems while living in prison. The obstacles faced by women inmates especially when catering to their children in prisons stem from the fact that prisons have traditionally been designed to suit the needs of men. Physical, nutritional, medical, and educational facilities are generally required for any young child, particularly a new-born, until they reach the age of adolescence in order to fulfil their normal physical growth and prevent unintentional injuries and accidents among children. Inside the prison, children's basic physiological needs cannot be met to a certain extent. Children were not only denied access to recreational facilities and the affection of their fathers or other family members, but they were also exposed to criminogenic influences from other inmates in prison, as evidenced by their use of abusive language and frequent fights, making them susceptible to problem behavior in the future.

Even though the prison manual has established procedures but there is a gap between policy and implementation. Undertrial inmates experience mental stress and suffering as they do not know the condition of their close family members for several reasons, such as families not wanting to visit them in jail, or the jail administration not facilitating interaction. In cases where a woman is imprisoned and children are brought up by the paternal family, they tend to poison the thoughts of the children against their own mother and Many children end up hating their mothers because of which a mother and child relationship is spoiled which affects both the mother and the child. In long run, this also affects the child's future and other relationships and the child blames his mother for the failures in life and this in turn also impacts the imprisoned mother's mental and physical health.

## VI. SUGGESTIONS:

1. The government needs to create a distinct construction for women in prisons and one way of attaining this is to have combined services for female prisoners.
2. The Court should speed up the trials for women who are pregnant or have children, especially below 6 years of age.
3. The prison management must be the only authority in control for all related work and must be provided with satisfactory staff and funds instead of the multiple subdivisions covering different facets of women and children's welfare at present.
4. There should be a facility to buy eatable items for children inside the premises. Women now earn inside the prison premises and they can afford to buy food for their children.
5. Female inmates whose children are in prison with them shall be provided with the maximum possible occasions to spend time with their children.
6. Children should receive a special diet and be regularly examined by a Lady Medical Officer at least once a month to monitor their physical growth and condition of physical and mental health. They should have access to a Lady Medical Officer as per their need.
7. Preceding to or on admission, women with caretaking responsibilities for children should be allowed to decide for those children including the possibility of a reasonable suspension of detention, considering the best interests of the child.
8. Prison administration should ensure that links between inmates and children outside prison are maintained throughout her incarceration.
9. Prisons should provide educational scholarships for women inmates' children above 6 years. E.g., In Tihar Jail, Delhi, children of prisoners who are from Delhi are provided educational scholarship of Rs. 3,500 for one child and Rs. 6,000 for two children per month, subject to conditions like income etc. This could be replicated in other states as well.

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