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VICTIM COMPENSATION IN INDIA: A COMPARATIVE STUDY OF INTERNATIONAL HUMAN RIGHTS STANDARDS AND DOMESTIC LEGAL MECHANISMS

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National Education Policy, 2020

The National Education Policy (NEP) 2020 is the main education policy of India for ensuring equitable, inclusive, and quality education for all learners. The NEP seeks to transform the existing education system by promoting universal access to education, reducing educational inequalities, and strengthening institutional accountability.¹ The Policy recognises Socio-Economically Disadvantaged Groups (SEDGs), which include children facing social, economic, geographical, and other forms of disadvantage. The NEP does not list children of incarcerated parents as a vulnerable group but it targets the same aspects that are most relevant to the education of these children.² Parental incarceration often disrupts family relationships and may adversely affect educational continuity through financial hardship, psychological distress, loss of social support, stigma, and relocation. Such children are in a context disadvantaged by these circumstances, as they fit into the overall goal of educational inclusion set out in the Policy. Consequently, educational institutions are not required to identify these children or provide targeted educational support.

Measures such as flexible learning pathways, open schooling, and community participation may benefit children of incarcerated parents who are at risk of dropping out.³ Likewise, the Policy's focus on equity and inclusion, based on the constitutional principle of substantive equality, does not establish any institutional arrangements to respond to the specific education challenges that parental incarceration may present. The failure to put in place meaningful educational protection for children of incarcerated parents in the framework of committed parents, however, the Policy provides a strong normative foundation for inclusive education but does not ensure meaningful educational protection for children of incarcerated parents.

¹ Ministry of Education, *National Education Policy 2020* (Government of India, 2020).

² Id. ch. 6 (Socio-Economically Disadvantaged Groups).

³ Id. chs. 3 & 6.

Parental incarceration should also be included within the definition of vulnerable children, and specific mechanisms and provisions for educational support should be included, which would greatly contribute to the goal of equal access to education stated in the Policy.

Mission Vatsalya (2022)

Mission Vatsalya is the flagship child protection scheme of the Ministry of Women and Child Development, focusing on "Care, Protection, Rehabilitation and Development" of children in difficult situations, launched in 2022. Even though the Scheme does not explicitly have children of incarcerated parents as one of its beneficiary categories, it can be said that provisions put in place in this Scheme can also benefit such Children when the incarceration of their Parents results in neglect, abandonment, loss of parental care, or other circumstances requiring child protection.⁴ These measures can help children who miss school after a parent goes to jail and may include helping children return to school, keeping children in school, and providing financial support to help keep children in school in a safe and supportive environment.⁵

However, the Scheme primarily addresses educational needs through the broader framework of child protection rather than recognising parental incarceration as a distinct source of educational vulnerability. Thereby access to the provision of educational assistance will depend on the formal identification of a child in care and protection by the competent authorities. This will leave out many children who still have to live with a guardian or relative after a parent has been incarcerated and will continue to suffer from financial, psychological, and educational problems as a result of their parents' jail time. Thus, although Mission Vatsalya provides an important mechanism for educational rehabilitation, it does not expressly recognise children of incarcerated parents within its policy framework.⁶ Incorporating this category into the Scheme would improve the continuity in learning and greater consistency across access to child protection services.

Mission Vatsalya Operational Guidelines (2022)

Mission Vatsalya Operational Guidelines 2022 issued by Ministry of Women and Child Development establishes the institutional framework for implementing child protection

⁴ Ministry of Women and Child Development, *Mission Vatsalya Guidelines* (Government of India, 2022).

⁵ Id. chs. 2–4.

⁶ Id. ch. 5 (Child Protection Services, Sponsorship, Foster Care and Educational Rehabilitation).

services under Mission Vatsalya.⁷ The Guidelines outline the roles of Child Welfare Committees (CWCs), District Child Protection Units (DCPUs) and State Child Protection Societies (SCPS) as well as child care providers, policy makers and support institutions in identifying, protecting and rehabilitating vulnerable children - with particular attention to family based care, sponsorship and counselling, educational rehabilitation and regular monitoring to ensure the overall development of children.⁸

The Guidelines call for children who are identified as in need of care and protection to be fully enrolled in school, financially supported, receive counselling services and through coordination with educational institutions, all of which can be of positive impact for children of parents in prison who are unable to provide them with parental care as a result of parents' imprisonment. But parental imprisonment is not individually identified in the Guidelines as a vulnerability indicator. Educational assistance is therefore typically only available as a consequence of action by the child protection authorities, and thus many affected children remain outside the formal child protection and educational support system where they still have faced disruption in their education.⁹ Thus, while the Operational Guidelines include a further emphasis on educational rehabilitation under the umbrella of child protection, there is a clear need to take an additional, specific perspective of the children of incarcerated parents, whilst promoting coordination among schools, child protection agencies and prison authorities which would work to enhance educational continuity and access.

