



Special Newsletter: Children of incarcerated parents

September 2011

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Welcome to the Defence for Children International (DCI) Special Newsletter

Introduction by Oliver Robertson, Quaker UN Office

If you were told your dad had suddenly 'gone to hospital' but you couldn't visit him, what would you do? And if your mum moved to a new home a hundred miles away but you weren't allowed to go with her, how would you feel?

These are just two of the scenarios faced every day by children of prisoners. Separated from their parents by the state, they have to adjust to a new life with many moving home, changing schools, or having new carers and guardians. They need to work out what, if anything, to say to their friends - assuming they even know (some children are told that the missing parent is in hospital or has joined the army). And many will have to deal with the new reality of seeing a parent in prison, often travelling a long way for a short visit of an hour or less.

It is estimated that over 700,000 children in Europe have a parent in prison, while in the USA (with the highest prison population in the world) the number is believed to be between two and three million. Within the UK, the number of children with imprisoned parents (160,000) is double the number in care and over six times the number on the child protection register. But in reality, nobody knows exactly how many kids are affected, because nobody has comprehensive statistics on the issue. Mostly it is fathers who are jailed, but when mothers are imprisoned the effects can be more pronounced, as mothers are more often the main or only carer for the children, which can result in the kids moving to live with somebody else and experiencing other profound changes to their lives.

Each child will deal with parental imprisonment differently, even those in

the same family. For some, who have had little contact with the imprisoned parent beforehand, the jailing will make little difference to their lives, while for others, the removal of a disruptive or abusive parent can be a relief. But a consistent reaction following arrest and imprisonment is a feeling of loss. As the daughter of one Kenyan inmate put it, "A family without one member is incomplete. We can no longer get her advice and her role must be played by someone else, which is a big challenge."

Many of the effects on children are similar to what happens when parents divorce or one of them dies but with much less sympathy. Families of prisoners can become 'tainted' by the crime, with people in the community shunning them and kids in school taunting them. Some children may turn inwards, not speaking to anyone about the situation, while others get angry and defiant. In both cases, behaviour and schoolwork can suffer. Add to this the potential extra stresses of moving to live with new carers (grannies often fill this role, though other family members, friends and foster carers also provide new homes) or of being asked to fill new roles in the family (such as looking after younger brothers and sisters) and you start to see why children of prisoners are described as the 'invisible victims of crime'.

They may be 'invisible' but not alone. Over the years, there have been increasing numbers of individuals, groups, and academics working on issues of prisoners' families, whether by improving prison visits, helping families with other parts of their lives, or persuading policymakers to consider the rights and welfare of prisoners' children. Look around and you see an American group



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promoting a charter of rights for children of imprisoned parents, Italian campaigners helping women whose babies are born in prison, and one astonishing Nepalese outfit, Prisoners Assistance Nepal, which at any one time is schooling and training over a hundred children who have been living in prison.

This is all good work and concentrates on all aspects of being a prisoner's child - before, during and after jail. One common misconception is that if imprisonment is bad, then when the parent comes home everything will be fine. The reality is that it is much harder than often expected, with both parents and children having unrealistic ideas about how easy it will be. Returned prisoners face practical problems with finding work and accommodation, and children having developed and changed during the imprisonment. But the effects can be so many and so serious that campaigners are trying to get judges to consider the effect on children before sentencing their parents to custody or putting them in prison while awaiting trial. As with other things, they argue, prevention is better than a cure.

If that idea (that people with kids can avoid prison because of their parental responsibilities) sounds bizarre, then consider that it already happens in lots of countries. Several of the ex-Soviet republics have provisions whereby mothers with children under a certain age avoid prison, except for especially severe crimes. South Africa's highest court ruled in 2007 that the paramount importance of children's rights meant that the impact on them must be considered when sentencing 'primary caregivers'; this may still result in a prison sentence, but it will be one informed by its wider impacts.

