
CHILDREN OF INCARCERATED MOTHERS: A REVIEW OF LEGAL FRAMEWORK, DEVELOPMENTAL & SOCIAL OUTCOMES

Nidhi Kumari¹ & Sony Kunjappan²

ABSTRACT

Children is the most vulnerable yet crucial part of any society, there are several legal as well as societal margins set for their betterment, growth and development. We believe that children are the future of any society. But one should also questions on what about such children residing in prisons with their incarcerated mothers. This paper discusses the extensive effects of maternal imprisonment on children by using legal frameworks, developmental trajectories, and social outcomes associated with this vulnerable population. The rise in women's imprisonment around the world, including that of primary caregivers, is becoming a growing concern about the long-term implications for their children who often suffer deprivation of attachment, emotional turmoil, and socio-economic adversities. The review searches the legal structures currently in place for safeguarding the rights and best interests of the children of those behind bars-for example, with respect to custody, visitation, and involvement of child welfare. This paper continues talking about the consequences of developmental stages for children, referring to outcomes in terms of cognition, emotion, and behaviour. The review finally touches upon social effects, referring to stigma through parental incarceration, exposure to the juvenile justice system, and how all these circulate in a cycle of disadvantage. The paper concludes with an integrated, child-centred approach to the incarceration of mothers with the aim to reduce harm and promote positive outcomes for affected children.

Keywords: Women Imprisonment, Maternal Incarceration, children, child-centred approach, vulnerable population.

¹ PhD Scholar, Department of studies in Social Management, School of Social Sciences, Central University of Gujarat

² Professor & HoD, Department of studies in Social Management, School of Social Sciences, Central University of Gujarat

INTRODUCTION

In the light of the fact that India is currently undergoing the process of unveiling a sophisticated and dynamic framework of criminal justice³, the implications of a mother's imprisonment on the children are an under-researched yet very important area of interest. Maternal incarceration is an issue for children in India, where there is such an acute intertwining of family structures with cultural and social norms; thus, the removal of children from their mothers for imprisonment presents challenging developmental, emotional, and social circumstances⁴. This group of children has been depicted to be at higher risk of developing attachment disorders, performing poorly at school, and of being more prone to serious mental health problems⁵. While legal, psychological, and social factors intersect to throw down a complex challenge, it is massive enough that there is great potential for intervention at every level-through policy reform, community support, targeted therapeutic approaches. This paper seeks to explore the legal framework surrounding maternal incarceration in India and its impact on the children left behind, while also examining the developmental and social outcomes those children face.

India has increasing prison populations and there are a large number of female offenders, most of whom are primary caregivers to their children, much more would have been said about children separated from their mothers because of imprisonment⁶. According to the *National Crime Records Bureau (NCRB) 2022*⁷ report, there are 1,537 women prisoners with 1,764 children as on 31st Dec. 2022, showing an increasingly larger proportion being mothers of very young children. India can expect a greater number of children affected by the experience of maternal incarceration because it lacks adequate mechanisms for tracking and supporting children whose mothers have been incarcerated. Despite this, it was revealed that globally, the incarceration of mothers is a critical public health and human rights issue⁸, but in India, legal provisions regarding children of incarcerated mothers are still very rudimentary and at times inconsistent.

Whereas the Indian constitution promises every individual's right to life and personal liberty⁹,

³ Law Commission of India, *Reforms in the Criminal Justice System*, Report No. 239, 2012.

⁴ UNICEF India, *The Situation of Children in India: A Profile*, 2011.

⁵ Minson, S. (2019). *Maternal Sentencing and the Rights of the Child*. Palgrave Macmillan.

⁶ Shankardas, R.D. (2012). *Of Women Inside: Prison Voices from India*. Routledge India.

⁷ Prison Statistics Report, 2022.

⁸ United Nations Rules for the Treatment of Women Prisoners and Non- Custodial Measures for Women Offenders (Bangkok Rules), UN General Assembly Resolution, 2010.

