



(DRAFT)

Standard Operating Procedure (SOP) for Care and Protection of Children of Incarcerated Prisoners



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NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS (NCPCR)

LIST OF ABBREVIATIONS

CCI	Child Care Institution
CoIP	Children of Incarcerated Parents
CNCP	Child in Need of Care and Protection
CWC	Child Welfare Committee
DCPO	District Child Protection Officer
DCPU	District Child Protection Unit
DG	Director General
DM	District Magistrate (alternative term for District Collector in some States)
NCPCR	National Commission for Protection of Child Rights
SCPCR	State Commission for Protection of Child Rights
SJE	Social Justice & Empowerment (Ministry/Department)
WCD	Women and Child Development (Ministry/Department)

INTRODUCTION

Children of Incarcerated Parents (CoIP) remain one of the most invisible and underserved groups in India's child protection landscape. Despite constitutional guarantees and Supreme Court directives, their rights to survival, development, and dignity are routinely compromised. The absence of reliable data, fragmented implementation of guidelines, lack of government schemes¹ and entrenched stigma have left these children at the margins of welfare systems, with little recognition of their unique vulnerabilities.

Across India, parental incarceration affects an estimated eight lakh children, yet only a fraction of those living with mothers inside prisons - are visible in official records. As of 2024, 1397 children resided in prisons², often in overcrowded, unsanitary conditions with limited access to nutrition, healthcare, and recreation. Their developmental milestones are delayed, their emotional growth stunted, and their exposure to violence and profanities within prison environments leaves lasting scars. For children outside prison walls, the challenges are equally severe: disrupted education, malnutrition, untreated illnesses, and the crushing weight of social stigma. Many are forced into institutional care or precarious kinship arrangements, while others slip through the cracks entirely, living without adequate supervision or support.

The Hon'ble Supreme Court in the landmark judgment of *R.D. Upadhyay vs State Of A.P. & Ors W.P (c) 559 of 1994*³ sought to safeguard these children, mandating crèches, nurseries, age-appropriate diets, medical care, and recreation facilities in prisons. It also directed that birth certificates should not carry the stigma of a prison birthplace and recommended suspension of sentences for pregnant women. These provisions were later incorporated into the Model Prison Manual (2016). Yet, implementation remains inconsistent, with glaring gaps across states. In practice, children continue to face neglect, inadequate facilities, and systemic indifference.

¹[WELFARE OF CHILDREN OF INCARCERATED PARENTS](#), iProbono India (2026)

²[Number of Women Prisoners with Children as on 31st December 2024](#), Prison Statistics India, National Crime Records Bureau

³[R.D. Upadhyay vs State Of A.P. & Ors on 13 April, 2006](#)

The psychosocial impact of parental incarceration is profound. Children inside prisons often display aggression, withdrawal, or fear of men, while those outside grapple with loneliness, resentment, and in severe cases, suicidal ideation. Visitation processes compound trauma: long journeys, humiliating security checks, and restricted contact with parents erode the fragile bonds of family life. These experiences not only undermine immediate wellbeing but also perpetuate cycles of disadvantage, pushing children toward marginalization and exclusion. At the stage of transitioning of these children outside prison, in absence of any given scheme such children are even more vulnerable to different forms of exploitation⁴.

Educational disruption is another critical dimension. Many children drop out of school due to poverty, caregiving responsibilities, or relocation following a parent's imprisonment. Health vulnerabilities are equally stark, with malnutrition and untreated illnesses common among this group. Above all, stigma isolates them from peers and communities, branding them as “orphans of justice” and denying them equal access to welfare schemes. This structural neglect reflects a broader failure to integrate their needs into mainstream child protection and social welfare frameworks.

Among the many vulnerabilities faced by CoIP, one of the most severe is the emergence of child-headed households⁵. This occurs when both parents are absent due to imprisonment, death, or abandonment and the eldest child assumes responsibility for siblings. Such households represent the “invisible within the invisible”: they are rarely documented, lack legal guardianship, and fall outside the scope of welfare schemes. For COIP, the risk is heightened because parental incarceration often coincides with poverty, stigma, and fractured kinship networks.

This leads to the following challenges:

- Premature adulthood: Older siblings, often girls, must cook, clean, and manage caregiving.

