

## DELHI GOVERNMENT'S SCHEME FOR THE CHILDREN OF INCARCERATED PARENTS: A CRITICAL ANALYSIS

Ira Rana\*

### ABSTRACT

Researchers have consistently reported the link between parental incarceration and material hardship. Taking note of this, the government of NCT of Delhi initiated a 'Scheme for Financial Sustenance, Education & Welfare of Children of Incarcerated Parents, 2014'. The Scheme aims to cater to children of incarcerated parents living outside the prison premises and is the only assistance tailored to serve this group of children. This study aims to critically analyze the Scheme's sufficiency in light of particular circumstances attached to these children.

**Keywords:** Child Right, children of incarcerated parents, financial aid.

### I. Introduction

### II. Scheme for Financial Sustenance, Education & Welfare of Children of Incarcerated Parents, 2014

### III. Conclusion

#### I. Introduction

RESEARCH HAS shown that a parent's commitment to prison leads to the victimization of innocent children. Their victimization remains unacknowledged as they consider their miseries justified because their parent has committed a crime. The belief of their miseries being justified is further cemented by our justice machinery's attitude, which tends to overlook these children at every stage of parental incarceration. Owing to the sufferance visited upon them by parental incarceration and the prevailing ignorance, on the part of the criminal justice system agents, towards them, these children are referred to as 'hidden victims of imprisonment'<sup>1</sup> or the 'Cinderella of penology'.<sup>2</sup> Shaw has referred to the pain inflicted upon the children of incarcerated parents (hereinafter referred to as COIPs) as 'institutionalized child abuse'.<sup>3</sup>

---

\* PhD Candidate, Indian Law Institute, Delhi.

<sup>1</sup> A. Cunningham & L. Baker, "Waiting for Mommy: Giving a Voice to the Hidden Victims of Imprisonment" (Center for Children and family in the Justice System, London Family Court Clinic, 2003).

<sup>2</sup> Roger Shaw, *Children of Imprisoned Fathers* (Hodder & Stoughton, London, 1987).

<sup>3</sup> *Ibid.*

One may argue that the real culprits of these children are their parents who commit the crime, but what needs to be remembered is that these crimes are deeply rooted in the social inequality faced by the individuals resorting to crimes. The Prison Statistics India Report, 2021, published annually by National Crime Records Bureau (NCRB), shows that amongst 5,54,034 prisoners as of Dec. 31, 2021, 2,22,513 (40.2%) prisoners had education below class X. This was followed by the prisoners with no education, 1,39,691 (25.2%) and prisoners with education above class X but below graduation, 1,33,131 (24.0%).<sup>4</sup> Although the report does not include the income status of these prisoners, it is a worldwide phenomenon that education level is directly linked with an individual's earning capacity. This link between education and earning capacity is reflected in the data collected from Delhi prisons.

This data shows that as of December 31, 2019, the majority of prisoners (*i.e.*, around 78.9%) belonged to the lower-income strata of the society, with the monthly income not exceeding Rs.8000/- p.m.<sup>5</sup> The data further reveals that out of 17,534 prisoners, only 5,034 prisoners were doing business or jobs (other than labour jobs).<sup>6</sup> By taking this data as the representative data of the Indian prison population, it can be said that as of December 31, 2021, 4,37,132.826 Indian prisoners belonged to the lower-income strata of the society with a monthly income not exceeding Rs.8000/- p.m. The data released by the Prison Statistics Report further reveals that not only economically, the prison population generally belong to the socially weaker segment as well. As of December 31, 2021 a total of 3,75,810 inmates belonged to SC (1,17,547), ST (59,750) and OBC (1,98,513) category.<sup>7</sup>

Out of the total prison population of 5,54,034, 5,31,025 prisoners were male, 22,918 were female, and 91 were transgender. Considering the Indian social scenario where mainly men are the primary bread earners, we can say that the justice machinery deprived many families of their primary bread earners. The tenure of the absence of these bread earners also varies. The variation in the tenure of absence can be estimated from the fact that out of the total of 5,54,034 prisoners as of December 31, 2021, 4,27,165 (77.1%) prisoners were undertrials, and the period of their imprisonment varied between up to three months - five years or more. The report reveals that a total of 11,490 undertrials were detained in jails for 5 years or more, 24,033

---

<sup>4</sup> National Crime Records Bureau, "Prison Statistics India Report" 37 (2021). *Available at*: Prison Statistics India 2020 (ncrb.gov.in) (last visited on Oct. 4, 2022).

