

AN EXAMINATION OF THE VISITATION PRACTICES GOVERNING IMPRISONED MOTHERS AND THEIR CHILDREN

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ABSTRACT

A central concern with sending women to prison has always been what happens to their children while they are gone. Research has linked maternal imprisonment to a host of short-term and long-term negative consequences for children, which include depression, hyperactivity, aggressive behaviour, withdrawal, regression, etc. Experts believe many of these negative consequences can be avoided by ensuring that the mother's imprisonment does not deprive the child of her right to maintain personal relations with the incarcerated parent. Even the Supreme Court of India has upheld the child's right to the affection of both his parents. What happens to this right when a mother is imprisoned? Are the children of imprisoned mothers able to exercise this right *vis-à-vis* their imprisoned mothers, in its true sense? In search of an answer to this question, the article aims to analyse the current visitation practices being followed in various women's correctional homes in India.

Keywords: children, imprisoned mothers, jails, visitation rights

- I. Introduction
- II. Statistical Representation: Children of Imprisoned Women
- III. Impact of Maternal Imprisonment
- IV. Analysing the Visitation Practices
- V. Conclusion

I. Introduction

THE IMPORTANCE of a mother's role in the child's life was first recognized globally in 1959 when the UN Declaration of the Rights of the Child (1959), stated that "no child of tender years shall, save in exceptional circumstances, be separated from his mother."¹ The word 'mother' was replaced with the word 'parent' as the time progressed. Consequently, the right now made available to a child (including the children of imprisoned parents), under the UN Convention on the Rights of Child (1989) and other international conventions, is a child's right to be cared for by both parents. Ensuring this right to the children of imprisoned parents is article 9(3), UN

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¹ The United Nation Declaration of the Rights of the Child, 1959, Principle 6.

Convention on the Rights of Child (1989), asserting that the state parties shall respect the right of the child, separated from one or both parents, to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. This right has been reiterated in India under article 17(e), National Charter for Children, 2003 which states that all children shall have the right to meet their parents and other family members who may be in custody. However, it remains a matter of research how far this right of the children (living outside the jail) has been secured with respect to their parent(s) languishing in Indian jails. To assess the enforceability of this right, the researcher aims to analyse the visitation policies of various Indian prisons that hold these parents captive. Considering the importance of a mother's role in a child's life, the present study aims to focus on the visitation policies governing female inmates (both living in women's correctional homes and in other correction homes).

The article is divided into three parts. The first part presents an estimate of the number of children impacted by maternal imprisonment. The second part describes the impact of maternal imprisonment on children. The third part analyses the visitation policies practiced in the prisons where these mothers are held captive.

II. Statistical Representation: Children of Imprisoned Women

In India, we do not have any policy that requires our prison authorities to collect data on the children of imprisoned parents left outside the prison premises. To put it differently, the only pan-India data that we collect on this vulnerable group is of the children taken inside the prisons by the inmates. Thus, the only way to gather an estimate of the number of children impacted by maternal imprisonment (left outside the prison premises) is by knowing the number of imprisoned females and the age group they fall into. Thus, assessing how many of them can be mothers.

Per the Prison Statistics India, 2020 - Report, published annually by the National Crime Records Bureau (NCRB)², as of December 31, 2020, there were 20,046 female prisoners in

² National Crime Records Bureau, "Prison Statistics India" (2020). The data has been taken from the 2020 report instead of the 2021 report because the 2021 report has not given the age-wise breakup of the female inmates.

India. Out of these 20,046 female prisoners, 1,427 women prisoners were lodged inside the prison with their 1,628 children.

Amongst 20,046 females, 6,246 (31.2%) fell within the age bracket of 18-30 years, 9,847 (49.1%) between 30-50 years and 3,953 (19.7%) were 50 years and above. Now, suppose we assume that 50% of the prisoners above the age of thirty were married and had two children, each below 18 years of age (which will be an under-representation of the children of inmates owing to the societal Indian norms). In that case, we can say that at least 13,800 children were facing maternal imprisonment as of December 31, 2020. Thus, the only thing that can be said about this group is that on December 31, 2020, India had at least 13,800 children facing maternal imprisonment.

As far as the prisons are concerned, female inmates are generally kept in two types of settings. These include prisons specially meant for women called women correction homes and other prisons, primarily meant for male inmates, where the females are lodged in a separate enclosure. Per the Prison Statistics Report, 2020, 3,084 women were lodged in the 29 women jails³ built across 14 Indian states/UTs (having a total capacity of 6,179). The rest of the women were lodged in central (6,620), district (8,682), sub (1,323), open (77) and special (260) jails.