⁴[FORCED SEPARATION: CHILDREN OF IMPRISONED MOTHERS \(An Exploration in Two Indian Cities\)](#), PRAYAS (2002) | Tata Institute of Social Sciences, Mumbai

⁵[Children of Incarcerated Parents](#) | Indian Pediatr 2020;57: 199-203, Sukhramani and Gupta (2020)

- Educational disruption: Schooling is sacrificed to earn income or manage household duties.
- Economic precarity: Without adult guardianship, children cannot access rations, healthcare, or welfare benefits.
- Psychosocial strain: Anxiety, depression, and trauma are common due to overwhelming responsibilities.
- Social stigma: Communities label them as “children of criminals,” compounding isolation.

Therefore, this SOP is carefully developed to provide a structured framework for the identification, care, protection, and rehabilitation of CoIPs. They seek to bridge existing gaps in law, policy, and implementation by establishing clear roles and responsibilities for stakeholders, facilitating coordination between prison, child protection, and welfare authorities, and ensuring that children are not overlooked during critical transition periods.

The SOP seeks to ensure that children affected by parental incarceration are visible within child protection systems, and afforded the care, support, and opportunities necessary for their safety, development, and well-being.

LIFE OF CHILDREN OF INCARCERATED PARENTS⁶

1. Meena was born inside a women’s prison, where her mother was serving a sentence. For the first six years of her life, the prison was her world - grey walls, crowded barracks, and occasional glimpses of the sky through barred windows. She had little access to play areas, and her diet was limited to what the prison could provide. Developmental delays became evident: she spoke late, struggled with social interaction, and often mimicked the aggression she witnessed around her. When Meena turned six, she was abruptly separated from her mother and placed in a state-run institution. The transition was traumatic. She cried incessantly, refused food, and displayed severe anxiety whenever caregivers tried to comfort her. The

⁶[CHILDREN OF Women PRISONERS: THE INVISIBLE Trial](#), PRAYAS (2018) | Tata Institute of Social Sciences, Mumbai

institution lacked the resources to provide specialized psychological support, and her attachment issues deepened. Meena's experience underscores the psychosocial harm of prison environments and the inadequacy of institutional care as a substitute for family-based alternatives. It calls for structured transition plans, crèches, and community foster care to ensure children like Meena are not doubly punished for circumstances beyond their control.

2. When Mamta was arrested in Mumbai in 2013, her two young children were left behind in Odisha with their paternal grandparents. The grandparents, already frail and financially strained, struggled to provide even the basics. Eventually, the children were placed in a child care institution.

For Mamta, the pain of separation was unbearable. She pleaded for a chance to see her children, but bureaucratic hurdles and the lack of coordination between CWCs in Mumbai and Odisha meant that her requests went unanswered. For more than two years, she was denied even a single meeting. Her only connection came through photographs sent by an NGO's static images that could never replace the warmth of a child's embrace.

Meanwhile, her children grew up in institutional care, deprived of maternal affection and stability. Their childhood was marked not by play and learning, but by the silent trauma of abandonment. Mamta's story is not just about one mother, it is about a system that fails to recognize the rights of children as independent from the crimes of their parents.

3. Lata's arrest came suddenly, after a neighbor's suicide was linked to an altercation. Her three daughters aged one and a half, three, and six, were thrust into an institution while their father, an auto-rickshaw driver, struggled to survive and fight her case.

At first, the children seemed to adjust. But soon, the eldest daughter began to show signs of deep distress. She lashed out violently, refused to attend school, and eventually dropped out altogether. Doctors later diagnosed her with anxiety disorder, a condition rooted in the prolonged separation from her mother and the abrupt shift to institutional care.

Two years later, Lata was acquitted. She returned home, but the damage was done. Her daughters had lived their formative years without maternal affection, and the

eldest continued to battle psychological scars. For Lata, acquittal did not mean freedom—it meant confronting the invisible trial her children had endured.

4. Rani was 14 when her mother was imprisoned and her father abandoned the family. Overnight, she became the head of her household, caring for her two younger brothers aged nine and six years. Her mornings began with cooking whatever food she could manage from limited rations, walking her brothers to school, and rushing to a part-time job at a tailor's shop. Homework and play were replaced by chores: fetching water, negotiating with ration shopkeepers, and shielding her brothers from neighborhood taunts. Teachers noticed her exhaustion, but without a legal guardian, no welfare scheme could reach her family. At night, Rani often cried silently, torn between her lost childhood and the burden of responsibility. Her youngest brother showed signs of malnutrition, while the middle one grew resentful, blaming her for their mother's absence. Despite her resilience, the family lived on the edge of survival, invisible to the state and unsupported by formal systems

DEFINITION

A CoIP refers to a person below the age of 18 years, whose either parent or primary caregiver is incarcerated, detained or in custody.