<sup>5</sup> *Available at*: Department of Tihar Prisons (delhi.gov.in) (last visited on Oct. 4, 2022).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Supra* note 4.

undertrials prisoners were detained for a period of 3-5 years, 32,492 for 2-3 years, 56,233 for 1-2 years, 70,318 for 12-6 months and so on.<sup>8</sup> It is worth mentioning that despite the fact that Supreme Court has on several occasions emphasized the importance of releasing the undertrial prisoners, out of a total of 1,491 (1,472 Males and 19 Females) undertrial prisoners eligible for release under section 436A, CrPC only 591 (584 Males and 7 Females) undertrials were released, exacerbating parental alienation.<sup>9</sup> Further, for convicted inmates as well, the period of imprisonment varied between 6 months to less than one year – life time, depending upon the kind of punishment awarded.

Deprivation of the primary/sole bread-earner when coupled with the expenses associated with incarceration, including the sharing of scarce financial resources with the inmate,<sup>10</sup> litigation costs, navigating through the agents of the justice machinery, visits to a police station, courts and prison, further deepens the financial crises. Additionally, there are other indirect factors, like the enhanced likelihood of unemployment of the non-incarcerated caregiver<sup>11</sup> (to look after the children, unemployment caused by stigmatization) and aggravated health issues (both physical and psychological), that impact the finances of the families facing incarceration. These factors force the families to cut down even the basic requirements, including schooling, clothing, and medical treatment.

Research conducted worldwide has consistently reported that in the case of incarceration, the children of the incarcerated individual are the most affected. Research documents a host of adverse outcomes associated with parental incarceration,<sup>12</sup> these include behavior issues,<sup>13</sup> poor academic performance,<sup>14</sup> delinquency,<sup>15</sup> school drop-out<sup>16</sup>, social issues (stigmatization,<sup>17</sup>

---

<sup>8</sup> *Id.*, at 151-153.

<sup>9</sup> *Id.* at 166.

<sup>10</sup> Joyce A. Arditti, J. Lambert Shute, *et. al.*, “Saturday Morning at the Jail: Implications of Incarceration for Families and Children” 52 *IJAFS* 200 (2003).

<sup>11</sup> Joyce A. Arditti, ‘Parental Incarceration and Family Inequality in the United States’ in Rachel Condry and Peter Scharff Smith (ed.), *Prison, Punishment and the Family: Towards a New Sociology of Punishment?* 45 (Oxford Scholarship Online, 2018).

<sup>12</sup> *Id.*, at 42.

<sup>13</sup> Travis A. Fritsch and John D. Burkhead, “Behavioral reactions of children to parental absence due to imprisonment” 30 *FR* 85 (1981).

<sup>14</sup> BJ Myers, TM Smarsh *et.al.*, “Children of Incarcerated Mothers” 8 *JCFs* 19 (1999).

<sup>15</sup> *Id.*, at 19.

<sup>16</sup> Ashton D. Trice and Jo Anne Brewster, “Effects of Maternal Incarceration on Adolescent Children” 19 *JPCP* 27 (2004).

<sup>17</sup> *Supra* note 10 at 196.

worsened prospects,<sup>18</sup> disruption of family<sup>19</sup>); deteriorated physical health,<sup>20</sup> material hardships, etc. Many adverse outcomes vary as per the gender of the incarcerated parent. For instance, the likelihood of children remaining with the non-incarcerated parent is much higher than in the case of maternal incarceration. It is in this light that Zoann K. Snyder, Teresa A. Carlo, *et. al.*, in their article, wrote, ‘Perhaps the most notable difference between incarcerated mothers and fathers is who cares for their children in their absence’.<sup>21</sup> Meaning thereby that for many children, maternal incarceration means continuous disruption in caregiving arrangements.<sup>22</sup> In a study of the children of offender mothers, it was found that two-thirds of 299 children studied had at least one change in caregiver, while about 60% had a change in placement..<sup>23</sup>

In another study conducted with 102 children’s mothers, the mothers indicated that their children (whose average age was ten years) had moved on average three times over the past five-year period (with a range of 0 to 15 moves reported).<sup>24</sup> The primary reason behind this continuous moving of the children during their mother's absence is that the relatives who take these children in, are themselves over-burned. The children thus, without any fault of their own, add stress to the already stressed lives of their relatives, making them susceptible to exploitation and abuse.<sup>25</sup> In the absence of any legislation or government policy to provide effective support to the caregivers or a monitoring mechanism in place to keep a check on these children<sup>26</sup> many COIPs are forced to do child labor and in worse cases prostitution,<sup>27</sup> to augment the household income and as a result are often forced to leave studies.<sup>28</sup>

---

<sup>18</sup> BJ Myers, TM Smarsh *et. al.*, “Children of Incarcerated Mothers” 8 *JCFS* (1999).

