



**UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD
DAY OF GENERAL DISCUSSION 2011
“Children of Incarcerated Parents”**

**INDIVIDUALISED RESPONSES TO PROMOTE QUALITY CARE
AND SUPPORT CHILD DEVELOPMENT**

Introduction

SOS Children's Villages International is the umbrella organisation for over 130 SOS Children's Villages national associations worldwide. SOS Children's Villages supports and promotes a range of family-based care options for orphans and vulnerable children who cannot remain in the care of their families. For example, a loving home with an SOS parent as part of an SOS family, in a foster family, or other family-based or family-like care environment¹. The organisation's commitment to ensuring quality alternative care is complimented by family strengthening interventions which target children and families at risk of separation with the intention of building their capacities and empowering them towards self-reliance. This paper is informed by input from various SOS Children's Villages national associations including, France, Germany, Indonesia, Jordan, the Russian Federation, and Sri Lanka amongst others.

General perspectives and concerns

Children and families affected by the incarceration of any parent face a wide range of challenges that may result in the violation of many rights under the *UN Convention on the Rights of the Child* (the UNCRC). These may include, for example, the lack of supportive social services, stigma and discrimination, loss of contact between children and parents, unhealthy living conditions, and potential violations of rights to education, physical or psychological health, and the fullest possible development of the child. SOS Children's Villages International presents experience and perspectives on the pressing need to promote and guarantee the development of children, to strengthen the capacities of families, or when necessary, provide appropriate alternative care, when a parent is incarcerated.

Furthermore, these perspectives and experiences, and the recommendations made, are framed with respect to the *UN Guidelines for the Alternative Care of Children* (the UN Guidelines) which are referenced as an authoritative framework to support implementation of the UNCRC. In short these recommendations focus firstly, on the need for participatory approaches to assess specific needs, consequently ensuring tailored responses to strengthen the capacities of parents

¹ The UN Guidelines – para.29



and/or the extended family. Secondly, when necessary, to guarantee individualised decision-making processes to ensure the necessity and appropriateness of any recourse to alternative care.

Children of incarcerated parents – psychosocial concerns

Children whose parents have been incarcerated are faced with particular difficulties and issues that have negative, and potentially long lasting, implications for psychosocial development. In particular there is increased vulnerability to fear, anxiety, stress, anger, sadness, depression and guilt. All of these children may experience such stress and trauma in relation to, for example,

- the initial shock of arrest and sudden separation from a parent,
- prolonged or delayed legal proceedings up to and including trial,
- separation during pre-trial detention,
- the trial itself – particularly if they are a witness to the actual crime,
- short-term or long-term separation after a conviction,
- life in prison with the incarcerated parent, and,
- on-going difficulties after a parent is released from prison.

In particular amongst these concerns, which are linked directly to legal processes, the short or long-term absence of a parent denies the child a potentially key relationship with respect to parental support, authority and parental hopes, aspirations, and expectations for development, for example in relation to school attendance and performance. The longer-term impacts of such loss and stress, in the absence of positive and supportive interventions, may include an increased risk of abuse or neglect, emotional withdrawal, school failure, or juvenile delinquency.

Furthermore, children of incarcerated parents may often be moved around too often; between family members; between alternative care arrangements; to new schools and/or communities; thus denying them the necessary stability, security and support to develop stable relationships, self-esteem, personal autonomy and resilience. Failures to address these stresses and potential trauma can have significant implications for child development that can impact on progress towards an independent adulthood.

It is also important to note that children of incarcerated parents may experience feelings of guilt, shame, or denial with respect to their own, and their parents, circumstances. Children may tell lies in order to conceal these circumstances, may overly demonize the incarcerated parent, or develop a sense of guilt, for example linked to self-blame where children attribute responsibility for their placement in a prison setting, or in alternative care, to themselves. In particular it is noted that parents, extended family members, other carers, social workers and other related professionals should not, however well intentioned, mislead children or lie to children by concealing the facts of the situation.



Misleading or lying to children simply provides the psychological space for children to develop fantasies divorced from fact, and/or, develop inappropriate attributions of self-blame, guilt or shame. As such, children of incarcerated parents should therefore be given every opportunity to make sense of and understand the facts behind their circumstances. Such information should be provided in suitably child or youth-sensitive ways, in keeping with their age and maturity, and be provided in conjunction with any necessary counselling or support.