These may include the following categories of children:

- a. Children residing in prison in the age group of 0-6 years, with their incarcerated mother/parent.
- b. Children of incarcerated parents living outside the prison, with an alternate parent/caregiver, member of extended family, or in a registered Child Care Institution (CCI).

CONDITIONS IN WHICH A CoIP Must BE CONSIDERED A CNCP

Children in the following circumstances should be declared CNCP based on the assessment of the CWC:

- A. A child whose only surviving parent is incarcerated/both parents are incarcerated, and has no one to support or look after or, no one is willing to take care of and protect the child;

- B. A child whose either parent is incarcerated and the other parent or guardian is found to be unfit or incapacitated, by the CWC or the Juvenile Justice Board (JJB), to care for and protect the safety and well-being of the child; or
- C. A child who was living inside the prison due to incarceration of the mother, or is transitioning out of the prison; and a suitable alternate caregiver cannot be identified.

Identification process of CNCP in Prison

- **The Prison Welfare Officers** shall submit the list of Children of Incarcerated Parents (CoIP) to the Superintendent of the Prison and the Chief Probationary Officer.
- The Chief Probationary Officer shall, in turn, forward the same to the concerned Child Welfare Committee (CWC) and District Child Protection Unit (DCPU) through Probationary Officer (POs) for required intervention.
- **The Child Welfare Committee (CWC)** shall conduct at least one visit every month to the prisons falling within its jurisdiction to identify children in need of care and protection (CNCP) and take appropriate action in accordance with the applicable law.
- **The District Child Protection Unit (DCPU)** shall maintain updated records and data pertaining to Children of Imprisoned Parents (CoIP) and shall place such cases before the concerned Child Welfare Committee (CWC) for appropriate consideration and necessary action.

PROCEDURE TO BE FOLLOWED

1. Children residing in the prison:

- a. There shall be an Anganwadi (under Mission Saksham Anganwadi & Poshan 2.0 funded by the Ministry of Women and Child Development, Government of India) or an NGO-run crèche in every prison (which has children living with their mothers in prison) with the aim of creating a normalizing environment for such children.
- b. The Anganwadi/crèche shall be situated outside the prison building but within the prison premises, as far as possible, as per the Supreme Court guidelines in the *R.D. Upadhyay vs State Of A.P. & Ors W.P (c) 559 of 1994*.

- c. There should be space for free movement and a play area in the creche, which should be equipped with age-appropriate toys and games.
- d. Age-appropriate education, recreation and diet shall be provided to children residing in the prison between the age group of 0 to 6 years as per *R.D. Upadhyay vs State Of A.P. & Ors W.P (c) 559 of 1994*.
- e. A child, on attaining the age of 6 years may be placed with a guardian or with the remaining parent with the consent of the mother, by way of an application submitted to the prison superintendent by the mother or Superintendent informing the DCPU or DPO. If such an option is not available, or if the mother does not consent to the child living with the available guardian, the child shall be produced before the nearest CWC for rehabilitation.
- f. The prison superintendent will also ensure that the medical records including details of vaccinations of the child are handed over to the concerned DCPO/CWC/CCI.
- g. To facilitate transition, the child shall be handed over to the DCPU/DCPO by the superintendent of the prison, who shall produce the child before the CWC. The CWC shall place the child in a CCI on a short-term basis, till an alternate caregiver is identified.
- h. The DCPU/DCPO shall conduct an enquiry and assessment to identify alternate caregivers of the CoIP who are willing and capable of providing the required care and protection to the child. This assessment can be made at any point of time from the child's entry inside the prison, depending on the willingness and request of the mother to hand over the custody of her child to an alternate caregiver.
- i. In cases of children of convicted female prisoners sentenced to more than five years where an alternate caregiver is not available, the CWC/DCPU shall attempt to place the child in alternative care such as Foster Care or with a Fit Person instead of a CCI where found suitable/ if possible.
- j. The CWC, the concerned CCI and the prison superintendent shall make arrangements for regular meetings and interactions between the child and the incarcerated mother, at least once in a week or whenever the mother requests for a meeting, through the prison superintendent. As far as practicable, the mother and

the child shall be facilitated to meet physically. Where a physical meeting is not feasible, the In-Charge of the Child Care Institution (CCI) and the Matron/Warden of the prison shall make necessary arrangements to facilitate communication through video calls, video conferences, or telephone calls. A record of these interactions shall be maintained in both places.