<sup>19</sup> Asha Bhandari, “Women Prisoners and their Dependent Children: A Study of Jaipur and Jodhpur Central Jails in Rajasthan” 65 *SB* 371 (2016).

<sup>20</sup> Neelam Sukhramani and Shivangi Gupta, “Children of Incarcerated Parents” 57 *IP* 201 (2020). *Also see*: Prayas “Forced Separation: Children of imprisoned mothers (An exploration in two cities)” 46 (2002). *Available at*: <https://www.tiss.edu/uploads/files/Dharmadikari.pdf>. (last visited on Oct. 4, 2022).

<sup>21</sup> Zoann K. Snyder, Teresa A. Carlo, *et. al.*, “Parenting from Prison: An Examination of the Children’s Visitation Program at Women’s Correctional Facility” 32 *MFR* 34 (2002).

<sup>22</sup> J. Murray & D.P. Farrington, “Parental Imprisonment: Effect on Boy’s Antisocial Behavior and Delinquency through the Life Course” 46 *JCPP* (2005).

<sup>23</sup> Serapio R. Zalba, Lois M. Tandy, *et. al.*, *Women Prisoners and Their Families* (Los Angeles, Delmar, 1964).

<sup>24</sup> Susan Greene, Craig Haney, *et. al.*, “Cycles of Pains: Risk Factors in the Lives of Incarcerated Mothers and their Children” 80 *PJ* 16 (2000).

<sup>25</sup> HAQ: Centre for Child Rights India, “Submission to the Committee on the Rights of the Child for the Day of General Discussion on Children of Imprisoned Parents” 5 (Committee on the Rights of the Child, 2011). *Available at*: HAQ-Submission\_CRC-GD on Children of prisoners\_ (ohchr.org) (last visited on Sept. 25, 2022).

<sup>26</sup> *Id.*, at 10.

<sup>27</sup> *Ibid.*

<sup>28</sup> D. Johnston, “Effects of Parental Incarceration” in Katherine Gabel and Denise Johnston (eds.), *Children of Incarcerated Parents* (Lexington Books, 1995).

This does not mean that the children facing paternal incarceration are always safe. Various researchers have concluded that one of the significant social consequences of imprisonment is divorce, which in most cases results in the weakening of the relationship between the mother and the child(ren).<sup>29</sup> Referring specifically to the relationship between mothers and their children after the father's incarceration, Joyce A. Arditti notes 'Relationships may also destabilize between caregivers and children, sometimes due to frequent changes in the non-incarcerated parent's (typically mothers) romantic relationships.'<sup>30</sup>

Not long ago, a story covered by the Times of India showed a 9-year-old boy found sleeping on the pavement because, after the committal of his father to jail, he was abandoned by his mother.<sup>31</sup> Such stories are in abundance. Even in cases where the mother, in the absence of her husband, decides to keep her family intact, the family is predestined to face financial crises because the burden of earning and caregiving now falls solely on her. Material hardships of such families further escalate in the face of unemployment or unemployability caused due to societal stigma, deteriorated health conditions, illiteracy, absence of adult assistance for looking after the children, etc.

Adding to the vulnerability of the COIPs are the cases where either the single parent or both the parents are incarcerated or where one parent is incarcerated for the murder of another parent, leaving the children either to fend for themselves or solely at the mercy of their relatives. The literature on this segment remains scarce. One can only imagine these children braving this life-turning event all by themselves. A report submitted by HAQ: Centre for Child Rights India to the Committee on the Rights of the Child mentions an incidence where an eleven-year-old girl was found to be taking care of her three younger siblings for the past two months after her father and mother were taken to the police station.<sup>32</sup> After losing single/both parents to the criminal justice system, many children are reported lost.