Prison being a state subject,⁴ is governed by the jail manual of the particular state/UT where it is situated. Additionally, section 59 of the Prisons Act, 1984⁵ confers power on the state governments to make rules regarding the day-to-day functioning of the prisons located in their states. Thus, each state/UT has a separate jail manual dictating the general administration of the prisons situated in that state/UT, which includes, amongst other things, rules regarding prisoners' contact with the outside world. These are the rules that govern the children when visiting their mothers.

Taking note of the existing inconsistencies in the prison manuals, the Supreme Court of India in *Ramamurthy v. State of Karnataka*⁶ directed the Bureau of Police Research & Development (*hereinafter* referred as 'BPR&D') to set up a committee to draft a Model Prison Manual. The

³ In this article, the words jail and prison have been used interchangeably.

⁴ The Indian Constitution, sch. VII, list II, entry 4.

⁵ The Prisons Act, 1894 (Act No. 9 of 1894).

⁶ AIR 1997 SC 1739.

Model Manual was recommendatory in nature but could be adopted by various states, at their own level. The committee submitted Model Prison Manual in 2003, revised in 2016. The Model Prison Manual has not been adopted by the states uniformly. Meaning thereby, that every state has different rules regarding prisoners' contact with the outside world, which is the focus of this study. The present study aims to analyse these rules being applied in the women's, central, district and sub-jails, which hold 15.38%, 33%, 43.3% and 6.6%, respectively, of our total female prisoner population. For the purpose of this study, the researcher has collected data from twenty-three jails spread across 16 Indian states/UTs. These jails are a mix of women prisons (ten), sub-jails (two), central jails (five) and district jails (four).

Before going into the depth of the rules pertaining to visits it is essential to understand the importance of these visits. Thus, the following segment describes the impact of maternal imprisonment on children and discusses how visits can make a difference in their experience.

III. Impact of Maternal Imprisonment

A series of studies have concluded that the separation caused by parental incarceration is more pernicious for children than other forms of parent-child separation (such as death, divorce or abandonment) because the nature of the separation during parental imprisonment is more traumatic.⁷ Explaining this additional pain is Pauline Morris, who writes:⁸

The problem is intensified because society offers the children of incarcerated parents no means of rationalizing or justifying their loss. Whereas in other forms of parent loss, such as divorce, military leave, death, etc., some means of open acknowledgement and compensation is usually available, imprisonment is shrouded in secrecy, and the children are forced to 'go underground'.

In particular, the pain intensifies when a mother transgresses her gender roles and commits crime. Mothers, because born of ancient tradition and established gender roles, women continue to be the principal child-care providers in most families.⁹ Studies reveal that on

⁷ Julie Poehlmann, "Representations of Attachment Relationships in Children of Incarcerated Mothers" 76 *Child Development* 679 (2005).

⁸ Pauline Morris, *Prisoners and Their Families* (1965).

⁹ Diane S. Young, Carrie Jefferson Smith, "When Moms Are Incarcerated: The Needs of Children, Mothers, and Caregivers" 81 *Family in Society* 130 (2000).

parental arrest, generally mothers were found to be serving as a primary caregiver to a child.¹⁰ A study involving imprisoned parents, in the U.S., who had lived with their minor children prior to incarceration, concluded that mothers (77%) were almost three times more likely than fathers (26%) to report that they had provided most of the daily care for their children.¹¹ Supporting these findings is another study that observes that mothers in both state (58%) and federal (73%) prisons in the U.S. were more likely than fathers (36% & 47% respectively) to report living with their children prior to arrest.¹²

Further, studies reveal that not only were the majority of incarcerated women serving as the primary carers to the children, but most of them were single parents likely to be supporting the child financially.¹³ Of the few studies concerning the parentage of the imprisoned Indian population, a mini study involving thirty-two mothers in Delhi-NCR prisons concluded that in most cases a mother served as a primary caregiver to two-three children at the time of her arrest.¹⁴ Thus, it can be said that maternal imprisonment is more likely to disrupt the caregiving situation in a child's life, making the children of imprisoned mothers more vulnerable as compared to the children of imprisoned fathers.