Babies and children – living with, or visiting, parents in prison

For those babies and children living in prison with their parent the first consideration must be ensuring that the general living conditions are of a necessary standard to guarantee the rights of the child. This not only includes general sanitary and security conditions but also, amongst other questions, the right to privacy, access to the community (family, school, healthcare etc.), child/mother-friendly spaces, and play spaces for children.

Incidences of children being removed from their parent and placed in alternative care, or put up for international adoption, due primarily to risks posed by prison living conditions are not uncommon. In this regard it is noted that processes to terminate parental rights in such cases can be conducted “*in absentia*”. As such, decisions are made without necessary consultation or participation of a parent or other family members or due consideration for the best interests of the child. However, the provision of suitable child & mother units within prisons has been noted as an important factor in reducing the incidence of the termination of parental rights and consequently the removal from children from their parents. Such dedicated units also serve to guarantee safety and security for children as opposed to mixing with the general prison population where violence, physical abuse, intimidation and abusive language may all be issues².

Concerns are also raised regarding feeding and nutrition for babies and children living in prison with an incarcerated parent. It is noted that food provided in prisons, if fit for human consumption, can be essentially targeted only at adult needs. Specific considerations of the dietary requirements of a child, who can be left to basically share their parent’s food, can be overlooked. This is of particular concern with respect to breastfeeding of babies and infants. On this basis all necessary considerations to provide for the dietary requirements of children of all ages living in prison must be guaranteed.

Lastly, it is emphasised that the rights of children living in prison remain the rights of “free” persons and, as such, their involvement with family members outside the prison, with the community in general, and specifically through school, access to health care, or other social and cultural activities outside the prison must be assured.³

² The UN Guidelines, para.48

³ The UN Guidelines, para.48



Children left “outside” when their parent is incarcerated

Children of incarcerated parents may be in the day-to-day care of various family members, with a single mother or father, with older brothers or sisters, with aunts, uncles, or grandparents. Irrespective of the particular circumstances children have the right to expect appropriate social services to maintain a standard of living, access to education, health and other supportive services. However, the potential stresses on relationships, or from the effects of poverty, or family conflict present particular risks to this vulnerable group of children and, on that basis, strengthening and supporting the family is seen as vital step towards guaranteeing child development.

As a first priority, families with an incarcerated parent should be facilitated in accessing all available financial and/or material supports. Agencies working to strengthen these informal care environments should, in full consultation with children and their family, develop and implement a plan that ensures that adults have the necessary “*attitudes, skills, capacities, and tools*”⁴ to provide quality care for children and to, for example, prevent abandonment, relinquishment, or the need to remove children to alternative care.

Within the SOS Children’s Villages programme family strengthening interventions follow a participatory and empowering logic to develop tailored responses building on family capacities and promoting self-reliance. Steps in that process include:

- Initial Assessments – to identify priority issues for intervention,
- Family Development Plan – to deliver supportive and empowering interventions, and
- Monitoring of progress – with a view to potential exit strategies.

Programme experience with children of incarcerated parents in various countries, particularly given the requirement to deliver tailored responses, provides a broad range of interventions. These involve working directly with children, with family members, and the promotion of interagency collaboration including, for example:

- immediate financial & material support to address concerns for impoverished households,
- facilitating access to legal advice and representation,
- counselling and psychosocial support for children and/or their carers,
- access to self-help and other community groups,
- facilitating access to education – e.g. school fees, uniforms, learning materials,
- working with teachers to support children in the classroom,
- facilitating and supporting access to necessary health care,
- facilitation of birth registration and acquiring other necessary legal documentation,

⁴ The UN Guidelines, para.34



- challenging stigmatisation and discrimination against children of prisoners,
- access to vocational training and advice on income generating activities, and
- providing training on, for example, positive parenting, child rights, preventing child abuse, non-violent discipline, employment, and family-planning.

Of particular importance, when not contrary to the best interests of the child, is the issue of facilitating structured regular contact with parents in prison. Regular positive contact must be recognised as a critical component, not only in maintaining family ties, but also in allowing the parent-child relationship necessary space for catharsis with respect to some the concerns regarding emotional conflicts and consequences expressed above.

