

FORCED SEPARATION: CHILDREN OF IMPRISONED MOTHERS

(An Exploration in Two Indian Cities)

PRAYAS

Social Work in Criminal Justice

A Field Action Project of the Tata Institute of Social Sciences

2002

- Published by : *PRAYAS*
9/1, B.D.D. Chawls, Worli, Mumbai 400 018
Tel: 4947156/4902285
- First Printing: 2002
- Copyright: *PRAYAS*
Social Work in Criminal Justice
(A Field Action Project of the Tata Institute of
Social Sciences)
- Printed at: India Printing Works, India Printing House,
42, G. D. Ambekar Marg, Wadala,
Mumbai 400 031
Tel.: 4624969/71
E-mail: ipw@vsnl.net
- Price: Rs. 150/-

THE TEAM

SOCIAL WORKERS / RESEARCHERS

Roshni Nair, Pradnya Shinde, Zarine Chinvala, Sushil Kumar, Kriti Chawla, C. Jyoti, Surekha Sale, Murlidhar Jagtap

REPORT WRITING

Azka De Souza, Zarine Chinvala, Sushil Kumar, Kriti Chawla

TYPING, EDITING, AND PREPARATION OF REPORT

T.S. Devyani, Kriti Chawla, Sharon Menezes, Vijay Raghavan, Silvin Kale, Sanober Shekar

ADMINISTRATIVE SUPPORT

Vijay Raghavan, Shivendranath Ganesh, Arunendra Kumar Pande, T.S.Devyani, Sangeeta Gawali, Vijay More

RESEARCH DIRECTOR

Sanober Shekar

DIRECTOR, "PRAYAS"

S. Vijay Raghavan

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PREFACE

Prayas is a field action project of the Tata Institute of Social Sciences, and has been working with persons affected by crime or the criminal justice process, since February 1991. Apart from intervention, we are also attempting to promote developments in the field in a variety of ways including research and documentation, interacting with the criminal justice and welfare administration, and encouraging community awareness.

The present report deals with the situation of children of prisoners, a group we experienced as being both vulnerable and relatively invisible. We have tried to work on this issue in some detail.

Apart from the reality at ground level, there is also the critical question of accountability. Who is responsible for not only the predicament of children of prisoners, but also their well-being? It is not difficult to blame the imprisoned parent: Were she or he not an offender, the children would not be in difficulty! Obviously it is not as simple as that. But whatever the processes or events that led to the arrest of parents, must their children also pay the price? Such questions lead to others, for instance:

- When the State forcibly separates parents and minor children, in this case by taking one or both parents into custody, is it not thereby obliged *in* some measure to provide for the security and welfare of the young ones left behind?

- When the State allows into prison children too small to be separated from their mothers, is it not responsible for countering the deleterious effects of imprisonment on the children?
- Since the State undertakes the responsibility for law and order, as also the protection of vulnerable children, should not its authority be invoked to protect the future of children whose parents are involved with the world of crime?

There are no unambiguous answers. Although it does appear that the State must assume a major role, the need for voluntary social support is also evident.

Prayas has gained a good deal of experience with both groups — minors inside as well as outside prison. However, the present report focuses primarily on children left outside. Another major limitation of the report is that it focuses almost exclusively on children of women 'undertrials' confined in two central prisons. Many other dimensions need investigation. But despite these shortcomings, it is hoped this document succeeds in accurately projecting — without further exposing or stigmatising them — the 'trials' of prisoners' children.

Although many in the government, voluntary and academic sectors are both aware and concerned, what is needed is specific and official recognition of the problem. This would be a good start towards including the concerns of children of prisoners in policy, administrative regulations of the concerned departments, child-support schemes at central and state levels, and in the training of teachers, administrators and welfare personnel.

March, 2002

Mumbai

FOREWORD

Justice (Retd.) Chandrashekhar. S. Dharmadhikari

Father of the Nation, Mahatma Gandhi said: "In independent India of the non-violent type, there will be crime but no criminals. Crime is a disease like any other malady and is a product of the prevalent social system. Therefore, all crimes including murder will be treated as a disease. All criminals should be treated as patients and the jails should be treated as hospitals admitting this class of patients for treatment and care. The outlook of the jail staff should be that of physicians and nurses in a hospital. The prisoners should feel that the officials are their friends. They are there to help them regain their mental health and not to harass them in any way."

He also wrote about the duty of the prisoners. "They should behave as ideal prisoners. They should avoid breach of jail discipline. They should put their heart and soul into whatever work is entrusted to them. . . . They should so behave in their little community as to become better men when they leave the jail than when they entered it." He also observed: "Whether such an India will ever come into being is another question." But this was his dream.

The Supreme Court in *Giasuddin vis State of Andhra Pradesh* (AIR 1977 SC 1926) observed: "Progressive criminologists across the world will agree that the Gandhian diagnosis of offenders as patients, and his conception of prisons as hospitals — mental

and moral — is the key to the pathology of delinquency, and the therapeutic role of punishment." The whole man is a healthy man and every man is born good. Criminality is curable deviance. The morality of the law may vary, but is real. The basic goodness of all human beings is a spiritual axiom, a fall-out of the advaita of cosmic creation and the spring of correctional thought in criminology.

"If every saint has a past, every sinner has a future, and it is the role of law to remind both of this. The Indian legal gurus of old have made a healthy contribution to the world treasury of criminology. The drawback of our criminal processes is that often they are built on bricks of impressionist opinions and outdated values, ignoring empirical studies and deeper researches...."

The position of children of criminals is still worse. They are also treated as criminals forgetting the fact that a child has no choice, nor is it entitled to choose its parents. They are victims, who suffer the stigma attached to their parents. We forget that whenever a parent is arrested and sent to prison or police lock-up, he or she may leave behind young children, who become 'crime-affected victims'. The atmosphere in which they grow might not leave them any other alternative but to resort to hard physical labour, or to crime; or they could be exploited by unscrupulous elements. Deprived of childhood and parental affection, their situation is no different from that of orphans.

The Supreme Court, in *Laxmikant v/s Union of India* (AIR 1984 SC 469), observed: "It is obvious that in a civilized society, the importance of child welfare may not be over-emphasized, because the welfare of the entire community, its growth and development, depend on the health and well-being of its children. Children are a supremely important national asset and the future well-being of the nation depends on how its children grow and develop."

The Government of India has also, in pursuance of various constitutional provisions, evolved a National Policy for the welfare of children. This policy starts with a goal-oriented preambulatory introduction, as follows:

"The nation's children are a supremely important asset. Their nurture and solicitude are our responsibility. Children's programmes should find a prominent part in our national plans for the development of human resources, so that our children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skills and motivations needed by society. Equal opportunities for development to all children during the period of growth should be our aim, for this would serve our larger purpose of reducing inequality and ensuring social justice."

Any policy for the child has to look at the child as a whole; and unless we adopt a holistic approach, taking into consideration all the factors and forces, we have no right to talk about the rights of children. In *Unnikrishnan's* case, (AIR 1993 SC 2179), the Supreme Court has observed that the child has a fundamental right to get free primary education. But unfortunately the definition of 'child' in different laws is worded differently, which creates confusion. Therefore, obviously there should be uniformity in definition. In pursuance of the judgement of the Supreme Court the government wants to enact a law providing for the primary education of children. In the present law, a distinction is made between hazardous and other industries in the matter of employment, which is wholly artificial. If children are expected to enjoy a fundamental right to be educated, then their employment not only in all sorts of industries, but even in hotels and as domestic servants, will have to be banned — otherwise it will mean that on one side we are espousing a right, but taking it away by oblique methods.

The Declaration of the Rights of the Child adopted by the General Assembly of United Nations on 30th November, 1959, formulates several principles. It lays down that "mankind owes to the child the best it has to give." It further says that "a child of tender years shall not, save in exceptional circumstances, be separated from his mother. Society and the public authorities shall have the duty to extend particular care to children without a family and to those without adequate means of support." To say the least, this can not be denied to the children of prisoners.

The National Policy for Children spells out the measures which the Government of India is expected to adopt towards the achievement of its objectives. With respect to children of prisoners, specifically, certain provisions have been laid down in our law. For instance, when a woman is arrested the police is obliged to inform her immediate family or relatives and also to the Legal Aid Committee of the respective area. In the present report, reference has been made to a judgment of the Bombay High Court, to which I was a party. It is worthwhile to note that as per the directions given in the said judgement, Rule 114-A was inserted in the Bombay Police Manual. Sub Rule (3) (4) lays down, as follows:

"(3) If any woman is arrested and taken into custody by the police for remand along with her child which needs breast feeding, then the fact that the accused has a suckling child should be invariably mentioned in the arrest Panchnama, remand yadi and other relevant police records.

(4) While such child is in Police custody along with its mother, all reasonable care should be taken for welfare of the suckling child by providing milk, food, required clothes, clothing, bedding, etc. and the necessary medical aid."

But it appears that policies and rules framed are not carried out in letter and spirit. Even otherwise in our country we believe in

maximum legislation and minimum implementation. The main problem is of enforcement of policies, and this is the tragedy of the whole legislative process. In the social life of our country, there exists no machinery providing for checks and counter checks as to the implementation of laws or schemes. There is no institution which could be asked to carry out the duty of 'watching the watchman'. This is because of the lack of political will, apathy of government agencies, and the outlook of the society towards the children. It appears that since children do not constitute a vote bank, political parties have not taken their situation seriously enough.

The government and organizations like *Prayas* should undertake a comprehensive survey and evolve a policy based on community involvement. Efforts will have to be made to bridge the information gap, while simultaneously sensitizing governmental and non-governmental institutions about child rights. In implementing policies, special measures will have to be taken to safeguard the well-being of the girl child.

In substance, therefore, instead of a globalization of Economy, there should be globalization of Compassion.

The present report is restricted to children of female 'under trial' prisoners and the focus is entirely on the Indian situation. It is based on visits to prison as well as prisoners' homes. In my view this in-depth study discloses certain alarming problems, which deserve closer attention and scrutiny. I hope the report will help the authorities concerned to find solutions to the problems posed. *Prayas* should not stop here, but carry out more extensive and detailed investigation. This is absolutely necessary to understand the real problems being faced by crime-affected children.

I congratulate *Prayas*, and wish it all success in its future efforts.

ACKNOWLEDGEMENTS

Our gratitude, first of all, to the *women prisoners interviewed, and their families*, for having trusted us.

Prayas has been fortunate in receiving the continued support of *Justice Chandrashekhar S. Dharmadhikari*, (retired Judge of the Mumbai High Court). We are thankful to him for having agreed to write the Foreword to this report.

We are extremely grateful to the officials and staff of the Judiciary, Prisons, Police, Probation, Social Welfare, and Women and Child Welfare Departments in the two cities in which data were collected. We are also obligated to various non-government organisations (including residential institutions for children), and several individuals, for their cooperation, as well as the timely acts of assistance received by our staff during fieldwork. Having decided not to identify the cities from where data were collected, we are unable to acknowledge such association by name, and trust our reasons for not doing so will be appreciated.

Financial Aid

Our heartfelt appreciation for the funds generously granted by:

Concern India Foundation

Child Relief and You (CRY)

Board of Research Studies, Tata Institute of Social Sciences

Tata Trusts (Dorabji Tata Trust, R.D. Tata and Tata Social Welfare Trusts)

Seth Pestonji F. Davar Charitable Trust

Byramjee Foundation

Shri Rasheid Taleyarkhan, Trustee, J. J. Hospital Nursing Association

Shri Surendra Hiranandani, Lake View Developers

Mahindra and Mahindra Ltd

St. Michael's Church

Damania Airways

Transchem Ltd

jayam K., Furnishers

Ciba-Geigy

Neksons Exports

Aum Exports

Jairam Securities Pvt. Ltd

ESKAYDEE Leasing and Investments Pvt. Ltd

Shri Pashupati K. Advani

Ms. Honey Vezirani

Shri Homi Sethna

Publications Assistance: Publications Department, Tata Institute of Social Sciences

Editorial Assistance: *Dr Sudha Raghavendran*

Cover Design: *Shri Mukund Sawant (Audio Visual Unit, Tata Institute of Social Science)*

INTRODUCTION

UNDERTRIAL AND CONVICTED PRISONERS, AND THEIR CHILDREN

At the outset, perhaps a sort of 'rough-and-ready' legal sketch may be in order.

Prisoners

Strictly speaking, the word 'prisoner' includes persons confined in both police and prison custody. A cell inside a police station, or secured and guarded rooms attached to it, are usually referred to as 'lock up'. Here persons detained on suspicion, or arrested, are kept by the police for purposes of interrogation. Subsequently the suspect may be released unconditionally, released on bail, or transferred to what is termed as 'judicial custody' or 'prison'. If continuing to remain in prison (also referred to as 'jail') during the period of trial, the individual's legal status is that of an 'accused person'. To distinguish this category of prisoners from sentenced prisoners, the term commonly used by the administration is 'undertrial'.

The statutory provision of release on bail during the trial can be invoked. However, such an application could be rejected by the court. Alternatively, bail called out is sometimes not availed of

(for want of funds or persons willing to stand as sureties). Or, after being released, bail may be cancelled and the individual again taken into custody. In such a situation, the person remains in confinement until the case is disposed off. If found guilty and sentenced to a term in prison, an individual is now a 'convicted' prisoner.

His/her future period of imprisonment will now be under conditions different from before (that is, when an 'undertrial'). An appeal may be filed against the judgement. If admitted by the concerned court, the status of the individual reverts to that of 'undertrial'.

Children of Prisoners

The legal processing of an arrested person provides a significant and useful point of departure for appreciating the situation of his or her family. Thus, 'Children of Prisoners' — undertrial/ unconvicted or sentenced — could denote all of the following sub-groups:

- (i) Children born to mothers while in custody
- (ii) Minors (which includes infants being breast-fed) permitted to be taken into police or prison custody with their mothers
- (iii) Minors, taken into penal custody with their mothers, who have been later sent outside (before or after attaining the prescribed age-limit), while the mother remains incarcerated
- (iv) Minors taken into custody with their mothers, who
 - leave with their mothers (bail/discharge/acquittal/completion of sentence)
- (v) Minors left outside when either or both parents are taken into custody

- (vi) Adult — sometimes married — children of prisoners
- (vii) Adult or minor children, from a previous marriage, of persons in custody
- (viii) Minors who grow into adulthood while a parent is serving a sentence.

Of these, the most vulnerable are:

Minor Children In Prison

A woman prisoner, (either unconvicted or sentenced), is legally permitted to keep her very young children with her. These would usually be below the age of five years or so, any variation depending on the rules of the local administration. There is an age limit beyond which children cannot be taken in, or be kept inside any longer.

As a rule, this facility does not exist for male prisoners. The assumption obviously is that infants or very young children need their mothers more than their fathers — and so should not be separated from the former, as far as possible. Generally, the fact that a male prisoner may have a wife, or female relatives who can look after young children, is considered sufficient.

However, we have learnt of rare instances where the prison authorities have permitted a widower to bring in a young son into prison with him. Also, of magistrates who are equally sympathetic towards men in custody who are in dire need of help with their children. There is no reason to assume that the situation of children of imprisoned fathers can be ignored; that they do not need services, or investigation into their condition.

Depending on the period for which a mother is in prison, there are some children whose stay is brief, whereas others may be inside for a much longer period. And there are also those whose very birth has taken place in prison, and so have had no experience of 'normal' life.

The negative impact of living in prison, the forced adaptation of children to the prison environment, are very clearly observable especially amongst those whose stay is prolonged. Such children are, therefore, the subject of some concern. Prison administrations are supposed to provide for nurseries. Unfortunately, these are located in prison sections housing convicted (women) prisoners. The assumption is that 'undertrials' are released on bail quickly and so the mothers do not need this facility. But this is not the case, at least in the big cities.

Minor Children Outside Prison

The other category of minors is those who are either above the age of five, and so cannot be taken into prison — or those who are left outside for some other reason.

Minor children of women undertrial prisoners have been found to be in the situations listed below. (It is most likely that this broad range does not exhaust all possibilities, but these were regularly encountered. Moreover, the inherent instability of the situation may rapidly lead from one configuration to another.)

- (i) Single child living alone
- (ii) Siblings living alone, unsupported
- (iii) Siblings living with father
- (iv) Married elder sister moves in temporarily
- (v) Moving in with/looked after by relatives
- (vi) Supported by neighbours
- (vii) Looked after by parents' friend
- (viii) Living with employer
- (ix) Admitted into government or voluntary residential institutions
- (x) Runaway/untraceable

RATIONALE FOR STUDY AND INTERVENTION

Krupa Shah's Master's dissertation ("*Effect of Women's Imprisonment on their Children*", 1993) directly paved the way for *Prayas'* taking up the issue of children separated from their imprisoned mothers. Our work with women undertrials confirmed her findings that there was urgent need to reach out to their children simultaneously. Repeated experiences pointed out that children of prisoners, especially minors, (whether taken into prison or left outside), form a distinct group that needs special focus, and often immediate and individualised attention. Children of prisoners can be expected to have experienced trauma similar to other children suddenly deprived of one or both parents. On the other hand, there are also clear differences and handicaps.

In an attempt to deepen our own understanding, as well as widen the scope of prison/child welfare work, *Prayas* also initiated an action-research project in another city. Information there was collected between 1994-1997. The two cities have not been named in the report, because our focus is on the issues that need to be identified.

If asked about 'children of prisoners', most persons (including professionals) will tend to immediately think of young ones taken *into* prison with their mothers, vulnerable to the grim and disagreeable conditions of prison life. The general concern has been for the problems of such children. Dr. Kiran Bedi in her book "*It's Always Possible: Transforming One of the Largest Prisons in the World*" (1998), has extensively described the services developed during her tenure as Inspector General of Prisons within Tihar Central Prison, Delhi, for children below five years in with their mothers.

We have sometimes also been asked about how these children adjust when they are required to be removed from prison. But

somehow, the connection between children taken into prison and those who may have been left at home is not easily made, and needs to be pointed out.

The voluntary child-welfare sector, too, does not appear to have paid much attention here, as a whole. We must admit that this is a general observation, to which there are exceptions. Services such as financial/educational support or a student's hostel for children of prisoners have been organised in a few states in India.

The prison/welfare departments *do* accord some recognition. Limited schemes for 'dependents of prisoners', or grant-in-aid schemes for voluntary organisations working for prisoners have been framed. Nurseries exist in many prisons, primarily for children of convicted women prisoners. (One idea mooted was a nursery *outside* the women's section of prison, so that children inside prison with their mothers could spend some time outside during the day.)

However, we have found that this group has remained largely invisible as a specific category, and gets excluded even from the group generally defined as 'vulnerable children'. Even the National Plan of Action formulated in 1992 by the Department of Women and Child Welfare, Government of India, has not so far identified this group or included it in the category of 'Children in Especially Difficult Circumstances'.

Therefore, while there *is* some attention being paid, what does not exist as yet is an *overall* approach to children of prisoners which includes clearly-defined departmental responsibilities, legal remedies, and supportive field services.

INDIAN LITERATURE ON THE SUBJECT

There is little published material on the subject of children of prisoners. Student theses on families/children of prisoners have been undertaken. Dr. Vandana Chakravarti, studied families of male prisoners in Maharashtra (*"Situation of Families of Prisoners in Greater Bombay and Thane District,"* 1987). Krupa Shah undertook her Master's thesis (*"Effect of Women's Imprisonment on their Children,"* 1993) as a consequence of her student field work in a residential institution for girls, where she met children whose father was imprisoned for the murder of their mother. Anjali Aggarwal's Master's dissertation (*"Tender Years Behind The Bars: Children of Women Prisoners,"* 1999) has focused on the effect of imprisonment on the problems in growth and development of children taken into prison with their mothers.

Children left outside, as well as those transferred from prison to government-run children's homes, are briefly referred to in an Indian Express report (October 24, 1994) titled *"Better Days Ahead for Convicts' Kids Born Inside Tihar"* reproduced in Dr. Kiran Bedi's book. Other relevant items carried by newspapers have been about, for instance, police officers who have informally helped the children of persons they have arrested; children taken *into* prison; children who were witness to incidents leading to a parent's arrest, etc. Some clippings have been included in the present report as well.

OUTSIDE INDIA

Information from abroad has not been reviewed in this report. Books by scholars such as Roger Shaw (*"Children of Imprisoned Fathers,"* 1987) and Jocelyn Pollock-Byrne (*"Women, Prison and Crime,"* 1990) have been very helpful. A description of services by the latter has been summarised in Chapter V. While various libraries would be a good source, information with respect to

the effect of parents' incarceration on children, and services available can be obtained from the Internet as well (for example: <http://www.fcnetwork.org>, <http://auseinet.flinders.edu.au/resources/auseinet/stream2/stre006.php>, <http://www.dci-au.org/html/prisoners.html>)

PERCEPTIONS ENCOUNTERED DURING FIELD WORK

Instead of an informed view about this group, what we have often encountered, (and found both revealing and distressing), has been a diversity of emotionally-tinged reactions. We feel they are worth mentioning.

"Yes, prisoners' children may need to be paid attention to, because they are likely to turn to offending themselves, as their parents are criminals."

Such an opinion, if expressed by a layman, is not surprising. But what is disappointing is to hear it come from senior persons in the *concerned* government departments or reputed child welfare agencies, (not excluding international organisations working in India).

Offending by a young person may take place for a variety of reasons, as even a cursory review of the literature on delinquency/children in distress will indicate. While an adolescent *may* 'go astray' because of the deviant lifestyle of a parent, in our own experience (so far) this is not the rule. Moreover, it does not apply to all the children of such an individual.

In fact, some thought should be given to the following:

- If *any* norm broken by a prisoner's child, no matter how minor and whatever the context, is thoughtlessly equated

with criminality, would this not significantly affect such a child's opportunities for a better future?

- Can any simple equation be drawn between a mother's alleged crime and her offsprings' subsequent deviant behaviour?

Selectively highlighting the possibility of offending serves to conceal certain other realities, especially if a parent has been arrested for the first time:

- Most children of prisoners are likely to be frightened *away* from the law. Other groups, such as street-children, may develop a 'smooth' working relationship with the police. But for children of prisoners, the system appears rigid and hard to perforate. In trying to reach their incarcerated parent, they can only form a troubled and uncomfortable relationship with the authorities, who are seen as 'punishers'.
- A sequence of negative and often drastic changes begins to unfold itself when a parent is arrested. How is a youngster supposed to deal with this? How are intellectual and emotional development, self-perception, relationships, daily life, future, affected?
- It is likely that children are victimised, rather than criminalized, by the excessive and debilitating physical and emotional demands placed on them in disorganised or brutalised families or environments.

Finally — to take a legalistic position here — at any given point of time there is an undertrial population in prison, which is 'innocent until proven guilty'. Yet, children of undertrials too seem liable to suffer the stigma following from a general tendency to presume that 'any person in prison is a criminal'.

It is necessary to take a detailed view of the effect of parents' being in penal custody, as an independent concern.

"Why have you not instead focused on children of victims — are they not more 'deserving'?"

There can hardly be any argument on the question of whether children of victims of crime, (or as victims themselves, for that matter), suffer or not. However, can it be assumed that therefore children of offenders are 'less deserving'? Children are children, and no such superficial and unkind discrimination should be made.

"How is this group worse off than others separated from parents or otherwise in distress, for instance poor children, orphans, or children of alcoholic or divorced parents? Are you not glamorising their situation?"

The supposition here appears to be that if offenders are capable of committing crime, they are also capable of protecting their young ones. These adults are not disadvantaged but are wrongdoers; therefore, they and their families should not get any special attention. Their children's problems cannot be greater than those of other children in distress, and it would be unfair not to create resources first for the most needy.

Our response is that child welfare work has indicated how different categories of 'children in difficult circumstances' are faced with both common and specific handicaps and burdens. These should be identified.

In the case of children of prisoners, for instance, they too may come from poor or broken families. Prolonged uncertainty about their future, about separation and union, (due to the length of a parent's imprisonment), is perhaps unique to these children.

Their parents are present, and yet absent.

Moreover they especially — on account of their parents — directly and continuously confront the criminal justice apparatus, (including corruption), and the exposure and stigma that attaches to imprisoned persons.

A society and an administration that cares for children should ensure that each child receives its due, which is a constitutional commitment to children in this country.

"This is their destiny, nothing can be done. The children have to live with it."

There have been such sympathetic, yet fatalistic, responses as well. Perhaps this is true to some extent. Facts cannot be erased. Deep-rooted societal apprehensions and prejudices, partly self-protective, cannot be argued away.

But the current trend, of bringing into focus the effect of the adult world's strains and conflicts on young persons, is a message of hope. It should result in a deeper comprehension, and consequently, a more adequate and organised response towards altering the affected children's perceptions of themselves and their future.

FRAMEWORK AND LIMITATIONS OF PRAYAS' STUDY AND INTERVENTION

Objectives

The specific objectives of our work in this area have been:

- (i) To learn about the impact of a mother's arrest and imprisonment on her children
- (ii) To respond to emergencies, intervene protectively, and make necessary services available in and outside prison

- (iii) To study the family, neighbourhood and community response to the situation of women prisoners' children
- (iv) To understand the response of the concerned agencies of the Justice and Welfare administrations
- (v) To identify, through intervention, the availability and usefulness of both general and specific services being offered by the government and voluntary sectors
- (vi) To derive insights and make suggestions with respect to Government policy and procedures, as well as voluntary efforts in this field.

Sources of Information

- (i) Interviews with women **undertrial** prisoners in **two** central prisons.
- (ii) Interviews with families of women prisoners who were interviewed, their children left outside, and children's caretakers (during home visits).
- (iii) Interviews with government officials with regard to services, schemes and documents regarding children of prisoners specifically, as well as children in general.
- (iv) Interviews conducted at child welfare agencies and other non-governmental organisations.
- (v) Observations by researchers and social workers of *Prayas*.

The opportunity for sustained observation is not available while conducting investigations limited in time. However, service-delivery, too, limits the scope of study, as it inevitably conditions the client-social worker relationship towards a specific direction. We were fortunate in being able to observe the advantages and

limitations of both modes of understanding : in our interventions in one prison, and the study (conducted with the help of interview schedules designed separately for women prisoners and children/caretakers) in another.

Limitations, and Suggestions for Future Research

Why not convicted prisoners?

The report focuses on women undertrial prisoners due to the following reasons:

- (i) The convicted population in the two prisons was considerably smaller than the undertrial population.
- (ii) Sentenced prisoners had spent relatively more time in prison. They had, therefore, worked out their own ways of maintaining their children outside, and did not need help.
- (iii) Convicts had formed longer and better connections with prison staff and other prisoners, which enhanced their access to services.
- (iv) There was a tendency — more pronounced amongst convicted persons — towards cynicism in relation to any kind of prospective service. "*Kucch nahin hoga* (Nothing will happen)." This cynicism seemed also due to an over-exposure to visitors enquiring into their situation. "*Sab apne matlab ke liye aate hain* (Everyone comes here for their own purposes!!)." Thus, not being inclined to try out new options, they would not feel the need to approach a new category of 'helper'.
- (v) Convicts were relatively busier than undertrials. As they had prison duties assigned to them, they were occupied most of the time. Undertrials, according to procedure, cannot be forced to work.

Why not male prisoners?

As a small agency we are not yet in a position to comprehensively cover families of male prisoners. However, a beginning has been made.

Need for related studies

The present report does not also address many other important questions. *Prayas* continues to further develop its understanding through dealing with an increasing range of situations, and interacting with sister agencies. However, specific aspects need to be researched, and it is hoped that some of the following areas will be considered by our colleagues in the field:

- A comparison of children of prisoners with other groups of children separated from their parent/s.
- A comparative study of the situation of children of men and women (undertrial and sentenced) prisoners.
- A comparative study of the situation in police custody, sub-jails, district and central prisons.
- A comparative study of children of parents arrested under various legal provisions.
- The effect of imprisonment on small children born in custody, or taken into police/prison custody along with their mothers; effect on their adjustment outside after leaving prison (with or without their mothers).
- A longitudinal study of the effect of imprisonment on prisoners' families.
- An identification of specific variables affecting the ability of prisoners families' to cope with their change in status, or use available resources. (For example, rural/urban

background, economic conditions, Socio-cultural background, migrant status, structure of families, educational level, etc.).

- When an imprisoned parent is released, what is the kind of relationship that gets reestablished with children?
- What are the causes, form and extent of children of prisoners' involvement in offending?
- The exercise of rights over, and by, children of prisoners (especially if there is a dispute between parents, or when one parent has been imprisoned for the death of the other).
- A survey of government and voluntary services for children of prisoners; the nature of intervention by various informal agencies in the lives of prisoners' children.
- A survey of the implementation of the Juvenile Justice Act in relation to children whose parents have been taken into police or prison custody.
- Follow-up studies of children of prisoners who have been admitted into Children's Homes.

Report Writing (and a personal statement)

The approach adopted in writing up the data has been to develop a 'construct' built from material obtained from all the sources mentioned above, and to present an argument in favour of policy and services for children of prisoners.