Showing what happens to the children once separated from their primary carers is a study conducted in the U.K. which concluded that only 5% of the children facing maternal incarceration remain in their home, once their mother has been sentenced. Implying thereby that many children experience family fragmentation on their mother's imprisonment.¹⁵ A study conducted in Britain by Diane Caddle and Debbie Crisp¹⁶ concluded that only 9% of children were being cared for by their fathers during their mother's imprisonment. Drawing similar conclusions is Christopher Mumola¹⁷ who stated that "a father's imprisonment has considerably less impact because while mothers care for 90% children of the incarcerated men, only 28% of fathers serve as children's caretakers when mothers are imprisoned."

¹⁰ Barbara J. Myers, "Children of Incarcerated Mothers" 8 *JCFS* 1 (1999).

¹¹ Lauren E. Glaze and Laura M. Maruschak, *Parents in Prison and Their Minor Children* (2008).

¹² Christopher Mumola, *Incarcerated Parents and Their Children* (2000).

¹³ Jerry Jo M. Gilham, "A Qualitative Study of Incarcerated Mothers' Perceptions of the Impact of Separation on their Children", 27 *Soc Work Public Health* 89 (2012).

¹⁴ Pearly Paul and Intezar Khan, "Incarcerated Motherhood under the Purview of Policies, Prison Reforms and Reintegration" 46-47 *IJC* 106 (2018-19).

¹⁵ Joyce A. Arditti, "A Family Stress-Proximal Process Model for Understanding the Effects of Parental Incarceration on Children and Their Families", 5 *CFP:RP* 65 (2016).

¹⁶ *Ibid.*

¹⁷ Phyllis Jo Baunach, *Mothers in Prison* (Transaction Books, 1985).

As a result of the father's inability to serve as a primary carer to the children, these children are either institutionalized or are shuffled amongst the relatives. In a study conducted over 102 children's mothers, the mothers indicated that their children (whose average age was 10 years) had moved on average three times over the past five-year period (with a range of 0 to 15 moves reported).¹⁸ Denise Johnston, also, in his book has reported that the majority of children of incarcerated mothers experience at least one change in placement or caregiver during maternal incarceration and about one in ten children have two or more changes in caregiver.¹⁹

As an outcome of the displacement, the children are unable to form a secure relationship with the caregiver,²⁰ which is of utmost importance for a child's healthy upbringing. In a study including sixty children of imprisoned mothers, it was observed that 63% of children did not have a secure attachment with their current caretaker.²¹ In the absence of any secure attachment, these children exhibit internalizing behaviour. In his sample of fifty-six mother inmates and their children, Phyllis Jo Baunach reported that 70% of the children showed symptoms of social and psychological disorders, such as aggression, hostility and withdrawal.²² Kampner, based on his study of thirty-six children of incarcerated mothers, concluded that children exhibited high Post Traumatic Stress Disorder (*hereinafter* referred as 'PTSD') symptoms.²³

Thus, the only hope for these children is that even after imprisonment they are able to maintain ties with their mothers. However, researches show that children are less likely to maintain close ties with an imprisoned mother than an imprisoned father,²⁴ depriving them of the care and love of the sole secure attachment figure, which, in expert opinion, is as vital to a child's development as proper diet and nutrition.²⁵ Bowlby suggests that a child initially develops only one primary attachment.²⁶ This attachment relationship forms a secure base for exploring the

¹⁸ Diane S. Young & Carrie Jefferson Smith, "When Moms Are Incarcerated: The Needs of Children, Mothers, and Caregivers" 81 *FS* 130 (2000).

¹⁹ Denise Johnston, "Effects of Parental Incarceration" in K. Gabel and D. Johnston, *Children of Incarcerated Parents* (Lexington Books, 1995).

²⁰ *Supra* note 14.

²¹ *Ibid.*

²² *Supra* note 17.

²³ Christina Jose Kamphner, "Post Traumatic Stress Reactions in Children of Imprisoned Mothers" in K. Gabel and D. Johnston, *Children of Incarcerated Parents* (Lexington Books, 1995).

²⁴ Candace Kruttschni, "The Paradox of Women's Imprisonment" 139 *Daedalus* 32 (2010).

²⁵ Joseph Murray, David P. Farrington, "Parental Imprisonment: Long-Lasting Effects on Boys' Internalizing Problems through the Life Course" 20 *DP* 273 (2008).

²⁶ John Bowlby, "The Nature of the Child's Tie to his Mother" 39 *International Journal of Psychoanalysis* 350 (1958).

world and is a prototype for all future social relationships.²⁷ Disrupting it can thus, have severe consequences²⁸ namely insecure/disorganized attachment and subsequent mental health problems.