The newspapers lately covered an incidence where a couple imprisoned for five years for a crime, they never committed, could not locate their children, who were allegedly sent to an

---

<sup>29</sup> J.P. Martin and D. Webster, *The Social Consequences of Conviction* (Heinemann, London, 1971).

<sup>30</sup> Joyce A. Arditti, "A Family Stress-Proximal Process Model for Understanding the Effects of Parental Incarceration on Children and Their Families" 5 *CFPRP* 73 (2016).

<sup>31</sup> Mohd. Dilshad, "Uttar Pradesh: Dad in jail & abandoned by mom, homeless kid living with dog melts many hearts" *Times of India*, Dec. 18, 2020. Available at: Uttar Pradesh: Dad in jail & abandoned by mom, homeless kid living with dog melts many hearts | Meerut News - Times of India (indiatimes.com). (last visited on Sept. 25, 2022).

<sup>32</sup> *Supra* note 25 at 5.

orphanage by the authorities while the couple was in jail. Their son was five and their daughter three when they were sent to prison. They had not seen their children ever since.<sup>33</sup> Further, in cases of spousal murder, after losing one parent to the justice machinery, the children, if living with the relatives of the murdered parent, face the hostility of their relatives if they wish to maintain contact with the incarcerated parent. In a study involving sixty imprisoned mothers, it was observed that in cases where the children were living with the respondent's in-laws, the mothers barely got to see their children and, in most cases, had never seen them since the time of their arrest.<sup>34</sup>

What comes as a surprise is that even though imprisonment, as a mode of punishment, has existed for ages, discussion around prisons has remained limited to the ones staying inside. In other words, despite the problems faced by the family members of the incarcerated individuals are not new, and despite it being apparent that imprisonment can ruin families, the discussion about whether, how and to what degree the use of imprisonment has affected the rights of persons outside of prison has for many years gone unconsidered.<sup>35</sup> Although recently, some attention has been received by the spouses of the imprisoned, the focus on their children has remained limited to parental incarceration's impact on delinquency.

Addressing the hardships of the children of incarcerated individuals, the Delhi government in the year 2014 lodged 'Scheme for Financial Sustenance, Education & Welfare of Children of Incarcerated Parents, 2014' (hereinafter referred to as Scheme). The following segment critically analyzes this Scheme.

## **II. Scheme for Financial Sustenance, Education & Welfare of Children of Incarcerated Parents, 2014**

As the title suggests, under this Scheme, provision has been made for financial assistance of the children of incarcerated parents living outside the prison premises. The Scheme allocates Rs.3,500 per month for the first child and additional assistance of Rs.3,000/- for the second

---

<sup>33</sup> Anuja Jaiswal, "UP: After 5 Years in Jail for Crime they Didn't Do, Couple can't Find Kids", *Times of India*, Jan. 23, 2021. Available at: UP: After 5 years in jail for crime they didn't do, couple can't find kids | Agra News - Times of India (indiatimes.com). (last visited on Sept. 25, 2022).

<sup>34</sup> *Supra* note 19 at 371.

<sup>35</sup> Peter Scharff Smith, *When the Innocents are Punished: The Children of Imprisoned Parents* 232 (Palgrave Macmillan, 2014).

child.<sup>36</sup> In case of three or more children, the maximum amount granted shall not exceed Rs.6,500 per month.<sup>37</sup> A child shall be entitled to receive assistance till she/he attains the age of 18 years or the parent is/are released from incarceration, whichever is earlier.<sup>38</sup> However, if a child is placed with a fit institution, then such a child will not be entitled to receive financial assistance under the said Scheme.<sup>39</sup> In addition to the financial assistance the Scheme also promises free education, protective environment, welfare measures including passing of orders for sending the child to a fit institution, free medical and legal aid.

In 2020 the Delhi Commission for the Protection of Child Rights (DCPCR) submitted a special report to the Delhi Women & Child Development Minister, Rajendra Pal Gautam, recommending amendments to the Scheme.<sup>40</sup> The report noted that in the past five years only 412 children have availed the benefits under the Scheme.<sup>41</sup> In this article, the researcher has articulated why the Scheme could benefit only a few children. The researcher could locate two main reasons behind the ineffectuality of the Scheme, *i.e.*, eligibility and lack of coordination. Other points discussed include monitoring of the beneficiaries and revocation of assistance.