Integrated Child Protection Scheme (ICPS), 2009

The Integrated Child Protection Scheme (ICPS), 2009, rolled out by the Ministry of Women and Child Development, was India's first comprehensive integrated child protection policy. Moving forward, the Scheme was incorporated into Mission Vatsalya and aimed at creating a coordinated child protection model by strengthening institutional and community-based child protection services for vulnerable children.¹⁰ It supported activities such as Child Welfare Committees (CWCs), District Child Protection Units (DCPUs), children's homes, foster care facilities, sponsorship programmes, and the aftercare services. From an educational perspective

⁷ Ministry of Women and Child Development, *Mission Vatsalya Operational Guidelines* (Government of India, 2022).

⁸ Id. chs. 3–6.

⁹ Id. ch. 5 (Case Management, Sponsorship, Educational Rehabilitation, and Child Protection Services).

¹⁰ Ministry of Women and Child Development, *Integrated Child Protection Scheme (ICPS): A Centrally Sponsored Scheme* (Government of India, 2009).

was considered critical by ICPS. Children of incarcerated parents were not mentioned specifically in the Scheme, but an educational assistance could be provided where the parents had been jailed and had abandoned, neglected or failed to provide adequate care for their children.¹¹ The Scheme, however, did not provide for any particular mechanism to identify children of parents affected by their imprisonment or for continuity of their education immediately after their parent is imprisoned. Despite these limitations, ICPS paved the way in setting up the institutional structures of the current child protection system and played a pivotal role in shaping Mission Vatsalya's development. However, there is still a need for greater policy recognition for children of incarcerated parents to ensure access to educational support to all affected children, regardless of their formal child protection status.

Samagra Shiksha

In 2018, the Ministry of Education launched the Samagra Shiksha, an integrated school education programme that unites three separate schemes – erstwhile Sarva Shiksha Abhiyan (SSA), Rashtriya Madhyamik Shiksha Abhiyan (RMSA) and Teacher Education (TE) schemes. The programme aims to provide inclusive and equitable quality education at pre-school and senior secondary level, with special emphasis on children from disadvantaged and marginalized backgrounds. It focuses on financial support, free textbooks, free uniforms (where applicable) and transport facilities (in selected locations), residential schools, special training for out-of-school children and inclusive education initiatives.¹² Several components of Samagra Shiksha are relevant to the educational needs of children of incarcerated parents yet Samagra Shiksha does not identify such children as a specific beneficiary category of its work. There is no focus on educational assistance for children who are vulnerable due to parental imprisonment; instead, those children can benefit from school re-enrolment programmes and remedial education along with general measures that apply to all disadvantaged children that seek to prevent school dropout.¹³ As a result, Samagra Shiksha is also indirectly contributing towards safeguarding the right to education of children of incarcerated parents by fostering school inclusion and universal access to school. However, the framework would benefit from the addition of parental incarceration to identify children experiencing educational disadvantage and also to provide more continuity of learning for these children whose

¹¹ Id. chs. 2–5 (Objectives, Sponsorship, Child Protection Services and Educational Rehabilitation).

¹² Ministry of Women and Child Development, *Mission Vatsalya Guidelines* (Government of India, 2022), explaining the transition from ICPS to Mission Vatsalya.

¹³ Ministry of Education, *Samagra Shiksha: An Integrated Scheme for School Education* (Government of India, as revised).

educational disadvantage results from parental incarceration.¹⁴

PM POSHAN Scheme

The PM POSHAN Scheme (previously the Mid-Day Meal Scheme) aims to tackle classroom hunger by providing one nutritious cooked meal to children during the school day, encourage regular attendance and support the overall development of children, in particular low-income and socially vulnerable children in government and government-aided schools.¹⁵ The Scheme does not establish children of imprisoned parents as a beneficiary class per se but rather, the Scheme's objectives serve the indirect purpose of protecting the education rights of children. Parents jailed also tend to struggle against financial stress and food insecurity, which may hinder kids from attending school consistently or lead to school dropout. For the caregivers, access to nutritious meals via PM POSHAN can alleviate some of the economic stress and motivational problems for family members on the one hand, and on the other hand, encourage continued school attendance to remain in school.¹⁶ Notwithstanding the fact that the Scheme continues to be viewed as a universal welfare programme, the Scheme does not offer any targeted educational or psychosocial support to children whose parents have been incarcerated. It does not classify these children as a vulnerable group and does not provide any measures to ensure continuity of education. Thus, although PM POSHAN is improving the access and participation of children in school, other policy interventions are necessary to ensure that children of incarcerated parents have access to nutritious meals and uninterrupted education.¹⁷

NIPUN Bharat Mission

The National Initiative for Proficiency in Reading with Understanding and Numeracy (NIPUN Bharat) was launched by the Ministry of Education in 2021 to ensure that every child attains foundational literacy and numeracy by Grade III. The Mission believes that early education learning outcomes should be enhanced via child-centred pedagogy, teacher development, regular monitoring, and active involvement of parents and the community.¹⁸ While NIPUN Bharat is a programme for ALL children, it addresses the needs of these children for whom parental imprisonment often results in separation from caregivers, emotional distress, and

¹⁴ Id. (Objectives, Inclusive Education, Out-of-School Children, and Equity Initiatives).