If this invites the twin criticisms of over-projecting from limited data, or being partial, these are not being contested. As a precaution, the cities where study and intervention were undertaken have not been identified. It was intended to draw attention to the subject as a whole, and it is hoped that the final

chapter, covering the issue of policy will provide the necessary counter to any imbalance that may have, unintentionally, entered the report.

During or after home visits, our staff have reported experiencing mixed feelings. On the one hand was a sense of despondency, on seeing many children's utter vulnerability in the face of a harsh or unfair situation. On the other was admiration for their struggle to meet these new and difficult circumstances in whatever way was possible for them, with whatever resource or understanding they could muster.

Like certain other spheres of human existence, the world of crime and criminal justice are, literally, negative by definition. Without trying to justify a weakness, it must be said that it has been difficult to remain unaffected by the tone of fatalism and helplessness conveyed by many of our respondents.

In conclusion, our apologies for any statements or impressions that are felt to be inaccurate. We look forward to your feedback.

PROFILE: MOTHER INSIDE

Putra-virah
(Separation from a son)

"I will never forget the days passed in prison. What we are doing, in temptation, we have no awareness of. But before, if we did not know right from wrong, when we suffer the consequences later, do we at least *then* recognise our mistakes?

I did not imagine even in my dreams that I would have to face such severe punishment. My child, a part of my heart, my life, at one end and me at another. A mother who could not meet her responsibilities as mother, this I cannot forget. I am mother only in name.

I'm alive, but my child exists as if an orphan. How much his child's mind must suffer. Now in prison, my tormented being yearns to be with him.

Oh God, protect my little one! Add more torment to the life of this foolish woman. Lord, who knows how my child is? Whom will he demand things from, get playfully angry with? At this age other children grow up firmly grasping their parents' hands, then why such sorrow in my child's fate, from birth itself? And I myself have never given him anything but unhappiness. Only I know the wounds of this separation. I am alive, but my child passes his days in a remand home. How big a culprit of my child's circumstances I am, what right have I to ask for his forgiveness? I am myself ashamed to call myself 'mother'.

*Contribution of a prisoner to a magazine; 'Umang Patrika', May, 1996
(translated)*

ANXIETY ABOUT CHILDREN

The separation of a mother from her children, on being arrested and subsequently imprisoned, leads to a series of rapid changes in the lives of both. For many women, especially first-timers, this is certainly one of the worst aspects of imprisonment. The following narrations may convey more vividly how five mothers recalled being forced apart from their children.

- S. and her husband were arrested on a charge of murder, and after a few days in police custody were transferred to prison. Their only son, an eight-year old, was brought to the police station for questioning. The police repeatedly asked him questions regarding the murder. The parents were not allowed to talk to the child, and the child kept screaming — *"Mummy mujhe akele mat chhodo, mujhe sath le jaiye* (Mother don't leave me alone, take me with you)." Afterwards the police released the boy (so the parents were told), but they had no idea about where he went and what had happened to him. S. was worried sick and frightened. All her thoughts revolved around the whereabouts of the child, how he was managing, how he was feeding himself, or who was now looking after him. Subsequently, it was found that the child had been institutionalised.
- M. was a young widow. On her arrest, her son was taken away by the grandparents to their native village, while her four young daughters were left to manage on their own. The eldest girl was 14-years old, earning, and looking after the others. The mother was endlessly worried about their safety, their meals, who cooked, or how the little ones managed without the elder sister when she was away at work.
- When R. was arrested, she said, her younger daughters were physically pulled away from her by the police. The eldest daughter was at the time down with malaria. Like the other women, R. was preoccupied all the time with

thoughts about her children, and anxious about the girls, their health, their food, clothing and medicines.

- P. was arrested on the charge of murdering her husband. Her children were in the custody of her in-laws, and she had absolutely no contact with them. Relations with the husband's family having broken down, P. was troubled about whether the children were being looked after properly or not. Her children were very small and needed a lot of care, and P. did not trust her in-laws. In her opinion, they had bad habits and she was afraid the children would learn all these. Equally worrisome was the prospect of permanently losing custody of the children.
- L. was not arrested while at home, and needed (but was not permitted) to meet and tell her children that she was being taken to prison. She was anxious for the children's well-being, and about whether they knew what had happened to her. She couldn't get word across to them. She constantly thought about the children and what they would do — everything had happened so suddenly.

The disruption in the relationship between mother and child could occur not only at the time of imprisonment, but from the moment of arrest itself — perhaps at home. The mother was taken away by the police, sometimes in the presence of the children, sometimes in their absence. In cases where family members were present, they were aware that she had been taken away by the police. But if she was arrested away from home — at the market place, at work, on the road, or when attending a hearing at court — it took the family longer to find out about her whereabouts.

In the interaction of the police and the woman arrested, the officer concerned appeared to be clear about his purpose (arrest, or calling the woman to the police station for questioning which could lead to an arrest); the woman herself seemed to have

been unprepared for either the arrest or the manner in which it was effected. (The reasons for this have not been studied.)

After being arrested, most women reported, they were not allowed time to meet their children. Many also mentioned not being informed that rules permitted their taking into custody with them children below five years. So babies a few months old, too, were left behind — at least initially. The police had apparently assured them that they would be permitted to return home. This gives one the impression that several women were initially not able to make provision or arrangements for the children's care, or perhaps anticipating an early release/bail, did not feel the need to make more secure arrangements. Children may have been left in the care of neighbours with the understanding that the mother would be gone only for a short while. But many did not return from the police station, and no one knew when they would.

Where a child was present at the time of arrest, the forcible separation, in fact the suddenness with which the situation was precipitated, appeared to have left many women at a loss about what action to take for him or her right then.

At the police station, mothers reported having helplessly watched children being shocked at the occurrence of events: the ill-treatment meted out to their mother, abusive language, the harsh rupture and being sent back home without the mother. Later, while in police custody, respondents reported being more upset about the effect of the events on their children, and what they would now do without their mothers, than about their own condition. From here itself started the endless worrying about children's protection and care. Whatever money they were carrying had been given to the children, or to the police, to ensure that the children reached home safely. Now in custody, and no longer able to play the role of mother, women worried about uncooked meals and dwindling stocks of food and

provisions. "It was the end of the month, so there were hardly any provisions left", said one prisoner. Intimately related to this was anxiety about whether husbands ("their father does not know how to cook!"), relatives or neighbours/acquaintances could be expected to take care of the children while they were in custody.

Women arrested for the first time have also to confront the criminal justice system in all its aspects. Those who were transferred to judicial custody (prison), if not immediately released on bail, developed tremendous anxiety about the legal aspects of the situation. If without much outside support, they had to grasp the basics of legal process, find help to deal with the case in court, encounter frustrations on account of lawyers, arrange for money needed for bail and for continued legal service.

Despite all this, however, it appeared that the prime cause for anxiety remained children left outside. Women built negative pictures of the probable situation at home. They saw children not having enough to eat, or eating stale food, or stuff off the roads at the end of the day, because there was no one to cook fresh food for them — as the mothers themselves used to. They worried about other unfulfilled needs, unsafe shelter, disrupted education, neglect of daily hygiene, the cold and the rain, illness, loss of property, theft, threats to security from anti-social persons, rumours of children missing or having been kidnapped, and much else besides. Anxiety became more acute in the absence of contact and information. Many women had not received any visits after imprisonment; some also knew that there was hardly any money at home to provide the fare for transport to prison.

Researchers' home visits suggested that the mothers' perceptions of their children's present situation could be exaggerated, (though not unrealistic). This was understandable, considering

the fact that mothers now had no direct access to their home, and depended almost entirely on family visits or other contacts for information.

THE PERCEIVED SOLUTION

Shah reports how women prisoners viewed their children's position, and sought assistance regardless of legal status:

- "If I have done the crime, why should my children suffer?",
- "If I have not done the crime, why should my children suffer?"

When one mother was asked about her child's needs, she replied: "When you have kept a child away from his mother, what is the point of trying to find out what his needs are, or providing for them?" Many others would point out that when they were at home, their children had no problems. Now, obviously, they *would* suffer all kinds of deprivation. The logic of the argument, therefore, was self-evident: if anyone wanted to help the children, they should restore the mothers to their families. (This implied financial help with release on bail, or supporting the mothers' decision to initiate remedial processes from within prison.)

For most mothers, the best solution to all the problems of their children was that they should be released at the earliest. Dealing with legal matters then became purposive to the extent that this meant, literally, 'finding a way out'. Giving bail to mothers was repeatedly stressed, as also the need for giving priority to cases of women — so that hearings were more frequent, court appearances not delayed for want of escort or other reason, and judicial decisions taken sooner than at present. Where both parents were in custody, mothers insisted that children were much worse off than where one parent remained outside. They stressed the need for the law to pay attention to such cases, and

demanded that at least the mother should be bailed out to take care of the family.*

FEAR OF LOSS OF ROLE AND DECISION-MAKING

- " When I went home on bail two of my daughters did not recognise me."

In many women's acute anxiety about the welfare of their children, one also sensed an underlying fear of being cut off; of losing effective custody, or control over decision-making.

Shah's study reports a mother of two children expressing her loss of "power as a mother over her children". The woman was imprisoned when the children were very young, and had spent a long period in prison. One child failed to recognise her, while the other had stopped paying heed to her mother's instructions.

One reaction was to project an alarming picture of the situation at home, attributing the plight of children to their mothers' being in prison. Many prisoners completely believed that their removal from their child's life was a vacuum that could never be filled by anyone else. An imprisoned woman, they seemed to imply, was not only cut off from life, but her entire family was thrown into disarray. Only a mother could repair all that

*Here, one may mention doubts that exist amongst 'insiders' about whether some women prisoners are using their children as a means of exerting pressure on the courts. If it works, are women prisoners without children thereby discriminated against? In this connection, it may be mentioned that in general, the law provides sufficient discretion to magistrates to consider releasing women on bail even in serious cases. For instance, section 437 of the Criminal Procedure Code provides that, even though a person who is a woman/ under 16 years/ sick/ infirm has been arrested in an offence punishable with imprisonment for seven years or more, or life imprisonment, or death — and been previously convicted on two or more occasions — the court may direct that they be released on bail. However, in reality, even though bail may be called out, a large number of women are unable to avail of it, at least initially, for socio-economic reasons. Many prisoners interpreted this as the authorities' unwillingness to use their discretion to take family circumstances into account.

was amiss at home. The sense of isolation from the family, and particularly the continuing loss *of* the role *of* mother, appeared to create a need for a prisoner to prove how important she was *to* her child.

Woman after woman tried to convey how badly she was needed at home:

- "The first and most important need is the mother."
- "For the child only the mother is the provider."
- "Mother is Mother — they want *me* with them. They want me to come out."
- "A child will stay hungry with his mother, but without the mother will not even eat."
- "I am their mother. I know what they need."

The unanimous opinion in the women's section of prison — echoed, we found, by not a few temporary caretakers of the children outside — was that no one but the mother herself 'knew' her children, and therefore could take care of them best.* "Mothers are after all mothers", and "Caretakers are after all only caretakers." They could never treat the child of the prisoner as one of their own. Husbands were often absent, for various reasons. However, even if present at home, mothers felt they could not be expected to give children the same care. Their best efforts would not be half as good as the mothers'. It would be difficult to find suitable substitutes; no one else would bother about the children's basic habits and supervise their routine; other adults would have their own limitations, and so on.

* There were women who vociferously asked for children to be visited, but did not, however, show much interest in discussing what steps should be taken to improve the children's situation. There were also instances where, upon visiting some mothers after their release, our workers got the impression that the anguish expressed (during imprisonment) over children's well being was incongruous with the neglect shown towards some aspects of child care. Even so, the children appeared to be emotionally better off than when the mothers were in prison.

Also, no one else could be acceptable to their children. A child would not understand if anyone other than the mother were to scold him.

The issue of decision-making is necessarily related to that of owning or claiming exclusive responsibility, which to the women was self-evident. When we asked: "Whose responsibility is a child left outside?", most women appeared confused by the question. The researcher had to hint, for instance, at 'the Government', which possibility had never even occurred to them before. Evidently, women *did* perceive the children's situation to be a consequence of their arrest (State action); yet, they could not (or would not) hold the State responsible for subsequently taking care of the children.

Neither could this prime responsibility be easily assigned to any other person, for it would amount to imagining or admitting an alternative to themselves. In no case had any mother asked for a substitute parental figure.

Nevertheless, when pushed for answers — considering the reality of their continued imprisonment — the immediate family or relatives seemed to be the first choice. Husband, eldest son, sister, sister-in-law, mother, and so on. The police are no choice at all. A magistrate could do much to help, by issuing orders.

But even if the Government were responsible, it was the mother who had to see that things moved. In fact, one opinion emphatically expressed was that prisoners were themselves to blame for not taking the initiative. Simply requesting the authorities and expecting help to arrive would obviously not work. This prisoner asserted that it was her own persistence that led to securing her children's safety, and she now felt hopeful about their future.

Thus, incarcerated women could be expected to act towards retaining control over their children outside, partly by mobilising resources for their welfare.

TYPE OF HELP NEEDED FOR CHILDREN

Shah's study is useful here in identifying the areas in which imprisoned women felt they needed help in relation to their children:

- Locating children who have run away from home, and taking care of them till the mother is released
- Bringing smaller children into prison with them
- Keeping the family informed about the prisoner
- Providing help to meet the children
- Admitting children to boarding school so that they are not 'spoiled'
- Financial help for the children
- Ensuring that children are going to school and that teachers are not told that the mother is in prison
- Helping children find jobs, or providing the parents with jobs after their release.

WAYS IN WHICH MOTHERS HAVE ACTUALLY HELPED CHILDREN

A disturbed, concerned and motivated mother could be a fairly effective agent in relation to her children, even from within the walls of prison. Despite the limitations imposed by incarceration, she strived in many ingenious ways to reach out to sustain the mother-child bond. Indeed, to keep her presence 'alive', as it were, for the children.

Most women were alert about finding out where, or with whom, their child presently was, and about whether their instructions for children were being followed. If it became evident that, instead of being released soon, a woman was going to be inside for a while, every effort was made to bring the child to a chosen person or place, and to reach help if necessary.

Although the picture varied somewhat between the two prisons studied (mainly in terms of facilities available that the women could use), the kinds of action attempted by the women were similar:

- (i) Setting into motion formal legal or administrative processes
- (ii) Gaining access to existing welfare schemes or facilities
- (iii) Approaching senior prison officers formally to intervene where children faced a problem
- (iv) Using informal relationships built with prison/ward staff
- (v) Building up emotional pressure in the women's yard
- (vi) Earning money in the kitchen/ workshop to send home
- (vii) Earning money by working for other prisoners
- (viii) Requesting other prisoners for assistance
- (ix) Approaching visitors to prison
- (x) Letter-writing to keep contacts alive/muster assistance/ prevent damaging action by in-laws, etc
- (xi) Attempting to use prior contacts with police
- (xii) Sending children messages, information, or articles of need

- (xiii) Using the family visit (or '*mulaqat*')*
- (xiv) Requesting neighbours to help the children
- (xv) Planning illegal actions to counter threats to children
- (xvi) Getting the child to demand in court a meeting with the mother, and for the judge to expedite the case.

A more factual description of what is a significant process is being presented below:

Prison regulations permit a child below the age of 5 years to be brought in with the mother into prison, and many availed of this facility. On the other hand, some women preferred to leave even infants at home, for fear of the unwholesome atmosphere of prison (and their missing out being admitted to a nursery outside).

However, in the absence of satisfactory caretaking arrangements, residential institutions — an option some other prisoners have already tried — come to be considered. Mothers have moved officials/official procedures to institutionalise their children.

T., for instance, untiringly pressed the Assistant Superintendent and Prison Social Welfare Officer to take notice of the situation of her children. Taking their help in exploring different options, she succeeded in obtaining admission for her children into an institution.

Whatever provisions were available, mothers appeared to select a particular option after being assured or convinced it was the best.

The feeling of urgency in being re-united with children makes most women try somehow to obtain bail. Some are able to

* State Prison Manuals permit prisoners to meet with their relatives, friends, or lawyers 'as per rules', or at the discretion of the Superintendent. Rules could vary between different state administrations.

arrange for lawyers for the purpose. This depends on resourcefulness, and all sources are tried — from family members outside to other women in prison. One mother discovered the effectiveness of using medical papers to speed up bail proceedings.

One prison had devised a system — a box sent into the wards everyday — whereby prisoners could communicate their difficulties to the Inspector General and Deputy Inspector General of Prisons. This was used ingeniously by some mothers. For instance, C. was able to move the authorities to personally act to prevent her children from being intimidated and threatened by 'the opposite party'.

A, too, on learning that her children were in danger, forcefully brought this to the notice of nearly everyone — inmates and staff — by not eating, crying, and falling ill. This attention resulted in prison officials intervening in the situation.

In fact, any official who appeared sympathetic was approached for such intervention. N. needed to locate her son — left outside without anyone to take care, and last seen by her at the lock-up. She conscientiously followed up with every official she came in contact with. Not only did N. manage to figure out the boy's whereabouts, but was also subsequently able to meet him.

Some mothers have approached staff for personal favours: persuading a Warder or Assistant Superintendent to buy and send articles needed by the children outside, or borrowing money for the purpose. In return, a prisoner might do some personal work for them.

Judges have been requested, through personal applications or lawyers, to permit bringing a young child to the mother inside prison, order institutionalisation of a child outside, reduce bail

amount, grant leave on medical grounds, speed up parole (leave for emergency) proceedings, and reduce a prison sentence.

Literate women prisoners earned some money for themselves or their families by writing letters or applications for bail, or leave on medical grounds, for others.

In one prison there were various opportunities for even undertrial prisoners to work and be paid. Women who knew how to cook, sew, knit, or weave — or opted to learn these skills — could earn. For instance, the Department of Social Welfare ran a tailoring workshop where women learnt to sew using machines. Women also used this to sew clothes for each other for payment or even for the prison staff. There was also a workshop run by a private individual, commercially; women were taught to knit or weave woollen articles, and were paid well. Women who worked in the kitchen were also paid a stipend. Poorer prisoners often worked for those with money — washing their clothes, for example.

Women also 'earned' by selling to other inmates necessary items brought for them by visitors, or those provided in prison such as tea, milk, eggs (given as part of special diet).

Frequent letter-writing has been resorted to in cases of urgent need for assistance, or even to threaten a perceived opponent (eg. preventing a father-in-law from selling off property).

Women approached for favours not only individuals (including legal aid workers/social workers /researchers /students) who entered the ward on a regular basis, but also visitors whom they may have met for the first time: to carry a message, post letters, make a telephone call.

The court and prison visits by families (*'mulaqat'*) are the two direct means available for communication between mothers and

children. While emotionally the exchange is often distressful to both, a mother can actually see how her children now are, learn about what they are facing, how they are coping, and whether they need help. She receives information and gives instructions and guidance. The *mulaqat*, to a large extent because of its charged emotional significance, reinforces the prisoners' role as mother. The children's emotional attachment and dependence help her retain some influence over decision-making in their lives.

An unusual situation also needs to be reported here. It has been mentioned earlier how seriously mothers viewed any possible threat to the security of their children. Not only were their reactions strongly verbalised, they also tried whatever legal options were available. Applications were made to the police, prison, and court authorities requesting protection for the children.

One desperate woman went even beyond this, and suggested to her children that the threat should be disposed off through 'other' means. Our researchers learnt about this from the children. What was equally unfortunate was that the children did not seem to find anything wrong with the plan. If it could be worked out successfully, and did not involve any risk for them, they were willing to go along with it.

This instance spoke volumes about the extreme vulnerability of some families. Not only were they living in a dangerous environment, the children were dependent on a parent already in trouble, who could get them (and herself) into deeper trouble — and both seemed unaware of this!

HOW EFFECTIVE CAN A WOMAN BE FROM INSIDE?

An option tried reflects not only a woman's own capacity to help herself, but also the prison sub-culture. The stark reality,

of today being an individual imprisoned for harming society, co-exists with a collective assertion of traditional values such as femininity and motherhood. Thus, information or past experiences are all woven into the shared ethos, available as suggestions for any new prisoner. By symbolically and actually invoking the image of 'mother' one can perhaps overcome the barriers imposed by the label 'prisoner'.

However, while we describe the several kinds of efforts to help children left outside, it would be erroneous to conclude that therefore there was 'no problem'. For one, not every woman was able to make use of the options available, or create avenues for herself. And those who could, how effective were their efforts?

A prisoner's effectively being able to *initiate* actions from within prison depended largely on factors such as resources, assertiveness, education, quality of relationships, and previous experiences in crime or prison. What could be manageable for X may be an insurmountable obstacle for Y. Capacities may break down; one could, at least temporarily, lose one's balance.

Those comparatively more outgoing, aggressive and gregarious managed to get access to more information on channels of help, official and otherwise. They also got work done faster, plainly because of their assertiveness. Exaggerating the problems being faced by children was effectively used by some to pressurise the prison administration to act. In contrast, the subdued took more time, and appeared to have been largely unnoticed and unaided as regards their children.

Persistent mothers not only somehow got help across to children, but also influenced decision-making at home. N., for instance, was determined that her daughter continue her education, although the girl herself was all set to drop out. By constantly

sending messages to the daughter through visitors and social workers, the mother put enough pressure to ensure that this did not happen.

Being educated or experienced also made a difference. Educated women appeared to be more confident, and carried a sense of superiority. Being thus 'better equipped' gave them more authority and publicity within the walls of the ward, and put them in a better position to draw on services and informal channels of help than the unschooled or lesser educated.

This was also true of women who were in prison for a second or subsequent term, or were regularly engaged in an illegal business like drug-peddling. Appearing to be worldly-wise and confident, they had an edge over those arrested for the first time. Earlier experiences of imprisonment had taught them what were the best options for their children. First-timers had yet to learn, through trial-and-error.

The nature and extent of assistance a woman could mobilise depended considerably on her capacity for creating and maintaining relationships in and outside prison. She tested out the effectiveness and reliability of the various networks open to her — formal relations with prison staff/informal prison networks/family members/visitors to prison — for what each option could or could not offer.

Relationships based on a previous deviant lifestyle were also significant, as they continued to be maintained and utilised for further support within prison for the women, and outside for their children. Similarly, those living as neighbours in a community in which illegal activities were common also sometimes depended on each other for support in such situations.

In sum: Most women in prison were anxious about their families, and keeping the mother-child bond alive was an imperative. Getting out on bail was the immediate and only solution; but till then, they needed to keep in touch with their children and retain control over whatever was now happening at home. Whatever came to anyone's mind, they tried. For some it was a huge, desperate effort; for others, perhaps less. Attempts could succeed or fail, but as our researcher reported: "I never met a woman who had given up trying."

COMMUNICATION BETWEEN MOTHER AND FAMILY

For those who did not get released on bail quickly the days stretched out, and women succumbed to the reality of being in prison. They understood that their position as main provider and protector of their children had weakened. Roles were being reversed; it was they, instead, who were growing dependent in various ways. For instance, a woman's own mental picture of the scenario at home was often static, as she last remembered it, or imbued with anxiety about various dangers. During prison visits she needed to learn from the children about the actual situation. Yet it appeared that children were often shielding her from what they felt, and that in her present state, she need not be told. The mother, however, sensed this and made her own assessment of the state of affairs. Many often felt dejected about not being fully informed, or in a position to affect the inevitable process of change and adaptation. The children, in their turn, seemed to worry less about the mother's perceptions than about her health, her state, her welfare in prison, her relationships, and how the staff were treating her — especially after what they had witnessed at the police station. (Some had also acquired frightening images about prison.) Mothers were often overwhelmed with distress about what children have had to undergo as a consequence of their incarceration. A young child must now see its mother behind bars in a distant unknown

place, carry on his or her young shoulders burdens at home which were hers, assume responsibility for her legal problems. All this affects her tremendously. In the '*mulaqat*' what is communicated both ways is mostly mutual anxiety.

Thus, when women prisoners were asked whether their children could be visited (for the purposes of the study or intervention), this was mostly welcomed, because information could be obtained and messages could be sent and received.

The content of this communication is useful in understanding many aspects of infra-family relationships, as also the reality at home after the mother's arrest. The exchanges are equally significant *as messages* — touching in their attempt to overcome barriers. Given below are common themes:

(a) The Need for Information about Children's Well — Being

A persistent request to us was to visit home and find out about how the children were, and whether they had problems. This was either because there was no news, or because children did not seem to be speaking up during the prison visits. "My children said nothing about their situation at home." Some mothers also wanted us to check out if their children were continuing with their studies.

At times, a desperate mother needed to know *where* a child was. "Please find out the whereabouts of my children. At least ask the old woman how my daughter got lost, because (it seems) she was missing from home. Did somebody come? Did she go with someone?" And in an extreme case: "Please find out for sure whether my 13-year old daughter is really dead!"

(b) The Need to Protect the Family

Many anxious messages conveyed to children were that they should move out to safer places, avoid dangers in the present

environment, or behave carefully. There were also messages for husbands or other caretakers.

- "Ask them to go to *nani's* (their maternal grandmother's) house."
- "Behave properly, don't cry, don't fight — keep the children away from the public toilets and drains."
- "Please protect the property, ration card, documents, jewellery — don't sell it if you are in need, only mortgage it."
- "Please tell my children not to go anywhere, especially the girl. Tell them to lock the house and sleep."
- "Keep an eye on the caretaker."
- "Please meet_____. Ask her to take care of children. Don't let them roam around."
- "If (this) happens, meet_____(The mother specifies the relatives who should be approached)."

(c) Reassuring the Family

- "Please console the children. Tell them about the situation inside — that it is not as bad as they may imagine it to be. Please explain to them. Please ask them not to let go of their education. Ask them to complete the admission procedures even if I am held here for longer."
- A message for the husband: "Please don't worry about me. Eat well. If you are there I will be fine. Please look after the children. Don't worry about me. You won't get anything by worrying."
- "If you have *any* problem, tell/meet this *didi* (social worker)."

(d) Release on Bail

Being able to avail of bail depends very much on women's relationships with their families. Also, being confined, sometimes they cannot see that making the necessary arrangements can take time for a family for a variety of reasons. Some urgent instructions to us were:

- "Please ask my son to come and see me, and do something about my bail. I have papers of my innocence. Please ask him to photocopy the papers."
- "Please tell (my family) to get me out."
- "Please ask my husband whether he's doing something about bail."
- "Tell them: 'Please let her apply for bail from inside — why are you not allowing her? There are lawyers here too. Then bail her out.' "

(e) The Need to be Visited

For those who were unable to find bail, the continuing separation itself became the threatening future. It could mean no news/bad news, no help, not being able to plan for the family, or retain control, and finally, the loss of connectedness.

- "If you cannot arrange for bail, at least come to meet me!" (The husband was apparently afraid of 'all such places'.)
- "Please ask my children to get me released somehow, or at least ask them to come and see me."
- "Please let me know what the lawyer is doing about bail."
- "Please give directions to my children — how and where to come. Please ask them to visit me anyhow."

- "Please ask my husband to come on the next **court** date and bring the children."
- "Please ask my children: 'Why are you not going for *mulaqat*? Your mother is very worried about you and why have you not gone to meet her? Why are you getting so angry that you are not answering any of her letters? What is the problem? Go just once but at least tell her what is happening? Whatever you are thinking about your mother, meet and tell her!'"

Some messages were addressed to the in-laws, suggesting the process of breakdown of communication, and loss of role as mother or daughter-in-law. "Please ask my father-in-law to bring/give the children."

(f) The Need to Protect Reputation

Many women were at pains to convey that they were not 'bad', acutely sensitive to the fact that their imprisonment — even as undertrials — could ruin their image and relationships.

- "Say she has gone out for office work — the (children's) school should not know."
- "Do not disclose the whereabouts of his mother to my son."
- "Please do not inform the neighbours about my arrest."
- "This is important: (Tell the children) 'do not mention 'prison'; say she's in hospital.'"
- "Don't tell even the neighbours. Only tell...."
- "Get information about my character from my neighbourhood. Please meet my children, ask them about me."

g) Conveying Important Information

- "She's thinking of getting the children into prison with her — please meet her."

(h) Messages to **Mother from Children**

Some children, in their turn, did not want to trouble their mothers.

- "Do not tell our mother about our problems, tell her we are alright — because she will feel sad, it will eat into her."
- "Mother is understanding. We did not want to say anything about our problems."
- "Respectful greetings, all is well at home, we remember you very much..."
- To mother — "Please do not cry, *Honey* (the child) will also be happy, father will also not cry."

On the other hand, some children did convey their difficulties or unhappiness through us. At times caretakers, too, took the opportunity *to* convey messages indicating that the family was in distress.

- "Come soon. We are feeling harassed."
- "Mother, when we go to play or eat or sleep, *didi* (caretaker) abuses us."
- "Come soon, we miss you very much."

At times, we understood that there was even anger and rejection.

- "We do not want to send any message."
- "Tell her there are no problems — problems were there when *she* was here!"

- "We will take poison and die."
- "When our father died, you spent his money on others (implying 'which was our money'). Now no one is helping us."

PROFILE: CHILDREN LEFT OUTSIDE

Are a woman prisoner's efforts to help her children left outside sufficient? Are family or acquaintances adequate to the demands of the crisis?