While studying the visitation pattern amongst the Indian female inmates Dr. Asha Bhandari observed that out of sixty women interviewed (thirty each imprisoned in the two central jails of Rajasthan i.e. Jodhpur and Jaipur) thirty-eight women reported receiving visits once a year or less, whereas eight women did not have any information about their children.²⁹ Corresponding results were reported in another study conducted by the National Commission of Women, India (NCW) where it was observed that 29.20% of the female respondents did not have any family visitors.³⁰ Studies further reveal that the majority of children who do visit, do so, rarely and sporadically.³¹

In view of the above paragraphs, it is apparent that many adverse effects of parent-child separation caused by imprisonment can be mitigated by planning and negotiating our prison visitation practices to ensure a continuing meaningful relationship between the incarcerated mother and her children. In other words, if planned wisely, the visits can provide the imprisoned mother and her children a platform for meaningful conversations and thus keep their bond intact.

The present article aims to find reasons that prevent these children from visiting their mothers, thus, hampering their relationship with the mother. The researcher seeks her answers to the visitation policies practised in various Indian states/UTs. In this light, the following segment analyses the visitation practices governing female inmates (both living in women's correctional homes or otherwise in sub, district and central jails).

²⁷ *Ibid.*

²⁸ Saul McLeod, "Attachment Theory Simply Psychology" (February 5, 2017), available at: <https://www.simplypsychology.org/attachment.html> (last visited on Nov. 22, 2023).

²⁹ Asha Bhandari, "Women Prisoners and their Dependent Children: A Study of Jaipur and Jodhpur Central Jails in Rajasthan" 65 *SB* 357 (2016).

³⁰ National Commission of Women of India, "A Study of Condition of Women Prisoners & Their Children in Eastern U.P. Jails" (2006).

³¹ Renny Golden, *War on The Family: Mothers in Prison and The Families They Leave Behind* (Routledge, 2005).

IV. Analysing the Visitation Practices

The article, so far, has discussed the impact of maternal imprisonment and the number of children affected by maternal imprisonment. It also discussed the most effective way of mitigating adverse impacts of maternal imprisonment *i.e.*, by planning our visitation practices in a manner that promotes a healthy relationship between the mother and the child. The present section focuses on analysing our current visitation practices in this light.

Based on her readings, the researcher believes that to achieve a meaningful relationship between a mother and her child post-imprisonment, we must shape our visitation facilities in a child-sensitive manner. This can be attained by (i) fixing the visitation timings in a manner that does not negatively interfere with other elements of the child's life (such as schooling); (ii) keeping the duration of these visits conducive to building or maintaining strong relationships; (iii) relaxing the security rules in case of child visitor (rules pertaining frisking and identity proof); (iv) respecting the mother-child privacy during such visits; (v) ensuring that the physical setting of the visiting area is not daunting for the visiting children; (vi) ensuring that the visiting area enables the child to have a direct contact with the mother (which includes hugging, holding hands and kissing) and (vii) making sure that the disciplinary sanctions do not include the prohibition of family contact.

In order to analyse our current practices on the above parameters, the researcher has framed the following questions:

- I. Does the physical setting of the visiting area (*mulaqat* rooms) promote the mother-child relationship?
- II. Does the prison premises have waiting rooms for visitors?
- III. How many visits are allowed per month?
- IV. What is the duration of each visit?
- V. What are the days and timings allotted for such visits?
- VI. What relaxations, if any, in security measures are provided to the child visitors?
- VII. Is the visiting child allowed to have direct contact with the mother?
- VIII. Do the disciplinary sanctions include the prohibition of family contact?

The most challenging part of this study has been the collection of data. The data available in the prison manuals and websites of the prison departments of various states/UTs was either

obsolete or insufficient. Thus, the data had to be gathered through right-to-information applications, filed in various prisons, posing questions about visitation practices. The RTIs were filed between May-July, 2022. Only the answer to the last question *i.e.*, do the disciplinary sanctions include the prohibition of family contact, has been taken from the prison manuals.

In total, the data has been collected from twenty-three prisons spread over sixteen states/UTs. These prisons are a mix of women (ten), sub (two), district (four) and central jails (five), holding 2,155 female inmates. Hereunder is the list of prisons whose response has been covered in this study.