- k. At the time of release of the incarcerated prisoner whose children are placed in a CCI, details of the concerned CWC/DCPU shall be provided to the incarcerated mother by the Superintendent of the prison to facilitate access to their child.
- l. If the incarcerated mother is released with her child, she can be assisted by the prison authorities in approaching the CWC/DCPU/DPO who shall assess her present situation and the child's needs for support and assistance.

2. Children residing outside of the prison:

- a. At the time of arrest, the police officer shall record details of any dependent children in the arrest memo. If the child has no caregiver, the Investigating officer/arresting officer shall, within 24 hours of the arrest of the parent, produce the child before the CWC of the concerned district,. If declared a CNCP by the CWC, the child will be covered under different institutional and non-institutional care mechanisms available in the State (as per Mission Vatsalya).
- b. Children shall be supported to continue their education. The DWCD should depute a Probation/Welfare officer or an officer from the DCPU to assist the children of prisoners left outside (living with guardian or relatives) in matters such as admission to schools and hostels, availing of existing scholarship schemes (if he/she is eligible).
- c. When an under trial parent is being transferred from police to judicial custody, the police should specify details about the location and address of their children's residence or the name and address of the institution where they are admitted.
- d. Children should be informed about their parent's transfer to another prison. The prison authorities may take the help of the arresting police station or the District Probation Officer or the DCPU for this purpose.

- e. Meetings between the imprisoned parent(s) and their children should take place inside the prison premises in a separate room or space, permitting face to face interaction and touch. The prison administration will facilitate physical virtual meeting/telephonic communication of the parent/s with the child at least once in a week, in coordination with the concerned DCPU/CWC/CCI.
- f. The prison administration in consultation with the incarcerated parent(s) shall collect and maintain a register consisting the information about the status of their children below the age of 18 years which includes their names, age, location and custody status.
- g. Based on the information provided by the incarcerated parent(s), the prison administration will inform DCPU/Child line and ensure the production of child/children before the CWC of the concerned district, wherever such assistance is required.
- h. If children are placed in the care of an alternate caregiver, the CWC/DCPU shall ensure follow up visits/meetings with the children and their caregivers.

MONITORING AUTHORITY

State-Level Monitoring Cell

A State-Level Monitoring Cell shall be established within the State Commission for Protection of Child Rights (SCPCR), or alternatively within the Department of Women and Child Development (WCD).

- The Cell shall be chaired by an **independent monitor** with demonstrated experience in child protection and welfare.
- Eligible monitors may include: child psychologists, social workers, child rights lawyers, or former members of CWC/ JJBs/ members of civil society organizations who have worked with children. The monitor must have at least 7 years' experience and expertise in the relevant domain.

Terms of Reference

1. Reporting by Prison Department

- Submit **quarterly reports** detailing:
 - Number of children residing inside prisons.
 - Status of immunization of children.
 - Attendance of children in **Anganwadi/creche** facilities.
 - Details of children receiving educational support.
 - Recreational activities conducted.
- The prison superintendent shall collect information regarding the ColPs from all inmates and send a quarterly update to the Director General (DG) of Prisons. The same shall also be submitted to the NCPCR through the State Level Cell.

2. Reporting by District Child Protection Unit (DCPU)

- Submit quarterly report of **children left outside prisons**, including:
 - Applications received for transfer of children.
 - Information collected following the arrest of parents/guardians.
- The DCPU shall maintain data regarding ColPs received from the prison administration, and those who were declared CNCP by the CWC. The DCPU shall send this data to the NCPCR through the State Level Committee.

3. Visits by the independent monitor

- The independent monitor shall conduct **quarterly visits to prisons housing children of women prisoners**, to review conditions, verify reports, and ensure compliance with child protection standards.
- The independent monitor shall conduct quarterly visits to the prison crèches/AWCs inside prisons. A report of such visits, recording their observations & recommendations shall be forwarded to the DG Prisons and NCPCR within 15 days of the visit.

GRIEVANCE REDRESSAL MECHANISM:

District Women and Child Development Officer shall act as the nodal grievance redressal officer for complaints or issues relating to the treatment, rehabilitation, or placement of children of incarcerated parents.