The perspective of an imprisoned mother separated from her children is a necessary, but insufficient, source of information about the experiences and current situation of the children. Meetings in prison with the mothers helped obtain a broad though somewhat simplified picture, largely based on their repeated assertion of similar concerns. But as we visited their homes, each interaction with a child or caretaker uncovered newer variations, and surprising or disturbing details. It dawned on us that the life-stories we were witness to told not only about a central figure's sudden removal from the life of dependent family members, or of families breaking up in different ways. The stories were also of children being unwittingly pulled in by a parent accused of a crime into the strange and intimidating world of offending and law-enforcement. Both these dimensions combined to radically alter the pattern of the children's lives, changing roles and creating responsibilities and burdens that were often overwhelming. And

then there was the sense of stigma — '*daag*' — the mark that insidiously passed, or was perhaps taken, onto oneself from one's own parent.

1. ALTERATIONS IN PATTERNS OF DAILY LIVING

On their mother's imprisonment, children had to face both the loss of a caretaker, as well as income (in the case of an earning woman). While the structural and emotional consequences of this separation are being described later, here we focus on the 'practical' aspects. These were:

a) Fall in Family Income

A few women seemed confident that 'there was no problem with money'. But the difficulties of almost all families arose due to a decline in the economic status of a family solely dependent on the earnings of the now incarcerated mother, or where both parents had been arrested. The economic burden, thus, increased considerably. The shortage of money was felt sharply, and led to a standard of living lower than before.

Over a period of time, this decline appeared to have stabilised at a certain level; the family now maintained itself at a new, lowered, level of economic functioning. Children adapted by curtailing expenses, starting to earn, borrowing, accepting help from acquaintances, and simply learning to do without — by missing meals, dropping out of school, etc.

The process of impoverishment would not necessarily be obvious to an outsider. During one visit, we found the children watching television. With such possessions continuing to remain in the house, one could easily be misled into assuming that the family faced no economic difficulties. The truth, in this particular case, was that there was practically no money to buy milk, food, oil or other essentials. The absence of a regular income

results in the material resources and savings of the family slowly drying up, and children being deprived of daily requirements and other things they were used to. In fact, in some families they had begun to sell off things from home.

Considerable emphasis was laid on families' dwindling funds:

- "I left some money", said one mother, "but how long will it last?"
- "They have spent the money — or nearly all of it", said another. "So now money is a problem."

Money was falling short for buying food and rations, paying electricity and water bills, meeting daily requirements, or maintaining a previous level of expenditure. Schooling or tuitions were being suspended.

Relatives who had moved in as caretakers, or had taken children in with them, needed money to be able to meet the children's needs. This responsibility was an additional financial burden for some, as they found it difficult to manage within their existing income. "My mother has no income apart from the rent she collects", said one prisoner, indicating that the grandmother was unable to bear the additional expenses involved in caretaking. "How can we manage five children within 225-250 rupees per month?", asked one relative during a home visit. "If money is not provided to us, we will manage as we are managing. If assistance is given, we will be able to look after the children better", remarked another.

In a few instances, children were borrowing money from neighbours for food or other expenses. "Ration is being bought; oil, pulses, rice, soap are all being bought on loan", one woman informed us. What about returning the money? "I keep assuring the children that I will pay back on being released", said another.

Unfortunately, there were families apparently without any support whatsoever. "Who is going to help!" was one pessimistic comment we heard. Perhaps this was due to difficulties in the mothers' lifestyles or relationships. But whatever the reason, the pressing need for relief caused a few women and children to turn to our staff for assistance.

A family's visits to the mother at the police station, court or prison became erratic, since travel money would start becoming short. ("We are facing so much of a problem that sometimes our mother gives us money for returning home after a '*mulaqat*' at court.") Children often wanted to take food for her during a visit, but sometimes couldn't.

b) Employment/Domestic Activity

A frequent response to the family's economic hardship was for older children to look out for employment. They hoped for a 'good' job, one that would bring in at least Rs.40-50 a day, or to cover expenditure that the family was earlier used to.

Many dropped out of school, taking up jobs such as in nearby tea-stalls. Caretaking relatives who had their own problems (such as unemployment or poor eyesight) did not resist this.

But finding work or obtaining a loan for business was not always easy, and the problem of money continued in many homes. One family owned a buffalo, and therefore a source of income. "But we can't give it enough fodder, so there isn't much milk to sell these days." Sometimes children earned just enough to meet the family's need for food.

c) Food

A widow's four children were found to be able to cook only because the neighbours had provided them with raw vegetable. In some homes children were left with literally nothing — all the vessels for storing wheat, rice and pulses were empty. Our

staff, in a few instances, not only bought provisions for the home, but also prepared a meal for the children and fed them. Extreme instances were reported of children not having had a decent meal for upto four days after the mothers' arrest. "Many times the children cry because they are hungry", an older sibling told us. Children have had to borrow money, giving an assurance that the mother would return soon and repay the creditor.

"Dear Mother,

Greetings! We are all well here and pray to God it is the same with you. Grandmother visited us and was talking nicely. That day, I was sick. Mother, that day there was neither anything cooked in the house, nor money to prepare tea. Grandma gave us five rupees. Mother, it is five days since the utensils were used. Forgive me that I could not get anything for you to eat on your court date. Mother, I am walking around barefoot since the day I gave you my sandals.

Mother, we are all harassed. If I could I would have eaten something, but your face comes before my eyes. Yesterday, the 'barfiwali' lady brought us some biryani to eat, and she comes quite often. On your next court date, get her daughter's shawl.... Her mother-in-law is complaining a lot. Mother, father beat me for two days, what should I do?"

"We are all well and pray to God it is the same with you. Since many days, we have not heard from you. Are you angry with us? What can I do. Mother, you know the condition of the family. Besides me, there is no one who can bring even five rupees. I sweep and wash dishes at aunty's house. Am very disturbed. A. is attending school. I am quite worried as father drinks daily and beats us all. You only tell me what I should do. I am trying to do whatever I can. My love and respect to you and the person who reads this letter to you."

"We are alright here and pray to God for your well-being. It has been many days since we have heard from you. Are you angry with us? Mother, you know how unhappy we are. Mother, I was not well. Sometimes it is four or five days, no food is cooked in the house, you only tell us what to do. Father also beats us, we are very unhappy."

Letters written by a young girl to her mother

Although such destitution was not the case in all homes, it was reported that children's meals were irregular for one or the other reason. "I have left 30-40 kgs. of rice at home, but the children don't know how to cook", a worried mother had told us. A relative would sometimes come over to cook, and at times food was bought from a nearby eatery. In some families, food was cooked late in the evening after returning from work. Or, in the absence of an adult figure, older children learned to cook for the family.

An additional factor reported was emotional. The trauma of separation affected care for the self. There was also concern for the mother — was she getting enough to eat in prison? Both reasons led to a lower level of food intake, which was reported to have affected the health of some. Comments by mothers, caretakers, relatives or neighbours reflected this: "*Kamzor ho gayen hain* (They have become weak)", "*Haar gayen hain* (They feel defeated)", "*Sookh gayee hai* (She has wilted)".

d) **Hygiene and Clothing**

In some homes children had not bathed for several days, and wore unwashed clothes, because there was no money for soap and oil. This could also happen when there was no one to bathe the younger ones. In one case, there were nine children left behind — their clothes were torn, unkept and dirty.

The immediate need for better clothing was frequently reported by the mothers, caretakers, and the children themselves. There was either just one pair of clothes, or a child was only half-dressed, or had no underwear, or woollens to face the coming winter. Also, there should be at least two sets of clothes in order to maintain a clean and decent appearance. A family wanted to maintain a previous standard: being able to afford a new outfit on the occasion of a festival, or possessing more

than just the bare minimum (and therefore not just subsisting at the wash-and-wear level).

During family prison visits mothers painfully noted the deterioration of their offsprings' condition and appearance in general: they didn't seem to be bathed and washed, there were lice in their hair. It seemed to hurt the women more when daughters and smaller children were poorly clothed.

Some statements:

- "I can't bear to see the condition of my children. Three Wednesdays ago my daughter came in such a state! "
- "My girl is in just one set of clothes."
- "The small one didn't have on any proper clothes or a sweater."

Relatives could perhaps help children dress themselves, but could not afford to buy them clothes. Mothers were worried about how the children would manage in the cold, and some requested our assistance. Our researcher tried to help by collecting woollens.

Shoes and sandals were needed too — especially for those who were earning (sons, mostly).

e) **Bedding**

Winter and rain exposed many children's already destitute condition to further punishment. In one poverty-stricken home, the four children slept on the floor using a plastic sheet as a covering, because there were no blankets or winter clothes to keep them warm.

Some mothers in prison worried:

- "My children sleep on the **ground.**"

- "There is only a plastic roof, no arrangements for bedding for winter."
- "My children sleep under one blanket — there's no quilt."
- "I don't even know whether they have a bed or not. I had stitched a quilt, and had planned to stitch another one. Please arrange for a bed for the children."

f) Shelter

A home is more than just shelter. "*Mera ghar barbaad ho gaya. Kitni mehnat se banaya tha* (My home is ruined. With what effort I had made it)", grieved one prisoner.

A mother's imprisonment could create uncertainty for her children, especially in the absence of a responsible husband or other support to tide over the crisis. Many families lived in rented places, and the threat of eviction was real. One family was being asked to quit because the mother was in jail, another for being unable to pay up for four or five months. One prisoner was worried that if her children were unable to muster up the rent, they would lose the tenancy — which would then go to her husband's relatives, who would not let her and her children stay there any more. Finding alternative accommodation would not be easy. Another complicated situation mentioned by a mother was that if the children too — like her — were institutionalised, or sent to stay with relatives, the family would lose their rented home because of non-occupancy.

Where a family owned their accommodation, the loss of income could still mean that children were unable to maintain themselves in it adequately. Women who had been living in makeshift huts had left their children unprotected. They were now distraught about plastic roofs that were inadequate in winter, or wooden beams that were weak and might cave in on the children, or roofs that leaked during the rains.

"Dear Didi,

Regards from

Didi, my case has been committed to the sessions court and presently, I am atCentral Prison (women's section, barrack no. 3). I need your help.

Yesterday I received a letter from home mentioning that my ten-year old son, V., has left home. And I do not know where my other son, M. (8 years) and daughter N. (6 years) are. There is no mention about them in the letter....

It has also been mentioned in the letter that my house has been demolished.... (and) that only those who have a photo pass will get alternate housing. I cannot understand anything and am very tense. Nothing is clearly mentioned in the letter. Please help me.

Please visit my home and find out all the details. Write back to me as soon as possible, as I have full faith in you—I am very worried about my children and my house....."

A transferred prisoner seeks assistance from a social worker

We found their apprehensions to be accurate in some cases. Said one child: "*Toota-phoota ghar bana kar rakkha hai — aise hi pani mein rehate hain* (It's just a broken-down hut — we live inside with rainwater coming in)." In another case, we were requested for help with alternative accommodation because the condition of the home was bad. Fortunately for one family, the neighbours helped out by reconstructing the roof.

g) Illness and Medical Care

Illness at home ranked amongst the highest causes of anxiety amongst imprisoned women. The mothers' descriptions about their children's state of health, (based on observations during family prison visits, or on what they remembered or learnt later), was at times corroborated by our own home visits.

Most frequently, mothers (and some caretakers) said children had grown weak. Youngsters were losing their health because

of eating hotel food, or neglect of general hygiene, or because their mother was no longer with them. Some spoke about children having been ill for many days, or being in poor health. Very small children needed a great deal of care: there was a 10-month old child who was severely underweight; another, who had just recovered from an illness at the time of the mother's arrest. "Now what will happen in the cold season", she worried.

Specific illnesses that children were reportedly suffering from were: cold, cough, fever, pneumonia, tuberculosis, typhoid, malaria, epilepsy, stomach or chest pain, diarrhoea associated with teething problems, dental problems, and skin rash.

When it came to medication, illness could be neglected or prolonged because of inadequate medical attention or because the prescribed medicine was unaffordable, even for the adult caretaker. The alternative of free medical aid from government dispensaries/hospitals was, apparently, hardly utilised. Even after travelling some distance, and spending long hours waiting to be attended to, one still had to buy expensive medicine from 'outside' — say from a private dispensary or a nearby medical store. As a result, the treatment of children suffering from an illness requiring prolonged medication was often neglected, or stopped, after the incarceration of the mother. "Please arrange for medicine", requested one prisoner.

Many women mentioned that, when at home, they had attended to their children's illnesses; the children had recovered, or were recovering. Some had taken a doctor's advice, and this needed follow-up. But, again, the want of someone to accompany children led to medication being neglected. For instance, the treatment of a polio-afflicted child, whose mother had been taking him to hospital regularly, had stopped completely (she said). Another woman mentioned how her husband, himself a

tuberculosis patient, was in no condition to take their sick child to a doctor. However we also learnt of a child who had recovered, his treatment having continued even after the mother was arrested.

During one home visit, a young girl asked for money to be able to visit the doctor. She'd had a stomachache for two days. Her working father was unable to accompany her.

Skin problems increased if there was no one to bathe young children and keep their clothes clean, or if ointments or medicines could not be obtained.

h) Household Maintenance and Other Essential Expenses

Sudden emergencies could crop up. Even if the amount actually needed was small, some families didn't have the money. At times large payments were involved, which a struggling family was often in no position to meet. For example, payment of instalments on life insurance. Or an accumulated electricity bill, accompanied by a notice for disconnection on non-payment.

The inability to buy essential household items were frequently reported. A family needed at least Rs. 250/- a month to purchase items available on their ration card, but many did not have this amount. The household was managed by buying provisions on a daily basis. Consequently the ration card was often unused.

A ration card is an important document, and implies having achieved an identity in a large city. It is a document required for supporting almost any application, or answering a government query. But in a number of homes the card had been cancelled because of not being used.

The cancellation of this important document inevitably added to a family's already considerable headaches. For instance, prison

visits could become difficult if the authorities insisted on family members producing the card for identification. An application for release on personal bond could also be rejected for want of a document that might reassure the court that the accused would appear in court on due dates.

Many families had, therefore, to get a new card made. "Now 200 rupees is being asked as a bribe for making a new one" — so one mother had learnt. "We have paid Rs. 300, now they are asking for Rs. 200 more", said another. If it were a migrant family, children might have to be left alone here if the caretaker had to visit their native place to get a duplicate or new document made.

i) Education

The economic factor accounted for a large number of drop-outs from school. Even if, to begin with, relatives saw to it that their wards continued to attend school, for how long would, or could, they bear the additional expenses? The payment of fees would get delayed, and then perhaps stop altogether. Funds needed for books, uniform, shoes, and so on, dried up. Extra coaching that had been arranged for some students could not be continued. Apparently, in some cases, fees had to be paid in advance, for example Rs 400 per subject. "When mother was here there was no problem" — this was frequently expressed, and referred also to some mothers' tutoring children themselves, when outside. (Shah's study mentions that some older children planned to teach their younger siblings.)

Apart from this, the older children had other duties to perform at home. Girls, in particular, were busy looking after the household and younger children. There was no time for school. Or, there was the case in court and related legal matters to

follow up, which took priority over schooling. Frequent absences could lead to dropping out altogether.

This is not to say that the mothers did not want their children to continue with their education. Many of them felt it was very important, particularly if a child had been attending school regularly.

The following statements are illustrative:

- "I would like to put my child in school."
- "I want my daughter to get educated and secure a good post."
- "*Bacche has padh lein, aur koi chinta nahin* (The children should get an education — I am not worried about anything else)."
- "Continuation of education is most important for the children."
- "Urgent help is required for re-admission."

On the other hand it seemed that if, before her arrest, a child had dropped out of school, its mother (in prison) may not insist on re-admission.

On their part, several children *did* want to go to school. But now, unfortunately, some could not. Despite the presence of a father or grandparent or other relative at home, the education of children suffered. There were other problems as well. For instance, a child who may have dropped out immediately on the mother's being arrested would need to be re-admitted. This could be either in the same school, or in a new school (partly on account of the fear of stigma). Or a younger child may need to be admitted for the first time. For all this, birth certificates or school-leaving certificates were essential. Several caretakers

did not appear to have taken the initiative, and so many children just stayed home.

It can also happen that, on being shifted to a relative's residence, a child is not re-admitted to school. A whole academic year could be lost. An example:

Our prison social workers in Mumbai were approached by a relatively well-off prisoner whose son studied in a reputed private school. After her arrest the boy was moved into an uncle's home. This being far away meant that the child would not be able to attend classes in his own school any more. The mother requested us to inform the school that the child would be absent only for a few days, (she was confident about being able to obtain bail), so they should please not strike his name off the register. Obviously she would not want them to learn about her imprisonment, for fear of having her son expelled. As it was difficult for our social worker to visit the school and *not* give a reason for the child's absence, the mother wrote out an application asking that the child be excused for his absence. Our social worker then approached the Principal in order to discuss the problems faced by the family, and found him sympathetic. He decided to grant the child leave for a specified period of time.

Children who were good at studies, and motivated to do well at school, seemed to be strongly supported in this by their mothers and caretakers. Every effort was made to ensure that they continued their education. In one instance, a mother working in the prison workshop was sending all her earnings for her daughter to be able to continue her studies in her hostel at their native village. We also learnt of a girl who was studying in Standard IX, and for whom the mother had arranged extra tuition. (Unfortunately this had to be suspended after the mother's arrest.)

Some children appeared to be unwilling to continue with schooling because of stress. Where children were themselves inclined to drop out, *younger* caretakers — mostly aunts — seemed to have tried to persuade them against this. (Not always, though. One boy had been missing school because of having to look after the child of his maternal aunt, who had moved into the home. Soon, his name was taken off the school register.)

Older persons such as grandparents (who might be impoverished, unwell or handicapped in some way) tended instead to rationalise children's not attending school, pointing to their own inability to prevent this. For instance, their not being able to visit a school for admission or re-admission. "How am I to deal with matters such as a birth certificate, fees, or the school authorities' insistence that I bring the parents?!" There was, however, another side to this. As one prisoner reported: "The grandmother loves them and thinks it is alright if they do not study. But this love itself has become a big problem!"

There appeared to be some ambivalence regarding the education of older girls. If they attended school, especially one which was at a distance from the home, their safety and protection could not be ensured by caretakers in the mothers' absence. Many mothers worried about this in prison, too. They preferred the girls to be at home, or to learn some skill in the neighbourhood where their safety was not a problem. The additional income would be helpful.

One also noted a contradiction that would sometimes surface, even while mothers and caretakers strongly emphasised the need for children to be educated. When arrangements were made and a child could actually go, any reluctance shown by

him or her was supported. All parties concerned found some justification for the child not going to school. *

To sum-up: The education of prisoners' children is very likely to suffer. The consequences of a parent's arrest could be:

- Having no one to get children ready for school
- Difficulty in re-admission
- Stress
- Weakness in study
- Not being able to meet school requirements, or expenses
- Irregularity in school attendance
- Not being able to continue extra tuition
- Studies piling up
- Missing examinations
- Dropping out

This could happen irrespective of whether children were left alone at home or with a caretaker. (The sole exception might be where the paternal family took complete charge of the children, resolving to bring them up "well", away from the mother.) Problems with 'school articles' (school/tuition fees, uniform, books, schoolbag etc.) were mentioned more frequently than 'problems with admission/re-admission'. This, however, was the case where children were still attending school despite the mother's imprisonment. But, obviously, they were now experiencing economic pressure, particularly where the mother had been the sole earning member. In fact, it appeared that the rate of dropping-out was higher where the family was dependent on her income.

* A possible interpretation: In the absence of the mother an emotional sense of insecurity may prevail, resulting in a tacit understanding that children had better not move too far away from home.

Perhaps outside material assistance might help to keep prisoners' children in school. This issue merits further discussion with respect to services. But were support made available in the area of education, would this 'third agency' be committed to long-term follow up, to ensure that children completed their education? Would one-time help be sufficient for prisoners' school-going children? Such questions arise because several children left school not only for want of funds, but also because of stress (which could include a sense of stigma), and caretaking responsibilities. For children to continue schooling, then, they would need help in these other areas as well.

The role of the school

During the course of research we did not visit schools prisoners' children were attending, or had previously attended. Also, not much was learnt from prisoners' children about their school environment. It seemed as if children continuing to attend school try to avoid problems by keeping things hidden. Only one mother complained that her child was being stigmatised by schoolmates; the children themselves have not talked about unpleasant experiences. The only reference to a teacher was positive: on learning that the siblings were without lunch, the teacher was bringing food for them.

But the visits of our prison social workers to a few schools, (to explain the difficulties being faced by the children and request special consideration), have thrown up some insights about the role of school authorities. Some examples:

- * A bright boy in Standard X was on the verge of dropping out, as a class teacher reacted sharply to his irregular attendance (at the time of the mother's arrest). His younger siblings used to be criticised for their dirty clothes. His

maternal aunt mentioned that he was now afraid of confronting the school environment. On approaching the Principal, our social worker learnt that the school was interested in him. The Principal asked for the boy to be brought to school. The student went on to complete his schooling.

- The children of a large family were found not to be attending school. The problems were many, and between the caretaking eldest sister and a grandmother it was felt that it would be better if four of the children were institutionalised. When our social worker visited the school for obtaining school-leaving certificates she learnt that the authorities held a generally discouraging *view* about the children, saying that they were not likely to do well. It appeared that since they were not particularly good at studies, teachers were not interested in them. No one had investigated the reasons for the children's poor record or attendance.
- When a front-ranker was found to be absent, the class teacher had visited his home to check out what the problem was. Both parents had been arrested, and the boy could not pay his fees. Subsequently the father was released on bail, and the boy resumed his schooling. (Our social worker learnt this on paying a school visit at the request of the still-imprisoned mother.)

2. RESTRUCTURING OF RELATIONSHIPS

The response of elders to the crisis caused by a mother's imprisonment, and the consequent restructuring of minor children's lives and relationships, is taken up in the following section.

a) Changes in Family Structure and Relationships

The women's imprisonment caused significant disturbances and changes, irrespective of whether both parents were there, or mothers ran their homes singly. Most children felt her absence keenly, and missed her. Younger ones were the most seriously affected. Very small children, usually below five years, can be taken into prison with the mother for better care. For those left at home, the immediate need is for a substitute figure, who will assume, minimally, the 'caretaker' role.

Where fathers were earning and supporting their wives and children, women (whether working or not) had played the caretaking role. Many unemployed fathers were ineffectual due to illness, addiction, being too old to work, or for some other reason. And in many families where the mothers were widowed, divorced or separated, they had shouldered the responsibility of providing for both, the children's economic and security needs.

Despite a father's taking on the mother's role, and the economic situation continuing to be stable, children still did appear to suffer the loss of the mother for emotional and other needs. Her role in their lives became limited. Whether a first-timer or repeater, she was dependent on the support of her husband or other relatives for taking care of the children — as she wanted — when imprisoned. This dependence increased if she had developed, for whatever reasons, an unconventional or deviant lifestyle. If the family were unavailable, she might devise alternative 'arrangements' for the children, knowing that there could be public exposure or frequent arrests. Whatever the options, they necessarily implied her being replaced by a 'caretaker'.

A range of alternatives developed in the lives of children of women imprisoned for offences as varied as theft, homicide,

drug-trafficking or other deviant 'business'. These alterations or adjustments were not necessarily final nor mutually exclusive, but could alter or occur in combinations at different points of time.

A rough and approximate description of the situations observed is as follows:

- (i) Mother takes the youngest child inside prison with her (for want of better options), leaving other minor children outside.
- (ii) Mother arranges for young child to move out of prison *without* her — either because it has completed the prescribed age limit, or is now going to be looked after by relatives.

The prison environment has a significant effect on a young child's language, development and self-concept. For instance, male children confined in the women's yard may, while referring to themselves, use the feminine gender. Prison jargon is picked up easily. All uniformed persons are 'Police'. Children born in prison or having little or no exposure to normal surroundings may not know, for instance, about animals or vehicles. The 'imprisoned' child requires time to adjust to the new surroundings, but usually gets accustomed to the change. After release, a new adjustment is required.

Some problems which may arise are:

- Inability to recognise relatives
- Difficulty in adjusting with other siblings and family members
- Attention seeking behaviour due to having received the mother's continued attention while in prison, (somewhat like an only child)

- Difficulty in forming relationships and lack of clarity about the same.

iii) Father and all children stay together at home.

iv) Some fathers, unable to cope with both work and a large family, ask relatives to take in some of the children. (An example: On the imprisonment of the mother, four children were left with the father. He decided to keep the older children at home, and send the younger two — who needed more care — to live with the grandparents in the village.)

v) Members of a joint family continue to take care of the children, despite the mother's arrest. The children could also be in boarding school and come home to the joint family on holidays.

vi) Habitual offenders sometimes made arrangements with relatives (eg. grandmother, aunt, sister-in-law) on a regular basis. In such cases, family members were aware of the woman's being in and out of prison, and therefore had assumed the role of caretaker regardless of her presence or absence. It is quite possible that her earnings from a business such as drug-trafficking were adding to the income, (and paying for the children's up-keep), so the relatives were supportive.

But there were also families who neither wanted to accept money, nor keep contact with the woman. And while a woman might, by her lights, be trying to make the best of a difficult situation, the distance that develops between her and her children may become difficult to overcome. A sense of detachment may develop. She attempts to keep them with her own relatives, so that she can remain in touch and also retain custody. When 'outside', she pays visits. But her role is already being played by the other womenfolk. We learnt of children who remained aloof, giving her the feeling that her frequent absences did not affect their lives much.

(An instance: V. separated from her husband, left the children with her parents in the village, and migrated to this city, where she married again. Her new husband did not want the responsibility of her children. She was now involved in drug-trafficking, but this had had little effect on the children as there was practically no contact with them.)

There were children who, sadly, did not know *who* their real mother was — they had accepted a relative they were living with (grandmother, aunt, sister-in-law) as their mother.

vii) In the event of a conflict with the husband or his family, an imprisoned mother may be faced with the prospect of losing custody over children. This happens where the mother is accused of having murdered the father, or where both parents are separated or divorced. The children may be taken in by the paternal family, who decide that the woman is an unfit parent and has to be separated from the children permanently. Many mothers in prison were afraid of their children's ears being poisoned against them, or of losing custody, and so would obviously prefer their own relations to take charge in their absence. If this were not possible, the option of institutionalising the children was considered, or the trial court approached for ordering visiting rights or to regain custody from the husband or paternal family. Cases where custody is disputed usually go to court, and the decision could go either way.

(Example: S., a 'repeater', told us she was pressurised by her gangster husband to 'sign on a document', stating she was giving up her right over the girl in the best interests of the child. Her daughter now lived with her paternal grandmother, and did not know who her mother was.)

viii) Minor children suddenly 'lose' both mother and father. Both parents could have been arrested and imprisoned for the same offence. Or, after the mother's arrest, the father had deserted the family for fear of being caught or involved. Or, more tragically, a father had been murdered, and the mother arrested. Such children were left to fend for themselves, unless a grandparent or other relative came to take charge.

Relatives frequently *did* respond — mostly the grandparents on both sides, but also uncles and aunts, or an elder married sister of the children. Someone may move in with the children temporarily, at times bringing in their own family as well. Alternatively, all or some of the children may be taken to the caretaker's home in the same city, or native village. At times they are distributed between two relatives, depending on priorities or capacities. For instance, someone may feel they cannot take care of very small children, or girls, or more than one child.

Alternatively, children may — out of fear — move in with a relative on their own. This could be, in some cases, only at night.

ix) Despite having relatives some children prefer living with their mother's friend, a woman who is married and has her own family. This option seems to be viable, but only for a short while.

x) Neighbours sometimes sympathise with, and keep an eye on, children left on their own after the mother's arrest. Sometimes this was independent of any commonness of lifestyle. But in areas known for criminal activity, anyone could be arrested at any time, and could need help with childcare. At the same time, given this uncertainty only limited responsibility was usually taken (feeding the children, and protecting them from outsiders).

xi) Where husbands are absent, and other suitable arrangements cannot be made, imprisoned mothers try seeking admission for their children in residential institutions. Or the police, at the outset, effect institutionalisation under the Juvenile Justice Act. Sometimes siblings have been separated, and placed in different homes. Institutionalisation may take place soon after the mother's arrest, or later (due to the failure of other options), and is usually viewed as being a temporary arrangement till the mother is released. But some children's stay could be an extended one, and institutional staff effectively become the children's caretakers.

xii) The worst scenario is where minor children are without both parents, and there is absolutely *no* help. Said one child: "We feel scared at night. Nobody comes to sleep with us."

b) Adult Role-Taking by Children

Children left without anyone coming forward to take charge even temporarily were, for all practical purposes, thrown on their resources. There may be limited support from relatives or neighbours. But inevitably, the older children — even though perhaps not yet grown adults — moved into parental roles. While this option may not survive long without additional support, it has the advantage of keeping the children together, and providing them with a sense of continuity and independence in their own home.

Earning

Some boys and girls had to drop out of school and start earning for themselves and the family. They could be asked to do so by their parents, or they did this on their own. "Now I will earn, to educate them (younger siblings)", said an older brother.