S.No.	Prison
1.	Central Jail No. 16, Mandoli, Delhi (Women Prison)
2.	Central Jail No. 6, Tihar, Delhi (Women Prison)
3.	Mahila Bandi Sudhargirha, Jodhpur, Rajasthan
4.	Mahila Bandi Sudhargirha, Jaipur, Rajasthan
5.	Mahila Bandi Sudhargirha, Bikaner, Rajasthan
6.	Naribandi Niketan, Sambalpur, Odisha
7.	Special Prison for Women, Aizawl, Mizoram
8.	Special Prison for Women, Rajamahendravaram, Andhra Pradesh
9.	Women Central Prison, Shivamogga, Karnataka
10.	Women's Correctional Home, Alipore, West Bengal
11.	Central Jail, Ambala, Haryana
12.	Central Jail, Srinagar, Jammu & Kashmir
13.	Central Jail, Gurdaspur, Punjab
14.	Loknayak Jaiprakash Narayan Central Jail, Hazaribag, Jharkhand
15.	Model Central jail, Nahan, Himachal Pradesh
16.	District Jail, Adilabad, Telangana
17.	District Jail, Palanpur, Gujrat
18.	District Jail, Bankura, West Bengal
19.	District Jail, Hailakandi, Assam
20.	District Jail, Eluru, Andhra Pradesh
21.	District Jail, Bidar, Karnataka
22.	Sub Jail, Jaleswar, Odisha

23.	Sub Jail, Bagha, Bihar
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For future references, instead of writing the prison’s full name, the researcher has referred to the prison with the name of the city it is located in and the initials of the type of prison it is. For instance, Women Central Prison, Shivamogga, Karnataka has been referred to as WP-Shivamogga; District Jail, Adilabad, Telangana has been referred to as DJ-Adilabad and so on. The following paragraphs discuss the answers gathered from these prisons to each question raised above.

Twenty-two prisons answered the question regarding the physical setting of the visiting area. It was found that visitations took place primarily in two settings. In one setting, the prisoners could speak face to face with their visitors, over the intercom, with a glass barrier separating them. This type of setting was found in five prisons, one women’s prison (WP- Mandoli), two central jails (CJ-Nahan, and CJ-Ambala) and two district jails (DJ-Adilabad and DJ-Bidar). The second type of setting consisted of windows fitted with iron bars/iron grills and net/barbed wires/iron wires.

In such settings, the prisoner stands on one side of the window while the visitor stands on the other. Barbed wires were reported to be used in two women jails, one sub-jail and one district jail (WJ-Alipore; WJ-Sambalpur; SJ-Jaleswar and DJ-Hailakandi). Iron grills and nets were used in one central jail and one women’s jail ((CJ-Gurdaspur and WJ- Jaipur). Windows in seven jails were partitioned through iron bars. These prisons include WJ-Rajamahendravaram, WJ- Jodhpur, WJ- Shivamogga, WJ- Bikaner, CJ- Srinagar, DJ-Eluru and DJ-Palanpur. In DJ-Bankura, iron wires were used as a separator. WJ-Aizawl reported having one wicket window at the main gate, through which the children are made to meet their mothers.

In response to the right-to-information application filed at WJ-Jodhpur it was noted that the visiting area, of the said jail, has two grilled windows at a distance of three feet. The prisoner stands at one window while the visitor at the other. Further, it was noted that this particular prison was not following the Model Prison Manual, Rule 26.94, which states that “Visits involving childrenshould allow open contact between mother and child....”. Meaning thereby that the children visiting their mothers held captive in WJ-Jodhpur are made to stand three feet apart from their mothers with two sets of grilled windows between them, diminishing any chances of them having a meaningful conversation with the mother.

The question “whether you allow direct contact between the mother and the child” was answered in the affirmative by 5 prisons. These prisons include WJ-Tihar, WJ-Mandoli, WJ-Alipore, WJ-Rajamendravaram and WJ-Sambalpur. CJ-Srinagar responded that “on the conclusion of the interview both are allowed to touch on humanitarian grounds”. Seven prisons answered in negative, these include WJ-Jodhpur, WJ-Bikaner, SJ-Jaleswar, DJ-Palanpur, DJ-Hailakandi, DJ-Bidar and CJ-Gurdaspur. WJ-Jaipur noted that direct contact is allowed for children coming from childcare institutions, on a letter from their director. While the remaining eight prisons noted that the child is allowed to have direct contact with the imprisoned mother only on special permission from the superintendent, in other words, at the superintendent’s discretion. CJ-Ambala further added that such permission is granted only in the case of very small children.