⁹ Constitution of India, Article 21.

includes protection for children; the legal and prison system in India is not so advanced to tackle problems children have faced with imprisoned mothers¹⁰. The *Juvenile Justice (Care and Protection of Children) Act, 2015*¹¹, and prison manuals at the state levels make very meagre provision for such children and largely handle them under custody or child care considerations without constituting a shift into the long-term emotional, cognitive, and social effects of maternal imprisonment¹². The developmental outcomes for the children of women who have been incarcerated are, in fact, very deep. Maternal incarceration has been correlated with emotional distress, disruption in attachment issues, academic struggles, and behavioural issues. These children are also prone to be part of the criminal justice system, which would further the cycle of incarceration¹³. Socially they bear the stigma of exclusion and trauma that promotes deprivation of a successful future¹⁴. Thus, the effects of maternal imprisonment can be categorized as a multi-generational issue in nature, for the welfare of children does not immediately meet the requirements of wholesome social interaction in a community. In the case of *R. D. Upadhyay vs State of Andhra Pradesh*, the court focused on enhancing the status of women prisoners and their children. The court states that “*a lot is required to be done in the states and Union Territories for looking after the best interest of the children*”¹⁵ and recommended several reforms related to protecting the rights of children of women prisoners such as to provide medical facilities, legal aid, proper nutritional food and arrangements for the education of such children¹⁶.

This paper aspires to present a critical analysis of the legal framework as it applies to maternal incarceration in India, assess developmental and social outcomes for children with incarcerated mothers, and discuss international best practices that can be adapted into policies in India. It focuses on the loopholes in policies implemented to counteract the detriments associated with maternal incarceration that include inefficient measures to support maintaining the bond between mother and child while the mother is serving her jail term¹⁷. It is also a need analyse

¹⁰ Ranta, D. R. S. (2018). RIGHTS OF CHILDREN OF INCARCERATED PARENTS: A CONSTITUTIONAL PERSPECTIVE. *Journal of Emerging Technologies and Innovative Research (JETIR)*, 5(3).

¹¹ The Juvenile Justice (Care and Protection of Children) Act, 2015, Ministry of Law and Justice, Government of India.

¹² Model Prison Manual, 2016.

¹³ Wildeman, C & Western, B. (2010). *Incarceration in Fragile Families: The Future of Children*, 20(2), 157-177. Princeton University.

¹⁴ Anne Nurse, (2002). *Fatherhood Arrested: Parenting from Within the Juvenile Justice System*. Vanderbilt University Press.

¹⁵ *R.D Upadhyay v. State of A.P.*, (2006)

¹⁶ NCPCR Report, 2021

¹⁷ Ministry of Women and Child Development, Government of India, *Report on Women Prisoners and Children*

gaps in the current provisions, recommends a child-centred approach toward mother's imprisonment with rehabilitation and care processes toward both mother and child¹⁸. The paper attempts to contribute through this review to the growing discourse about how India should improve its approach to the increasingly relevant subject of children of imprisoned mothers.

RATIONALE FOR EXAMINING THE IMPACT ON CHILDREN

The inclination of the study is to provide an analysis of the developmental, legal, and social conditions relating to children of mothers incarcerated in India. The objective of this research paper is to explore different aspects such as, the execution of prison sentences, the problems faced by the children of imprisoned mothers, and an assessment of the existing government initiatives and the current practices to support these children. These issues need to be dealt with in an Indian context so that future interventions, policies and the well-being of children affected by maternal incarceration can be developed

Examining the effects of inmates' children is a necessary part of the review because of the multi-dimensional impacts that maternal incarceration has on them. Maternal incarceration results in parental and family experiences interruption, therefore children face numerous negative impacts such as emotional difficulties, behavioural issues, and cognitive sluggishness. They also have greater chances of dropping out of school and developing psychological disorders. There are laws that can be seen as potentially good for guaranteeing the right of people and their children, such as the Prevention of the Annoyance Act of 1908 and the Juvenile Justice Act, however, they have not been implemented according to their universal norms.

RESEARCH METHODOLOGY

The paper focuses on a systematic review of existing literature concerning the legal frameworks, developmental outcomes, and social consequences of maternal incarceration. A review of qualitative and quantitative data was done; emphasis has been on refereed journal articles, policy reports, and country-specific case studies from countries that have best practices. Data sources in particular included international parties such as United Nations government reports, NCRB Reports and academic databases, JSTOR, and Google Scholar. Thematic analysis is used in doing the research in order to synthesize findings across contexts,

of Women Prisoners in Indian Jails (2018).

¹⁸ United Nations, *Convention on the Rights of the Child* (CRC), 1989

allowing room for policy recommendations.