A son, if he was capable, was more likely to be sent out to work than a daughter, even if he were younger than her. On the

other hand, if there were no boys in the family, or if they were too small, then the older daughters went out to work. In one family, two older (unmarried) sisters divided between themselves the responsibility of earning and looking after their younger siblings. If the eldest was a girl she stayed home as caretaker, while a younger brother or sister turned breadwinner.

We sensed differences between families in which the older children were now earning. In some families, these young breadwinners were reported to be keeping part of their income for themselves, instead of spending it all on the family. In others, they tended to take less care of their own needs, using up their entire earnings for meeting household expenses and the needs of younger siblings.

House-keeping

Girls, of whatever age, tended to take on the maternal role of cooking, cleaning, and taking care of younger siblings.

Attending to family matters

This required considering not only one's own needs, (as one did when mother was around), but now those of others in the family, too. Children learned to face family problems or deal with matters which would, ordinarily, have been dealt with by adults.

Mobilising legal assistance

Imprisoned women usually depend on their menfolk or parents for handling their cases: finding lawyers, interacting with police and prison authorities and so on. In the absence of such supports, older children have had to 'learn the ropes' and assume this responsibility; and also keep mothers informed about developments.

Looking after the mother

In a singular example of role-reversal, it was found that children, in their own way, started 'parenting' the mother in prison. They brought things she needed in prison, or food that she liked. This was often difficult, the family being so short on resources.

Older children often reassured their mother, during prison meetings, that the home situation was fine, even if it were not. They hesitated talking about what the family was facing, trying to protect the mother from unpleasant news that might disturb her in prison. Behaving like mature adults, many children tried to be as supporting to their confined parent as possible.

Effectiveness of older children as caretakers

On the whole, older children may sometimes prove to be very effective, taking good care of the physical and emotional needs of their younger siblings. But the load they have to carry is often too heavy, demanding more than they can physically or emotionally manage. Mothers sensed this through the communication between them during prison visits. "My son says, 'Shall I look after brothers and sisters, or should I come to see you?' " . "My daughter complains that she cannot manage any more."

Older children have sometimes found supportive and understanding companionship outside, where they could unburden themselves. But younger siblings might react to this saying: "Why does she speak more to *others* and not us?"

One consequence of siblings being by themselves was that small children could be neglected physically, when older ones went out for work. To avoid this, employment was searched for nearby, so that an eye could be kept on the home front and younger ones as well. Girls preferred domestic employment in the neighbourhood, against factory work at a distant place. Part-

time domestic work provided for more flexible timings, ensuring that they were not away from home for long hours.

But not all older children would prove capable, mature enough, or willing to take on the responsibility of the home and younger siblings, especially single-handedly. Some showed difficulty in accepting both the additional responsibility of earning, and the adjustment of their own material and emotional needs with those of younger siblings. We met young people whom we sensed had grown resentful, feeling that a burden had been thrust on them prematurely by their parents' irresponsibility, or because no other adult relative cared enough. One young girl, really a child herself, was doing what she thought was necessary. But she appeared to be paying more attention to herself — the younger children were not fed on time and somewhat neglected. In another instance, a son who had started earning after the mother's imprisonment did not bring his entire earning home, keeping some much-needed money aside for his own needs.

This process was observed more clearly when a woman's imprisonment stretched on. Where children remained close to her, they would probably remain united and obey her instructions. If not, older ones might feel their own options in life were being sacrificed, and could move away, or at least threaten to do so.

(Examples: An increasingly disturbed young girl kept sending messages that she intended to marry a man her imprisoned mother did not approve of. She told us she would admit her younger siblings into an institution, if necessary. In another family, the eldest son one day simply left home.)

c) Sibling Separation

The practical solutions favoured by, or simply available to, the concerned adults are not necessarily fair or kind. One child

may be in prison with the mother, while others are left at home, or divided between the father and grandparents/other relatives, or between institutions/boarding schools and relatives, and so on. Some examples:

- A widow's four daughters and a son were left by themselves after her arrest. The paternal grandparents took away only the boy to live with them in their village, leaving the four daughters to fend for themselves.
- A married elder sister took the brother away and left five younger sisters to manage on their own.
- The four sons of another widow found themselves in four different government institutions.
- At times, one child of a family was institutionalised while others remained at home or with relatives.

When all the children in a family were left together at home (without any caretaker, and with the eldest child playing substitute parent), their relationship appeared to be strong. None wished to leave home — at least initially — or be institutionalised. But if they *had* to leave home, they preferred to be together in the same place.

In contrast, the isolation of brothers and sisters from each other can result in growing distances and family members losing touch with each other. Sudden separation can be disturbing and depressing for a child. The feeling of being left alone grew, particularly where the age difference between the siblings was small, or the family was close-knit.

- R., the eldest of four sons, was the only one who was not admitted to a Children's Home. The three others were kept in two different institutions. Our researchers found him miserable at being separated from his brothers, and learnt

that he was sending repeated messages to **his** mother in prison to arrange for his joining them.

- G., a young girl, was left outside with a caretaker while her baby brother was taken into prison with their mother. During a prison visit, G. was upset and disappointed because she was not permitted to hold and play with her baby brother; also, he had forgotten her.

Feelings of sadness were more pronounced initially. With the passage of time, children (apparently) got used to the separation and gradually began to live with it.

d) Caretakers

'Caretaking' here has two connotations. One, taking charge of the physical/basic needs of the children. Two, a temporary and limited acceptance of responsibilities — till the mother returns or some other more suitable arrangement emerges.

By 'Caretaker' we here refer in general to the person/s who take over, from the mother, the care of the children. This could be the father, grandparents, uncles or aunts, elder siblings, friends, neighbours, mother's woman friend, or residential institutions for children.

Children in certain situations appear to have received more comprehensive attention than in others. This appeared to be the case, for instance, with those living with 'effective' fathers or grandparents, or in joint families, or residential institutions. Where the paternal family has taken over custody of a child, denying the imprisoned mother her right over it because of her offence or lifestyle, the family takes care to prove that their claim is justified.

Children left with a weak father, relatives without adequate resources, or by themselves (in the care of the eldest child), were found to be in more difficult circumstances.

A more detailed picture indicating the significance of different roles and relationships is presented below:

Fathers

Where, after the mothers' arrest, fathers were left with the children, we observed broadly two types of situations: where fathers were functioning effectively as caretakers, and where they were not. In the former case, families appeared to have fewer problems; this could be one reason why some mothers in prison did not approach our researchers/social workers for help with children left outside. Some men cooked for the family, looked after sick or handicapped children, and so on — maybe taking the help of parents or relatives. Despite being habituated to drugs or alcohol, some took good care at home and were also helpful to their wives in prison (for instance, by trying for bail).

But the reverse was also seen. Some employed men found it difficult to play both father and mother. They were not able to feed the children, cook for the family, or accompany them to school or hospital.

Second, where fathers were ill or handicapped, habituated to drugs or alcohol, or unemployed — or a combination of any of these — families were confronted with many problems. Such a father's presence at home was likely to provide security for his children from outside elements. Perhaps caring too (though not always). But his personal limitations affected his functioning as a parent, and not much could be expected.

- "Our father is poor, often sick and without work."
- "What will my husband do — there is hardly any money at home."
- "Father does not know how to cook."
- "People come at night to knock on the door and abuse us. Father stays at the shop because of work."

A father's being frequently in a state of intoxication, or beating the children, further worsened the situation.

- "My husband drinks a lot. What will he look after the children!"
- Another woman pointed out: "My son may get into bad habits because his father is too much into liquor."

Some fathers took the help of their parents or other relatives. But there were also instances where, since the fathers were physically present — even if without much benefit to the children — family members hesitated to come forward. (The man might consider this an interference, and a statement about his incompetence.) In effect, with no adult really taking care, the responsibility usually fell onto one of the children. For instance, where a father was suffering from tuberculosis and was unemployed, the eldest son dropped out of school to support the family.

Grandparents

In the absence of the father (or despite the father's presence), grandparents as caretakers were found, by and large, to be the next most effective option and well-represented in our data. They mostly appeared to pay adequate attention to the children's physical needs (diet, general hygiene, medical care). The emotional disturbance that the mother's sudden arrest had caused was contained by the continuity provided by the grandparents' affectionate concern. In many families, grandparents did as much as they could for the 'motherless' children. A striking example was of a child suffering from cerebral palsy, who was immobile. Its grandparents were able to arrange for good medical care, because of which the child began to walk.

However, there was another side to the picture. Reported one prisoner: "My children don't eat well — she sometimes cooks, and sometimes doesn't. How can (my) mother manage five children?" Grandparents' role in relation to their wards was found to be affected by several factors such as age, health, economic condition, personality, perception of responsibility, and quality of relationship with their imprisoned daughters/daughters-in-law.

In one case, the grandparents had taken the male child with them, leaving the girls to fend for themselves. Many grandparents did not act effectively in matters such as disciplining the children, or making sure that they continued to attend school. This was, perhaps, seen as the parents' role. Apart from this, a grandparent could be an elderly and incapacitated person, inclined to be lenient or indulgent rather than firm and decisive about the child's future.

Sometimes ailing grandparents might move into the home, themselves needing to be looked after by the children. One such instance was of a person suffering from poor vision, and with no source of income, whose presence could at best provide the children with the security of having an adult in the house. In another case, the grandmother was herself in a state of shock because of her daughter's arrest, and could hardly offer any support to her grandchildren.

As mentioned above, a prisoner's relationship with her parents or in-laws affected how the latter dealt with her children. Where relationships were good, grandparents were supportive. It appeared that maternal grandmothers could be expected at least to give shelter to grandchildren, even despite a difficult relationship with their daughters. (Some refused any help to their daughters in prison.) However, there could be much neglect as well. In one case, the relationship between the two was so

strained so that the grandmother did not pay any attention to the children, even though she was physically present. As a result, the children had taken to begging and asking neighbours for food. The grandmother was aware of this but seemed indifferent.

Mothers-in-law (paternal grandmothers) were also found to take a sometimes callous approach towards the children, if they had strained relations with their daughters-in-law. An instance was of a mother-in-law who refused to look after the child when the mother went to prison. Her perception was that the mother, an alcoholic, had never looked after the youngster when she was out of prison. So, this meant that it was not really her grandchild and that the woman had tricked her son. The child was put into an institution.

Another prisoner mentioned that she did not trust her mother-in-law to take care of her children, because she had thrown her (daughter-in-law) out of the house so many times during the seven or eight years of living together!

In another instance, the paternal grandparents did not want the children to have anything to do with their mother any more. She was to be cut out of her children's lives, irrespective of their own feelings for her.

Other relatives

Relatives other than grandparents could be an older married sister, or uncles and aunts. They could support minor children 'from outside', or move into the home, or take the children home along with them.

These arrangements were useful in taking care of the minimum physical needs and overt emotional disturbances of the children. Common ailments such as cough, cold, or diarrhoea were attended to. The children were found to be mostly clean and

neatly dressed. There were some complaints about not being fed adequately or regularly.

Usually, relatives who moved in could afford to leave their own homes only for a short while, as for instance an older married sister. But some stayed on longer, and at times their presence proved unpleasant for the children.

Examples:

- The children were being made to cook for the caretaker's family.
- The children's beds were being slept in by the uncle and his family, while they themselves slept on the floor.
- A youngster had started missing school after his mother's sister and her child moved in after the mother's arrest. He seems to have been compelled to look after his little cousin, and after a while his name was taken off the school register.

Children who moved in with relatives also did not always feel at ease or welcome.

Some statements by children:

- "When I went to play and came late, I was beaten and abused."
- "When we eat food, ...abuses us — 'it would be better if you die!' "
- "Four months after mother's imprisonment, uncle's family was forcing me to marry someone without knowing his background. I refused because of mother's not being there."

One prisoner reported that the relative with whom the child stayed had taken the child's jewellery. Fearing that family members were out to grab their property, some women

discouraged children from approaching them for help. Consequently, instead of the family's receiving support from relatives and continuing life, an elder child has to drop out of school to take care of younger siblings.

But such reports were infrequent. Not all relatives made use of or beat the children — many have been helpful in their own way. However, the emotional effect of parent-substitutes was difficult to ascertain, particularly on the younger children, who often were difficult to converse with. We could not make out whether they were afraid to express themselves, or simply unable to.

A third situation occurred with respect to in-laws. If relationships were already strained, they may choose to distance themselves from the imprisoned woman and her children. "My brother-in-law said the kids are okay. When I asked him not to think of them as orphans he said he cannot take care of them."

Angry in-laws could retaliate harshly against women accused of murdering their husbands, by attempting to take legal custody of the children, with the intention of permanently separating them from their 'undeserving' mother. Our visits to one such family, on the mother's urgent request, indicated that the children were physically well looked after and that their education was continuing. But although they did not complain, they seemed inhibited.

In one family, the fact that the children were being looked after by the in-laws was taken as justifying a right to the children's inheritance (the man's property, his Life Insurance Policy, and so on). In another, the imprisoned mother alleged that her brother-in-law brought her children who were residing in the village to the city, in order to make a claim over her deceased husband's property.

General observations about the role and effectiveness of relatives as caretakers

By and large, relatives were effective in giving children a sense of security, and taking care of their physical needs, to the extent to which it was possible for them to do so. Overt emotional disturbances were sensed and attended to.

The complexities of the caretaker-child relationship could perhaps be explained by the following limitations:

i) Most persons — that is relatives, mothers in prison, and children outside — viewed 'caretaking' as a temporary arrangement. This is reflected in statements like:

- "For how long can our (married) sister stay and look after us." (Children)
- "Who will come and stay in difficult times." (Mother)
- "Only a mother can really look after the needs of her children properly." (Relative)

Given this ethos, it may be natural for caretakers to be hesitant about 'getting involved'.

ii) The relationship between the mother and the caretaker was linked to the kind of care her children would receive. If good and close, the caretaker would probably do his/her best for the children, and may also be liked by them for the same reason. If the relationship was strained, children may not receive adequate care — or may feel suppressed emotionally because of having to adjust to relatives who speak against the mother.

In general, an imprisoned mother preferred to draw on the support of her own relatives, if her husband was not available or reliable. However, if the father was present at home, he would take the help of his own parents if he could not manage — sometimes sending away one child while keeping others.

iii) Economically, looking after another's children imposes an additional burden, especially if one's own earnings are meagre or one is oneself unemployed. Some statements by caretakers:

- "I do not have enough money. I have two daughters of marriageable age and cannot spare the money."
- "We cannot fulfil all the needs of (these) children like their parents can."
- "We do not have enough to eat or wear ourselves, so looking after others is difficult."

iv) Caretakers (this includes the fathers) often had a problem finding time for looking after the children. They had their own work and personal matters to attend to, and found the additional responsibility of both — the needs of the children *and* the needs of the mother in prison — too much.

This was reflected in statements like:

- "Difficult to manage because I go to work and the children are small in age."
- "The child has to be taken along while going for work."
- "I have little time as I have to see my work, the children, and the mother in prison."
- "I also have my own children, and am the only earning member."

v) Individual factors such as age, health, and personality of the caretaker also have their own effect.

vi) There have been cases where the caretakers may face problems because of having taken a decision to take responsibility for the children. Where a child's maternal uncle took his niece under his care, his wife and daughter resented

the additional burden of a young child. He had to therefore hand the child back to the mother in prison. He offered to pay for any expenses towards the child's care in an institution instead. Shah's study reports an instance where the aunt had constant arguments with her husband in order to allow the children to continue to stay with her.

In conclusion:

The degree to which minors left at home were negatively affected was related to the availability or quality of adult caretaking. It made a difference whether there was a father or other adult caretaker, or whether young people were managing by themselves.

Where children were managing alone, considerable adaptation was required for carrying on without a parent. Youngsters had to learn to tap whatever resources seemed within reach, and to assume additional roles and responsibilities. But it was evident that their capacities for coping were severely strained, and that the situation was likely to continue to deteriorate in the absence of support.

Therefore whatever mistrust the women might have about the worthiness or effectiveness of their husbands/relatives/in-laws/neighbours, etc. — and whatever additional discomfort children might face by having (unwillingly) to submit to substitute adult authority and decisions — caretaking existed as a viable option. Its effectiveness, however, could vary depending on considerations such as:

- For what, or for how long, relatives or others were willing to take responsibility. Many persons viewed their involvement as temporary, till the mother returned or some other arrangement was made. Their concern appeared to be primarily for the immediate, and not long-term.

- Caretakers' age, personality, state of health, financial position.
- Their relationship with the imprisoned mothers.
- Children's readiness to accept them.
- Caretakers' motives in taking an interest in the children.
- The effect of caretaking on the caretakers' own lives.

e) Relationship of Children with Community, Neighbours and Relatives

The relationship of children of women prisoners with their environment appeared to be a complex one, at both the physical and social planes.

An environment could be experienced as being either safe or threatening, depending on whether there was adequate social support and protection or not.

Many adults appear to have been supportive. Some children were helped with food and clothes, or lent money in times of need. One neighbour even kept the children with her during the day, for safety — as they lived near a busy road and could suffer an accident; she would send them back home when their caretaker returned in the evening after work. In another instance, a young girl was accompanied to work. Where the roof of one family's home was weak, neighbours helped repair it.

"Even if the neighbours did not help in terms of material assistance, the feeling that somebody is there also helped a lot to the children who did not know what to do without the mother", writes Shah in her study on children of prisoners. She quotes an 18-year-old girl who said, "they are the ones who listen to me when I feel like crying".

However, the response to the needs of the family tended to be sporadic. Understandably perhaps, relatives and neighbours

viewed their role as immediate and temporary, and were unwilling to accept long-term responsibility.

On the negative side, several children appeared to have sensed a reluctance on the part of relatives and neighbours in coming to their assistance, or in maintaining a previous relationship. For instance, a maternal aunt stopped visiting the family, as she used to earlier, and instead expected the children to go to her, and keep her informed of the mother's situation.

Many children reported having experienced a distinct difference in the way they were treated — the sense of being stigmatised was continuously felt and often reinforced through situations in daily life. The community's image of a woman as 'offender' was, so to speak, almost transferred onto her children. In their altered status they were now perceived, and referred to, as "children of a prisoner". Many persons did not want their children to associate with 'those children'.

".... What about those who were not fortunate enough to join their mothers in the jail and have nobody to look after them? Tears rolling down her cheeks, M. . . .who has been an undertrial in a murder case for four years, said "Mere do bachhe hain, unko dekhane wala koi nahin hai, baap to kabhi ka mar gaya" (I have two children who have nobody to look after them, their father died long back).

(Assistant Superintendent) said that M.'s children were living in deep misery. Often they spend their nights without food. On top of it, when they went to their neighbours for help they were taunted as 'murderer's children'.

In contrast to Indian women prisoners, foreign nationals caught in drug cases have a different sort to problem. Says (a prisoner) from Holland who has been in Tihar for the last six years, "I have five children; two of them are married and the rest being taken care of by the elders." Her only problem is the delay in trials."

Excerpts from a report titled "Better Days ahead for Convicts' Kids Born Inside Tihar", The Indian Express, October 24,1994, quoted in 'It's Always Possible' by Dr. Kiran Bedi pp — 321-322

The withdrawal of social acceptance amongst the very networks of which the family was a part could have resulted in these situations.

This lowering of social status, and the fear of having to confront others' curiosity and judgement, resulted in a noticeable withdrawal of the children from outside society. Feeling isolated, they grew quiet and introverted, and avoided going out, or attending family functions or other social occasions. This could occur even if they had their father still with them at home.

Some statements by the children:

- "We don't go for any marriage parties, or anywhere on festivals ... no celebration, or new clothes for festivals — we sit at home alone."
- "We don't go to our village because of shame."
- "We don't want to be known because of our mother being in prison. (For this reason) I do not like to meet people."
- "I don't like to go out to play because people will say — her brothers are in the house and she wants to play!" Perhaps this implies that the girl should now show more responsibility.
- "Nobody greets us any more."
- "We don't go out to play anymore."
- "(Others say) '*teri ma to chaku mar kar chalk gayee*' (Your mother stabbed with her knife and went off)."
- "Sometimes there is a fight with the neighbours, because they tease."

In one family, the children spoke about how relatives and neighbours gossiped about them no matter what they did. If they celebrated festivals, people said "Look at these children. Mother in prison, and they're enjoying themselves." And if they stayed away, they would have to listen to other kinds of remarks. A comment heard by our social worker was: "The mother is in jail for four years, how come these children are so healthy?!"

Stigma can result in actual victimisation as well. In one extreme instance, the whole family was forcibly expelled from the area. The community was an organised one, with a strict code of conduct. Deviance, seen as threatening, was not tolerated. Not only did the family lose their home, the father lost his job and the children were withdrawn from school. "It is difficult to find a house", said one youngster.

Possible interpretations for the negative or positive reactions to the prisoners' children could be as follows:

i) One obvious reason why even close family members or acquaintances/neighbours distanced themselves was the fear of being suspected of involvement with an alleged offender. We learnt of a father who deserted his family for fear of himself being arrested by the police.

ii) Many people felt too embarrassed to acknowledge any association with an alleged offender. Family members could have themselves faced the threat of being stigmatised. Difficulties could arise in arranging the marriages of grown-up children. Or a family member's marriage could get strained on account of his or her relationship with the imprisoned woman. "The marriage of my eldest sister was broken because of this situation", said one young person.

iii) A community's perception of the imprisoned mother could affect its reaction to the family of the prisoner. Offences such as the murder of husbands or other family members, dowry-related offences, kidnapping children for begging or prostitution, might invoke the wrath of the community, leading to the ostracism of the woman and her family. But if it was felt that a woman had been wronged, there could also be sympathy for the mother and her children.

iv) Several children reported that it was the mothers who — when outside — were primarily involved in sustaining the relationship of the family with relatives and neighbours. This applied even if the fathers were present. The quality of this interaction, therefore, might affect the kind of support children would receive after the women's incarceration.

But this very dependence of the mother (after her arrest) on the relationships she had nurtured, exposed her children. Not being there, she could not prevent the same people from taking advantage of the vulnerability of children now left without her. It was reported how some individuals asked for favours knowing that the children, needing the goodwill of their neighbours, would not refuse. For instance, children being given food in exchange for washing dishes. Or, getting an educated older girl to give tuitions free of cost to the neighbour's child. Or, borrowing money and not returning it although the children needed it urgently. Even if it were money lent by the mother before her arrest, the children sometimes could not get it back.

v) One could also look at the possible significance of the composition of a community. In a heterogeneous community, support might be extended only if a family's relationship with neighbours had been cordial. But in neighbourhoods where nearly everyone was in the business of prostitution, drug

peddling or liquor, people shared a common reality. Perhaps they were, therefore, understanding of each other's situation and helpful to those in trouble. Here, neighbours often saw to it that children whose mothers were arrested were at least fed, and that no harm came to them. Support to the woman and her family could extend as far as arranging bail for her, as in the case of a prisoner who used to sell liquor in the area.

f) Relationship between Mothers and Children

A woman's imprisonment could alter her relationship with her children temporarily or permanently, or in certain specific aspects. This is something every mother was worried about. The following factors appear to be significant here:

- *Distance*
- *Growing independence*
- *Substitution for the mother*
- *Perception of the mother as offender*

Distance

Before a mother was arrested, she was 'there' — close to her children, talking to them, aware of all that happened to them. But now her absence was tangible. After she went to jail, B.'s very young child was institutionalised. Brought to see her in prison after three years, he had completely forgotten his mother, and did not want to go to her. The woman was very distressed, but apparently this had had no effect on the child.

For children who remained at home, communication decreased significantly, as the family met the mother only during prison visits, which could be infrequent (once in six months in some cases). Even if frequent, the limitations of the context were inhibiting. There wasn't much time or space for being together,

or for privacy. Information was exchanged selectively, and much remained unsaid about all that was happening on either side of the prison walls. Mothers always wanted to know about the situation at home and family matters. But the children apparently neither asked too much about prison, nor answered fully their mothers' questions about home. Feeling the need to act protectively, it appears that both tried to reassure each other that all was well.

Distancing did, in some cases, also affect closeness to the mother. For instance, some young persons who were now almost adults were considering how often they should visit the mother, or whether to meet her at all.

When a woman is accused of her husband's murder, her separation from the children could be complete, as they may be looked after by her in-laws, or may even be sent to the village.

Growing Independence

Despite the physical distance many families were able to retain their feelings for each other. Eager inquiries were made mutually. Many children wanted to know all about their mother — prison life, her condition, her food, her daily routine, her relationships, her problems. And vice versa.

But the longer the separation the less dependent were the children on their mother. On the one hand, children developed a practical sense towards their own and family affairs,

Learning how to manage

This often included taking responsibility for their mother, trying to meet her material and emotional needs, as well as help her deal with her predicament. They sometimes advised her about whom she should not associate with in prison, or what legal

Period of imprisonment of mother — possible effects

SHORT-TERM

- Children may stop going to school for a while.
- Children may not need to take up jobs themselves.
- Neighbours help as caretakers if mother's absence is short.
- Family lifestyle may not alter significantly.
- Children's relationships with others not much affected.
- Children don't adjust to mother's absence.
- Problems get sorted out; major decisions can be postponed till mother's return.
- Relationship with mother stable; she decides for them.

LONG-TERM

- Children may drop out of school.
- Children may have to work to support themselves.
- Neighbours not willing — relatives or institutionalisation required.
- Drastic lowering of living standard possible.
- More complications if offence is serious.
- Children get used to it; learn to cope.
- Problems accumulate; decisions have to be taken without mother.
- Communication reduced, children become distanced; mother may lose control.

actions should be taken, or any other such pertinent matter. Their mother might have asked them to check something out, or they had their own sources of information outside.

Gradually the mother became the dependent one, while her children were growing up and doing things for themselves. Now they did not always feel inclined to consult her or follow her instructions completely, whether regarding day-to-day affairs or decisions for the future. Depending primarily on how long the mother was away, (but other factors as well), the

growing independence of her children resulted in a prisoner's losing some amount of control over their lives.

Substitution for the mother

Despite the fact that most children continued to miss their mother, if their daily needs were adequately met by caretakers, the mothers' absence was experienced less keenly, at least in material terms.

Perception of mother as offender

In most cases the alleged offence of the mother did not, by itself, seriously jeopardise her children's perception of her or their relationship. Theft, drug-peddling, selling liquor — even relatives did not seem to view these negatively enough to try to influence the children against the mother.

This was partly because of the tolerance and frequency of such deviance amongst residents of slum communities, where many prisoners resided. Their children were socialised accordingly, and accepted their mother's way of earning a living. Some children felt the mother had been cheated, that she had been falsely accused. Apart from this, children of habitual offenders lived with the facts of police, arrest, and periodic separation from the mother. Maybe they had accepted all this as a way of life and were no longer emotionally affected by the disruption it caused. Her imprisonment did not seem to cause them to alter the way they thought, or felt, about their mother.

However, allegations of murder were a different story — particularly if one parent had been the cause of the death of the other. Children were subjected to a great deal of emotional strain. The relationship with the imprisoned mother was affected, even if the child had been strongly attached to its

mother previously. Affection for the other parent may have been equally strong. One young girl refused to speak to her mother or accept food from her. She only cried, but did not say anything on meeting her mother. As an eyewitness, she was required to testify in court.

Much of the distress could also arise from the pressure to take sides. We learnt of a young child who was witness to the assault on his father, and was now under considerable strain, and confused. Was he to side with Mother, or not? In another case, the children felt that the mother was pushed into murdering the father. "Father used to trouble mother a lot. Therefore she killed him". (An instance was also learnt of where the daughter witnessed her *mother* being killed by her father. Although saddened by this incident she apparently did not express any anger towards him, merely saying that he did it under the influence of alcohol.)

Homicide also provokes relatives and others into exerting their influence on the children. In one family, the paternal grandparents took custody of the children and prevented them from meeting their mother. Ensuring that no avenue for contact was left, they spoke virulently against the mother as a criminal, apparently producing feelings of guilt in the children. In a similar case, the mother accused the grandparents of having brainwashed the child into saying he was a witness to the murder of his father by his mother. According to her, the child was not present when the incident occurred.

Apart from the accusation, it appeared that the mother-child relationship could be affected by a negative opinion held about her by relatives and acquaintances. There were also a few children who were fed up of the whole business and wanted to sever ties with their mothers.

3. EMOTIONAL RE-ADJUSTMENT

A significant fallout of the arrest of a mother, and the further disturbances that followed, was the emotional impact on her young ones.

There was much evidence of stress, which affected the children's day-to-day functioning. The form or intensity of reaction observed varied. Not all children reacted in the same way. It appeared that with the passage of time, the children would be called upon to face — without the security provided by the mother's presence — situations they had not encountered before; this could provoke more complex emotional and behavioural responses. Sometimes such a development became visible to a worker only after having remained in touch with a family for a while.

a) Children's Expression of Emotions

Crying was reportedly the most common and overt form of expression of feelings, especially amongst the younger children and even older girls. The initial separation from the mother was the most difficult period for many, and they cried frequently — sometimes excessively — at home, or when taken to meet the mother at prison or court, and on returning after these visits.

The following statements, although about crying, compellingly draw us into scenes from the children's lives.