It was observed that nineteen out of twenty-two prisons had waiting rooms for visitors. The prisons where the waiting room was found to be missing include WJ-Rajamahendravaram, CJ-Nahan, DJ-Hailakandi and SJ-Bagha.

In response to the question related to the number of visits allowed per month, it was noted that the visits allowed ranged between just one visit per month to sixteen visits. While three prisons (WJ-Tihar, WJ-Mandoli and DJ-Eluru) allowed eight visits per month, five prisons allowed four visits per month. In seven prisons convicts and undertrials were allowed a different number of visits. While CJ-Nahan, DJ-Adilabad and CJ-Gurdaspur allowed convicts four and undertrials eight visits per month, WJ-Jodhpur, WJ-Jaipur, DJ-Bidar and CJ-Srinagar allowed convicts two and undertrials four visits per month. CJ-Hazaribag allowed one visit to convicts and two visits to undertrials per month. Twelve visits per month were allowed to the prisoners confined in WJ-Aizawl and sixteen visits to prisoners of SJ-Jaleswar.

On a deeper evaluation of the visitation rules, it was realised that a larger number of visits did not guarantee a meaningful conversation. While SJ-Jaleswar allows sixteen visits per month, the time allotted for these visits has been restricted to only eight minutes, thus, denying a chance of any conversation between the mother and the child. Similarly, while WJ-Aizawl allows twelve visits to the prisoners these visits have been limited to just ten minutes. WJ-Sambalpur also grants ten minutes, making things bad, in this prison, are the timings and days allotted for visitation *i.e.*, between 9 AM to 2:30 PM on working days, thereby interfering with the school

timings of the children. WJ Alipore allows visits for a duration of ten- fifteen minutes, while DJ-Palanpur and DJ-Hailakandi grant twenty minutes, which as per rules can be extended with the superintendent's permission. Such power in the hands of the superintendent, in the opinion of the researcher, might lead to the arbitrary exercise of discretion, giving rise to corruption and favouritism. Other than this, five prisons (WJ-Mandoli, WJ-Rajamahendravaram, WJ-Shivamogga, CJ-Srinagar, DJ-Eluru and DJ-Adilabad) allow thirty minutes for visitation and two prisons (WJ-Jodhpur and WJ-Bikaner) allow forty-five minutes.

Out of twelve prisons that answered the question about the days on which such visits are allowed only four jails reported that they allow the visits on both Saturdays and Sundays, while six jails replied that they allowed visits on Saturdays. The remaining two prisons allow visits only on weekdays.

When asked about the relaxations provided to the children in security measures (frisking, identity proof, etc.) WJ-Alipore mentioned that no identity proof is required in the case of children below ten years and WJ Bikaner also admitted that they do not require identity proof, however, no age was mentioned. WJ-Aizwal replied that the visiting children were warmly welcomed by the staff and treated politely. Rest twenty prisons admitted that either they do not allow such concessions or the concessions depend entirely on the superintendent's discretion. In other words, in all the jails, it was found that the visiting child had to undergo frisking, thereby.

Further complicating the matter are the visitation practices of CJ-Ambala, DJ-Bidar and DJ-Adilabad, which reported that the visitation area and the timing for visitation are the same for both male and female inmates. At this point, it is pertinent to note that in a study conducted by the National Commission of Women, India³², it was concluded that one of the major factors responsible for women inmates having fewer visitors was the absence of a separate visiting room for women. The women reported that large numbers of male prisoners dominated the general visiting rooms, where they often felt vulnerable and thus avoided visitors. Now, suppose we judge the correctness of this statement based on the ratio of the male and female inmates present in these jails, *i.e.*, 31.4:1 and 7.4:1 respectively, we can say that this statement is accurate concerning the above prisons. DJ-Bankura, CJ-Nahan, DJ-Palanpur, DJ-Hailakandi,

³² Government of India, "Women in Prison" (Ministry of Women and Child Development, 2018).

DJ-Eluru were also found to be having a common visiting area for both male and female inmates. However, the visitation timings differed for male and female inmates.

Our visitation system needs revamping and is further elucidated by the response to a simple question posed in the right-to-information applications filed by the researcher. The question posed was, ‘do you maintain records of the number of children visiting their imprisoned parent? If yes, how many children have visited their prisoner parent within the last four years?’. Most of the prisons replied that they do not maintain such records. CJ-Nahan replied that they only maintain the record of adults accompanying the visiting children.