Many of these examples were shared at the end of September, when for the first time ever, the UN discussed the issue in detail. The Committee on the Rights of the Child devoted its 2011 Day of General Discussion to 'children of incarcerated parents' and looked both at those children coping with parental imprisonment from outside prison and the babies and children who live in prison with their parents. The 200 people who attended the Day heard from social workers, lawyers, psychologists, and children themselves, as participants discussed how best to protect the rights

and needs of prisoners' children at all stages of the criminal justice process. Already, there was excitement building around the Day, with campaigners from across the world coming to Geneva and sharing their experiences of how to best support children with imprisoned parents. The outcomes from the Day are still uncertain, but will certainly include better awareness about the issue internationally and could lead to international guidance on considering children whose parents are in conflict with the law.



"Child's Odessa-y" by Spiros Derveniotis, Greece (www.cartoon-movement.com)

And finally, for those unmoved by the idea that children are feeling the effects of punishment without ever having committed a crime themselves, there is another reason for changing this situation: future crime prevention. Long-term studies have shown that boys whose fathers have been imprisoned are themselves more likely to go on to be antisocial in the future (similar research has yet to be done with girls), and many prisoners have had imprisoned parents themselves. Supporting children of prisoners and their families can be highly beneficial, for the people themselves and for the wider society. As a child in one US study put it, "It's hard to find a sense of value if everybody tells you you're not worth anything."



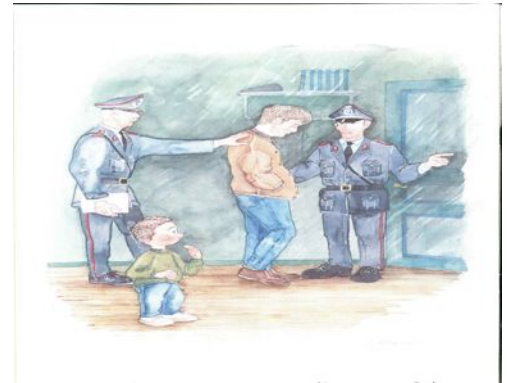
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Living with a parent in prison in Belgium

In Belgium, the problem of children of incarcerated parents is not to be underestimated: every year, between 16,000 and 20,000 children suffer for the incarceration of their mother or father. Half of them never go to visit the captive parent, and when it is the mother to be incarcerated, 34% of them are fostered to another family. These numbers show the seriousness of the situation, and the need to intervene to grant adequate protection and support to the children who face this situation.

The harmful consequences of the separation from the parents are several: children feel insecure, ashamed and betrayed because it is not easy for a child's mind to understand the reasons of the confinement of their father or mother. For this reason, they need external care and help from adequately trained experts. The separation from the parents, if not dealt with using the necessary support, can have the same effects of their death, or even worse, because the children sometimes believe that they have been intentionally abandoned and put the blame on the parent or even on themselves. Even in the cases where the children visit regularly with their mother or father in jail, seeing them behind bars and not being able to have the attention and interaction that a child needs can have an equally harmful effect on their growth. In some cases, they are not even allowed to have direct contact with them, but are kept separated from them by a glass pane. Overall, the impression deriving from entering a prison can have harmful effects on the children's minds since they experience the sense of imprisonment that pervades those places. Going to visit the parent is also often problematic because the visit hours are very strict and the detention facilities can be very far from where the children live. The children need to have someone to bring them to the prison, and if the parent or relative they live with is working, that can be difficult and therefore the chances to meet their detained parent decrease.



Le Fonds Houtman, "Petit Tom en visite." Belgium, www.fonds-houtman.be

In a relevant number of cases (1 out of 3 in cases of incarceration of the mother!) the children are fostered with another family. This is a situation that can have positive effects on the long term growth of the child, but also be very stressful and difficult to accept at the beginning and favor the complete detachment from the family.

The consequences of this situation range from attention and concentration problems for girls and aggressive and antisocial behaviors for boys to marginalization, isolation and stigmatization at school and in other social environments. This situation can lead to a sense of guilt, shame and anger. In addition to that, also the part of the family that's left will suffer from the situation. The family's financial situation will become unstable, because the incarcerated parent cannot work and therefore a source of income will be missing. The forced separation between the parents can also lead to the end of their relationship, adding more stress and pain to the life of their child.