Children

- "We cry a lot at night."
- "Other children do not talk to me. One child teased me ' your mother is in prison'. I feel bad and cry."
- "We cry whenever there is any festival."
- "When we see that our parents are in prison, we cry."

- "Many times (the younger ones) cry because of hunger."

Mothers

- "When my 6-year old child cries, nobody can stop him."
- "The children were crying when they met me in court."
- "There is pain during *mulaqat*. Children cry on that side."
- "All of them were crying at the time of arrest."

Caretakers (relatives/neighbours)

- "Children cry for their parents."
- ' "We slap them when they make mistakes; then children remember their parents and cry."
- "Mostly it's the girls who cry."
- "Younger children cry more."
- "When the father comes late, children cry."

It was reported that children whose mothers had been arrested for the first time, and had therefore been separated from her for the first time, were more disturbed than children of 'repeaters'. They panicked, or were in a state of shock. Also, as time passed, other symptoms of trauma were weight loss, rashes, fear at night and sleeplessness. Some children avoided talking about the mother. Others withdrew into themselves even more, staring calmly, not wanting to talk, or becoming inexpressive altogether. However, most young people were reported by their caretakers to be able to express their feelings through tears or words.

There were cases where no overt emotional disturbances were reported. Possible reasons could be:

- Children were too young to understand the implications of imprisonment.

- Short duration of the mother's imprisonment.
- An only child got the full attention of the caretaker.
- A child was attached to the caretaker even before the mother's imprisonment.
- Children of habitual offenders could have become used to their mothers' repeated imprisonment.

Caretakers who were already close to the family were effective in helping children with their emotions. A maternal aunt to whom they were very attached mentioned that, because of her presence, the children were not overly upset after meetings with their mother in prison.

But there were also caretakers who were not aware of why some children in their care were withdrawn, and so did not report emotional disturbance in their wards. During a few home visits, we discovered that some children were quiet because they missed the mother, or because they were hungry or feeling unwell. They simply did not express their distress, and so their caretakers did not see any problem.

Most caretakers appeared to be helpful to children in managing themselves for everyday living. However, they were not — or perhaps could not — be effective in helping children deal with continuing feelings of nervousness or distress, which could affect their attitude towards life in the long run. There was enough evidence that many children did not talk freely about these matters to their caretakers, tending towards denial or suppression of emotion.

b) The Context of Emotional Response

The expression of emotions such as longing, loneliness, fear, guilt, or resentment in words or actions, can be better understood with reference to the situations children had to confront.

Separation and Longing

For many children, their mother seemed to occupy their thoughts most of the time. The warmth of her pervasive image, and the stinging pain of her absence — her love, care and protection — were very much felt. Children remembered, and longed for, their mother. Caretakers naturally sensed this, as despite their constant presence they were not viewed as 'mother'.

Some statements:

- "The girl lost her voice for 15 days."
- "*Jab se mummy gayee hain.... sunapan* (Ever since mother has gone.... loneliness)."
- "*Bahut yaad aati hain* (Miss her very much)."
- "*Raat mein uthkar rota hai* (Wakes up at night and cries)", reported a caretaker. When asked why he was crying, the child said: "*Mummy papa ki yaad aayee* (I remembered my mummy and papa)."
- "*Bacche roti nahin khate aur rasta dekhte rehate hain* (The children don't eat, and keep waiting for their mother to return)" reported a neighbour.
- "After her mother's arrest", reported a caretaker, "Pinky did not sleep for three nights. She used to get up and say '*Mummy ke pas jaoongi* (I want to go to my mother).'"
- "I do not like to play now."
- "*Khali khali sa lagta hain. Khane ko daudta hai* (Every thing seems so empty — the loneliness is oppressive)."
- "*Sust ho rahe hain* (They are becoming inactive)."

Feelings of depression, loneliness and sadness were felt deeply by many children. Despite caretakers' efforts to console their wards, longing for the mother was intense. Children were concerned about her and her situation; we found at times a sympathetic identification with the mother's condition, preventing children from wanting to enjoy themselves. For instance, they might stop going out for a film, or not cook a favourite dish, because these were things they used to do with their mother. Now she was no longer with them, and could not enjoy those things herself. It was reported that one child lost weight because he did not want to eat — he worried about whether his mother had eaten or not.

Fear or Threat

During interviews, some children talked about situations that they found threatening. Their sense of insecurity was pronounced, mainly because of the removal of their mother's strong presence at home. Caretakers, too, reported about children who were fearful, showing symptoms such as inability to sleep without the mother. Mothers seemed to have played the powerful role of 'protector'. (In fact, one of our researchers mentioned how the image of '*sherni*' — mother lion, watching over her cubs — spontaneously came to her mind.) Given this, it was understandable that her arrest and imprisonment left her children feeling vulnerable. However, the statements made primarily reflected the children's fear of *specific* situations, described below.

i) Children may have been witness to any violence associated with the mother's arrest.

- "There is fear at night because father's dead body was here for a long time."

- "The children are afraid of ghosts. They ask: '*Isme kucch bajta hail*' " (Implying that sounds startled them).
- "Because of fear at night, children have started 'sleeping at their grandmother's house."
- "After mother's imprisonment we did not stay at home We went to our uncle's place. '*Dehshat si ho gayee thi*' (A kind of dread had overtaken us)."
- "Our youngest brother cries out at night, afraid someone may assault him."

Some women are dominant figures in their localities. Consequently their children (even if left alone after their mothers' arrest) are likely to feel safer in their own home. We found that neighbours usually do not cause any trouble, for fear of the mother's reaction after her release. Nevertheless mothers in prison continue to worry about, especially, daughters being taken advantage of.

ii) Fear of drug-addict/alcoholic and abusive fathers, or caretakers who were authoritarian, or who humiliated, or beat the children. Previously, if a father was given to ill-treating his children their mother would rush to protect them.

iii) Anxiety was more pronounced if both father and mother were absent.

- "We feel scared at night. Nobody comes to sleep with us."
- "Afraid because alone at home."

iv) Some children were unable to sleep without their mother at night because they were scared of bad characters in the neighbourhood, or being assaulted by 'the opposite party'.

- "Children are not allowed to play far because of fear of harm by our adversary."
- "We are always in fear that (those people) will kill or harm the children. So we do not allow them to go out much here and there."

v) Children also felt threatened by people in the neighbourhood who wanted to take advantage of their helplessness. In some cases, they were intimidated by the victim's family, especially in the case of homicide. Such a threat was especially menacing where the two families were related, and living together as a joint family. Children complained about how the other (victim's) family constantly fought with them, abused them, would not allow them access to the kitchen or bathroom, and threatened them.

vi) Another crime-related situation was where a daughter was afraid of the co-accused in the case, and so was feared going to prison or court to meet her mother.

vii) A significant dimension was also fear of the police and prison authorities (discussed below).

Police

Children have been emotionally affected by their experiences related to the mother's arrest. Fearful and humiliating memories linger — of force exerted on parent/s during arrest and interrogation, some children's own interrogation, the shock of sudden and coerced separation, being unwillingly sent back home from the police station without their parent.

These and later experiences resulted in fear of the police. We learnt of an instance where a child ran away at the time of the mother's arrest. An agitated mother, arrested for drug-peddling, told us of her adolescent daughter's being frequently accosted by a policeman from the neighbouring police station, who threatened to arrest her whenever he saw her.

Prison

A number of children were disturbed by visits to the mother in prison. They seemed to fear actually seeing her behind bars. The image of prison as being dark and dingy, the presence of guards, the noise of so many families talking at one time — all these frightened the children. Many were considerably upset, while some refused to go again.

- "He hardly recognises me. When I took him in my arms, he kept screaming for his uncle. He is scared and nervous, and cannot call me mother."
- "My ten-year old son has become very quiet, never talks. Whatever I say, he just keeps looking at me."

Some children visualised the prison as a place where a woman is required to wear a white sari, have her hair cut, and do a lot of work. This was reflected in a query made by some children to our social workers. "Has my mother's hair been cut, is she wearing a white sari?", they asked. This image is mostly drawn from the way the prison environment is depicted by the visual media. There were also children who were afraid to leave the mother alone in prison after the visit — afraid for her, and for themselves. Some of them had been shifted to their relatives' homes, which were sometimes far away from the prison. Distance from prison, consequently, implied distance from the mother.

In general, it has been noted how at the *mulaqat* (discussed later in detail) several children appeared to be upset, cried more and missed the mother later.

vi) Sometimes we could only infer the possibility of children being in distress. In one family it appeared that the entire paternal clan had tried brainwashing the children against their mother. We sensed that the children, although possibly wanting to meet her, were too intimidated to express this to us in the presence of the grandmother. (In an instance reported by Shah, the children were separated and taken by different relatives. One child lived with his maternal aunt who blamed the father for the mother's arrest; she would abuse and ridicule the boy for still meeting the father. While he missed both parents, he could not express his feelings in such an environment.)

Worn/ about the future

Children were anxious about the shaky and uncertain future that seemed to loom large before them. For older children looking after younger siblings, a situation characterised by the possible long-term absence of the mother left them worried about their lives as grown adults.

The following themes were frequently expressed:

- "When will mother come?"
- "When mother returns all will be well."
- "After mother's imprisonment we no longer like it here. When she is back, we will return to our village."

Discomfort at being asked questions

Children often had to face awkward questions about the mother — why was she absent, where was she, and so on. They disliked having to lie and avoid people on this account, and felt relieved

when the 'interrogation' stopped. Inside home one felt protected and secure; within the family there was no need to hide from the truth. But once outside, it was different. While going to the market, or for any other reason, one had to put on a mask to protect oneself from outsiders. Naturally, children did not want people to know the facts about the changed home situation and the imprisonment of the mother. Once, our worker accompanying a young girl for some purpose found her making things up to prevent a friend from finding out. She was very tense whilst improvising, afraid her lie would be discovered — and calmed down as the moment passed. In another instance, when asked by an acquaintance about her mother, the daughter promptly replied that the mother was at home. When no further questions were asked, she was visibly relieved.

Guilt

A few children found themselves inadvertently pulled into the bloody violence that resulted in the death of their father and detention of their mother. All this hit them badly later.

Some felt they had caused their mother to be arrested and imprisoned. For instance, it was on the insistence of a daughter that her mother agreed to go to hospital for treatment (because of the injury sustained during the 'incident'); and it was at the hospital that the mother had been arrested. In another incident, an alcoholic father died when his wife once hit him. The police asked the children for a 'statement'. They recounted all that had happened, and this led to their mother's arrest. Now the children felt terrible, for had they given a different statement their mother would not now be in prison. In a similar episode, where a drunken father was hitting all the family, the girl handed an object to her mother to assault him with. The man collapsed, and their daughter now regretted her impetuosity.

Feelings against mother

In the majority of cases children seemed to be close to the imprisoned mother. But there were exceptions as well. Some caretakers spoke about children who did not think about their mothers much, or ask for them constantly.

One very young child refused to accompany his mother into prison. A nine-year old boy, who did not ask for his mother, seemed to have had a difficult relationship with her even before the arrest. In another family an 18-year old son was in regular touch with his imprisoned father, but not with his imprisoned mother. (His siblings, on the other hand, were close to the mother.)

Some suggestive statements are:

- ". . . . has been so affected that '*usko ladkiyon se chidh baith gayee hai*' (He reacts irritably towards girls)."
- "I have lost a year at school because of the case."
- "There is a feeling of having been deceived."
- "When they grow up, this same love can grow into hate."

Some children developed feelings of resentment, particularly where they perceived their mother as being responsible for the death of a loved one. S., a young girl, felt that it was the mother's relationship with the co-accused which ultimately resulted in the murder of the father. Sometimes the dislike stemmed from the perception of mother as having actually killed the father. In two families where children said they were not interested in meeting their mother, this was one reason given. A sharp reaction in anger was expressed by one youngster: "Problems were there when *she* was there!"

Fear, too, could be an additional factor. We learnt of a boy who refused to have anything to do with his mother because he felt she was responsible for the death of his sister.

Loosening of family bonds

With no adult at home to hold the family together, make decisions, and perhaps act as mediator during disagreements between the children, there seemed to be a loosening of ties. Each may be forming alternative relationships outside the home, in an attempt to adjust to changes faced by them, probably resulting in a decline in communication within the family. Some children disliked the fact that their older siblings took other friends into confidence, and not them instead.

Siblings may stop informing each other about their comings and goings. Differences of opinion, particularly about each others' behaviour, may become increasingly difficult to express. A young boy who did not approve of his younger sister coming home late could not get himself to tell her this. While talking to our social worker he voiced his sense of helplessness at the situation, saying: "What to do, who can I tell?" In another home, a child mentioned how the elder sister spent Rs. 20 a day on 'pan masala' for herself, instead of buying food for the family. In a similar instance, the older brother was reported to be keeping part of his earnings aside to spend on himself, rather than considering the needs of his siblings.

Disturbed or deviant behaviour

Sometimes one sibling reacted more sharply than others, and there were a few instances of absconding, delinquency, aggression and attempts at suicide. The following examples may be helpful in understanding how such situations arise:

- * M. was a 20-year old girl whose father, mother and elder brother had been in prison as undertrials for the past three

years, accused of the death of a relative. Another brother was hiding from the police. Apart from M., those at home were M.'s elder sister (aged 21 years), younger brother (aged 18 years), and two younger sisters (aged 15 and 9 years respectively).

During a home visit, our researcher learnt about M. having attempted suicide. She had started working in a doctor's clinic as an assistant for two months or so, and was keen about her work. Here she was propositioned by the doctor's married cousin, which was discovered. A few days later, after returning home from work, she was found crying. Later she locked herself in a room and swallowed sleeping pills twice, but fortunately did not succumb. When the family got to M. she was talking incoherently. A doctor was called but she refused to take medicine, or eat or drink anything. Relatives who were then informed presumed that M. was under the influence of evil spirits, which must be exorcised. This went on for ten days.

On learning all this, the *Prayas* worker accompanied M. and her elder sister to a hospital. Three days later M. was admitted into the psychiatric ward, and released after about ten days. On a subsequent visit, the researcher found her feeling much better; she had started accompanying her sister for a training course.

It was also learnt that there was another reason for M.'s bout of depression. She said she had taken the family's legal papers to show to a lawyer for an opinion. He had told her that a life-sentence was inevitable in this case. On hearing this, she had lost all hope and wanted to commit suicide.

A young man reacted with severe and repeated violence to what he felt was the unjust arrest of his mother for abetment of murder. His behaviour worsened

progressively, leading to his being in and out of prison. His other brothers did not react like this.

- In a family of seven children, (with both parents in prison), the younger children started pilfering iron pieces from a nearby garage and selling them, buying sweets and biscuits for themselves.
- A minor girl was imprisoned for drug peddling. Her father had passed away, and her mother and brother were already in prison (on the same charges). She reported having done this in order to earn money to sustain herself and visit her mother, to whom she seemed very attached.
- (A seventeen-year-old youth interviewed by Shah said that children of prisoners should be given work, to keep them away from crime — he himself had got into it to maintain himself after his mother's arrest. The family picture was that he had been staying alone with his mother. Three older brothers were staying separately, and did not help the boy financially after his [earning] mother was arrested.)

4. THREAT TO SECURITY

The absence of parental/adult protection exposes children's vulnerability to the environment. Some instances:

- "One of my daughters was bitten by a dog..."
- "Once a neighbour beat and abused me; if mother were here it would not have happened."
- "Neighbouring kids hit the younger ones. There is no one to console them."
- "There is quarreling amongst the children...'their mothers beat us, my kids tell me.' "

Apart from verbal abuse and beating by neighbours or relatives/caretakers there could be danger from anti-social elements, lack

of protection at home at night from drunkards, and fear of abduction or physical harm by members of the opposing party.

- "My children are unprotected, open to danger from those who have killed my husband, because those persons have not been caught."
- "I am very worried about my house being taken over — there was a quarrel with the Pradhan — they will not keep my children."
- "My child will be in extreme danger if he is given away to . . . (person) or even to anybody in the community."

Imprisoned mothers' fears for their daughters might be well founded. Some examples:

- An unemployed middle-aged neighbour, whom the children used to call 'Uncle' because he was friendly with the parents, was dependent on this family for his living before and after both parents' arrest. The man, apparently, now saw an opportunity for advantage. At first he proposed marriage to the 18-year old daughter. On a subsequent occasion he tried, but failed, to tempt her (with Rs. 5000 and offers of turning her into a model) to go along with him to Mumbai.
- A mother reported her daughter having lost her way on the way back from school, on more than one occasion.

Some women also accused their relatives of behaving threateningly or unfairly towards their children instead of helping them. The children confirmed this. Some instances:

- Relatives staying nearby were given to beating the prisoner's children. They also planned to marry off the eldest daughter, against her will. However the girl firmly refused.

- In a family where a prisoner's children were left all by themselves, an uncle moved in with his entire family. Now the prisoner's children were made to sleep on the floor, they said, while the new family slept on *their* bed. Despite being forced to serve their relatives the children reportedly faced abuse by the aunt: "*Turn log sub mar kyon nahin jate?* (Why don't all of you die?)", and also beating.

5. INSTITUTIONALISATION

A fairly large number of children (mostly those below six years of age) were taken into private (charitable) or government/semi-government residential care.

While government homes under the Juvenile Justice Act are obliged to receive all children in need of care or custody, privately-run children's homes tend towards being selective, and some may not accept children of prisoners. Resistance arose from a feeling that, by and large, 'such parents' are seen as being irresponsible and wanting to avoid their duties; and that their children are 'trouble makers,' 'from a criminal background', 'with crime in their blood' who 'will spoil the other children'. Such a bias was re-inforced if children of prisoners who *were* admitted did not adjust and ran away, making subsequent admissions difficult.*

Children of prisoners received the same facilities as other inmates — food, clothing, bedding, education and training. An additional facility to be provided to them was that of being escorted by staff for meetings with their parents in prison. However, on talking to the staff and children, it was learnt that these meetings were irregular, mainly due to the frequent non-availability of escorting staff.

* This is not to suggest that all institutions carry the same attitude.

This affected some children's emotional adjustment to institutional life, although not all children reacted similarly. The younger the child at the time of admission, the more likely it would be to accept discipline and routine. The older ones tended to miss home and family more, and remain unsettled for quite a while. They would send messages to their mother to get them out, or maybe even run away.

Realising that it is necessary that the parent-child bond be sustained, Prayas prison workers have taken a continuing interest in following up on this issue. In a number of cases, the concerned authorities have been contacted to arrange for visits. On one occasion, we brought the children to visit their mother in prison — there had not been a meeting in years! The prison authorities were witness to an emotional scene that would have shaken anyone.

a) The Process of Admission

The admission of children was usually initiated in two ways:

By parents/relatives

- i) A child below five years, who has accompanied its mother into prison with her, has to be sent out when it attains that age. (If the mother feels the prison environment is detrimental, she or he could be sent out earlier as well.) If the father/relatives are there and willing to look after the child, the mother may choose that option. If this does not work out, the child may be admitted into an institution.
- ii) On receiving disturbing news about the situation of her children left outside, (by local persons or social workers paying home visits), a mother may ask prison authorities or visiting social workers for help in finding a suitable institution. An application to the judge

hearing the mother's case, supported by a prison welfare officer's report (if any), could also result in a judicial order of referral to juvenile justice authorities.

- iii) A father, who is unable to manage caretaking any longer, approaches prison authorities or welfare officers/voluntary social workers for arranging for admission.

By police

The arresting police take action under the Juvenile Justice Act. In one instance, while taking a woman into custody it was realised that her only child, a young boy, was left with no adult support at home. Waiting to see if any relative turned up, the police kept the child with them for a few days. (Although legally not the correct procedure, this was done to avoid unnecessary harassment to the child and the family.) Subsequently, he was formally taken charge of as a neglected child, and admitted into a Children's Home. Alternatively, police may suggest institutionalisation to a parent. For instance, a mother reported: "The child was put in... Home, giving his age as being 6 years (one year more than his actual age) because the police said then he will get proper food."

By the court

In the case of a mentally ill woman prisoner, whose four-year old daughter had no father, her maternal uncle clearly said in court that he and his family could not maintain the child. There was no option but for the court to institutionalise her.

b) Parent's View About Residential Care for Children

Mothers

Children visited at home did not, in general, respond favourably towards the idea of residential care. On the other hand,

imprisoned mothers appeared to have received both positive and negative messages from their institutionalised children. For instance:

- "Children are well looked after at the institution."
- "Yes, they say, we are okay: we get food, we play, we are taught."
- "Boys in the institution steal — my son requests a change of institution."
- "Institution children have no socks, no sweater."
- "Elder children beat us, *mara mari hoti hain..*"

Several mothers, anxious and preoccupied with thoughts such as: 'What would happen? Were these bad places?', were relieved to hear that leaving the child in institutional care was a viable option. Interestingly, the number of women wanting to admit their children *showed* a dramatic increase after learning about 'success stories'. Women who had decided to apply needed to get their children to agree to their plan. Prison meetings were used to convince them about the benefits of living in an institution during their mothers' absence. Some took a broader view, in view of their own limitations. "Even after being released, I will try to get my children admitted into a hostel."

Specific reasons why imprisoned mothers sought admission of their children into residential institutions were as follows:

- (i) *To check out how suitable this option was:* "I would like to place (my children) in an institution. If they are okay, then they can stay where they are."
- (ii) *Unprotected children, left behind living on pavements or in unsafe localities, being in danger:* A child playing on the road could get run over by a passing truck. A young girl could be victimised. Neglected youngsters may

turn into law-breakers. Physical protection as a motive frequently overrides other reasons such as education, better environment, or future life of the child.

- (iii) *Apprehension about children not being looked after well enough by caretakers* : Or that a caretaker now preferred to institutionalise the child rather than continue to take care of it, because of her/his inability or incapacity to take care, lack of resources, and unwillingness to take continued responsibility. Thus, institutions were a means of providing children with the minimum care and attention.
- (iv) *Preventing an antagonistic husband or in-laws from taking custody of the children.*
- (v) *Being trapped in a criminal lifestyle*: Women who were repeatedly imprisoned needed to make steady long-term arrangements for their children, essentially as a means of protecting them from the harsh realities of their world. (This included police visits to the home, sometimes at night; being in and out of day-school depending on whether mother was in or out of prison; alternating between luxury and penury; and so on.) Some of these women could now manage to raise boarding school fees and expenses.
- (vi) *Planning for children's future*: Several women prisoners, especially those of some means, appeared to be strongly inclined towards an education for their children. If it could not be obtained staying at home, then 'boarding' was the next best option. They preferred private 'boarding' schools — which were really Homes built by charitable organisations. Perhaps giving their children an English-speaking education — hence a good start in life — was also a way of compensating for the women's own sense of having

been deprived of opportunities in life. Education was thus seen as a substantial benefit of institutionalisation.

Both mothers as well as older caretaking children shared this view. For instance:

- "Right now I do not want to spoil their year of studies. Once they complete it, I would be happy to put them in 'boarding' as long as they are safe."
- "If there were places where our children can live well and study also, we would avail of such services."
- "We want to admit younger siblings somewhere where they can study and be in a good environment. Here they do not study."
- "There are ten children with one teacher — it is a good place."

"Dear son,

Blessings and love from your mother! Dear son, your sister and I are well here. How are you? Please take care of yourself. Study well. You must study day and night. Don't worry about us. Pray for your mother. I will get released soon and come and meet you. Your father didn't come to the court and meet me. But you don't worry about that. I have full faith in God. Our bad days will be over soon, and our good days will also come. Wait for that day. Unless we experience sadness we will not be able to enjoy happiness. Son, you have matured now, so think before you act. If you study well it will help you in your future life. This is your age to study. I want you to concentrate and study hard. If your father comes to meet you, then talk to him properly and tell him whatever you want to say. Write letters to me as I wait for your letters. I will keep writing to you. I will soon come and meet you.....

Your mother,

R "

Letter from a prisoner-mother to her institutionalised son

"Dear *Didi*,

I received your letter. *Didi*, my brother-in-law will not come and they will do nothing for me. The death sentence of my husband has been commuted and he has been sentenced to twenty years of imprisonment. No appeal has been made in my case. My judgement copy is with my brother-in-law. Call him up and ask him to send me the judgement copy. *Didi*, do another favour for me, which I shall not forget all my life. My in-laws are troubling my daughter much. I am afraid that now they will stop sending her to school.

So, *didi*, if it is possible for you, admit my daughter into some boarding school. Do meet my daughter once, but try not to go home. Otherwise my in-laws will beat her, that she writes letters to her mother without their knowledge. Do this favour for me and my child. I have given your address and telephone number to my daughter. At the same time, I am giving you my daughter's school address. Please go and meet her once. My daughter is studying in the 7* standard and M... is the name of her teacher."

Letter from an imprisoned mother to a social worker of Prayas

But there was also a tendency *against* institutionalisation, or continued institutionalisation. Many released women (or those about to be released, whether on bail or otherwise) wanted to take immediate custody of their children, for the following reasons:

(i) *Poor reputation of Government institutions amongst most imprisoned women:* They were seen as being for the poor and destitute; therefore entry into these would stigmatise the children. Moreover, (according to the prison grapevine), children were not taught anything but instead forced to work.

(ii) *Fear of losing control over decision-making:* Giving over children into custody was seen as a safe but temporary arrangement. Mothers would decide for how long they would keep the children in there. One woman said: "Actually when I think of my daughter, I think I will put her in Nari Niketan, then get her out and get her married."

(iii) *Children's stay in an institution is perceived as being on par with their own stay in prison:* Therefore, children should come out when their mothers do.

(iv) *Children themselves pressurise their mothers to get them out of the Home:* One mother, being unemployed and without support, told her child he would have to continue in the institution till she was in a position to take care of him. On securing a job, she took him back home.

(v) *The social situation of women released from prison is often not secure:* Some feel they cannot stay in the same neighbourhood any more, and plan to re-locate themselves elsewhere with their children. Or they wish to return to their native place, taking their children with them. Our help has been, in some cases, requested for completing the necessary formalities for restoring children to their mothers.

(vi) *A feeling that the children were not destitute:* There was no need for them to leave home and be institutionalised. A temporary caretaker, or the eldest child, could well meet the family's requirements till the mother's return. The children, too, would rather stay at home and be together.

Fathers

Fathers, in particular, were observed to have consistently held out against this option.*

The reasons could be:

(i) *Loneliness*

- "No institutionalisation . . . then I can't stay at home, it will be more lonely. I will be alone at home."

"Husband's opinions are critical to such decision: even if women feel the need for admitting their child, they may not do so without their husband' approval or consent. Husbands' opposition can make mothers reverse their own decision towards institutionalisation.

- "I do not want to send children out to institutions.' *Inko dekh kar jee raha hoon, inko alag kar ke to mai mar jaaunga'* (I will die if I separate myself from them)."
- "I can't live without the children."

(ii) *Lack of faith in institutions*

- "I do not want to institutionalise my child — there may not be that kind of care which a home can provide."

(iii) *Sense of pride or responsibility*

- "When I am there, where is the need for institutionalising my child?"
- "Even if there is an institution, I do not think I would have the heart to put my children there."
- "*Lawaris thodi hai bachhe* (After all, they are not orphans)!"
- "Children will never face problems — *karna to padega hi* (one will have to look after them)."
- "Since I'm alive, I do not want to send the children into prison (with their mother)."

c) A Glimpse of Prisoners' Children in Residential Care*:

Chand

Chand, a young boy whose brother had been admitted to a Home, asked to be able to join him, as he missed him very much.

Sonu

She was a young girl, the eldest of three children, left alone at home. Frustrated by the continuing imprisonment of her mother, Sonu emphatically said she was now going to institutionalise

* Fictitious names have been used

her two younger siblings, so that she could get married. This was not really a positive view — Children's Homes were a way of freeing herself of a millstone around her neck.

Ramesh

After his mother was arrested on the charge of having caused her husband's death, Ramesh's two younger brothers were admitted into a Children's Home. After some time Ramesh too was sent — but found himself in a different institution. The children were, thus, separated not only from their mother but also from each other. Ramesh was not able to meet his mother, or his brothers in the other institution, regularly. It appeared that the only way he did get to be with his brothers, was if all three children were brought to prison to meet their mother on the same day by the staff of both institutions.

While talking to us Ramesh expressed his desire to be back in the family. He appeared to have no definite idea of how long he had been in the Home. Nobody came to visit him. He indicated that the only important relationship he had was with his family, from whom he was now separated. Although not happy, he had settled down and made a few friends in the institution — for instance a young 'helper' in the kitchen, whom he spoke with frequently. For him, the Welfare Officer was a person who looked after emergencies such as needing a doctor. The researchers (being 'visitors from the mother') sensed that perhaps the child expected them to function as a link between him and his mother.

Amit

Amit's parents were both in prison, having received a life-sentence for murder. Ten-year old Amit was admitted into a Children's Home along with his sister. Here he was reported to

be mischievous and disinterested in his studies. After informing the mother in prison about this, the authorities transferred him to another institution where, apparently, he 'settled down'. In the last meeting between him and his parents in prison, he had looked all right and did not complain about anything. A few days later, Amit ran away from the institution along with three other boys. The Home lodged a First Information Report (FIR) with the local police. A month later the boys had still not been traced. The Home had informed not the parents directly, but the prison authorities. The mother came to know about her son's disappearance from another prisoner.