LITERATURE REVIEW

The legal framework in India concerning children of incarcerated mothers is a mix of national legislation, international conventions, and judicial review. According to the Indian Prison Manual and the Prisoners Act, 1900, children below six years has been allowed to accompany their mothers to the prison, provided the interest of the child does not suffer¹⁹. This section is based on the principle that children of mothers in jail should not be separated from them unless absolutely essential, since separation can seriously impact their emotions and mental well-being.

Internationally, India is signatory to the Convention on the Rights of the Child (CRC, 1989), under which the child must not be separated from his/her parents except if it would be in the best interest of the child²⁰. In its Juvenile Justice (Care and Protection of Children) Act, 2015, an emphasis is done upon the requirement of giving care and protection to children of those mothers who are kept behind bars so that their rights for education, health, and development are not violated²¹.

The children of an imprisoned mother suffer, in many ways, developmentally from the psychological effects of a separation from the mother and the unfavourable conditions of the prison²². There are some reports indicating that children spend in prison with their mothers suffer developmental delay and attachment problems and manifest behaviour disorders²³. According to a study by (Geller et al. 2009²⁴), children separated from incarcerated mothers were anxious, depressed, and manifested behavioural problems. Destruction of a stabilized environment, especially in case the mother was imprisoned, badly injures the child's sense of security and attachment.

Another research shows that children who are left with their mothers while they are

¹⁹ The Prisoners Act, 1900. (n.d.).

²⁰ United Nations. (1989). *Convention on the Rights of the Child*.

²¹ *The Juvenile Justice (Care and Protection of Children) Act, 2015*, Government of India.

²² Sukhramani, N & Gupta, S. (2017). *Children of Incarcerated Parents: India's Hidden Victims*. Indian Pediatrics.

²³ Poehlmann-Tynan, J., & Turney, K. (2020). A Developmental Perspective on Children with Incarcerated Parents. *Society for Research in Child Development*, 15(1), 3-11.

²⁴ Geller, A., Garfinkel, I., Cooper, C., & Mincy, R. (2009). Parental incarceration and child well-being: Implications for urban families. *Social Science Review*, 74(3), 258-270.

incarcerated also face significant challenges. Maternal trauma like the legal process, not to mention incarceration stigma, or the psychological distress of being incarcerated may have adverse effects on bonding and the overall caregiving environment. According to Boudin (2014)²⁵, "maternal incarceration often disrupts parenting practices, creating an environment that may limit the child's opportunities for healthy emotional development."

Some studies noted an exception to this general trend, though. Children whose mothers were incarcerated but had been provided with proper intervention programs, which included support for the mental health of the mother and child, education opportunities on the part of the child, and an effective caregiving environment, seemed to experience less negative impact than other children. Support systems greatly reduce the negative impact on child development, based on studies (Hagan & Dinovitzer, 1999)²⁶.

The social consequences of children whose mothers are imprisoned relate to the psychological and emotional development of such children. More likely, they suffer stigma and social exclusion and often have lower prospects for upward social and educational mobility. Geller et al. (2009) reported that children whose parents are criminals are highly vulnerable to antisocial behaviour, such as delinquency because of the social and emotional stress experienced.

Perhaps the most major issue is stigma from having an incarcerated parent, leading to bullying, being left out of peer groups, and fewer opportunities to socialize. For instance, based on studies like (Murray & Farrington 2008), children of prisoners have been shown to internalize stigma and, thus, face a challenge in forming healthy relationships and integrating into society²⁷.

Regarding educational outcomes, (Dallaire 2007) reported that children of an incarcerated mother are likely facing serious barriers towards academic achievement. These include poverty, residential instability, and decreased parental involvement in their lives that lead to poor learning outcomes²⁸. Additionally, when the mother is imprisoned, the lack of maternal

²⁵ Boudin, K. (2014). *Women and children: The impact of maternal incarceration*. National Women's Law Centre

²⁶ Hagan, J., & Dinovitzer, R. (1999). Collateral consequences of imprisonment for children, communities, and prisoners. *Crime and Justice*, 26, 121-162.

²⁷ Murray, J., & Farrington, D. P. (2008). *The effects of parental imprisonment on children*. *Crime and Justice*, 37(1), 133-206.

²⁸ Dallaire, D. H. (2007). *Incarcerated mothers and their children: Implications for family researchers*. *Family Relations*, 56(2), 231-243.

guidance often tends to follow lower school performance and high school absenteeism²⁹.