The Belgian penal law system contains some provisions directed to protect the best interest of the child, specifically Articles 53 and 58-63 of the Loi Dupont, which give particular rights to the children of detained parents. However, the implementation of the law is not yet complete regarding the possibility for children to live in prison with their incarcerated mother. This is allowed only until the age of 3.



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The specific case of Bolivia: Living with the family in prison

The situation of children with incarcerated parents in Bolivia is peculiar, and therefore it has to be addressed from a different point of view from the other countries hereby examined. In Bolivia, detention facilities frequently host the whole family of the detainee: father, mother and children live together inside the prison walls.

Especially in the environment of drug trafficking, often both of the parents are convicted together for the same crime, and therefore the children would be left without any family support. For this reason, it is considered that it is in the best interest of the child to be allowed to grow together with their family, even if inside a prison, rather than to foster them or send them into an orphanage, depriving them of the affection and care of his parents.

Research has shown that, at least in Bolivia, families can persist together inside a prison. It is easier to keep the familial bond alive if parents and children are together, even if inside a penitentiary, than if they are separated by the prison's walls and have rare occasions to meet. This counts for both the relationship between parents and children and between mother and father. The integrity of the family is better preserved by keeping the members together. In fact, facing the difficulties of the jail life together can even strengthen the bond.

It should also be kept in mind that the adversities faced in prison are sometimes not too far from those that these children have to cope with in their everyday

lives. Children of prisoners usually belong to disadvantaged groups: they grow up in poverty or are indigenous. For these reasons, the difficulties that they experience in prison (malnutrition, lack of adequate education, bad health care) are not different from what they suffer living outside of the institute. In addition to that, the social exclusion that can derive from living or having lived in a prison at such an early age is comparable to that which many of them suffer everyday because of their indigenous origins or their poverty. Therefore, the negative effects are balanced by the fact that, if they stayed outside of the prison, they would have faced similar adversities but without the love and support of their family. For these reasons, in Bolivia letting the children live in prison with their parents is considered in the best interest of the child.

However, the ongoing debates that are taking place in Bolivia regarding the children of detainees goes in the opposite direction: the majority of the voices deprecate the fact that the prison is only a place for criminals and only see the negative effects of living there. This point of view comes from a conservative and radical vision, which tends to stigmatize whoever goes to prison and doesn't take into consideration that there are different reasons why the parents end in jail, and fail to take into account what is best for the children, the thing that should be given the biggest importance.

No reference to the situation of children of incarcerated parents in Costa Rica's Penal law

In Costa Rica, the situation of children with incarcerated parents is particularly troublesome because of the lack of any information or data on the subject. To the outside, they appear like a nonexistent or invisible category. Once in a while isolated manifestations of concerns towards them appear. However, there isn't any comprehensive approach to this issue. Even the Non-Governmental Organizations defend-

ing the rights of children disdain this topic. There are some religious organizations that deal with children of incarcerated parents but only through local assistance programs without any possibility to address the problem from its roots.

The reason of this silence may be related to the politics of criminalization that the local Penal System carries out towards the families of criminals as part of the fight



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No reference to... (continued from page 4)

against drug-trafficking. In any case, the State does not give it any relevance. There may be some studies carried out in universities on the subject, but they have not been divulged nor published.

Due to the complete lack of any information, it is not even possible to outline a general picture. Just one thing can be said with certainty: the penal system of Costa Rica does not contain any reference to

the situation of children with incarcerated parents.

For the aforementioned reasons, the first steps to undertake would be to start an awareness campaign on this issue, to put an end to the governmental policy of obscurantism, and to commence a comprehensive study on the current situation in order to identify the key issues and address them effectively.

Consideration of Children of incarcerated parents in the new national reform of the penitentiary system in Paraguay

The government of Paraguay has created a « National Commission for Penitentiary Reform » with the task of preparing a plan to reform the national penitentiary system and bring it up to date with the national and international standards.