Sanjay

In some cases a child is arrested along with the mother, as co-accused. Sanjay, being a minor, was therefore (in accordance with the requirements of the Juvenile Justice Act) admitted to the Observation Home. It was learnt that the mother and the son, confined in different institutions, had not seen or communicated with each other for a long time. The mother was not aware of juvenile justice procedures, the situation of her son, or what was happening in his case. Sanjay, *too*, had no idea about how he was being processed, and had no information about his mother. Both were in an extremely anxious state, and very worried about each other.

No official of either the prison or the Observation Home had taken the initiative in helping the two to keep in touch, or of informing them about the legal position. The mother had applied to the court for a meeting but so far this had not materialised.

Salma

Salma and her sisters were admitted to an institution with the help of our social worker, at the request of the mother in prison.

After some time, they were suspended from the institution for visiting their brothers at home instead of going to school (on more than one occasion). The youngest child was allowed to continue in the institution, as she was "easier to deal with". Later, this child also ran away. She felt she was being suspected of any theft that occurred in the institution. (We also heard that the committee had decided against admitting children of prisoners in future, "because they have crime in their blood."¹)

Rehana

Rehana was living with her mother's friend before her mother decided to admit her to an institution (having begun to doubt whether her child was being used for household chores). Two days after admission, the girl left the institution. Although the staff had been good to her, she said, the older girls would bully and shout at her. She felt that it was better to live with her mother's friend instead.

Shanti

Shanti, a three-year old, was taken into prison along with her mentally disturbed mother. As the latter was to be transferred to the mental hospital for treatment, the mother's brother was convinced to take the little girl home with him. A month later, during a court hearing, the uncle asked for the child to be taken back into custody. His sister being mentally ill, and there being no father, there were differences within the family about taking long-term responsibility. The court ordered the institutionalisation of the child.

Shanti seemed to have adjusted to her new surroundings but missed her mother, whom she had not met after being admitted. She related better to staff than other girls. Some of them taunted

* This is not to suggest that such an attitude is commonly observed in all institutions.

her about the fact that she did not get visitors and chocolates. One day she broke down before the social worker of the institution and cried inconsolably, saying that she missed her mother. Two years after her admission, her relatives had visited her only once — that too, when the Prayas worker accompanied them.

The mother's disturbed behaviour continued after her release from prison, and so the child remained in the institution. The social workers of Prayas kept in touch with Shanti through intermittent visits to the institution. It was learnt that she was good at studies, but somewhat withdrawn. A staff member has taken a great deal of interest in two or three children who had no relative visiting them. She even took them with her on visits to her own home or relatives' place.

Harish

Harish was left, after his mother's imprisonment, with an addict father. His three-year old sister accompanied his mother into prison. Since he was neglected and showed interest in learning a trade, a voluntary organisation working in the area arranged for his admission into an institution. Although his mother was transferred to a prison outside Mumbai, they continued to write to each other. The mother once said that she tried to guide and direct her young son through her letters.

Jyoti

Jyoti and her sisters were institutionalised on their mother's being arrested. The latter had not met her children since then, in spite of repeated requests to the authorities. In an act of desperation she slashed her wrists, to pressurise the prison staff to arrange for a *mulaqat* with her children. This tactic worked,

and a visit was immediately arranged after obtaining the necessary court orders. The children appeared to have adjusted, and made a few friends in the Home. They stayed there till the mother took them back after her release from prison.

Eight children and five women from a neighbouring country were intercepted at an international airport. The women were arrested, accused of trafficking, while the children were kept in a government home while the case was being investigated. As the mothers were being treated as suspects, their claim to being the children's real mothers and having been misguided into escorting the children, was not entertained. They were not allowed to meet the children. Only after three years, when the case came up for hearing in the Sessions Court, and the women acquitted, were the mothers and children allowed to meet. The children were brought to the prison. At first they were overwhelmed on seeing their mothers. After that they wept uncontrollably and were unwilling to return to the institution — not knowing when they would be allowed to meet their mothers again.

Nitin

Nitin was found to be unwell, when visited by the Prayas prison worker. He was feeling low, looked forlorn and constantly asked for his mother. Perhaps because of being a mother herself, our worker took him into her arms, began to massage his forehead and tried to console him. This seemed to have had a soothing effect. The institution's social worker later called to say that the boy was much better after the visit. Perhaps this is because Nitin saw our worker as a link between him and his mother.

CHILDREN'S INTERACTION WITH THE CRIMINAL JUSTICE SYSTEM

Children of prisoners have not only to contend with a changed home situation and social disrepute, but also to encounter the world of police, court and prisons without any preparation for such experiences.

CHILDREN AND THE POLICE

As with other adults in the family, children often had occasion to interact with the police before, during, and after the arrest of the mother. When parents are 'accused' persons their young children get willy-nilly drawn into the situation and could be subject to police action. The attention they receive may be helpful, indifferent, or even hostile.

Narratives by women prisoners — critical for the most part, expectedly — suggested the following areas of significant police-to-child action.

Mothers' Arrest and Custody

At the time of the arrest, (whether at home or at police station), the mother was either permitted to take her younger children with her in the lock-up, or they were separated when taking her away.

Some respondents accused the police of giving false assurances to pacify agitated mothers or children, or trick suspected women into leaving their small children at home and coming to the police station. Not a few were given to understand that the 'Sahib' simply wanted to ask them a few questions at police station or court, after which they would be allowed to go. Some instances mentioned:

- The police came at eleven at night. The woman was asked to come to the police station "for only five minutes", where she was then arrested. Her children were asleep at the time, and unaware of what had happened.
- As her crying children followed the 'arrest party', their resisting mother consented to accompany the police only on being assured of being sent back at the earliest by rickshaw.
- A couple locked their young child in the house and accompanied the police, confident of returning soon. On finding themselves arrested, they later phoned their elder son to collect the child.

At the time of their mothers' arrest many children were reportedly taken completely by surprise, were thrust into precarious circumstances, and could barely comprehend what was happening.

Some statements by mothers:

- "Police picked me up from home at 4 am ... the children came after us, crying."
- "At the time of arrest my 11-year old daughter was playing outside. She was hardly aware (of what had happened). She informed her maternal uncle, but did not even know which police had taken me."

- "At the time of arrest, children were watching TV.*Guddi* (six-year old daughter) came with me to the police station. But when they asked me to leave her, she was panic-stricken. Then I sent her away with a servant."
- "I was pregnant at the time of arrest ... (and) made my 6-year old sit with me at the police station throughout the night for fear "
- "My younger one was just in his underwear. It was cold and I had to take him to the police station. Just like that. "
- "The children didn't know about my arrest — I had gone to work at 7.30 in the morning."
- "The children come to visit me in prison once in about two months. But I haven't seen the daughter after the 'chowki' incident... One constable hit me as well as my child. The boys were left crying."
- "Police abused the children."
- "My elder child was also beaten and brought. She was very scared."
- "My child was crying and stuck to me and had to be pulled away from my neck."
- "The police dragged me away from my children."
- "The police did not allow me to take my one-year old son with me."

Witnessing the ill-treatment or beating of their mother during the arrest, and later even at the police station, apparently left most children scared and crying:

- "The children got very scared at the time of my arrest."

- "Children began crying at the time of my arrest."
- "My daughter was under shock. All she knew was that '*Mummy police ke paas hain* (Mother is with the police)'."
- "At the police station, I was beaten up — the children still ask (about it)."

The reaction could also be an impulse to escape. One woman reported: "The children have left the house for protection, and because of fear of the police. The police had behaved very rudely." A youngster we interviewed said: "When the police came to arrest my mother, I went to. . . . because of fear."

In many instances the police did respond to women's requests that the family be informed about the arrest. But some policemen could be indifferent, or even rude at times. ("Am I your father's servant?") The matter sometimes got complicated by the fact that a fearful woman may have given the wrong address. So some children remained unaware, for quite a while, of where their mother was.

There were also complaints about police being unhelpful to children who visited mothers in police custody. A few women alleged that their children were not permitted to meet them. One mother said that her son, a youngster who went to lodge a complaint about his missing siblings was, instead, accused of having instigated them into running away, and threatened with arrest if he did not reveal where they were.

The emotional impact of such experiences could be lasting. Over a period of time, however, youngsters may get accustomed to the situation. Children of habitual offenders, for instance, appeared to be less frightened of the police, perhaps because they had dealt with the police more often.

Interrogation of Suspects and their Children

"... woman held for conspiring to murder husband

The police have arrested a woman for conspiring to murder her husband and helping her paramour to destroy evidence of the crime...

... *Interrogation, it seems, also revealed (the accused's) children had accidentally witnessed the crime but had been threatened by their mother as well as Barrister into keeping quiet.*" (*Italics added*)

Excerpts from a newspaper item

Many mothers reported that their interrogation by the police was very frightening to their children, particularly when the family was subjected to intimidation, abuse and threat.

Children suspected of being either directly involved in, or witness to a crime, were also questioned by the police, sometimes in the presence of family members and sometimes not. The inquiry was conducted either at home or at the police station.

The manner in which the children were questioned was apparently frightening for most. But a case was also reported where the policeman conducting the inquiry showed extreme care and tact while doing so. He was polite and attempted to ensure that the child being questioned did not feel intimidated

The treatment a child received at the hands of an investigating officer could be a projection of the latter's perceptions of the mother. On the other hand, it could also vary with the nature of the offence. It appeared that the police, by and large, did not question or roughen up children where mothers were detained for cases like theft. However, if a murder was being investigated, a child who might be a witness could be interrogated more severely and treated harshly. Some statements by the mothers about this:

- "At the police station my eight-year old was being interrogated about the murder, blood, etc. when he hadn't seen anything."
- "The police brought the child to the *thana* for interrogation. They kept asking if he had cleaned the blood off the floor."

Taking Children into Custody

In cases of homicide occurring at home, minors were at times treated as suspects and taken into custody along with the parents, (being later sent to an Observation Home). In suspected cases of dowry-related deaths sometimes several members of a family were arrested. A minor has also been apprehended where implicated by a victim, or where the police themselves were suspicious of the minor's activities.

Fear of the police was found not only in the children who were arrested, but also those who were not. They were scared they would be next.

Police arresting the mother have also been reported to have assumed responsibility for destitute children who had no caretakers, taking charge of them under the Juvenile Justice Act. An eight-year old boy was kept and looked after the police station for a couple of days; when no adult came forward to take charge he was sent to a children's home.

Visits to the Family

Before arresting the mother the police visited the home and surrounding area, questioning the family and neighbours. Even during a woman's imprisonment the police sometimes visited her home for collecting further evidence, questioning family members and identifying witnesses or other suspects. Some prisoners alleged that if one did not 'confess', the police would

threaten their family members with dire consequences (for instance, being accused of some crime).

A few women reported that police pressure on the children continued even during their (the women's) absence:

- "Police harass the children — threaten to lock them up."
- "Police threaten (my daughter) at home and when she goes to the market."

On the other hand, police visits to the home and neighbourhood may be perceived as being helpful as well. For instance:

- A woman granted special leave by the court was escorted home by the police.
- Consequent to an application by the mother the police visited her home, reassured the children, and warned the opposing party not to harass the family.

Informal Assistance

Shah's report makes mention of a boy to whom the arresting police provided a list of lawyers whose fees the family could afford. Consequently, the family was able to obtain legal assistance for defending the mother in court.

Some escorting women constables were reported to personally spend on food or snacks for women and children during court visits, especially if they felt the woman was innocent. They felt sorry for her and her children, it was said.

Exploitation

Some children paid bribes to police personnel in court, in exchange for allowing them to meet their mothers. Corrupt

police staff also kept for themselves cash mothers had requested that they hand over to children.

CHILDREN AND THE COURTS

Women arrested tended to depend on their families for handling their cases. This included finding a lawyer, arranging for money for bail or lawyer's fees, finding persons willing to stand surety, and so on. They also needed their families to visit them when they were brought to court for hearings.

The 'court *mulaqat*' (meeting) was preferred to the 'prison *mulaqat*', particularly because communication was relatively freer, although the necessary presence of escorting woman police constables imposed restrictions*. This weekly or fortnightly meeting was important for communicating information, discussing the home situation or pressing problems, and bringing things the woman needed while in custody. Mothers and children could also see and hear one another better, touch or embrace, and even have meals together.

This is not to say that such meetings were necessarily regular. The personal difficulties of families in making prison visits — relating to money, traveling time, availability of escort for children — also applied here. (There were women who said they had not seen their children for six months, or even a year.)

There could be other reasons for children not visiting their mother in court. Although meeting her provided emotional relief, the atmosphere in court and the strain involved in the mother's

* Shah's respondents too seemed to prefer the court meetings. Visitors did not have to wait the entire day outside prison, to meet the mother only for a few minutes.

position disturbed the younger ones, who could react by crying excessively or in some other way. "Once when J. (a very young child) met me in court she insisted on remaining with me, and her father slapped her. Ever since, she has not been brought..."

On given dates, children saw their mothers being subjected to court process. Sometimes children, too, found themselves in a similar position. Those who were witness to an offence were questioned, which could be a difficult and frightening experience.

"Man held guilty of burning his wife

(The) additional session judge..... in a judgement on Sunday held a man accused of burning his wife guilty under section 302 of the Indian Penal Code (IPC). *The judge arrived at the verdict on the basis of the testimony given by the daughter of the accused who was a witness to her mother's ghastly murder.* (Italics added)

Excerpt from a newspaper item

Judges would also sometimes ask to see children when mothers pleaded for bail on the grounds that they were left without adequate supervision, or were very ill and not getting the necessary medical attention.

Where fathers or other adults were not available or dependable, and the mother also could not arrange for a lawyer, the pressure to get their mothers released often fell on the older boys and girls. Initially ignorant of the law, they gradually became familiar with terms like 'surety' and 'bail', as also court procedures. They directly submitted applications for permission to meet their mother, or to pay the fine imposed on her in instalments, or to hand over food or clothes to her.

Older children learnt how to find a lawyer, and also sometimes acted as intermediaries between the mother and her lawyer.

They had to ask about the possibility of *bail*, what was happening in the case, other developments.. Taking on the responsibilities of adults, these young persons learnt about documents and legal matters, and how to interact with judges, court staff, police personnel, and opposing parties. Meeting legal requirements included having to obtain case papers, find out about family finances, produce property papers, find people who would stand guarantee for the mother, and arrange money for bail/lawyers' fees and other expenses.

Some children were also reported to have learnt to make extra-legal arrangements and payments: for instance arranging for, and even 'buying off, witnesses. In a case where the parents were accused of having murdered a relative, the lawyer advised that the children talk to the victim's immediate family, and convince them — with or without money — to alter their testimony in court. In a similar case, the children were, reportedly, compelled to undertake the task of selling their own home, and give all the money to the victim's family so that they would not testify against the mother.

Some children also mentioned having paid money to court staff. In one case the children were asked to bribe the prosecutor. In another, a court clerk had to be kept 'happy' so that he would pass on all the necessary information about the case. Children learnt that money could also be passed to the court constables or the escorting police for information, for meeting the mother, or for certain extra privileges. Children arranged for and gave this money. The strain of it all comes out in this harassed, complaint: "How can a poor person carry out a *mulaqat* when he has to pay Rs. 50/- to arrange (this meeting at court), and buy something for the person (mother) as well!!"

CHILDREN AND THE PRISON

Prison regulations do not, as a rule, allow for prisoners and their families to remain in touch by telephone. Procedures have been laid down for receiving letters and visits.

During the short or long course of women's imprisonment as undertrials, families visit them in the prison. Children also pay visits, at times by themselves but usually accompanied by adults.

But this is not a simple affair, and many women mentioned that their children had not visited them as yet, or had never visited them. Others mentioned that their children did not meet them at prison, but met them in court instead. (One even expressed the view that children *should not* be brought to prison at all, and that parents should, instead, be taken home to meet them.)

Nevertheless, despite the difficulties involved in making prison visits, and the emotional stress involved, these prison meetings were important. Mothers and children could see and hear each other (even if briefly), meet each other's need for personal reassurance, exchange necessary information or do things for each other. All this contributed to sustaining their bond in the face of considerable challenges to it. Thus, assistance for arranging meetings was repeatedly requested. This, not only by women who hadn't seen their children at all after imprisonment, but also where there had been a long gap since the last visit.

For children who visit, this involves encountering the prison as a system — the walls, the authoritarian atmosphere, the formal and informal procedures, the system of '*mulaqat*', the staff attitude, and so on. Younger children were frightened by the mere presence of prison guards. Mothers and caretakers reported that many children found the visit procedures and security restrictions to be stressful. Visitors must submit an application, or produce identifying documents (for example, a ration card),

and maybe also answer questions. Only then can they meet the prisoner. "Hardly (any time) is left after the checking, queries, etc.", complained one mother. In one instance, the children reached so late that they were not given the required slip for the visit, which was very frustrating for the mother.

Older children also learnt that any assistance for the mother might need to be negotiated, or that they would have to undertake tasks for her. There was frequent interaction with the guards. In one instance, the children reportedly bribed a prison guard for passing some pickle to the mother. (Guards were also a source of information, and could be of help sometimes.)

In one prison, mothers who had earned some coupons for their work inside prison were permitted to exchange these for money, which could be handed over to family members. Likewise, family members could bring money, which would be converted into coupons for the mother's expenses inside. This exchange was often undertaken by the children visiting the mother. In some cases, money was sent by post. The prison authorities then exchanged this money for coupons to be given to the woman prisoners.

(Shah reports of a 15-year old boy who, although he used to go to prison to hand over the tiffin for his mother to prison staff, remained unaware of how actually to *meet* her.)

Infrequency of Visits

Some mothers were not visited because their children did not, as yet, know about the women's whereabouts. But in general, the regularity of prison visits was affected by the difficulties encountered during the process, and therefore many children, especially the younger ones, did not go (or were not taken) to meet their mothers as often as they might otherwise have. Some of these difficulties were:

First, the trip took nearly the entire day. Children and caretakers had to travel the whole distance usually by public transport, wait outside the prison till the appointed visiting hours, queue up to meet the mother and possibly other family members who might also be imprisoned (father, brothers), and then return home by the evening. Accompanying adults could not frequently take time off from work or other responsibilities, repeatedly going through all the lengthy formalities in order to accompany children who wanted to visit their mothers. But then, neither could young children be sent alone. If the family was against the mother, the children were not taken to meet her. Even older children who were more independent and did go on their own found it difficult, as they could not always take leave if they were studying or working. An older son could be a long-distance truck-driver, or be running the family store. "My son cannot visit, because he has to look after the shop, otherwise things will be stolen."

Second, the prison is often very far from the home, making each trip a fairly expensive one for a family of modest means. Apart from the costs of transportation, things needed to be bought for the mother — or children wanted to take her something — for which money was not always available. So a visit might be put off.

The above practical difficulties were reflected in statements such as the following:

- "Children have to catch two buses to reach prison."
- "When money is there we go for *mulaqats*. Many times, when there isn't, we do not go."
- "I haven't visited prison so far because I do not know how to go there or the procedure."

- "The younger children have no idea of the place or how to reach there, and so can visit me in prison only when my elder daughter brings them."
- "Prison is very far. It's a bad world. Children cannot travel alone so far by themselves."
- "The children cannot come to meet me because my husband does not have leave from office on prison visiting days."
- "I want to meet my parents in jail but nobody takes me."
- "My son says — 'Should I look after brother and sister or come to see you?' "

Third, for some children their previous experience of visiting the mother has been so stressful as to cause much disturbance to them, (and likewise their parent), even after the visit is over. Many caretakers, therefore, decide to lessen the frequency of the visits. An extreme instance was of a child who cried incessantly during her meetings with both parents, separately, in prison. Her eyes were later so sore as to require medical attention. The caretakers decided against taking the girl for any more visits on account of the trauma caused to the child and the family. Many children are considerably upset at not being able to see their mother's face properly, or hear her voice, or touch her.

Fourth, fear of arrest. (Shah mentions evading the police as one reason for not visiting the imprisoned mother. Where a seventeen-year old boy was wanted in the same case as the mother, and had run away from home, he did not go out much for fear of being apprehended.)

Fifth, children who have been taken into residential care are dependent on the staff of those institutions to arrange for visits to their imprisoned mother. Sometimes there is considerable delay — months and years even, from *Pray as'* own field experience — because either the prison or the Children's Home does not take interest or responsibility in this regard. The reason most often given by the Homes was that the children had to be escorted, but there were no personnel available for the purpose. Prison authorities, too, generally did not seem to act on their own unless pressurised by the mother.

Unhappily, the decrease in the number of *mulaqats* due to one or more of the above reasons sometimes led to younger children forgetting what their mother, or siblings inside with the mother, looked like — and vice versa. This lack of contact led to a weakening of bonds, and a kind of sadness about the loss of a relationship. As one mother recollected: "He hardly recognises me. When I took him in my arms, he kept screaming for his uncle."

Mulaqat

The actual meeting with the mother, or '*mulaqat*', was found to be of considerable emotional consequence for both the mother and her children, meriting a separate presentation.

The whole *mulaqat* situation was distressing for both mothers and children, and anxiety was the feeling which was most often communicated both ways. Children were jostled along with all other people herding together to meet their relatives in prison. Family members were on either side of iron bars and wire meshes, shouting across to each other. There was no privacy for the mother and children to feel or touch or comfort each other*.

This is not intended to be a general statement about all prisons.

Most children tended to cry. Some just stood blankly and did not talk at all, being overwhelmed by the whole situation. The younger ones, especially, could not fully grasp the situation of the mother, or cope with seeing her behind the bars. A repeated question was: "When are you coming home?", and the uncertainty of the reply added to feelings of loneliness, isolation and anxiety. The slow realisation that the separation may continue for a long time was often very hard for a child to cope with or comprehend. Older children tried to reassure the mother rather than tell her about problems they were facing. They tried to be as supportive as possible, asking about how she was and how she was coping in prison.

Some statements:

- "When we see that our parents are in prison we cry."
- " (Children) cry at prison a lot during visits."
- "Children are happy to see me during *mulaqat*."
- "After *mulaqat* they come home and cry."
- "Children were scared and nervous and crying."
- "Till today my son asks me '*Papa ko hathkadi pehana kar le gaye the na?* (They handcuffed father and took him away, didn't they?)' He still has not forgotten it. Probably he will remember all his life."
- "At the time of *mulaqat*, the boy cries there and the mother cries inside."
- "Both sides cry at *mulaqat* — don't talk much — cannot hear anything."

On account of all the above, the effect of the *mulaqat* remained with mothers and children for long after the visit. Caretakers noted that after the visit children remained upset for several days. At home they were reported to cry more, feel depressed,

stare blankly, feel sad, and keep thinking about the mother. Although they had tried to be comforting, caretakers said they had seen the children turn quiet and sad.

Mothers also described the meetings as being very stressful. Some statements by mothers/caretakers:

- "My elder son does not laugh."
- "*Haste bhee nahin hain; unko gum rehta hai* (They do not laugh any more; they are sad all the while)."
- "*Dukhi hai* (They are unhappy)."
- "My daughter recognises me and also smiles, but does not come to me."
- "My ten-year old son has become quiet, never talks. *Main kuchh bhee kehti hoon, dekhta rehta hai* (Whatever I say, he just looks at me)."
- "He hardly recognises me."
- "(The child is) scared and nervous, cannot call me mother."
- "They carry a feeling (*'ahsaas'*) that 'we do not have parents'."

In contrast, for institutionalised children who had been brought to meet their mothers, the *mulaqat* procedure was a more considerate one. They met their mothers inside prison, usually in the office of perhaps the Superintendent or another senior officer. Here, the family was given more time, privacy, and the opportunity for closer contact and freer interaction. It appears that the overall experience was less upsetting, as these children did not see their mothers behind bars.

THE QUESTION OF RESPONSIBILITY

Are parents to be held primarily accountable for the situation of their young ones? Have adults who have compromised their own offsprings' future any right at all to expect others to assume the burden of their children? Are children of prisoners to accept their misfortune as destiny, suffer it, and make the best of circumstances? Can family members or acquaintances and friends be called upon to ensure that no further damage takes place? Should the community come forward, either in the form of the social group to which the parent 'belongs', or organised child welfare activity by religious or other socially concerned citizens? Should the State assume the parental role at all, or compensate the child for the deprivation of its parent, by way of financial, educational or other support? These are questions to which there are no clear-cut answers.

The practicalities of responding to the consequences of a mother's imprisonment on her dependent children would necessarily include a range of formal and informal actions — primarily involving the woman, her relatives, and the authorities. Support offered by other concerned individuals or voluntary/ community service groups is also significant.

Nonetheless, the basic fact is that the relationship of a mother in police/prison custody with her child outside, is mediated by the criminal justice administration. The effect of the forcible separation of a young child from its mother, and the defining and limiting of their relationship, could extend well beyond the present. Voluntary involvement in this work is also dependent on the authority of the administration. If nothing else, permission is required for welfare workers to meet the mother in custody, which is from where helping her children begins.

Two significant characteristics of the situation of minor children of prisoners may be re-stated:

One: exposure to crime, involvement with the institutions and processes of the law, and social stigma on account of their parents' arrest. (Those very young could have accompanied their mothers into jail, as well.)

Two: parent-child separation has been forced by the State itself, at one stroke withdrawing from a dependent child a primary relationship and a means of protection and support.

Since the State is primarily responsible for law and order, one cannot, of course, suggest that it should not take into custody any parent of minor children. But, that such an action simultaneously renders these children vulnerable in a variety of ways is also of consequence. Thus, without denying the important role of parents or other societal agencies, one cannot discuss the condition and future of these children without reference to the preventive and remedial role of the State.

1. POLICY

The responsibility of the State for the welfare of children is reflected in various instruments, including those that India is a signatory to.

Some Policy Statements that Reflect the Indian State's General Responsibility for Children

i) Article 39 (f) of the Directive Principles of State Policy states that children are to be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity; childhood and youth are to be protected against exploitation and against moral and material abandonment.

ii) The National Policy for Children adopted in 1974 declared: "It shall be the policy of the State to provide services to children both before and after birth and throughout the period of growth to ensure their full physical, mental and social development. The State shall progressively increase the scope of such services so that within a reasonable time, all children in the country enjoy optimum conditions for their balanced growth."

iii) The preamble of the UNICEF-sponsored United Nations Convention on the Rights of the Child includes: "recognizing that, in all countries in the world, there are children living in exceptionally difficult circumstances, and that such children need special consideration".

iv) The National Plan of Action (N.P.A. 1992), of the Department of Women and Child Development, Government of India also specifies special provisions for the protection of "children in especially difficult circumstances" — specifically referring to the "physically handicapped, mentally handicapped, drug addicts, victims of natural and man-made disasters, refugee children, street children, slum and migrant children, orphans and destitutes, children suffering from AIDS, children of parents with AIDS and AIDS orphans, children of prostitutes and child prostitutes, juvenile delinquents and child labourers." (*Children of prisoners do not feature here.*)

v) The National Initiative for Child Protection (launched by the Ministry of Social Justice and Empowerment, Government of India), aims at creating awareness about the U.N. Convention on the Rights of the Child, and integrating services for child protection, to ensure that "every child will have a right to safe and secure childhood".

Some Sources of Specific Reference to the State's Responsibility for Children of Prisoners :

i) Article 9 of the Convention (see above) refers to children separated from parents, as follows:

9.1 " State Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with the applicable law and procedures, that such separation is necessary for the best interests of the child."

Sub-section 2 then refers to *children of persons in custody*: "Where such separation results from any action initiated by a State party, such as detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in custody of the state)..."

ii) The Report of National Expert Committee on Women Prisoners, 1987, constituted by the Government of India (Ministry of Human Resource Development, Department of Women and Child Development), under the chairmanship of Justice V. R. Krishna Iyer, Retired Judge of the Supreme Court. (See Chapter IV, "Conditions in prison", section entitled 'Children of Prisoners', pp 132-135)

iii) Apart from the section entitled 'Children of Prisoners', the above report (in Para 121) also quotes from Article 25: 2 of the

Universal Declaration of Human Rights which states: "Motherhood and childhood are entitled to special care and assistance." It also refers to the Supreme Court directive in *Hussainara Khatoon*, namely: "It is the duty of government in a Social Welfare State to protect women and children who are homeless and destitute."

iv) Judgement of the Supreme Court in *Sheela Barse Vs. State of Maharashtra* (Criminal Writ Petition Nos. 1053-1054 of 1982)

v) Oral judgement of Justice C. S. Dharmadhikari of the Bombay High Court, in Criminal Writ Petition No. 38 of 1984. As per the Court's directions Rule 114-A was inserted in the Bombay Police Manual, of which sub rule (3) (4) lays down:

"(3) If any woman is arrested and taken into custody by the police for remand along with her child which needs breast feeding, then the fact that the accused has a suckling child should be invariably mentioned in the arrest Panchnama, remand yadi and other relevant police records.

(4) While such child is in police custody along with its mother, all reasonable care should be taken for welfare of the suckling child by providing milk, food, required clothes, clothing, bedding, etc. and the necessary medical aid."