Thus, social support systems, which include positive relations of children with extended family members and schools, and satisfactory community organizations, may significantly protect against the social disadvantages of these children. According to (Baglivio et al. 2014)³⁰, children raised up in supportive environments are less likely to reproduce criminal behaviour; stable, nurturing, and positive social networks are thus essential in children's development.

LEGAL FRAMEWORK FOR CHILDREN OF INCARCERATED MOTHERS

1. International Legal Standards

International frameworks for human rights have much to say, especially regarding the rights of children and even more so when mothers bearing them languish in jail. The United Nations Convention on the Rights of the Child, adopted in 1989, is still to date the most complete international treaty focused on the protection of children's rights. It declares that a child should never be taken away from his parents unless for compelling reasons of necessity in the best interests of the child³¹. Indeed, preserving family ties is highly crucial in guaranteeing the emotional soundness and stability of children whose mothers are detained. However, even up to now, many legal orders are yet unable to turn this general principle into a consistent practice, especially with regard to detention in relation to a mother. Advocates for policies that enable a relationship between female inmates and their children during incarceration. In line with the Mandela Rules, prison conditions should allow children to remain with their mothers, especially babies and young children. Still, these laws are applied quite variably in diverse countries and in many places so that the children of imprisoned mothers remain neglected and devoid of being attached properly during their learning years.

2. Indian Legal Framework

The Indian legal framework has a very complex set-up of laws and policies, forming the basis for the approach of the law towards the issue of maternal incarceration, although there is no

²⁹ Poehlmann, J., et al. (2008). *Children's contact with incarcerated parents: Research findings and policy implications*. American Psychologist, 63(5), 414–428.

³⁰ Baglivio, M. T., Epps, N., & Swartz, K. (2014). The importance of family for children of incarcerated mothers. *Juvenile Justice and Delinquency Prevention*.

³¹ United Nations. (1989). *Convention on the Rights of the Child*.

such integrated framework to cater to the needs of a child whose mother is incarcerated³². There are, however, welfare provisions available for children of the jailed, though those are fragmented and less comprehensive. The newly legislated reforms would touch upon the legal treatment of this maternal incarceration in India, for example, BNS and BNSS reforms. Bhartiya Nyaya Sanhita, or the BNS, is one of the major reforms of the Indian criminal justice system, which has been brought as a replacement for the Indian Penal Code, IPC, with the aim of dealing with rising concerns over the criminal law, justice, and prison reforms³³. Though it does not directly address the issue of maternal imprisonment, yet a few sections indirectly impact Criminal Law & procedures addressing women prisoners and their children. For instance, *Sec. 93, BNS*, states Punishment for "Exposure and abandonment of child under 12 yrs of age, by parent or person having care of it"³⁴.

It continues to improve citizen rights and welfare with Bhartiya Nagarik Suraksha Sanhita (BNSS), which is focused on the protection of vulnerable human groups, women and children, through the respect of their human rights. BNSS deals with matters concerning the security, dignity, and safety of persons in relation to the justice system wherein matters pertaining to women and children's treatment behind bars come under BNSS³⁵.

Article 21 of the Constitution of India, therefore, guaranteeing the right to life and personal liberty, has been used to imply a higher right to dignity in the light of the welfare considerations³⁶ as an implied right specially for children.

The *Juvenile Justice (Care and Protection of Children) Act, 2015* seems to provide for the welfare of children in India, though it does not particularly focus on the issue of children with jailed parents. The law, however, is actually founded on children in need of care and protection, taking no cognizance of the specific needs of those separated from their mothers due to imprisonment³⁷.

India's prison manual varies state to state and offers some hints on dealing with children accompanying their mothers to prison. Children of such mothers are sometimes allowed to live

³² Bajpai, A. (2018). *Child Rights in India: Law, Policy and Practice*. Oxford University Press.

³³ Government of India, *Bhartiya Nyaya Sanhita* (2023).

³⁴ Bhartiya Nyaya Sanhita, Sec. 93, 2023.

³⁵ Government of India, *Bhartiya Nagarik Suraksha Sanhita* (2023).

³⁶ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

³⁷ *The Juvenile Justice (Care and Protection of Children) Act, 2015*, Government of India.

with their mothers in prison, although they have poor conditions. In most instances, because of overcrowded prisons, there is a lack of care for health, psychological support, or education for these children-the consequences of which may last a lifetime.