The penitentiary system currently in force dates back to the 1970s, and therefore needs an urgent and complete review, especially for that which concerns the treatment of detainees. This reform is also expected to lead to a renovation and refurbishment of the detention facilities. The government has requested civil

society organizations that deal with the situation of detained people to contribute with their experience and knowledge. The process is still at its preliminary stage, so it is unknown if it will take into account the situation of children in prison. However, we are positive that the presence in the Commission of the Ministry of Education and of a representative of the Civil Society engaged in the field of Human Rights will lead to improvements in this area that we are particularly concerned with.

Mothers in prison with their children in Mexico

The Mexican Penal Law System is undergoing a process of improvement for that which concerns the protection of the rights of people in prison and the respect of their life, dignity, and personal integrity. This, doubtlessly, is a praiseworthy step forward. However, the possibility that the convict has children is not taken into any consideration.

Courts do not take into account the fact that the prisoner has young sons or daughters into their judgments. Furthermore, the legislation does not take into consideration at all the situation of the children after the sentencing of their father. On the other hand, mothers are allowed to keep their children while in detention. However, the penitentiary structures are rarely suitable to hold women, and even less children.

They have to share the cells with their mothers, if not also with other detainees. In some cases they are only allowed to stay with their mother until the age of 6, and after that they are entrusted to their relatives or taken care by the State's Social Assistance System.

Children living with their mother in prison need particular attention on their physical and psychological development, which could be seriously damaged by the environment in which they find themselves growing. The Regulation for Prisons and Correctional Facilities (Reglamento de Reclusorios y Centros de Readaptacion Social) provide for at least the presence of adequate pediatric support. In practice however, they rarely have adequate structures and adequately trained staff and therefore



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the children are taken care of by the same personnel as the adults.

The same goes for the children who live outside of the prison while their parents are captive. They need support to keep the link with their convicted parents alive to sustain the difficult experience of the visits in prison.

The centers seldom provide assistance of this type, and the state doesn't grant this kind of support outside of the walls of the prison.

Only a small number of penitentiaries have a "Center for the Child Development" (Centro de Desarrollo Infantil, CENDI), which take care of children through recreational activities and educational courses during the day while at night they go back to their mothers. However, children can take part to the activities of CENDI only if their mother agrees, which doesn't always happen.

It is to be praised in the case of the federal penal colony of Islas Marias, where there is a school for the children of the

prisoners that includes pre-school, elementary, middle and high-school levels. In addition to that, it provides other kind of activities and care for the needs of children. The overall goal of this institution is to give the chance to the whole family to live together during the sentence. For this reason, it also comprises other activities, such as working, educational and recreational activities, and health care. Unfortunately, this is a unique case in Mexico.

In Mexico, there are several Civil Society Organizations dealing with this problem, conducting analysis and research on the situation of children of incarcerated parents in order to demand the modification of the Regulation for Prisons and Correctional Facilities. Reintegra, DCI's associated member for Mexico, is running some programs to help young prisoners and former prisoners to maintain their relationships with their families across the walls of the prison and their reintegration at the end of the sentence in order to prevent risks such as recidivism, violence, and drug abuse.

Taking into consideration children of incarcerated parents in the Netherlands

Children of imprisoned parents are among the most vulnerable groups in society. They are at great risk of emotional problems, social exclusion and poverty, due to having one or both parents taken away from them. In the Netherlands, there is not enough knowledge about the consequences of this issue and the studies are limited to a small group since most of them focus on the father instead of the child. There are three studies that have been done in the Netherlands:

The study by the Free University of Amsterdam (2009) called, "Children of imprisoned mothers," stated that the average image of the situation (care, experience with detention of the mother etc) is negative. They also avowed that the child's problems can be caused by the detention of the mother, but mainly they already existed prior to the arrest, and some of them declared that the detention of the mother brought more rest and order in their lives.