2. ADMINISTRATIVE PROGRAMMES AND PROCEDURES IN THE TWO CITIES

The constitutional commitment to the welfare of citizens, particularly the disadvantaged, is reflected in several provisions/schemes in various sectors. A recent example of this process is the announcement of a new scheme by the Government of India entitled *Swadhar*, for women in difficult circumstances, *including women prisoners* (The Times of India, Mumbai, July 13, 2001). It envisages providing shelter, and imparting of skills and vocational training to such women.

Some of these programmes are supported by law. For instance, the Juvenile Justice Act, whose implementation is presently the responsibility of the Ministry of Social Justice and Empowerment at the Centre (called Ministry of Social Welfare at the State level), and the Department of Women and Child Development/Welfare in the states.

This Act is available for the protection of children in difficult situations, and we found its provisions being invoked for institutionalising prisoners' children. This could be at the request of parent/s, or on the initiative of the police (who, on arresting a mother, find no relative willing to take charge of her children).

That imprisoned mothers seriously considered institutionalisation as a viable option is indicated by statements such as:

- "If there are places where our children can live well and study also, we would take advantage of this."
- "I need help from the jail authorities in placing my son at the... Children's Home."
- "Children should be kept in the children's jail* and brought to meet the mother on every court date."

Whether other provisions (such as supervision at home by a probation officer) were also being applied to this group, has not been specifically explored in this project. At the same time, we have not come across, during home visits, children who were being supervised by probation officers of the Juvenile Welfare Board (now termed Child Welfare Committee in the revised Act).

Apart from the Juvenile Justice Act, we found that work with prisoners and their families had been included in the work of

* This seemed to be many prisoners' impression about what Remand/Observation Homes for children, under the Juvenile Justice Act, were.

the Probation Department in both cities. Welfare services for prisoners and their dependents, and the rehabilitation of released prisoners, had been formally placed on par with work with juvenile delinquents or adults on probation. Prison Manuals in some states also have rules mentioning the minimum facilities to be provided to small children permitted into prison with their mothers.

The notion of 'contamination' appears to be relevant here. Socio-economically disadvantaged accused persons, youthful offenders, first-timers, relatively 'minor' offenders, and ex-prisoners are considered deserving of support as a way of preventing them from becoming hardened criminals. This thinking extends to prisoners' families, especially children. There appears to be, within all wings of the criminal justice administration, tacit support for prevention and rehabilitation as objectives of the criminal law. But although this is reflected in legislation (for example the Probation of Offenders Act and the Borstal Schools Act), it is not necessarily supported by adequate administrative provision.

In principle, therefore, there is a welfare component in criminal justice, which is extended to include dependents of prisoners.

By way of illustration, an overview of the range of administrative provisions presently available for children of prisoners is attempted below. Along with this, views expressed by a few members of all the concerned departments, during the investigations in one city, are presented.

SOCIAL WELFARE/WOMEN AND CHILD WELFARE

Directorate of Social Welfare

In one state, the Social Welfare Department had extended its services directly to prisoners and their families in the following ways:

i) A scheme entitled 'Assistance to Incarcerated or Released Prisoners' was available, which included provision for limited monetary assistance to families of prisoners. Assistance was provided in the form of stipends for schooling, reimbursement of maternity expenses, and cash grants to families where there was no earning member or source of income. The scheme also provided aid for the purchase of essential tools to trained inmates on release.

Financial aid under this scheme was subject to the following conditions:

- (a) The prisoner must be a local resident
- (b) The total family income should not exceed (a given amount) per annum
- (c) The prisoner/dependant should not be in receipt of any other grants or assistance
- (d) The maintenance grant was admissible only if there was no source of income for the family.

However, the benefits under this scheme were not (then) extended to undertrial prisoners.

ii) In the Women's section of the prison, the Directorate of Social Welfare had set up a Work Centre with the objective of providing both convicts *and* undertrials training in tailoring, cutting, embroidery and knitting. Prisoners were able to save their earnings here to send to their families. This training could help them supplement the family income after their release.

iii) The Directorate had established Children's Homes and Aftercare Homes into which children of prisoners could be admitted, particularly those without caretakers outside. Prison Welfare Officers assisted women prisoners, or sometimes their husbands/relatives, in moving the concerned authorities for such

admission. They were also required to make home visits and submit social enquiry reports (to support applications). We learnt that, on an average, 50 to 60 children were admitted annually into these institutions by the Prison Welfare Officers.

iv) Probation Officers were deputed to function as Prison Welfare Officers at the Central Prison. Although based at the Prison Headquarters they formally reported not to the prison authorities, but to the Chief Probation Officer. Their role and functions as defined in the Manual of the Directorate of Social Welfare included:

- Maintaining regular contact with the prisoner and his family
- Acting as liaison between the two
- Providing counselling, guidance and assistance regarding the schemes of the Social Welfare Department
- Getting prisoners' children admitted or re-admitted to schools
- Trying *to* locate family members who could be caretakers for prisoners' children
- Admitting children without caretakers into residential institutions established by the Department.

Apart from the above, it did not appear that prisoners' families needing assistance were linked to other socioeconomic or educational schemes of the state administration, or voluntary welfare programmes. With the help of a sustained relationship, many children could perhaps have been helped in their own homes. Instead, the emphasis seemed to be primarily on institutionalisation, since welfare officers felt that the absence of relatives or neighbours coming forward to take charge was the basic problem of prisoners' children. Perhaps they felt that there was no better option for children left at home. We were

informed that attempts were made by the Welfare Officers, with the help of information given by prisoners, to try and locate relatives who could be caretakers for destitute children.

Views of Prison Welfare Officers (of the Directorate of Social Welfare)

Discussions with the four officers then located in the prison office showed that they were not entirely in agreement with each other *vis a vis* children of prisoners. The range of responses to our questions is presented below:

Responsibility for children of prisoners

- "They are our responsibility, the entire responsibility is of the Social Welfare Department."
- "Our responsibilities, as social welfare officers, are only two: one, to help needy children gain admission into children's homes; two, to arrange for children to meet their parents in prison."
- "We can only help children of undertrials in gaining admission to school."
- "We institutionalise undertrials' children, and also visit the institutions regularly."
- "We do deal with the problems of undertrials, by offering counselling, legal guidance, employment etc."
- "This responsibility does not rest solely upon our department, but is a joint responsibility."
- "Law and order maintenance, and therefore maintenance of the peace (prevention), is the joint responsibility of all departments of the State."
- "Responsibility lies first with the parents, then court and jail, and lastly, Social Welfare."

- "All responsibility cannot be put on the State — it does not have the economic capacity."
- "This is not our responsibility."
- "Children left outside, and their needs, are not our responsibility."
- "It is the family /joint family's responsibility; therefore society's responsibility."
- "If you consider this rationally, it is the responsibility of the concerned family. Whether they are looking after the children or not is another matter..."
- "Prisoners are themselves responsible; they should be aware when committing crimes of the consequences on their own children."
- "Whose responsibility are the victim's children?"

Observations regarding existing provisions

Here, too, we received both positive and negative (and even cynical) responses to our question about how schemes and services could be made more effectively available through the Social Welfare Department.

The following points were made :

- *Financial Assistance:* There were some components of the existing prisoner's welfare scheme that needed revision, keeping present economic realities in mind. For instance, the present upper limit on total family income, as a criterion for eligibility, needed to be raised. Likewise, the minimum amount of financial assistance per family member must be increased.

However, a contrary viewpoint was also expressed here. On what basis would this assistance be increased? It is always difficult to define a minimum amount. The administration cannot

totally compensate a prisoner's family for the absence of the earning member. The aim of welfare schemes can only be to offer support.

- *Undertrials:* There appeared to be some resistance within the Department to including undertrials within the purview of prisoners' welfare. This was principally because their period of stay in custody was indefinite — when they might be released on bail could not be predicted. If a welfare officer started working on a case, or was processing an application, the file might have to be closed half way through. This amounted to wastage of time and misuse of the government machinery. There was no benefit for the prisoner either.
- *Geographical boundaries:* Another aspect of the 'undertrials' issue was that schemes implemented by the Social Welfare Department were only applicable to local residents. Even if undertrials were brought under the purview of these schemes, not all persons could be helped, as many were migrants whose families were in their native places. So, this would amount to a selective, and perhaps discriminatory, application of the scheme.

(While this could also be true of convicts, perhaps the Welfare Officer's perspective was affected by the general position almost everywhere in India, that the population of undertrials is very much larger than that of convicts. There is also a significant presence of migrant labour in the undertrial population.)

A larger issue was also raised — that of state demarcations. Should one state be responsible for suspects (and their children) from neighbouring states?

- *Government functioning:* Some critical comments were made. One kind of response seemed to be of the 'nothing can

come out of changes in policy' variety. There was also a sense of being subordinate staff, who, although aware that existing provisions were insufficient, were unable to do anything about it. "We are working under the government. The government has framed these schemes — we simply implement. You ask those in higher positions."

- *Denial of need:* On a different plane, the rationale of helping wrong-doers was questioned, especially when there was so much poverty. "Why should there be a premium on crime? Commit crime to get the benefit of State schemes?", asked one officer cynically.

POLICE

Many questions arise with respect to the role of the police *vis a vis* children of persons arrested, as it is the first agency of the law to whom such children become visible. More to the point, they are the State agency primarily responsible for actually enforcing the separation of the parent and children. How do they handle children suspected to be involved along with the parent in an offence? Do they have a role more active than merely referring the case to the hearing judge or to child welfare authorities? Do the police as a rule inform family members about the arrest of a person, which is a direction of the Supreme Court? Should they actively search for a caretaking adult, or simply wait for someone to turn up? Should they refer the case to a local body or child welfare organisation to help them with such enquiries? Do they know of such agencies in their jurisdiction? Should they routinely visit families where children (not only prisoners' children) are staying by themselves? Are they aware of any danger to children, where the incident their imprisoned parents were party to was a consequence of enmity?

According to field observations, when arresting a woman the concerned police station may respond formally or informally to the situation of children who appear to be now without adequate support. (Here, it appears that *police* perception of the family may significantly influence the actions taken.) A few examples of such actions are mentioned below.

Formal

- (i) Children below a given age can be taken into police custody along with the mother, if she so desires. Cases of separation of breast-feeding infants from the mother do occur. One informant's view was that this is due mainly to some officers' being poorly informed about legal provisions.
- (ii) Police may take custody of a child, (as being neglected/destitute/in moral danger, etc), in accordance with the provisions of the Juvenile Justice Act, and produce it before the child welfare authorities.
- (iii) The concerned police station may bring the difficult situation of the children to the notice of the regular court hearing the parent's case. The judge may then order an enquiry.
- (iv) The social worker at the Crimes Against Women's Cell of the local Police was sometimes consulted.

Informal

- (i) In one case, the arresting police station kept and **looked** after an arrested woman's only child at the station house for a few days, before referring it to the (then) Juvenile Welfare Board. Although a police station is not defined as 'a place of safety' under the Juvenile Justice Act, not all police personal are quite in agreement with this attitude of suspicion against them.

Instead of immediately taking all such children into custody and producing them before the Board, only to make family members go through tiresome procedures to release the children later, some officers felt it would be better to wait for a few days to see if anyone turned up.

- (ii) An investigating officer, on arresting a woman suspected of being habitually involved in theft, seized a sum of money from her home which he suspected was stolen. Noting that there was no adult present, and seeing the destitute condition of the home, he gave a small portion of the confiscated amount to the eldest child for maintaining the family.
- (iii) There were instances where police were helpful to children left at home during their mother's imprisonment. They visited the children periodically, thereby giving them a sense of security.
- (iv) However, we also learnt of a girl who felt threatened by a constable in the area.

Specific observations and suggestions made by officers were as follows:

- Today the entire responsibility for children of prisoners was being put on the police. It must be shared by different agencies of the law. There must be clear role divisions, and tasks prescribed for each department, for the implementation of which each should be held accountable.
- A separate agency should be created to exclusively look into the situation of children of prisoners.
- Formal regulations binding departments/agencies should be preceded by the creation of proper infrastructure and facilities for the beneficiaries. No point in just framing rules.

- Until rules and procedures are established not much can be done. Each department tries to shift its responsibility onto another, because no one is held accountable.
- Voluntary agencies must come forward.
- Children of prisoners should be presented before the judge hearing the parents' case, so that their situation is properly assessed and suitable orders passed.

PRISON

The Prisons Department can be said to be formally responsible, with respect to children of prisoners, in three ways:

- (i) The Prison Manual permits the entry of children below the ages of four/five years into prison with their mothers (not fathers, although we did hear of one such exceptional instance).
- (ii) The minimum needs of such children have to be provided for.
- (iii) Family visits, or '*mulaqat*'/'*milai*' are permitted within the prison premises. However, whereas institutionalised children brought to see their parents meet them in the relative privacy of the prison office, regular visits for children left outside are the same as for adults.

(It is not clear why children coming directly from home are not also given the privilege of such an environment, instead of being subjected to the procedure meant for adult visitors — which they obviously find most stressful and threatening. One prisoner suggested that there should be some facility or structure *inside* the women's section itself for visits.)

Prison rules contain no formal provisions for prisoners' children left at home. Nevertheless, we learnt of how the prison administration has frequently, and in different ways, intervened to help out in cases of distress. Family problems are frequently mentioned to staff by prisoners. Women talk with the warders, recounting their stories and expressing their anxieties. Some inmates also approach senior officers, and ask for assistance and advice.

The sympathy felt by lower staff as well as senior officers could express itself in the following formal or informal actions:

- (i) Responding to prisoners' petitions sent in through the petition box kept in the jail. Amongst others, requests for help include those for admission of children inside or outside prison into residential institutions.
- (ii) Responding to requests by fathers/relatives for the same.
- (iii) Responding to requests for help made directly by children by themselves. For instance, there have been young people who have approached the Deputy Inspector General of Prisons for help with education or jobs.
- (iv) Responding to requests by some mothers to pass on information to children, or bring articles needed by children, on their way to or from home.
- (v) Special arrangements may be made by the prison staff in the best interest of prisoners' children. Two examples:
 - A mentally disturbed prisoner with a small child with her was required to be hospitalised. As the child's accompanying the mother into a psychiatric ward was not advisable, the matron arranged for it to continue staying

in prison till the mother's return, and ensured that other inmates took good care of it.

- A young girl had lived with her mother inside prison for almost all her (permitted) five years. Before she was handed over to her uncle, *special mulaqats* were arranged where the girl, accompanied by her mother, could meet him in the prison office so as to get used to him. This would facilitate the child's adjustment to her future environment.

Despite the fact that it is the prison staff who are most familiar with the family problems of prisoners, and even affected by them *at times*, they feel they *are* handicapped.

For one, prison officials cannot exercise any authority over prisoners' children, whether inside with the mothers or left at home. Their role would necessarily be circumscribed by the perception and consent of the parents. For instance, no child can be referred by prison authorities to a Children's Home without the parent's permission, even when they know it is in distress outside. A case in point was where the mother did not allow the admission of her children into an institution, although they needed protection from an insecure situation. For her, they were her only link with the outside world, and she feared nobody would visit her in prison once the children were institutionalised. Another woman preferred to send her child to an ex-prisoner's house rather than an institution.

Helplessness in the face of such seemingly irrational decisions taken by women prisoners has, at times, led to feelings of despondency amongst prison staff. (Legally, it is possible to make a referral to the child welfare authorities. But officials seem hesitant to initiate actions in respect of children outside, for fear of going against parents' wishes and risking complaints being lodged against them in the courts.)

Sometimes, however, assertive measures have to be taken, particularly when problems are created for the administration within prison. A few examples:

- A desperate mother, who was crying incessantly and threatening to undertake a fast, had to be assured of support for her children by the authorities.
- A prisoner wanting to meet her institutionalised children kept crying and hurt herself with glass pieces. The prison Superintendent responded by sending a prison guard to court, to get an order passed for the police to escort her to the institution housing her children. Consequently she was able to visit that institution the same day.

SOME INFORMATION ABOUT PRISON SERVICES ABROAD FOR CHILDREN OF PRISONERS*

It has been recognised that prison visiting is usually difficult because of the distance between the prison and where the children are living. Uncooperative or economically distressed caregivers, who do not want or cannot afford to bring children to visit, complicate the problem. The prison itself is an uncomfortable, intimidating place for children.

Some prison programmes that have attempted to alleviate the problems caused by separation, and improve or encourage the relationship between imprisoned mothers and their children, have been as follows:

1. A nursery and mothers' rooms in the prison hospital. Here the mother can stay for upto a year after her baby is born, when she gives birth during her sentence. (Not all administrations allow women to keep their babies in prison. Prison authorities have the discretion to refuse the request on grounds of security or health concerns.)
2. Play areas for children
3. Comfortable, non-threatening visiting spaces with children's furniture, toys and colourfully-painted walls

(* Summarised from Jocelyn M. Pollock-Byrne: *Women, Prison, & Crime*, [pp 67-70]. The author also comments that "the increasing rate of imprisonment of women will necessitate continued furlough, expansion of such programmes, expanded visiting and early release".)

4. Special visiting hours for those who could not reach prison during the regular time periods.
5. A halfway house for women inmates with children. If the women met the requirements — no history of violence, child abuse, or neglect, were good caregivers, had a good prison record — they could be paroled early to the halfway home setting where they could live with their children under 6 years of age and receive employment, training and rehabilitation services.
6. Foster care programmes that increase the potential for continuous communication between the mother and child during the term of incarceration. One of the difficulties of foster placement was that the child was often far away from the prison, and some foster families were not inclined or encouraged to help the child and mother communicate. In one programme, foster parents were found who lived close to the prison, and agreed to keep the child in touch with the imprisoned mother through frequent visits and letter writing.
7. Special visiting programmes, in which children of certain ages are allowed to stay with the women in a special setting for a weekend or a period of days. For example:
 - (i) A MOLD (Mothers Offspring Life Development) programme providing weekend visits and a parenting programme. Women could have their children — girls upto fifteen years of age and boys upto twelve years — visit them in prison for an entire weekend and have open privileges across the prison grounds. Activities were also scheduled. Problems with this programme included difficulties in transportation, lack of consistency in scheduling; and no continuity. When the women inmates were transferred to a new institution, the programme was reduced to only day-long visits rather than weekend ones.
 - (ii) An apartment complex outside the prison walls where the women could have their children stay with them for overnight visits.
 - (iii) In one prison, a converted motel, children could visit upto three days and stay in their mother's room. More than half of the women had lived with their children before their incarceration. A majority kept in touch with their children through these visits, telephone calls and letters. (Some mothers interviewed about the programme said the visits did a lot to dispel the children's fears about their whereabouts and whether they were being mistreated. However, there were also those who felt that the visits were counter-productive, because the place was "too comfortable". They did not want the children to think prison was a 'fun' place.
8. The obvious presence of prison guards is reduced so as not to frighten the children.

Statements by prison officers reflecting their varying views on the question of responsibility were as follows:

- Government should be responsible, because government is a permanent structure. NGOs may withdraw — they are not permanent.
- There is no need for a separate department, or provisions for, specifically children of prisoners.
- It is not proper that the judge hearing the case be asked for any kind of help.
- This is the role of the police and courts. Police should take such children to court and the judge should decide what action to take.
- Some responsibility should be fixed. Police is involved first, and hence theirs is the major role.
- Police should assume the major responsibility because they are the arresting authority. They know the situation inside out — the number of children at home, what problems have arisen during arrest.
- Police should look into the family's condition when they make an arrest. If police searches and seals the house, it is their responsibility to check out where the children will now stay.
- It is not for the prison department to make provision for children of prisoners, because this is the responsibility of the social welfare and police departments. They should take the responsibility (of framing rules).
- If parents are being taken into prison and children are not able to support themselves, then the State should do so. But this is the responsibility only of the Social Welfare Department.

- Prison has nothing to do with persons outside. It is only responsible for persons who enter prison. This includes also responsibility for (minor) children who are sent in (with their mothers).
- There is nothing in writing about the responsibility of the prison administration for children left outside.
- No role has been fixedly assigned in this area. Prison work is directed by court orders and court dates.
- There is no role for prison staff presently. There should be written rules, because if these children are not taken care of they could become criminals later on.
- What is the child's fault? And children of victims suffer too.
- At present the Department did not have resources or staff meant especially for services in this area. Prison officials could only refer prisoners' personal or family problems to *other* authorities (for instance visiting social welfare officers, over whose actions they had no direct control).

Suggestions made by prison officials were as follows:

- Services for children of prisoners have to be improved.
- There should be more schemes for this group.
- Already existing social welfare and police provisions must be strengthened.
- All general welfare schemes must be extended to families/dependents of prisoners.
- Minor children of undertrial prisoners should be taken into protective custody and not released until the case is finalised, because otherwise they will be left on their own.
- Magistrates must have someone to provide them with background information, in all cases, about prisoners' homes and children.

- If the courts claim they are over-burdened, and if therefore more work (such as dealing with dependents of prisoners) is to be identified and allocated for prison officers, then additional suitable infrastructure must be created.
- Government should be forced to do whatever it can. It would be helpful if the voluntary sector played a supportive role.
- There is need for some organisation to be in constant touch with prisoners and their families.
- There should be a specialised agency that helps only children of prisoners.
- Co-ordination (of such an agency) with prison could be useful.
- There should be an emergency cell or control room that children can contact, and which then arranges for specialised immediate and long-term assistance.
- A hostel should be developed for such children, which provides for their needs — welfare, education, arranging marriages, etc.

JUDICIARY

While most magistrates interviewed had a generally positive attitude*, their responses did not indicate that they felt the law had assigned the adult courts a definite role and responsibility for children of prisoners.

But from the point of view of agitated women prisoners, the judge hearing their case was seen as the authority who, more

*One strongly-worded comment was: "A starving person has the right to steal bread." The concerned judge also added that society itself was creating criminals, thereby implying that, if neglected, these children could go wrong. It was the responsibility of the entire society, he said.

than any other agency, could rectify matters. It was his duty to enquire about the situation of children left outside, and help out. Even though the police might have been the arresting agency, it was the judiciary which was seen as ordering this 'being put inside'. And so, the consequences on the children outside were its responsibility, particularly when both parents had been imprisoned.

In what follows, the two sides to this picture are sought to be presented in order to clarify issues and enrich the discussion.

PRISONERS' VIEWPOINT

The perceptions of some women prisoners regarding what role the judiciary should play, or *should have* played, were as follows:

The Responsibility of the Judge

Women expected the court to ask the arresting police or the women themselves about where their children were, what they were doing, who was looking after them, what the conditions at home were, whether the children facing any danger, and so on.

Some statements:

- "The judge is the one who should stand in our shoes."
- "The judge has the prime responsibility to see the children are kept somewhere (safely)."
- "It is for the judge to make a sensible decision, gauge the situation of the family at home, and act accordingly."
- "The judge must assess the case. My in-laws have a private lawyer, while I have a government pleader."
(The children were in the custody of the in-laws.)

Speaking with the Judge

An accused person in court needs to convey her problems to the judge. But the question is whether she feels she can or cannot. Women expected that if they wanted to convey something about their personal situation, they should be heard out or their written applications paid attention to.

Some statements:

- "I didn't tell the judge. I didn't say anything. I didn't even know that you speak before the judge. Kept feeling afraid ..."
- "Who would tell the police or judge about children? And where do we have the sense enough to be able to tell them?"
- "We are not even allowed to speak with the magistrate, where's the question of telling him about the children?"

Attitude of Judge

Magistrates were seen as considerate if they enquired about whether the woman had someone to put up bail, or responded reassuringly to pleas about children left outside.

Not getting a clearly positive response to a request was interpreted as a judge being helpless, indifferent or unconcerned about the children.

There were judges who, while considering bail, might also pass a critical or cynical comment, implying that a woman's children were suffering because of what she herself had done.

Effective action by Judge

i) Bail

Having made enquiries, the magistrate should consider whether the woman should be kept in custody or released on bail. Most imprisoned mothers appeared to consider the fact of their having young children requiring care to be sufficient condition for release on bail. Their arguments were as follows:

- "The judge should see that at least *one* parent is bailed out. At least till the case is finalised, so that the children can be looked after."
- "Bail must be granted. If a parent is kept away from the children for five or seven years, are you not destroying the children's lives?"
- "Those mothers must be released whose children do not have anybody, especially their father."
- "The woman must be bailed out, or the children will become '*award* (wayward). They will lose their self-respect. ... We will appear in court on the given dates, but bail must be given."
- "Now even though a false case has been lodged (against me), I should at least be provided bail if nothing else. To look after the children."
- "The Investigating Officer ofPolice Station had himself asked the judge to give me bail, because 'the woman has children.' " (In other words, when the arresting police were sympathetic, why not the judge?)

ii) Orders in relation to children

If early release was not being considered, mothers expected the court to pass orders in relation to the picture they had presented before it about their children. Requests included getting small

children into prison to be with their mothers, directing that neglected children be placed in residential care, restraining opponents from troubling children left outside, arranging for children to be brought to meet their mother (in case they are in others' custody), and so on.

iii) Quick disposal of cases

Some women were willing to plead guilty, pay the fine, (or undergo whatever was decided), and be finished with it, so that they could be with their children at the earliest.

MAGISTRATES' VIEWS

The existing situation, from the point of view of the judiciary, seems to be as follows:

- (i) The judiciary intervenes in matters of children through the child welfare authorities implementing the Juvenile Justice Act.
- (ii) There are, as yet, no legal provisions empowering judges hearing cases of adults to take the situation of their children into account. Hence, they do not as a rule initiate any enquiry or action with respect to children of prisoners.
- (iii) In addition, there are also no channels of help available to them in the courts. (Probation Officers in the courts did not include helping children of prisoners as part of their duties.)
- (iv) On the other hand, there is an indirect role. Orders are passed by judges on applications made by women prisoners. These applications may directly or indirectly have a bearing on, or refer specifically to, children. For instance: reduction of bail amounts (so that the mother may return home to look after her children),

bringing a very young child into prison to stay with the mother, arranging for institutionalisation, requests for meetings with children.

- (v) Applications for institutionalisation of minor children are frequently made by mothers in prison to the Magistrates hearing their case. But as there is presently no procedure that makes it mandatory for the judge to enquire/ask for a report/make arrangements for the children left outside, it may not always happen that her request is attended to.

"Namaste Judge Saheb,

"When my husband remarried, my younger son rented a separate room as he did not like his father's act. I was staying with my youngest daughter, who is working."

(The enmity between the prisoner and her husband's second wife, and the events leading to the arrest are described.)

"The house in which (the woman) is staying belongs to my husband and me.

I do not leave my daughter alone even for a minute, as (the second wife) harasses her a lot. I do not know how she is. I do not know what the police have written against me. Saheb, I cannot stay in the prison nor can I pay. I am 55 years old. So imagine my health condition and whether I can do such a thing. You alone can decide as to what should happen to me.

No one visits me from home. Please inquire and inform me about my daughter, and if possible, protect her. I am wondering who will bail me out and from where will the money come. I do not have anything with me. Even my land papers are with them. "

Letter from a prisoner to the Magistrate

- (vi) While admitting applications and passing orders with respect to matters such as the release of prisoners on bail, parole, or leave on medical grounds, judges have to use their sensitivity and discretion to carefully assess the situation. For instance, children left outside are often used as an excuse by prisoners to speed up bail proceedings. These, and similar personal problems,

are largely matters unrelated to the case, and decisions vary from judge to judge.

- (vii) The usefulness of judges to children was presently rather restricted. It was largely dependent on the subjective response of a judge to different individuals appearing before him, and whether he felt their family situation deserved 'consideration' or not. One judge mentioned that he, himself, did take note of the problems of children while processing the cases of their parents.
- (viii) One view expressed was that if court work were to be based on such 'special considerations', then in nearly all cases prisoners would appeal for release on grounds of the extreme conditions of children left outside.
- (ix) This view was, however, countered by the experience of another judge. He mentioned that while regular requests for help were made by some prisoners, there were others who were too apprehensive to speak up in court. They were unsure about whether they could narrate their problems to the judge.

Should, therefore legal authority be placed on the judiciary to deal with the situation of prisoners' children? The following views were given by different magistrates:

- The judiciary was already overburdened with cases, and should not be given more responsibility or additional powers for dealing with children of prisoners.
- Given the above pressure, it would be expecting too much of a judge hearing the case of an alleged offender, to be considering two different situations — of the child (victim of circumstances) and of the mother (offender) at the same time.

- Although legal process presently does not clearly define the role of the judiciary with respect to children of prisoners, social workers should strive towards changing this situation, by getting new legal provisions enacted if necessary. The onus would then rest on the judges to assume responsibility fully for the children's welfare.
- If such a role were to be assigned, adequate infrastructure must be created to deal with the additional load of children referred to/by judges, and referred *by* judges to the police and welfare authorities.