Five prisons provided the figures in response to this question. WJ-Alipore, with 303 inmates, replied that they received eighty-five child visitors in the year 2018. In 2019 121 children visited their mothers, thirty-seven children visited in 2020, 110 in 2021 and 109 children in 2022 so far. In WJ-Jodhpur, with an inmate population of 87 females, only twenty-five children were reported to have visited during the last four years. Over three years, only three children had visited WJ-Shivamogga, with an inmate population of 80 women. With an inmate population of twenty-three, WJ-Sambalpur received sixty-two children in the last four years. DJ-Hailakandi, with an inmate population of eighty-three, replied that sixty-two children had visited in the past four years.

To find the answer to the last question, *i.e.*, ‘do the disciplinary sanctions include the prohibition of family contact?’ the researcher reviewed the prison manuals of five states. These states include Delhi, Karnataka, Mizoram, Odisha and West Bengal. The prison manual of four states clarified clearly that the commitment to a prison offence might lead to the prisoner’s disentanglement from interviews and telephones. However, this loss of privileges has been conveyed in different words. While Delhi Prison Rules, 2018 used words like “Inmate calling system stoppage up to 1 month”.³³ Odisha Model Jail Manual, 2020 stated, “Forfeiture of class, grade, or prison privilege for a period not exceeding three months (prison privilege includes cancellation of interview and telephone facilities)”.³⁴ The other two states that also disentitle the prisoners from writing letters to, and interviews with, relatives and friends, include West

³³ The Delhi Prison Rules, 2018, rule 1271 (b) VII.

³⁴ The Odisha Model Jail Manual, 2020, rule 552(2)(d).

Bengal³⁵ and Mizoram.³⁶ Karnataka Prisons Rules, 1973 simply stated that commitment onto any prison offence might lead to temporary forfeiture of prison privileges.

The answers to the questions raised by the researcher made her realise that our visitation practices need to be sensitised toward children.³⁷ The question that thus, arises is what changes should be made in our visitation practices that, in addition to strengthening the mother-child bond, inculcates confidence in the child that her mother is being treated nicely by her keepers. The researcher in the remaining parts will try to give the ideal answers to the questions posed by her.

The first question was ‘does the physical setting of the visiting area (*mulaqat* rooms) promote the mother-child relationship?’. Sixteen prisons were reported to be having a visitation area where the visitor and prisoner were separated by barbed wires/iron grills/iron grills and net/iron wires. Explaining the horrors of this type of setting Rajesh Ranjan @ Pappu Yadav an Indian politician, said:³⁸

It was everyone altogether shouting over each other to be heard across the iron mesh that would serve as a partition between the prisoner and their visitors. Children, unable to meet their fathers in custody, would often start crying, making the atmosphere even more desperate. ‘They start hustling you even before you have started speaking to your families’. In Purnea..... there were just two windows for all the visitors who had come to meet the inmates. Two windows for a hundred or more people! ‘In that small place, people would try to exchange food, they’d try to talk, they’d try to exchange crucial information—can you imagine what that's like? The same hand would search everyone, the same hand would receive the food and the same hand would give the food.

The place which shook a seasoned politician, can such a place ever provide comfort to a child who knows that he probably has just ten minutes to meet her mother. Also, after witnessing this sight, can a child be confident that her mother is safe on the premises he is not allowed to enter—the place that in the movies he sees back home is full of violence.

³⁵ The West Bengal Correctional Services Act, 1992, s. 81(2)(iv).

³⁶ The Mizoram Prison Manual, 2017, rule 8.05.

³⁷ Nell Bernstein, *All Alone in The World: Children of Incarcerated* (The New Press, 2005).

³⁸ Sunetra Choudhury, *Behind Bars: Prison Tales of India's Most Famous* (Roli Books, 2017).

This brings us to the second type of visitation area, fitted with intercoms where the prisoners could speak face to face with the visitors, over the intercom, with a glass barrier separating them. This setting, though less daunting and less humiliating and frustrating, is not free from troubles. Explaining the troubles attached to this setting Nell Bernstein, in his book, wrote:³⁹

For babies and small children, window visits (with fibre glass) are more than unsatisfying; they are largely incomprehensible. Touch is more than just a nice thing for a relationship. It is basic to the nurturing process. If you are talking about children under a year of age, your main means of communication is touch. A baby looking through a plate of glass at his incarcerated mother would really be looking at his reflection in the window, not making a connection with the parent at all.