**Eligibility:** The criteria for availing the benefits under the Scheme have been provided under section 4. Section 4 lays down five eligibility criteria's, here under is a discussion on each one of them:

1. The Scheme provides that in order to be eligible, the child's only surviving parent or both parents should be in jail. The presence of either of these two criteria makes the child automatically eligible for the Scheme. In the researcher's opinion, these criteria cull out most of the COIPs. Moreover, it does not leave a scope for an individual assessment. The vulnerability should be assessed on a case-to-case basis because there can be instances where a child with one non-incarcerated parent (living with her or not) can be equally or even more vulnerable than a child with single parent/ both the parents in jail. In the incident mentioned above, a child was found sleeping on the pavement because his mother abandoned him during

---

<sup>36</sup> Scheme for Financial Sustenance, Education & Welfare of Children of Incarcerated Parents, 2014, s. 5.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> Delhi Commission for the Protection of Child Rights, "Recommendations for Protection of Child Rights for Amendments in Scheme for Financial Sustenance, Education & Welfare of Children of Incarcerated Parents, 2014" (Women & Child Development Minister, Rajendra Pal Gautam, 2020).

<sup>41</sup> Available at: <https://drive.google.com/file/d/1uMLZaaDFGG5-yZAsG949iHhI02HcGewW/view?usp=sharing> (last visited on Sept. 15, 2022).

his father's imprisonment.<sup>42</sup> During her research work, the researcher came across the case of a mother who was unable to trace her missing daughter on coming out of the jail, the father, now re-married, was clueless about the girl's whereabouts.

Another concerning matter is that the Scheme does not define 'parent'. Thereby implying that the Scheme is available only if the biological parent is incarcerated. Thus, the incarceration of a step-parent or psychological parent (a person who on a continuing day-to-day basis through interplay and mutuality fulfils the child's psychological needs for a parent, as well as the child's physical needs)<sup>43</sup> has been entirely overlooked.

2. The child's parents shall be ordinarily living in Delhi for the last 5 years. The Scheme nowhere mentions whether the last five years will be calculated from the date of application or when the said prisoner was brought to the jail. Moreover, the official data displayed on the *Tihar* website displays that 72.81% of males and females lodged in Delhi prisons as on December 31, 2019 belonged to Delhi, *i.e.*, 12,765 prisoners were domiciled in Delhi. Despite of these figures, the number of beneficiaries under the Scheme remained significantly low. One of the reasons behind this is the absence of any residence proof with the inmates. In other words, many COIPs were denied the benefits of the said Scheme because the parents did not have any document to prove that they were the residents of Delhi for the past five years.

3. The period of incarceration of a parent whose child is intended to avail of the benefit under the Scheme should not be less than 30 days. Research has shown that even a temporary separation of a child from the parent can affect the child adversely. Thus, the researcher opines that a mechanism should be put in place, where there should be a provision for applying before the fixed period in emergency cases.

4. The eligibility rule requires that the annual income from all incarcerated parent(s) sources should not exceed Rs.2,00,000/- (Rupees Two lakh only) or should be limited to the amount as amended from time to time by the Government of National Capital Territory of Delhi. Considering the eligibility clause in its entirety, to avail of the Scheme either single parent or both the parents are to be imprisoned. Now in the absence of any parent, if the children are

---

<sup>42</sup> *Supra* note 31.

<sup>43</sup> Joseph Goldstein, Anna Freud, *et. al.*, *Beyond the Best Interests of the Child* (Simon and Schuster, 1984).



small, an adult's help will be needed to collect the said amount from various sources. Thus, a provision should be made to ensure that the said income reaches the children and is spent on them.

5. Another eligibility criteria requires that a child between 5-18 years of age shall mandatorily attend the school/academic institutions. Parent/Guardian will give undertaking for initiation of schooling within six months of receipt of benefit, if the child is not yet enrolled with any School. The researcher agrees with this clause.

**Lack of Coordination:** The other problem related to this Scheme is technical. If we look at the Scheme, sections 9-11 lay down the operation of the Scheme. Section 9 provides the procedure for making the application, section 10 lays down the procedure for processing of the application and section 11 provides the method of disbursement of assistance.

As per the three sections, a written application has to be made for availing the benefits of the said Scheme. This application can be filed by the child or parent/parents or guardian/fit person along with supporting documents in duplicate. The said application has to be filed either before the office of the Prison Welfare Services being run in jails under the control of the Chief Probation Officer (CPO) or the Legal Services Clinics being run by Delhi State Legal Services Authority (DSLISA) at jails and other places in Delhi or before a court of law where the trial of the incarcerated person is going on.