National Policy for Children, 2013 recognizes the rights of children emphasizing their right to education, health, and development. The policy calls for the protection of children from all forms of abuse, neglect and violence. The above measures should be multi- sectoral, integrated and inclusive³⁸.

Judicial oversight

Including rulings by the Supreme Court and High Courts, has often underscored the importance of “balancing the needs of incarcerated mothers and their children”, urging reforms to ensure the welfare of both. Some cases include:

- A) R. D. Upadhyay vs State of Andhra Pradesh – In this 2006 case, the Supreme Court of India directed that children of women prisoners should receive certain minimum standards of care, such as, children should not be treated as convicts or undertrials while in jail with their mother³⁹.
- B) Laxmikant v/s Union of India – In this 1984 cases, the Supreme Court observed that the welfare of children is significant for the growth and development of the community⁴⁰.

Legal Gaps and Challenges

While the legal system of India respects rights of children in multiple ways, that does not seem to be the case with the children of the moms who are in jail. They don't have clear legislation or policy concerning protection of these children's welfare, so that often falls through the cracks of both legal and social protections⁴¹. This further exacerbates the prison system's lack of complete child welfare provisions, making situations for the incarcerated mothers and their

³⁸ Ministry of Women and Child Development, Government of India. (2013). *National Policy for Children 2013*.

³⁹ *R.D. Upadhyay v. State of Andhra Pradesh*, (2006)

⁴⁰ *Laxmikant v. Union of India*, AIR 1984 SC 1012.

⁴¹ National Human Rights Commission, *Report on Children of Women Prisoners* (2013).

children extremely challenging before as well as after serving time in prison.

DEVELOPMENTAL OUTCOMES OF CHILDREN OF INCARCERATED MOTHERS

1.Attachment and Emotional Development

Statistical research supports the fact that children of a prisoner mother develop an attachment disorder and emotional problems. The rupture of the primary bond between the mother and child leads to long-term developmental problems, such as problem formation in stable relationships and controlling and regulating emotions⁴². Maternal incarceration and separation from the mother usually produce a further increased vulnerability to mental health problems, such as anxiety and depression⁴³. The research proved that children with incarcerated mothers always experience the feeling of abandonment and tend to grieve about the loss, indicating effects on emotional regulation and coping mechanisms. Such children are also more likely to develop behavioural problems like aggression and conduct disorders because they cannot perceive and understand whatever goes on in their dysfunctional family lives.

2.Cognitive and Academic Outcomes

Cognitive and academic impacts are also concerns for children whose mothers are in prison. According to Geller et al. (2011), the child of an incarcerated parent is most likely to have low academic performance, truancy, and related behavioural issues in school⁴⁴. This is pretty worrying given that most Indian countries are overwhelmed with their schooling system, and yet, children who come from weak backgrounds are likely to lag even further behind academically.

Uncertain care and educational support may limit their abilities to gain the required acumen for those children to succeed in school. This is because no encouraging feedback, emotional support, and attention to the child prevents the caregiver to pay attention to children's academic

⁴² Poehlmann, J. (2005). *Representations of attachment relationships in children of incarcerated mothers*. Child Development, 76(3), 679–696.

⁴³ Murray, J., & Farrington, D. P. (2008). *The effects of parental imprisonment on children*. Crime and Justice, 37(1), 133–206.

⁴⁴ Geller et. al. (2011). *Parental incarceration and child wellbeing: Implications for urban families*. Social Science Quarterly, 92(5), 1488–1509.

performance leading to low academic performance and achievement.

3. Health and Welfare Concerns

Children of imprisoned mothers are more prone to suffer from physical neglect, malnutrition, and poor health care. Prisons are mostly harsh in conditions and lacking in many developing countries, including India. Most of the times, when children go to prison with their mothers, they lack the simplest types of health care or nutrition, leading to stunted growth, developmental delays, and general health problems that could extend into long-term health problems⁴⁵. Furthermore, if they are farmed out to foster homes or with the relatives who are distant when their mother is imprisoned, then they may become victims of neglect and even abuse at the hands of those relatives and consequently become more vulnerable at the physical and psychological levels as well.

4. Social Consequences and Behavioural Problems

The social outcomes for the children of incarcerated mothers are also worrying. The stigma that these children have to face, within their families and communities, is also immense. Such stigma through parental imprisonment may also lead to social exclusion and other discriminatory tendencies that cause them problems in socialization and relationship building. This may further impede their potential for socialization and may result in added developmental and behavioural problems.