¹⁵ Ministry of Education, *Pradhan Mantri Poshan Shakti Nirman (PM POSHAN) Scheme Guidelines* (Government of India, 2021).

¹⁶ Id. (Objectives, Coverage, and Nutritional Support).

¹⁷ Ministry of Education, *PM POSHAN Scheme* (Official Government of India Portal).

¹⁸ Ministry of Education, *NIPUN Bharat: National Initiative for Proficiency in Reading with Understanding and Numeracy - Implementation Guidelines* (Government of India, 2021).

frequent relocation, and hence can be particularly relevant in the context of children whose parent(s) were imprisoned. Such factors can impact early learning in the formative years of school. The Mission's emphasis on early identification of learning gaps and remedial instruction can help minimise educational setbacks due to the emphasis placed on early identification of gaps, remedial instruction, and ongoing academic support provided by the Mission.¹⁹ Mission does not view children who have a parent in prison as a vulnerable group or group in need of age-specific educational intervention. It also lacks mechanisms for coordination with child protection agencies and prison authorities. Thus, the role of NIPUN Bharat in tackling the education challenges faced by the children of incarcerated parents is mainly indirect. Integrated support in the Mission would make it more effective at achieving equitable education for this vulnerable group.²⁰

National Crèche Scheme

The National Crèche Scheme, under the Ministry of Women and Child Development, aims to establish day-care centres for children below six years of age belonging to working mothers and economically weaker families. The Scheme aims to ensure the holistic development of young children by providing supplementary nutrition, health care, immunisation, early childhood education, recreation and safe environment during the working hours,²¹ Recognising that early childhood care forms the foundation of lifelong learning, the Scheme complements the objective of promoting universal access to quality Early Childhood Care and Education (ECCE) under the National Education Policy, 2020.²²

The Scheme does not specifically mention children of incarcerated parents; however, its objectives are equally relevant where parental imprisonment results in the absence of primary caregivers or places additional caregiving responsibilities on relatives or guardians. In such circumstances, access to crèche facilities can provide a stable environment while ensuring pre-school education, nutrition, and developmental support. Early intervention is especially critical since parental incarceration may cause emotional distress, instability, and developmental

¹⁹ Id. chs. 2–5 (Foundational Literacy and Numeracy, Teacher Capacity Building, Assessment, and Learning Support).

²⁰ Department of School Education and Literacy, Ministry of Education, *NIPUN Bharat Mission* (Government of India).

²¹ Ministry of Women and Child Development, *National Crèche Scheme for Children of Working Mothers* (Government of India).

²² Ministry of Education, *National Education Policy 2020* (Government of India, 2020), ch. 1 (Early Childhood Care and Education).

disruption during early childhood. and may impact their academic success in future years. Despite this, the Scheme continues to be restrictive in that eligibility is primarily determined by the employment status and income of caregivers and not the vulnerability due to the incarceration of parents. It does not provide any mechanism for coordination with child protection agencies or prison authorities. Recognising children of incarcerated parents as a priority beneficiary group would strengthen the Scheme's contribution to child welfare and educational continuity.

National Policy for Children, 2013

In 2013, the Government of India adopted the National Policy for Children which provides an overarching system of child protection and child welfare for all children under 18 years of age. In terms of equality, dignity and the best interests of the child, as enshrined in the Constitution, the Policy acknowledges that children are not merely beneficiaries of welfare but individuals possessing independent rights. It sets forth four priority areas: survival, health and nutrition, education and development and protection and participation, and calls for all government agencies to adopt a child-centred approach in their policy making and implementation.²³

Educationally, the Policy upholds the fundamental rights of children regarding free, equitable, and quality education in a setting that fosters dignity, inclusion and the all-round development of children. These goals have special significance for children of incarcerated parents, because of the frequent disruptions of childhood education caused by family income insecurity, trauma, the stigma associated with incarceration, changes in caregiving arrangements, and the resulting changes to the ways these children are raised.²⁴ However, the Policy does not specifically identify children of incarcerated parents as a vulnerable group who needs a specific educational intervention. Its unfocused commitment to equality and to children's welfare may be read as including such children, but it fails to assign institutional responsibility for recognising and helping them. Educational assistance therefore largely depends on, and heavily dependent on, the other child protection schemes in place, as opposed to obligations arising out of the National Policy for Children. The emphasis on the rights of children as enshrined in this National Policy for Children (2013) should ensure that the right to education is translated into improved access to education for children with incarcerated parents, thus reinforcing its focus on equitable educational opportunities and recognising their educational vulnerabilities.