On receipt of such application the prison welfare officer will be informed, who will then gather information from the concerned inmate in the prescribed format and submit it to Child Welfare Committee (CWC) of the area where the family of such person resides. The time frame fixed for the prison welfare officer to submit the information to the CWC has been fixed at two days from the receipt of the application. On receiving the application, the CWC (within three working days) will call for a Home Study Report through the Protection Officer (Institutional / Non-Institutional Care) or Legal-cum-Probation Officer in DCPU or Welfare Officer/Social Worker engaged in a government run Child Care Institution. The said report shall reach the CWC within a week of receipt of the order. The CWC shall preferably dispose the application within 15 days of its filing.

On the basis of the said report if the CWC thinks that the rehabilitation of child is essential, in terms of institutional or non-institutional care, it will issue an order accordingly. However, if in the opinion of CWC the child is in need of financial support, the CWC will then refer the matter to CPO. The committee, headed by the CPO and a Magistrate, will consider the case and take a decision for extending financial help to the child or fit person, keeping in mind the best interest of the child. If the committee decides that the concerned child needs financial assistance, CPO will then disburse the amount by way of Electronic Clearance System on monthly basis, within the succeeding month in a bank account opened in the name of each child that shall be operated by the fit Person nominated qua the child. The said amount will be released to CPO by the Department of Women and Child Development.

Now if we look at this procedure it involves the prison welfare officer, DSLSA, CPO, trial court, CWC, DCPU, etc. But none of the provision talks about the coordination between them i.e., how can a proper coordination be established between all these agencies. There is no provision for conducting meetings on a regular basis or a provision which requires one agency to communicate to the other agency about the progress of the case. This lack of coordination delays the procedure and prevents the smooth functioning of various bodies.

The researcher suggests that efficiency of the Scheme can be considerably enhanced by reducing the number of agencies involved. Additionally, coordination can be achieved if an online portal is created, enabling even the applicants to check the status of their application and thereafter the disbursement of the sanctioned amount. Further a dispute resolution platform should be introduced to which the COIPs and their guardians should have a direct access.

***Monitoring of the Beneficiaries:*** In addition to the above two defects, which lower the number of beneficiaries of the said Scheme and prevent the smooth functioning of the Scheme, in the researcher's opinion, the Scheme also lacks at tracking the progress of the children enrolled under it. Section 13 talks about the monitoring of the beneficiaries, however, it nowhere specifies the interval at which such monitoring has to take place. The Scheme also does not elaborate the parameters on which the progress of a COIP is to be judged. In other words, the language used in section 13 'He shall note the general well-being of the child including his/her health and general family environment and progress made in education as may be applicable.' is too general to provide any guidance to the person responsible for monitoring the said progress. During her research the researcher came across a case in which the paternal aunt and

the maternal grandmother were fighting over the custody of the child, in order to get the money, it was decided that the child will live for six months with the aunt and for another 6 months with the maternal grandmother. In the researcher's opinion it was a fit case for the child to be institutionalized however, that step was not taken.

**Revocation of Assistance:** What further makes the Scheme problematic is section 12, which lays down the circumstances under which the assistance being provided to the child may be revoked. Section 12 provides six conditions under which the assistance can be revoked, these include: (i) if the incarcerated parent is released from the jail; (ii) if the beneficiary child attains the age of 18 years; (iii) if the beneficiary child is reported to have availed financial assistance or benefit under any other Monthly Payment Scheme or Sponsorship Program of state/ central government for the purpose applied hereto; (iv) if the child/children is/are reported to be engaged in criminal activities. The researcher agrees with these four points.

However, in the researcher's opinion the other two points for revocation of the financial assistance need to be amended. These conditions include: (i) if the amount of financial assistance released for the children is found being misused; (ii) if the recipient family changes the place of residence or the beneficiary children are shifted to any other place or schooling is changed without prior information of the District Child Protection Unit or Chief Probation Officer. In the above two cases if the financial assistance being given to a child is revoked, it might mean that the child will suffer the doings of the relatives. This step, if taken, will make the already vulnerable child even more vulnerable, especially where the Scheme nowhere provides that what other steps ought to be taken in case the financial assistance is revoked.