Some judges accepted the need for special services (for children of prisoners), although they expressed their individual views differently, as follows:

- As caretaking is essential, and children also need to be near their parent/s presently in prison, prison premises were the correct area for location of services. Some type of hostel accommodation for prisoners' children could be constructed inside the campus.
- Provision should be made first/also for children of victims, along with children of prisoners.
- A separate government agency should be created specifically for children of prisoners, which alone should be responsible for examining and remedying the difficulties of every such child. If more than one department of the criminal justice administration were involved, then perhaps (due to ambiguity or lack of co-ordination) the work needed to be done in each case may suffer.
- Opposing the above was the view that there should be team work. Only if all four agencies with whom a prisoner interacted (police/prison/judiciary/social welfare) were

involved, would comprehensive attention be given to prisoners' children.

- One skeptical comment offered was: "What can a judge do even if the police or probation officers point out the conditions of children of prisoners, when he does not have enough knowledge of services? Government should first create services, then make provisions for their utilisation." (Possibly implying that many so-called 'services' exist only on paper.)

LEGAL AID

The availability of legal services for prisoners is a subject by itself. In both cities several prisoners, (with or without young children to support), expressed dissatisfaction with their present situation. Either they did not have assistance, or they had problems with their lawyers (government or private). There were complaints about the latter's rudeness, not being available when needed, not doing anything in the case, taking away documents and not returning them, etc.

Some women prisoners were satisfied with the efficiency of their lawyers, and therefore had no complaints to make or suggestions to offer.

As far as children were concerned, their mothers' difficulty in accessing legal aid affected them as follows:

- (i) Mothers unable to themselves obtain legal assistance with relatives' help, or from within prison (through other prisoners or free legal aid services) would find it difficult to make an effective claim for early bail in the courts. Their continuing imprisonment could result

in a worsening of the condition of especially those minor children left outside who were without any adult support.

- (ii) Mothers' efforts having failed, the burden fell on the shoulders of their older children, who were in many cases girls or boys still in their teens. One gets the picture from a statement like this: "My eldest daughter stayed for a very short time (prison visit) just to exchange information and tell me they would bail me out soon. She had to rush away to give the lawyer help in case she was needed."
- (iii) Youngsters suddenly shouldering such responsibilities had to learn the ropes the hard way. "What would children know about legal matters", commented one woman. When interviewed, many youngsters said they did not have the funds needed to hire a lawyer or attend to legal matters. Some asked for free legal assistance, others simply (sometimes desperately) asked for "help to release my mother".

There is not much awareness so far about the pressures falling on the prisoners' children, and this should be included in discussions on legal aid.

PROBATION OFFICERS IN COURTS

The opinion of the Probation Officers placed in courts was also solicited, with respect to a possible role in helping children of accused persons produced in court. However, we were informed that their duties were limited to making pre-sentence social enquiries into the cases of young and first offenders.

3. PRAYAS' ADDITIONAL SUGGESTIONS REGARDING DEPARTMENTAL RESPONSIBILITY

Criminal justice and other agencies with which prisoners and their children interact need to have their role and powers distinctly defined, so as to be able to act more sensitively and effectively. A wide range of views was expressed by members of the criminal justice and welfare administration interviewed, and valuable suggestions made. From their observations it is clear that all departments concerned are *involved*, but have not necessarily been given comprehensive and clear guidelines, authority, support, and information about the range of options that are available for helping this group.

In continuation of the above discussion, some further observations and suggestions regarding procedures are being made, as follows:

CREATION OF A SEPARATE DEPARTMENT OF CORRECTIONAL SERVICES

A suggestion that has been 'making the rounds ' in the field for a long time (and one that we endorse), is the creation of a separate Department for Correctional Services, independent of the departments of either Welfare or Home. The scope of this department could include subjects such as: prevention of criminalisation of youth, probation, rehabilitation of released prisoners, women in prostitution, neglected children, and young offenders discharged from institutions.

THE ROLE OF THE POLICE

Some points of interaction between the police and an accused mother, which also affect her children, are selected here to highlight the need for establishing norms.

Attitude Towards Children of Suspects

Our information suggests that the police attitude towards children of women suspects may vary according to how the women themselves are perceived. These children should be treated and spoken to with consideration for their vulnerability in the present situation, and their future. Fear of the police, and how their parent was dealt with, may result in some children being emotionally traumatised, running away from home, and so on. Runaway children may not necessarily be hiding information. They could be in trouble, and a source of worry for the parent.

Questioning Parent/s in the Presence of Children

Force was allegedly used on some mothers in the presence of their children. Threatening behaviour, apart from generating anxiety in children about the safety of their parent, also results in their carrying an image of the police as being perpetrators of injustice, rather than upholders of law who can be approached in times of distress.

Interrogation of Children

In serious cases, children are also interrogated. Clear-cut guidelines need to be laid down regarding the questioning of minors, especially those that may have been witness to an offence. By way of illustration, the following points may be made:

The Manner of Questioning

A child may have already undergone the drastic experience of being witness to a crime, or being a part of the event. Insensitive methods of getting information could further increase its trauma.

Place of Questioning

The concern for children wanted for questioning is reflected in police regulations. For instance, in one State it is directed that school children should not be taken directly from their school but from their parents/guardians. The pupil should be sent home by the school authorities, and the constable may then accompany the pupil to the place where he/she is to be questioned. However, there may be some confusion here. The legal position is that in order to examine witnesses the Investigating Officer should, as far as possible, contact them at their places, but may, where necessary, call them to the police station. However, a male person below 15 years or a woman cannot be required to attend at any place other than the place in which they reside.

Protection of Legal Rights During Questioning

According to law, persons being examined as witnesses are bound to answer all questions put to them, but not bound to give incriminating answers or to answer truly. The difficult situation of children being questioned about their parents can be imagined. It is suggested that a lawyer appointed by the State Legal Services Authority should be present during the questioning of any minor by the police

Arrest and Detention

- (i) **If** deciding to arrest a parent (particularly a single mother), or *both* parents, the police should enquire about the presence of minor children and assess the existing possibilities for their care. Whatever assistance is required for locating responsible family members or making necessary arrangements for childcare/institutionalisation should be rendered accordingly, if necessary with the help of social workers.

(See *Sheela Barse vs. the State of Maharashtra* [AIR 1983 SC 378], where the Supreme Court ordered as follows: Order No. vi. "We would direct that as soon as a person is arrested, the police must immediately obtain from him the name of any relative or friend whom he would like to be informed about his arrest and the police should get in touch with such relative or friend and inform him about the arrest.")

- (ii) At the time of a parent's arrest, it should be mandatory for an entry to be made in the station diary about:
 - (a) What action the police has taken to inform children of prisoners about their parent/s' arrest
 - (b) What the situation of minor children at home is
 - (c) What action is being taken in respect of minor children without adequate adult care.

- (iii) An arrested mother should be allowed time, or taken home with an escort, to explain matters as she thinks best, and prepare her children for the coming separation. Not every arrest is made at home. Consequently, the children may be confused about the mother's disappearance and the reason for her absence. She would also need to make arrangements for their care. The police should assist her in doing this, allowing her to make the decision along with her husband or other relatives, and the children, particularly older ones. The presence of social workers at the police station would be beneficial in this regard, as presently the entire burden rests with the police.

If there is no responsible adult in the picture, and the mother seems unable to make arrangements, the police should then refer the matter to the Child Welfare Committee (erstwhile Juvenile Welfare Board).

- (iv) The above Committee should be informed about minor children in need of care within 24 hours of a parent's arrest. Any information related to the family's property should be brought to the notice of the above Board and the (hearing) criminal court, so as to ensure that there is no misuse or exploitation, in the absence of the parent(s). If the question of the safety of their home is not attended to, it could further destabilise the children.
- (v) Suitable facilities should be made available for children to visit their mother in police custody, as they are attempting to adjust to the new situation and need to remain in touch with her. She can also guide or instruct them about matters they must now attend to.

THE ROLE OF THE PRISONS ADMINISTRATION

- (i) Prison regulations should be modified to encourage relations between imprisoned mothers and their children. This should include the facility of telephone calls, as visiting prison can be difficult for many families, and institutionalised children.
- (ii) Meetings between imprisoned mothers and their children should take place in the privacy of a special room, permitting face to face interaction and touch; the scene presented by undertrials and relatives shouting across wire meshes is frightening for the children. More time should be made available for mothers to explain to children the implications of arrest/conviction and changes in legal status. As also, in the case of prolonged imprisonment (whether during trial or if sentenced), to plan with them about their future care and protection, or discuss the state of affairs at home and actions that need to be taken.

- (iii) Special *mulaqats* are allowed at present, and could be permitted more frequently when necessary. (For example: a fourteen-year old living with his aged grandfather had to take over the family business while his parents and uncle were in prison. A special meeting was requested, as the boy required guidance and instruction in handling important business matters.)
- (iv) Prison authorities should maintain accurate information about the whereabouts of prisoners' children, including children who have been institutionalised. They should make efforts to see that regular contact is maintained, and families are informed about any changes in the situation of the mother.
- (v) Children (including those who have been institutionalised) must be informed about their mother's transfer to another prison. In fact, transfer is an issue that requires examination, because of the undue hardship involved for families. Maintaining contact especially after a transfer may be difficult for a variety of reasons. When children especially from disadvantaged families have to travel outside their city/district to meet their mother, who is supposed to bear their expenses? Where are they to stay? A young boy who visited his mother after her transfer to another prison (in another city) reported having to bribe different persons there in order to meet his mother. It would be better if imprisoned mothers were brought to the prison in the place where her family resides, at regular intervals, so as to maintain contact with their children.

(The National Expert Committee Report [see above] suggests, in para 120: "... in the interest of maintaining family ties,

particularly maternal ties with the children outside prison, the inter-state and inter-prison transfer of prisoner mothers should be selectively facilitated or ruled out as may be deemed relevant to the situation.")

- (vi) Arrangements should be made for a mother to meet her child if it is seriously ill.
- (vii) Prisoners should be assisted in contacting relatives, various authorities or welfare agencies, with respect to measures for the protection and welfare of their children outside.
- (viii) Where 'prison' has, erroneously, been mentioned in the birth certificate, necessary orders should be passed by the court to the municipal authorities to correct the error, and to enter the home address of the mother in the birth certificate.
- (ix) There should be a Prison Welfare Officer in each prison, who is also responsible for following up on the above points, irrespective of whether a prisoner is an under trial or sentenced.

THE ROLE OF THE JUDICIARY

- (i) Where the arresting police have identified a child of the accused as witness in a crime, it is suggested that its questioning in the court be conducted *in camera*, and the child be given independent legal aid appointed by the court. This should be done keeping mind the fact that these children are already traumatised, and could be pressurised by various parties to depose accordingly. If necessary the court could keep such children in protective custody, to avoid undue influence.

Provision for *in camera* proceedings is already found in relation to the examination of a victim of sexual abuse (under section 327 of Criminal Procedure Code, amended in 1973; matrimonial disputes under section 11 of the Family Courts Act, and witnesses under section 12 of TADA [now repealed]). A special hearing is visualised under the Juvenile Justice Act, where proceedings in relation to children are not open to the public and media.

- (ii) Section 228 Indian Penal Code (amended in 1983) directs that the name of a victim of sexual abuse under section 376 a/b/c/d should not be printed. It is similarly suggested that the names of children of accused/imprisoned persons should not be mentioned in the media.
- (iii) When women prisoners appear before them, judges should ask them whether their children require assistance. If yes, enquiries could be made with the help of an appropriate agency. After a report is submitted, an order could be passed referring any problem (emergency assistance, foster care, institutionalisation etc.) to the welfare authorities, for attention. A copy of the order could be given to the mother/lawyer/police/prison authorities, for follow-up. (The need for a social worker/probation officer in prison or court is evident here, with respect to inquiry and follow-up.)
- (iv) Our social workers are aware of cases in which magistrates have released women on personal bond, after being told about the dismal conditions of the children at home. It would be of benefit if the provision of personal bond were considered more frequently, especially in cases where prisoners are unable to avail of bail because of financial difficulty.

In this connection we may also refer here to para 119 of the NEC report, calling attention to the situation of: "... dependent children of female prisoners. Often, in the absence of adequate surrogate care arrangements or due to the female prisoner being the sole earner, such children face undue hardship. In those cases, the Committee feels that the early release of women prisoners should be considered on the basis of a personal bond."

- (v) Personal bond may also be considered for pregnant women, or those with a history of serious illness, who may need urgent medical attention outside prison. There have been a few instances where women have died in prison. This directly affects the situation of their children outside.
- (vi) As family members often prefer to meet their (prisoner) relative in court rather than in the prison, it would help if a room is allotted for the specific purpose of allowing meetings between prisoners and their young children.

THE ROLE OF LEGAL AID AUTHORITIES

- (i) Some specific problems are faced by unsupported women prisoners in respect of their children. Being often legally not well-informed, they may not know that the courts can be approached about such matters. Many do not even have lawyers. Advocates of the State Legal Services Authority should be nominated to visit the female section of prison, and help with the following:

- Lawyers need to help imprisoned mothers to draft and submit applications to the hearing judge with respect to missing or stranded children. The attempt is to obtain a

court order addressed to the police or probation department to enquire about the welfare of these children and take appropriate measures (for example, foster care, sponsorship, school admission, institutionalisation, etc.) in case of neglect.

- If the children are already residing in some institution, necessary orders may have to be passed by the court to arrange for regular '*mulaqat*', either by bringing the children to the prison or by escorting the mother to the institution concerned, preferably the latter.
 - There may also be problems arising out of dispute about property. Children may be put out of their homes and left without shelter, or lose their claim, or may be facing threats from opponents or encroachment. Women living as tenants alone (with children) before arrest, who cannot make arrangements for the rent to be paid in her absence (even the children cannot raise the money), or if her lease agreement expires during the period of her imprisonment, would need the help of the court to ensure at least that her belongings and her property are not thrown away/tampered with/destroyed by the landlord. It is important that property is protected as this has a direct bearing on the child's present and future. But in the interim, perhaps alternative arrangements may need to be made for children.
- (ii) Children of prisoners are also often vulnerable, dependent and uninformed, and may need legal assistance and safeguards with respect to the consequence of their parent/s' imprisonment. It is necessary that the Legal Services Authority looks into problems such as children's being able to continue to live in their own home, or inheritance (for instance, in the case of the murder of a parent), and bring them to the notice of the court.

THE ROLE OF THE DEPARTMENT OF WOMEN AND CHILD WELFARE

- (i) A structure for emergency assistance to children in crisis needs to be visualised. Many children of prisoners who are neglected or in distress remain invisible, and may not receive the benefit of welfare services or institutional care. Usually, only those whose cases are referred either by the arresting police officers, imprisoned mothers, caretakers, or social workers are taken into institutions. Some children of arrested parents are able to remain at home with a minimum of supervision, but face an immediate financial crisis with the loss of the breadwinner. There may be emergencies with respect to funds for food and medicine, with other problems developing gradually.
- (ii) A child-care worker for children of prisoners should be appointed, who is based in the women's section of prison. Her responsibility should be to attend to children inside prison, as well as to requests made with respect to male/female prisoners' children left outside with relatives/caretakers, or in Children's Homes.
- (iii) It should not be necessary for prisoners' children (especially those coming from disadvantaged families), to be institutionalised. There is a need for creating new, supportive services besides institutions. Institutions are not suitable to all children. Due to lack of alternatives, a neglected child may be forced to accept this, regardless of whether or not his/her requirements are met. Because of this, he or she may run away. Therefore, imprisoned parents /caretakers should be informed about existing non-institutional options.

- (iv) In order to be able to continue with studies a sponsorship scheme to help such children to take advantage of formal or non-formal/vocational education while remaining at home. They should also be assisted in gaining admission into schools and hostels, and with scholarships for higher education, if capable. Presently, not many know about the availability of educational support, and procedures for gaining access to the same. Field-level welfare staff could help in the matter by liaising between families and the concerned educational authorities.
- (v) As the lack of information about government and non-government educational support is widespread, it would be helpful if programmes were organised in prison for parents, who could then guide their children appropriately.
- (vi) It is also important that school authorities are oriented by the Welfare Department towards being receptive towards prisoners' children. A child identified as being in need of such services should be given the appropriate guidance and assistance by them. Complaints of educational discrimination or neglect should be received and followed up by Welfare Officers.
- (vii) Imprisoned mothers should be helped with the future placement of their children, (with relatives, friends, in foster care, institutions or others).
- (viii) Rules should be framed to ensure that regular meetings are arranged between an institutionalised child and his/her imprisoned parent.
- (ix) The mother should be kept regularly informed about any unusual developments (such as a child's serious illness, behaviour problems, running away from the institution, transfer to another institution, being

handed over to a relative, etc). She should be consulted about any plans being proposed for the child.

- (x) Institutional authorities should likewise be informed by the prison administration about any changes in a
 - mother's situation, in order to protect her child/children's interest. (For instance: if a woman has been sentenced to long-term imprisonment, died in prison, been transferred, been released.)
- (xi) The Department should have schemes for assisting women released from prison, (including undertrials on bail), who need shelter, financial support for emergencies and training/employment/loans (for self-employment/small businesses), so that they need not be vulnerable to crime, and can take care of their children better than before arrest.

" Dear Didi,

Regards to you from H. This is to inform you that I was released on the 8th of January (and am presently staying with my brother). I would like to request you to find me a good place to stay, which will be unknown to my in-laws.

I wish to stand on my own feet, for which I need your help. This will help me take care of my children and me. As you know, my brother does not want me to work. He says that I should stay in his house and should not work. But my life is not of two days only. Another thing is that we are four of us. These days the cost of living is very high, so how can I be totally dependant on my brother? In future, my brother's children will grow up. Therefore, I want to try my best to become independent.

I am giving you my brother's address. Do reply."

Letter from released prisoner to social worker

SOME ISSUES PERTINENT TO THE RESIDENTIAL CARE OF CHILDREN OF PRISONERS

- (i) The existing facilities for institutional care are insufficient for the needs of children of disadvantaged

women prisoners. There is a need for increase in the number of institutions for children.

- (ii) Parents in prison need information about types of institutions for children, their regulations and facilities, and so on. It was observed that women in prison tended to hold negative notions about government/semi-government institutions for children.
- (iii) Imprisoned mothers frequently choose residential care for their children as a temporary solution, and wish to retain decision-making authority over the child. Often, they apply for the release of their child after they have been released from prison. There should be facilities for providing temporary shelter for children, especially if the mother intends to take them with her on release from prison. Observation Homes can perhaps be considered for this purpose.
- (iv) In case a released mother insists on taking her child back, she should be assisted with the necessary procedures, and guided about services outside.
- (v) The conditions under which it is found necessary to institutionalise a child should be specified.
- (vi) When social workers and officials are deciding about whether neglected children should be taken into custodial care, they need to consider the question of the children's property rights. A few pertinent points are:
 - (a) It is possible that older children who continued to stay at home, remained in possession of the family property, thereby protecting it from exploitative or unscrupulous elements. A single woman, realising that she was going to be 'in' for a while, and in danger of losing her assets,

might prefer that her children do not leave home, living if necessary under the protection of a caretaker.

- (b) On the other hand, if the children are very young, relatives may move in or take the children home. They may then start making decisions related to the premises. Since they are looking after the children, they may ask for compensation on the grounds that they have incurred expenses. The mothers fear that this could then become a claim to a share in the property of the family.
 - (c) When the children are in the custody of government institutions, the family home may be safer. In one instance, the house was locked and put in the children's name by the (then) Juvenile Welfare Board. Whether privately-run care institutions also initiate legal steps to protect their wards' rights and interests is presently not known.
- (vii) There is need to prepare children for admission. For this purpose, the mother should be given a chance to explain to the children the need for institutionalisation and how it would help them. This may be necessary at the police station, if the children are to be referred to an institution when the mother is in police custody; or in prison if she is in judicial custody.
 - (viii) The institutionalisation of all or some children in a family often results in the dispersion of siblings. Children separated from their mother may be trying to deal with the changes that her incarceration brings

to the family situation, and may therefore, want to stay together. Although admitting children of one family in the same institution may not always be possible, this should be tried as the first option.

- (ix) The admission policy of residential homes needs to be looked into. Some privately-managed institutions are resistant, or refuse admission to children because their parents are in prison. This implies that only government homes would be available for children of prisoners.
- (x) In some institutions there could be discrimination exercised against such children, although they may be as vulnerable and distressed as others. If a prisoner's child has difficulty adjusting to its new surroundings, or manifests disturbed behaviour, it may be concluded that he or she is prone to deviance, and therefore a misfit. Their specific situation and needs may not be considered.
- (xi)
 - (a) Children in residential care need to be assisted with sustaining their relationship with their parent in custody. It should be specified in the Rules of both the prison as well as the home authorities that regular meetings between the two must be arranged.
 - (b) This includes any child who has been taken into custody as co-accused with its parent and detained in a remand/observation Home pending trial.
 - (c) The transfer of a prisoner, or institutionalisation of a child, in another district can make meetings even more difficult, and due consideration should be given to this.

- (d) Telephone calls between institutionalised children and their imprisoned parents should be permitted, especially as this does not require additional staff for escort. The calls can take place in the institution's office.
 - (e) There should be coordination between prison staff/social workers (if any) and the concerned child welfare officers. Prison workers need to obtain information about such children, and to personally visit them on behalf of the parents.
 - (f) It is necessary that the institutional authorities do not neglect keeping the imprisoned mother informed about developments, or problems of the children — such as illness or absconding.
 - (g) Imprisoned mothers should be involved in planning for the child's future.
- (xii) There are instances where imprisoned parents, on release, do not come to meet or take their children. Relatives also may not come forward. Such children are literally orphaned, and completely dependent on the institution that has been their home for several years. It is necessary that the children are supported till they attain the age of majority, that institutionalisation proves beneficial for these children's future, and that they are not simply transferred from one place to another because of poor adjustment or other problems. They should be helped to plan their future after release.

THE ROLE OF THE PROBATION DEPARTMENT

- (i) Probation Officers are government-appointed social workers, and have an obligation to perform a correctional/ preventive /welfare role *vis a vis* persons being processed by the criminal justice system. With respect to adult prisoners, probation officers submitting pre-sentence social enquiry reports to the judiciary are required to visit prison to conduct these enquiries. They also pay home visits to assess the background of the accused. Where prisoners have dependent children, the report of the officer should adequately reflect their situation. The officer should not only inform the hearing judge, but also arrange for assistance if necessary.
- (ii) For conducting a pre-sentence enquiry of an accused person who continues to be in prison custody (and is not out on bail), the concerned probation officer is required to visit the prison. During such prison visits, the officer should also enquire from *other* inmates about whether their dependent children, if any, are facing difficulties outside. If any requests are made, the officer should immediately convey this to the prison superintendent. The latter should then assist the prisoner in making an application to the judge for providing the necessary assistance.
- (iii) Every female section of a prison must be visited by a Government Probation Officer, (preferably a woman) who should assist women in prison with family-related problems. Such assistance should be available even after release, for a given period. For this purpose, the District Probation Officer may appoint a Voluntary Probation Officer (under section 13 of the Probation of Offenders Act).

- (iv) Migrant prisoners who are returning to their native place after release should be helped with expenses towards their own and their children's travel back home. This facility presently is not available for undertrials and certain other categories of minor offences, such as ticketless travel.

THE ROLE OF THE JUVENILE JUSTICE ADMINISTRATION

A pertinent question that could be asked here is why the Juvenile Justice Act, with its provisions for the destitute and neglected, is not sufficient. To begin with, our investigations have not included an assessment of the functioning of the juvenile justice system in relation to children of prisoners. However, the cases taken up by us for study and intervention showed that the main option being exercised under the Act was the institutionalisation of prisoners' children.

But not every child needs institutionalisation. Nor can institutionalisation be the answer for all children in difficult circumstances. Many are going to remain at home, or with relatives. Apart from this, the range of problems that is faced calls for, correspondingly, a range of responses from different agencies and authorities.

Here our suggestion is that Probation/Child Welfare Officers could supervise children referred by the police or others, on behalf of the Juvenile Welfare Board.

In cases where there is no caretaker, the case may be referred to the Child Welfare Authority which would then make a decision about further care. Even when there is a caretaker,

an assessment with regard to the kind of care provided may be required. A Probation Officer should be appointed to pay home visits for this purpose. A report stating the needs of the child (whether they need to be institutionalised or left at home under their supervision, whether options for foster care should be explored, or any other service required) should be submitted to the Board. Based on this report action should be taken.

The concerned authority should also adopt sufficient measures to safeguard prisoners' children's rights to family's property, such as appointing a legal guardian on its behalf.

When deciding about a child's future, the prisoner-father/mother's involvement in decision-making is necessary, and so should be made mandatory.

4. VOLUNTARY FIELD SERVICES

Field support for children of prisoners is, in some measure, to be found in both, the government and voluntary sectors.

While the voluntary child-welfare sector does not appear to have paid much attention here, as a whole, there are exceptions. Services such as financial/educational support or a student's hostel for children of prisoners have been organised in a few states in India.

There is also a climate of collaboration. In different states in the country prison authorities have given permission to interested individuals and organisations to conduct activities for women or children inside prison. There are also schemes which provide

for granting recognition to voluntary organisations which work for released prisoners and dependents of prisoners. *

An early development has been that of non-government residential institutions, which have taken into care children of prisoners both on direct application, as well as through the erstwhile Juvenile Welfare Boards/Juvenile Courts. Some of these establishments have been receiving financial assistance from the government.

Services offered by non-government child welfare agencies are important. However, the focus, design and funding of voluntary services can vary. Different groups may identify their own area of activity depending on orientation, capacity and support available. Many agencies are often helpful when a case is referred, but do not cater specifically to the needs of children of prisoners as a group.

VOLUNTARY SERVICES IN THE TWO CITIES

A brief overview is being presented of the situation as we found it.

In City I the Inspector General of Prisons attempted to alter the negativity usually present in the prison environment by encouraging a range of non-government agencies and

*In one state, for instance, the Directorate of Correctional Services (Department of Women and Child Welfare), has a scheme entitled "Grant-in-aid to Prisoners", 1993. It is applicable to imprisoned persons due for release, released prisoners, dependents of prisoners and released prisoners, juvenile prisoners and youth confined in the Borstal School. The scheme provides for the recognition of any society engaged in activities that promote the purposes of education, relief, training and rehabilitation of such persons, on the recommendation of the Inspector General of Prisons. The society may sanction financial assistance upto Rs 100 for immediate relief, and upto Rs. 1000/- for rehabilitation of a released prisoner. Children of prisoners undergoing life imprisonment are also entitled to financial assistance for educational and medical purposes upto Rs. 750/- per year. This amount would be re-imbursed by the administration.

individuals to contribute in a variety of ways. This included running a creche for children accompanying mothers into prison, paying home visits, and arranging for children's institutionalisation. Later, an educational and out-reach programme for children and youth was started in slum colonies having a high crime rate, where many families were living.

In City II, a voluntary organisation appointed a social worker for the women's section. This was followed by starting a creche for young children inside, manned by a trained teacher — there was none until then because this is largely defined as a prison for mainly undertrial prisoners. Later, a full-time social worker was appointed for children left outside.

Several organisations in the two cities were contacted for child-support, but we did not come across any working specifically for children of prisoners. The only alternative was, therefore, to contact organisations working for the welfare of disadvantaged children (for example destitute/neglected, street and working children). In general, it did not appear to be the case that prisoners' children were directly contacted by other welfare agencies; however, they could be included with other local children in an agency's caseload.

The response of child welfare organisations we approached was positive, and they were willing to extend their services to children of prisoners. Wide-ranging supports have been developed by different welfare or community-based organisations: non-formal education, sponsorship for education or school articles (uniforms, books, bags), free tuition, vocational training, creches, health services and nutrition, night shelters, etc.

However, there were some obstacles. First, whether prisoners' children, with their present difficulties, could meet the

organisations' procedural requirements even in order to avail of the services (for instance, money for bus fare to visit offices). Second, many organisations operated within geographical limits. Consequently, children not living in those areas could not be covered.

But local assistance is also not necessarily easier to obtain, or without its attendant complications, to some extent arising from the family's vulnerable position in the area.

One community group refused to help a young boy with school expenses or obtaining a scholarship. Instead of viewing him as perhaps a victim of circumstances, they presumed that he, too, was involved with his mother in her "criminal activity". In another case, a prisoner's sensitivity about her image in the community prejudiced her about the help being offered, and soured relations with a local women's group. It was also observed that some individual 'helpers' gave assurances, but did not really have the ability to mobilise the help they promised, which they did not clearly state.

The point seems to be that, for vulnerable children, having to ask for or receive help is not a simple affair.

To conclude: In general, the overall understanding of the problem — and scope of supports and services — appears, as yet, to be limited. Many facilities, (whether government or otherwise), now available, unintentionally seem to expect that the children somehow 'fit in' with their criteria for eligibility. This does not work, at least in the initial stages. Undoubtedly, it is necessary that prisoners' children do not remain an isolated and stigmatised group. But integration cannot happen overnight, or be forced. They have to be helped to overcome their disabilities through a focused long-term plan.

Nevertheless, these progressive steps are indicative of a shared concern. A clear government policy with respect to children of prisoners, defining of departmental responsibilities, and creation of an atmosphere conducive to voluntary participation would certainly yield positive results. Welfare organisations can be encouraged to come forward in greater number, and provide more extensive and comprehensive services.