²³ Ministry of Women and Child Development, *National Policy for Children, 2013* (Government of India).

²⁴ Id. Sec. IV–VII (Guiding Principles and Priority Areas).

National Charter for Children, 2003

The National Charter for Children, 2003 was adopted to affirm the Government of India's commitment to protecting and promoting the rights of all children in accordance with the Constitution of India and the United Nations Convention on the Rights of the Child (UNCRC). The Charter does not establish legally binding rights, but is a policy document to inform legislation and administration and child welfare programmes. It states that all children belong to the nation as a valuable asset and places a duty on the State to ensure children's survival, development, protection, and participation without discrimination.²⁵ Education occupies a central position within the Charter. It states that all children have the right to elementary education that is free and compulsory and upholds their dignity, equality and all-round development in education. These goals are especially relevant to the children of incarcerated parents who often must complete interrupted schooling, experience financial hardship, emotional trauma, and social stigma after their parent(s) are incarcerated.²⁶

It is important to note that the Charter does not define a specific group of children of parents who are imprisoned as needing educational support. On the contrary, it takes a rights based approach that is universal and for all children. The application of these principles to education therefore has a strong emphasis on achieving educational inclusion for these children, but the Charter does not provide any institutional mechanism for identifying these children or ensuring continuity in children's education following parental incarceration.²⁷ While the National Charter for Children 2003 is not a current policy document, it is still an important document on which to refer when interpreting child welfare and education policies. Future child rights policies should explicitly include children of incarcerated parents in its provisions and advance the goal of ensuring equal educational opportunities regardless of parents' circumstances in the Charter.

Saksham Anganwadi and POSHAN 2.0 (≈250 words)

Saksham Anganwadi and POSHAN 2.0

Introduced in 2021 by the Ministry of Women and Child Development, Saksham Anganwadi & POSHAN 2.0 is a single window nutrition and early childhood development initiative that

²⁵ Government of India, **National Charter for Children, 2003**.

²⁶ Id. Sec. 3–8 (Rights relating to Education, Development and Protection).

²⁷ Convention on the Rights of the Child arts. 2, 3 & 28, Nov. 20, 1989, 1577 U.N.T.S. 3.

brings together multiple existing schemes like the Integrated Child Development Services (ICDS), POSHAN Abhiyaan, and the Scheme for Adolescent Girls. Improving the nutrition, health and all round development of children, pregnant women, lactating mothers and adolescent girls is the programme's objective and is being implemented using a life-cycle approach. One of the most crucial aspects of Scheme is to augment the facilities of Anganwadi Centres in order to provide Early Childhood Care and Education (ECCE), supplementary nutrition, health services, growth monitoring and pre-school education for the children below six years of age.²⁸

From an educational perspective, the Scheme recognises that early childhood education forms the foundation for lifelong learning and school readiness. By improving the quality of pre-school education, enhancing Anganwadi infrastructure, and promoting age-appropriate learning activities, Saksham Anganwadi seeks to reduce developmental gaps before children enter formal schooling.²⁹ These objectives are particularly relevant for children of incarcerated parents, who often experience emotional instability, disrupted caregiving arrangements, and limited access to quality early childhood education following parental imprisonment.

However, the Scheme does not specifically recognise children of incarcerated parents as a vulnerable beneficiary group. Consequently, access to its educational and nutritional benefits depends upon general eligibility criteria rather than the educational risks associated with parental incarceration. The absence of coordination between Anganwadi Centres, child protection agencies, and prison authorities further limits its ability to identify and support affected children during their formative years.³⁰ Therefore, while Saksham Anganwadi and POSHAN 2.0 significantly strengthens early childhood care and pre-school education, incorporating children of incarcerated parents within its implementation framework would promote greater educational inclusion and ensure that early developmental disadvantages arising from parental incarceration are addressed effectively.

²⁸ Ministry of Women and Child Development, *Saksham Anganwadi and POSHAN 2.0 – Mission Document* (Government of India, 2021).

²⁹ Id. (Objectives relating to Early Childhood Care and Education, Supplementary Nutrition, and Strengthening of Anganwadi Centres).

³⁰ Ministry of Women and Child Development, *POSHAN 2.0 Operational Guidelines* (Government of India).