It should also be noted, that prison operations and other relevant authorities should also seek to facilitate rather than inhibit visits by children of incarcerated parents. For example, are the prison's visiting hours in conflict with school hours or, on the other hand, do school authorities recognise prison visits as a justifiable absence from school.

The UN Guidelines & Alternative Care

The UN Guidelines are founded on two key principles with relevance for children living both outside and inside prisons should the potential necessity for alternative care be identified in any particular case. These principles refer to the need to assure, on a strictly case-by-case basis, the “*necessity*” of any placement in alternative care and subsequently the “*appropriateness*” of any chosen alternative care option.

The UN Guidelines reiterate the need to realise the rights, inter alia, to education, health, identity, belief, play, and to know and be cared for by parents, for all children in need of alternative care. However, they also offer specific guidance with respect to children with incarcerated parents. Noting particularly,

- the consideration of the best interests of the child in sentencing decisions,
- the need for child-sensitive removal of children living in prisons,
- the care and protection of children living in prisons⁵, and
- the need to maintain contact with parents⁶.

The UN Guidelines also offer extensive guidance on issues regarding the provision of empowering and targeted strengthening for vulnerable families as discussed above⁷.

⁵ The UN Guidelines, para.48

⁶ The UN Guidelines, para.82

⁷ The UN Guidelines, paras 33-37



However, there are particular circumstances under which a placement in alternative care may be judged necessary and in the best interests of the child or children, in the case of siblings. For example, when the family environment outside prison cannot provide adequate care or may place a child at risk, where there is no family outside the prison, or where prison conditions are so poor as to present significant risk of harm.

The critical factor in determining whether or not any alternative care option is appropriate is a fully informed and participatory case-by-case decision-making process to determine the best course of action⁸. This may include considerations relating to; proximity to the prison for visits, the age of the children, the number of siblings, the desire to keep siblings together, the need for short or long-term care, maintaining links to the community, and the prospects for reintegration with either the extended family and/or the parent on completion of the sentence⁹.

Conclusion

SOS Children's Villages' experience of working with children of incarcerated parents encompasses a wide range of child rights at risk of violation. Underpinning our work is a primary concern for promoting the right to development in families of origin and in alternative care. Additionally, this objective is complemented by a commitment to participatory and non-discriminatory approaches in pursuit of the best interest of the child. We implement these commitments with the intention of assuring appropriately tailored strengthening of families at risk and the necessary and appropriate use of good quality alternative care for children.

In addition to these principles we note our general concerns with respect to the living conditions of children in prisons, the need to recognise children in prison as "free" individuals, the need for targeted assessment and intervention to support families with children outside prison, and to assure the necessary case-by-case determination before removing a child from their extended family or their parent in prison to a placement in alternative care. In particular we recognise the applicability of the UN Guidelines for the Alternative Care of Children in offering additional guidance on the implementation of child rights in these cases.

In summary, SOS Children's Villages International works on the principle that interventions to strengthen and empower vulnerable families and children demand suitably targeted and individualised responses. Only through such tailored interventions can the diverse, complex and specific circumstances affecting children and families affected by the incarceration of a parent be adequately addressed and the care, protection and development of children be assured.

* Annex 1 – 5 Key recommendations (attached)

⁸ The UN Guidelines, para.57

⁹ The UN Guidelines, para.49-52



**SOS CHILDREN'S
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ANNEX.1 – 5 Key Recommendations

Specifically SOS Children's Villages International makes the following recommendations for consideration on this Day of General Discussion. States should be encouraged to:-

- establish child-friendly accommodation in prisons for parents & children, addressing rights inter alia, to birth registration, protection, nutrition, association, privacy, and play.
- ensure that children inside, and outside, prison receive all necessary psychosocial counselling and support while their parent remains in conflict with the law,
- ensure that families in need of strengthening are individually assessed and appropriately empowered to provide the necessary care and protection for children outside prison,
- facilitate and support, as a matter of priority, the rights of children to maintain contact with an incarcerated parent,
- guarantee case-by-case decision-making to assure the initial and ongoing necessity and appropriateness of alternative care provision for children of incarcerated parents.