In addition to the financial assistance, the Scheme under section 3 also promises free education, protective environment, welfare measures including passing of orders for sending the child to a fit institution, free medical and legal aid. These are the rights made available to every child under our Constitution and the Juvenile Justice (Care and Protection of Children) Act, 2015, thus, a responsibility has already been pinned down on the state to ensure the enjoyment of these rights by every child in India, even if not mentioned specifically, elsewhere.

The researcher believes that instead of reiterating these rights the drafters should have penned down the ways to ensure the exercise of these rights by the COIPs in the light of the particular circumstances attached to the COIPs. For instance, the drafters could have included within the Scheme the measures that should be taken to ensure that the child living in the above-mentioned

fit institutions shall be regularly brought to the prison for *mulaqats* with the incarcerated parent, if she wishes to do so and if it is in the best interest of the child OR they should have mentioned the measures that should be taken by the prison authorities to ensure these children a protective environment at their relative's house, during the *mulaqats* and in these fit institutions. During a discussion with the director of a child care institution, the researcher was told that the staff in the institution, instead of sensitizing other children towards the plight of the COIPs, encouraged the COIPs to hide their parent's identities to save them from the stigmatization, thus, instilling in them a sense of guilt. In addition to this, a mechanism should be developed to ensure that the children living in their relative's house are protected against exploitation at the hands of these relatives.

The cumulative effect of the abovementioned points is that the Scheme has been ineffective in serving COIPs deprived of their parents by our criminal justice machinery.

### III. Conclusion

Going by the Scheme out of 17,534 prisoners that were lodged in the 16 jails of Delhi as on December 31, 2019, only around 3,488 prisoner's children will be eligible to avail the benefits. By 'around 3,488' the researcher means that as per the data reflected on the *Tihar* website 1,582 prisoners had an annual income up to 1,00,000, and 1,906 prisoners had an annual income between 1,00,000- 3,00,000. Out of these 3,488 prisoners (1,582 + 1,906) we will first take out the prisoners falling under the category of inmates with salary between 2,00,000- 3,00,000 per annum. From the figure arrived we will find out the inmates who have children. After finding the number of prisoners with children having annual salary of less than Rs. 2,00,000 we will see in how many cases single/both the parents have been arrested.

From the figure achieved we will further deduct the cases where the inmate does not have the required residence proof of last 5 years. We will then deduct the number of prisoners who have been in prison for less than 30 days. After all the deductions we will find the number of eligible parents *i.e.*, we will have to further see whether these parents have eligible child/ren (*i.e.*, the child should be below 18 years of age and the if child is between the age of 5-18 years, he/she shall mandatorily attend the school/academic institutions). This shows the Scheme's insufficiency in catering to one of the most vulnerable groups. However, the Delhi government should be appreciated for being one of the few Indian states to have extended help to the COIPs.

Besides Delhi, the Kerela government also provides financial assistance to the COIPs. However, the sanctioned amount (*i.e.*, Rs. 300 for a child studying in first to fifth standard, Rs. 500 for sixth to the tenth standard, Rs. 750- eleventh and twelfth standard and Rs 1000 for graduation and post-graduation) is highly insufficient. With some amendments, the researcher believes the Scheme can be exemplary for the other states.

The amendments to the present Scheme shall ensure that it is made available to a more significant number of COIPs by not restricting it to the children who have either a single parent or both the parents in jail and by making it available to all the COIPs. The vulnerability of a proposed beneficiary should be assessed on a case-to-case basis, and the term 'parent' should be broadly interpreted. A provision should be made where a child can, in case of emergency, apply for availing the benefits of the Scheme as soon as the parent goes inside the prison. Active monitoring machinery should be introduced to ensure the management of the finances and the protection of the children from any form of exploitation at home.

The success of the Scheme depends upon proper coordination between the prison machinery (having direct access to the parent) and the social welfare machinery. Thus, special attention should be paid to bridging this gap. Besides making a provision for financial help, education, etc., the Scheme should also cater to the more general needs of the COIPs. These include ensuring that the COIPs living in the child care institutions are taken for regular visits to their incarcerated parent; the visitation hours in the prison should be such that they do not interfere with the normal life of the children, such as school timings; if possible (at least in women prisons) one day per month, should be fixed for only child visits; the staff of the child care institutions, schools and prison should be sensitized towards the needs of the COIPs, etc. These amendments, if introduced, will help the COIPs in coping with parental incarceration better.