CPB (2008) "Learned young, old done": This study shows that the norms, values, feelings and behavior of parents in a strong extent are transferred to their children and they have higher chances to get involve in criminal actions. This study has also confirmed that the more a person has to lose, criminal activities become less attractive; therefore, inmates who have contact with their families during detention, are less likely to relapse into their old behavior.

Verwey-Janker Institute (2007) "Imprisoned mothers and visiting children": In Holland every year over three thousand women are imprisoned; approximately 50%-70% of them are mothers; despite this high number, there is only four prisons for women in Holland, which means there are a lot of children that have to travel far to visit their mother, and care givers might not have the economic sources to pay a trip like this often.



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Taking into consideration... (continued from page 6)

In the Netherlands, there are some cases that the incarcerated parent was convicted of a crime against the other parent (murder) or the child itself (abuse). Despite of the fear the child has of the imprisoned parent, the child can be obligated to visit the imprisoned parent. Especially in these cases, the question if obligated contact is in the best interest of the child must be asked.

In the Netherlands, it is possible for parents to keep the child until the age of 6 to 9 months in prison with them (the mother most of the time; even though, the legislation doesn't specify that this applies only to the mother). In order for the parents to keep the child in prison with them, the director of the concerned prison must give him/her permission to stay (these permissions can have some restrictions), if this is in the best interest of the child. For juvenile offenders it is also possible to keep their child with them in a juvenile institution.

There are two prisons with a special mother-child house; mothers can stay in this "house" until the child reaches the age of 4, for a maximum period of 6 months. In the Dutch law, there are no special articles for imprisoned parents. The right to remain in contact with people outside prison is regulated by law, but there is no special article about the contact between parents and their children. Special mother/father - child visit

is a special provision and is not a right for parents or children. Not every prison has this provision.

In the Netherlands, the fact that a parent has a child is not taken into consideration when a judge imposes a sentence. In 2000, the Council of Europe's Committee on Social, Health, and Family Affairs published a report on "Mothers and babies in prison". In this report the committee discourages a child's growth in prison, but also they call the separation of the mother and her young child cruel and inhuman. The most important message of the report is that new policies to punish mother who committed a crime should be developed. Instead of a prison sentence, alternative measures should be available. DCI the Netherlands agrees with this statement if this is in the best interest of the child. If this is not possible, then the contact between the parent in prison and the child must be strengthened by better and more frequent child visits.

DCI the Netherlands is part of the platform for Children of imprisoned parents. Once a year this platform comes together and the participating organizations inform each other on the issues concerning children. Within this platform we try to analyze what the biggest concerns are relating to children of imprisoned parents and how the organization within the platform can support to each other.

The phenomenon of "jail babies" in Uganda

In Uganda, the phenomenon of "jail babies" is worryingly common; children growing up in prison without any chance to live a normal, free life, just because their mothers are incarcerated. They are deprived of their basic necessities as infants. Their world is limited by the walls of the prison and of the cell where they live with their mother. They don't have other children to play with, no toys, no education, no decent food, and no clothing. The facilities where they grow up are usually inadequate even for the needs of an adult.

The situation of these children is particularly sensitive. Although they haven't committed any crime and they're not prisoners,

they live every day of their life in a prison, with all the psychological problems that this situation causes, especially considering their young age.

Unfortunately, detention facilities don't have adequate structures and personnel to assist them and help them through this difficult situation. When they finally are allowed into the world outside of the prison, they face all kind of problems in dealing with situations and tasks that for everyone else are just normal, just because they never faced them before. Every aspect of their life becomes a cause of stress and frustration.



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In addition to that, they experience rejection and marginalization from other children because of their life in prison or because their parents are detained. Although they have nothing to be blamed for, they end up feeling guilty for the sins of their parents and the stigmatization by the society. Without adequate support, they easily end up committing the same mistakes as their parents and being convicted themselves.