Furthermore, their children also become more likely to end up in the criminal justice system. According to Murray & Farrington, juvenile delinquency risk is largely determined by the experience of parental imprisonment, especially mothers than fathers (2008). Such a pattern of cyclical incarceration helps preserve social inequality and fuels what has been called the 'generational transmission of disadvantage'.

5. Cognitive and Educational Development

The educational outcomes for children of a convicted mother are usually poor. This may be due to the uncertainty of their stay. As rightly pointed by Dallaire (2007)⁴⁶, these children

⁴⁵ Payler, J., Cooper, V., & Bennet, S. (2024). Optimal development for the children of prisoners? How children with a parent in prison are supported and why it matters. *Children and Society, Wiley Online Library*.

⁴⁶ Dallaire, D. H. (2007). The impact of parental incarceration on children: An overview of the literature. *Child and Adolescent Social Work Journal*, 24(1), 51-69.

mainly experience disruptions in their schooling because of frequent relocation, poverty, and the psychological shock associated with her imprisonment. The inconsistent parenting support would lead to lower academic performance, reduced school attendance, and increased likelihoods to drop out from school. Moreover, Hagan & Dinovitzer (1999) have indicated that maternal incarceration would adversely affect the cognitive development because these children often receive little stimulation and encouragement for healthy intellectual development⁴⁷.

6. Long-Term Developmental Risks

Children with imprisoned mothers are likely to encounter problems in the long term that include drug abuse, psychiatric disorders, and delinquency. In fact, Murray & Farrington (2008) even go to argue that children of imprisoned parents are at an increased possibility of getting indulged in the adult criminal justice system through intergenerational transmission of disadvantage⁴⁸. Dallaire also found that children, whose mothers were in prison and have been provided with wrong emotional as well as social support went on to possess a higher likelihood of developing behavioral and psychological issues that followed them into adulthood.

COUNTRIES WITH SUCCESSFUL MODELS

1.Scandinavian Countries

Several countries have implemented progressive policies which can be taken as an example of how to treat the children of their imprisoned mothers. Norway and Sweden are always brought up due to the great importance that countries give to family cohesiveness and welfare when its mother is imprisoned. There is the possibility of children being allowed to stay with their mothers up to the age of three in prisons in Norway. Prisons are also designed to consider mother and child needs, and such child-friendly facilities ensure healthcare, educational support, and psychological services that cover all children's developmental needs during imprisonment. In Sweden, there are specialized units within prisons that allow mothers to live with their children until they reach school age. These units are equipped with child care facilities and provide a more supportive environment for both mothers and children,

⁴⁷ Hagan, J., & Dinovitzer, R. (1999). *Collateral consequences of imprisonment for children*. Annals of the American Academy of Political and Social Science, 564, 118–126.

⁴⁸ Murray, J., & Farrington, D. P. (2008). *The effects of parental imprisonment on children*. Crime and Justice, 37(1), 133–206.

minimizing the emotional and developmental damage caused by incarceration⁴⁹.

2.New Zealand

In New Zealand, the *mother and Child Unit* at Auckland Women's Prison offers another example of a successful approach. This unit allows mothers to live with their children up to the age of five. The facility is designed to provide a nurturing environment where mothers can maintain a bond with their children while serving their sentences. The program includes educational and psychological support for both mothers and children, helping to mitigate the harmful effects of maternal incarceration⁵⁰.

DISCUSSION

The article explores an issue very complex and least discussed: that is maternal incarceration and its deep implications on children. It looks into the developmental and social implications for these children as well as the legal instruments behind the issue of maternal imprisonment. The findings for this study show just how stark a reality it is that a child with an imprisoned mother faces a great deal of challenges both presently and in the long term to their well-being and prospects.

One of the strong points discussed in this article involves the lack of legal protections or support systems designed for children of inmates. While the rights of children in legal systems are well documented in most countries, the needs of those children who have a mother behind bars are simply not protected⁵¹. In the first place, most mothers would have been the primary caregivers before imprisonment which means that, while for some imprisoned fathers the time spent in jail marks a period of relative disengagement from active parenting, for most imprisoned mothers, it signifies one of greater disruption in the child's life. Such an interruption might be causing emotional trauma, behavioral problems, and a feeling of being abandoned to one's fate. Moreover, the legal provisions on parental rights and the welfare of the children only occasionally meet the extraordinary needs of such children, especially when mothers are jailed

⁴⁹ Alm, S., & Wikström, P.-O. (2012). *Children in prison: Swedish experiences of mother-child units*. Punishment & Society, 14(5), 523–541.