What then should be an ideal place and rules for visits (*mulaqats*)? Researcher suggests that children should be allowed to visit their mothers in the prison gardens. In these gardens, they should be allowed to freely cuddle with the mother because, unlike adults, a child expresses her love with touches and kisses. These gardens, for security reasons, can be placed just next to the main doors of the prison. The gardens should have swings, outdoor gaming facilities, adjacent toilets, clean drinking water and access to the supplies from the prison canteen. Seeing their mother in a child-friendly environment will help wash away the fears settled in the minds of these children regarding their mother's safety. Additionally, it will help wipe off the hatred they might have developed towards the criminal justice machinery for taking away their mothers.

So far, the number of visits allowed per month is concerned, the researcher suggests that a minimum of four visits should be allowed in a month. Out of the seventeen prisons, five prisons reported that they allowed less than four visits to the prisoners. While WJ-Jodhpur, WJ-Jaipur, DJ-Bidar and CJ-Srinagar allowed only two visits to the convicts, CJ-Hazaribag allowed one visit to convicts and two to undertrials per month.

The timing of these visits should be a minimum of forty-five minutes. Only two prisons WJ-Jodhpur and WJ-Bikaner were found to be allowing forty-five minutes to the visitors.

³⁹ *Ibid.*

Additionally, to ensure that each child is allowed to meet the mother, the visitation shall take place on Saturdays and Sundays. Even on the weekdays, the timings of visits should extend beyond 3 PM, an average time for a school-going to come back from the school. The ideal time, as per the researcher, is the time fixed for visitation in WJ-Shivamogga, *i.e.*, from 10:30 AM to 1 PM and from 4 PM to 5:30 PM. In this respect, SJ-Bagha and WJ-Mandoli performed poorly as the timings for visitation in these prisons were from 8 AM to 12 PM and from 8 AM to 1:30 PM, respectively.

Additionally, all the states should revamp their prison manual per the Model Prison Manual, 2016. The state prison manuals should be sufficiently detailed to avoid arbitrary discretion. It is pertinent to note that even the Model Prison Manual, 2016 prescribes the loss of privileges for up to three months to punish the prisoner, overlooking that it might be the child being punished. Thus, the researcher suggests that the Model Prison Manual should be amended accordingly.

Further, the practice of frisking children should be avoided at all costs. The main reason for searching the visitors (including child visitors) is the infiltration of drugs into the prison premises. Even though each visitor is thoroughly checked before entering the premises, it is a known fact that drugs still make their way into the Indian prison system.⁴⁰ Thus, the researcher suggests that a detailed study should be undertaken to locate the source of drugs inside Indian prisons. Based on the results of such a study, appropriate steps should be taken to control the infiltration of drugs inside the prisons.

The researcher believes that incorporating these minor changes can make a big difference in the child's experience of the criminal justice system and can be very helpful in keeping the mother and child relationship intact during and after imprisonment.

V. Conclusion

In this article, the researcher discussed the visitation practices of twenty-three prisons housing 2,155 female inmates. The visitation practices were analysed from the viewpoint of a child

⁴⁰ Andrew O'Hagan A, "Rachel Hardwick, *Behind Bars: The Truth about Drugs in Prisons*" 5 *Forensic Research and Criminology International Journal* 309-320 (2017).

visiting her mother. The focus was on assessing the ability of these practices to keep intact the mother-child relationship during imprisonment. The rules pertaining to visitation were accessed primarily on eight factors, which include the physical setting of the visiting area; availability of waiting rooms for the visitors; the number of visits allowed per month; duration, timings and days of visits; relaxations, if any, in security measures provided to the child visitors; accessibility of intimacy between the mother and the child and the practice of denying the family contact as a disciplinary sanction.

The visitation policies fell short when assessed on the above parameters. The infrastructure of the visitation rooms was found to be incapable of promoting the mother-child relationship. The visitation timings and the days fixed in many jails were found to negatively interfere with essential elements of the child's life (such as schooling). In many prisons, the duration of the visits was not conducive to building or maintaining strong relationships. It was observed that the visitation protocol of all the twenty-three jails was not considerate of the child's privacy. The protocol of each jail required the visiting child to undergo security checks. Additionally, the child was not allowed to converse with the mother privately. Most jails either did not allow direct contact between the mother and the child or required special permission for a simple touch. It was observed that many states' prison manuals were obsolete and needed updates. It is also noteworthy that even the Model Prison Manual, 2016, prescribes the loss of privileges for up to three months to punish the prisoner, overlooking that it might be the child being punished.