The government of Uganda has not taken any measure to address this situation so

far. Even worse, it does not consider children living in prison as having the same status as detainees, and therefore denies any responsibility of their care and support. Their only hope comes from their relatives, families, and civil society organizations that in some cases manage to provide education, counseling, and support to children of incarcerated parents. This help can be fundamental for changing the lives of some of the children, but it is not nearly enough to deal with the problem as a whole.

The state of babies and children living with women prisoners in Pakistan

In Pakistan the rights of babies and children living with women prisoners/mothers in prisons are completely ignored and neglected. From the time of arrest till the release of women prisoners, accompanying children's best interests are not taken into consideration; neither there is any policy and law nor the best practices on the part of the state. Interestingly, there are no considerable analytical accounts on the rights of these children.

The human rights activists do take reference from Article 4 of the Constitution of Pakistan which states that all individuals will be dealt with in accordance with law and will not be deprived of their body interests, liberty, and life but in the case of children. Reality is relatively contrast to this. They are deprived of the rights mentioned in the Article and are not treated or protected as the law states. These constitutional guarantees do not cover the children of Federally Administrated Tribal Areas (FATA).

According to the Article 25-A of the Constitution of Pakistan, education is a fundamental right for person from the age of 5 to 16 years: Whereas implementation of this fundamental constitutional right in prisons seems redundant idea in the given situation when prison authorities and government do not heed on these ignored children. From five years of age, education of children must start wherever they are living. At majority of detention cen-

ters, education services or facilities are not provided and there is no a permanent teacher appointed by the government; usually NGOs run educational programmes and organize other activities but scant in numbers as well as in quality.

In addition, living conditions are not good; barracks are not clean; proper health services are not available; they face the issue of scabies as their mothers do. Pregnant women prisoners deliver babies in the absence of pre- and - post natal care. These women are never treated HIV and other sexually transmitted diseases.

The overcrowded women prisons allow environment of abuse and exploitation. Except four women prisons in Pakistan, all over the country, women prisoners wards' inside the prison are basically made for men prisoners; women, children with women prisoners, juveniles offenders and men prisoners enters from the same main-gate of the prisons.

In order to protect the rights of children with women prisoners in prisons or when their parents are in prisons, a legislative framework is required that solely should address issues of such children from the time of arrest of their mothers or/and fathers, lays down procedures and rules for their protection.

There is a need to expedite the trials and strengthen the probation and bail system by making them functional.

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Two female probation officers may be appointed in each district of Pakistan who will be given charge to monitor conduct of the women prisoners who have minor children with them; there is also need to allocate funds for free legal aid and sureties for those poor women prisoners who cannot afford.

Releasing women on the bail and probation will provide opportunity to a child to go back to the environment in which s/he could grow and enjoy his/her fundamental rights to liberty, freedom to move, the right to education, etc.; also releasing women prisoners having children along with them or at home will provide a chance to children to be taken care of by their mother which will also save them from stigma.

The government should make institutional arrangements for abandoned chil-

dren whose parents are in jails or whose mothers are ailing and unable to provide care and protection. Those institutions must be running under the minimum standards procedures and close to the prisons so that there should not be any difficulty in arranging meetings between the mother and the child.

It is highly recommended to establish alternative care institutions which may save children from the negative impacts but these alternatives must be working in light of Article 9 of the UNCRC. In case if it is not possible to send a child to any other alternative care institution, in that case, children must be provided environment in which they could be protected and ensured to enjoy all rights enshrined to them in the Constitution of Pakistan and the UNCRC.

Exhibition at the United Nations: Collateral Convicts: If my parents go to prison what happen to me?

As a member of the Working Group on children of incarcerated parents of the NGO Group for the CRC, DCI participated to the realization of the exhibition "Collateral Convicts: If my parents go to prison what happen to me?"

The exhibition shows children's feelings from the trial, arrest, detention and release of the parents. The exhibition will be on show at the Bar Serpent at the Palais des Nations until Friday 30th September.





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introduction

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Please note that the articles contained in this newsletter are the individual contributions of DCI's national sections and the International Secretariat, and as such do not constitute the official position of the IEC members or the movement as a whole.

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