⁵⁰ Day, A., Casey, S., & Horsfall, B. (2011). *Mother-child units in prison: The New Zealand experience*. International Journal of Prisoner Health, 7(1), 5–15.

⁵¹ Johnson, E. I., & Arditti, J. A. (2023). Risk and Resilience Among Children with Incarcerated Parents: A Review and Critical Reframing. *Annual Review of Clinical Psychology*, 19.

for an extended period of time⁵².

From a developmental view, typically undesirable outcomes result from maternal imprisonment. Attachments may fail in children whose mothers are imprisoned because attachment failures ultimately lead to socio-emotional underdevelopment. Such separation tends to give a feeling of insecurity, anxiety, and depression. These children also have an increased risk of academic failure, substance abuse, and involvement in the criminal justice system later in life⁵³. The review here emphasizes that early years for the child are critical, and the absence of a mother figure may lead to long-term consequences for child development.

The children suffer socially because they are stigmatized and isolated; these challenges tend to compound one another. Most of the children from incarcerated parents face social stigma that leads to bullying and being rejected by their peers. They also have problems forming healthy relationships since they may feel ashamed or disconnected to their friends due to their family situation. In a nutshell, the study reveals a need for reform in law and society to improve this situation. General policies that address the specific needs of such children and more enabling legal frameworks may reduce the various adverse outcomes associated with their mothers' imprisonment. Therefore, this article can be considered a call to action for policymakers, child welfare professionals, and the society at large to identify and challenge the unique difficulties faced by this vulnerable group.

CONCLUSION

While the effects of maternal incarceration can be far-reaching and multifaceted, to the extent they cut across legal frameworks, developmental trajectories, and social outcomes, some of them particular to touching the emotional, cognitive and social well-being of such children can include attachment disorders, academic struggles, and a higher risk for mental health problems. The incarceration of mothers has serious implications for their children's developmental and social outcomes. Things become even worse because of the lack of comprehensive legal provisions and support systems for children of incarcerated mothers in India⁵⁴. Legal systems

⁵² Codd, H. (2019). *The Rights of Children of Imprisoned Parents* (pp. 365-384). Palgrave Studies in Prisons and Penology (PSIPP).

⁵³ Haskins, A. R., Amorim, M., & Mingo, M. (2018). Parental incarceration and child outcomes: Those at risk, evidence of impacts, methodological insights, and areas of future work. *Sociology Compass*, 12(3).

⁵⁴ National Human Rights Commission, *Report on Children of Women Prisoners* (2013).

around the world have made some strides in addressing the needs of these children. India should, therefore, make child-centred reforms within the legal framework that separately caters to these vulnerable children. This would encompass setting up of full-time child care welfare officers and infrastructure in prisons, and developing alternative sentencing options for women committed to prisons for non-violent crimes and with public education and social support services. Working on these areas of weaknesses and shortcomings can help India further in diminishing the adverse results of imprisonment from mothers and ensuring improved circumstances for the children affected. Another invaluable resource in this aspect is that international best practices, especially in Scandinavian countries and New Zealand, which India could borrow from and improve on its manner concerning the increasingly relevant subject, which is children of incarcerated mothers. While taking good lessons from successful models and absorbing the best international practices, India can significantly enhance its ability to support and uplift the well-being of children affected by their mother's incarceration.

POLICY RECOMMENDATIONS FOR INDIA

Given the gaps in the legal framework and the challenges faced by children of incarcerated mothers in India, the following recommendations are made:

1. Child-Centric Legal Reforms: India should develop a comprehensive legal framework that specifically addresses the needs of children of incarcerated mothers, including provisions for custody, visitation rights, and psychological support.
2. Support Systems in Prisons: Prisons should be equipped with child welfare officers and facilities that support the well-being of both mothers and children. This could include healthcare services, educational support, and counselling.
3. Alternatives to Incarceration: India should explore alternatives to incarceration for non-violent female offenders, such as home detention or community-based sentencing, which would allow mothers to stay with their children.
4. Public Awareness and Social Support: Social programs should be developed to reduce stigma and provide support for children of incarcerated mothers, including community-based counselling and mentoring programs.