

COMMITTEE ON THE RIGHTS OF THE CHILD

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Children in prison – a perspective from research

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Messages from the research

Internationally nearly all the countries let babies and small children spend some time in prison with their incarcerated parent, especially with a mother. The forms of practice differ largely depending on the country, the area or the prison. This evidence has been collected in many reports in recent years (Alejos 2005; Robertson 2008; Caddle 1998; The Quaker Council 2007).

Despite the fact that parent's imprisonment could have many kinds of effects to children, very little attention has been paid to this issue in prison practices, on policy level or in research, especially in the case where a child is accompanying a parent to prison. The impact of a parent's prison sentence may be related both to the child's daily life and to psychological and emotional processes (Johnston 1995a, 1995b; Woodrow 1992; Phillips & Gates 2011). Impacts on children depend on many factors, such as the level of child's development, character and also social networks etc. (Travis & Waul 2003, 17).

According to a research review (Enroos 2008, 33-45) the amount of studies concerning children whose parent(s) is/are in prison are limited worldwide. It has been noted that studies in general are characterized by being based on small samples and any follow-up is based on short periods of time (see e.g. Brooks-Gordon & Bainham 2004; Eloff & Moen 2003). Many of the studies were done to support decision-making, practices or advocacy in criminal policy, which is why their set-ups are often pragmatic (Enroos 2008; Myers et al 1999, 21-22). The theme of children, parents and prison is mostly researched in the US, and the studies mainly concern the larger group of children, who are separated from their mother or father because of parents' imprisonment. Parent's imprisonment has very rarely been studied from the viewpoint of the child (see e.g. Nesmith & Ruhland 2008).

So far, the existing research is mainly psychological research, especially focused on attachment assessments and interventions (e.g. Eloff & Moen 2003) and issues of developmental psychology.

There are also some studies done from the family law point of view (e.g. Brooks-Gordon & Bainham 2004) and some concerning practices of children staying in prison (Caddle & Crisp 1997; Enroos 2008.) However, it seems like the interest of researching this area has grown in recent years. But, at the same time, on the basis of existing research, it is difficult to form an opinion on, among other aspects, what kind of impact time spent in prison has on a child's development or how this issue should be arranged.

It is important to notice that the effects of parents' imprisonment to a child could be economical, psychological and social, as well as related to a child's fundamental human rights. Concerns about children in prison go beyond concern for children's welfare and development, as well as humanitarian, moral and economic grounds. Consequently, as Pösö et al write (2010), it will be increasingly necessary to study the position of children during a parent's prison sentence from the children's rights point of view. It needs to be acknowledged that all these different perspectives can also conflict with one another at times. In order to take a stance to this issue, there should be thorough documentation, research and statistics (follow up) about this phenomenon and these children.

Strengthening of the Children's Rights and the Finnish example

Already twenty years ago, in 1988, the Alliance of NGO's¹ sent a questionnaire to all United Nations' member states in order to find out information about children of incarcerated mothers in prison. Most of those seventy countries which answered represented a state's official criminal policy, from some countries the answerers were NGOs. Based on the answers there were prisons where children could stay with their mothers, but children were not offered milk, food, clothes, bed or medicine. The children might have also been exposed to abuse or neglect. On the other hand, in some countries there were positive arrangements for children in prison with their mother by separate units with specialised staff, offering health care and a possibility to go to school. (Children in Prison with their Mothers 1987 ref., Lempiö 1988, 33-37.) The situation seems to be similar now in the 2000s (Alejos 2005; Robertson 2008).

¹ Alliance of NGO's is a union founded by a suggestion of United Nations in 1973. Its international member organisations' (e.g. Amnesty International, World Psychiatric Association, Salvation Army and International child protection unions) objective is to affect different countries criminal policies.

The strengthening of the children's rights has raised the issue whether it is in the best interest of child to stay in prison, although the phenomenon has existed for centuries. In 2005, a UN report "Babies and Small Children Residing in Prisons" was released and the results seemed to be similar compared to the questionnaire years ago. However, the new report highlights the phenomenon more explicitly from the children's rights point of view. The observation was that the amount of the children residing in prisons is not systematically recorded nor there are agreed practices concerning children's matters. Children's perspective is not taken into account when organising living conditions or activities in prisons. The central perception was that children's rights have not been widely considered in the institutional practices of enabling children's stay in prison. (Alejos 2005.) In more recent UN report Robertson (2008, v) writes that children are too often ignored by prison systems and officials, with their needs and best interests unmet. This has been recognised also in the Nordic research (Enroos, Pösö & Vierula 2006; Enroos 2008; Röbbäck 2005; Stampe 2004).

Ignorance can be named by the term of 'institutional invisibility', which illustrates the randomness of the prison practices in relation to the rights and needs of children as well as in relation to knowledge production (Pösö et al 2010). Individual children are treated as 'special cases' without a specific policy on how to take children's rights into account. (Enroos et al. 2006, 2008; Pösö et al 2010; Röbbäck 2005.)

Consequently, strengthening of the children's rights can be seen as one reason why practices concerning children in prison have recently changed in Finland (Pösö et al 2010; Enroos 2008). In the years 2006-2010 children's entering and staying in prison has been systematised in the policy level in Finland. The co-operation with child protection services has been in the focus of the development actions. Children's stay in prison with their parents has become a child welfare issue. Since 2010, it is the duty of the municipal child protection system to assess whether it is in the best interest of the child to enter and stay in prison with his or her parent. (Lastensuojelulaki 2007.) The new family unit within the prison services has solved the problem of registering, documenting and statistic-keeping of the children, as well as the fact that the focus the work is on the children and the prisoners as parents. Yet it does not solve all the problems around this matter.

The issue of children in prison is complex, as it contrasts children's rights with parents' rights, as well as, parents' duties with the prisoner's duties, and challenges the organisational boundaries. It is extremely difficult to judge whether a prison placement is in the best interest of the child in individual level. (Pösö et al 2010, 528.)

Conclusions/ Recommendations

- When talking about children in prison, it is important to highlight that practices, laws and situations in the different parts of the world or within the same country are manifold. So **when we talk about children in prison, we are talking about various situations.**
- According to research, **there is no unambiguous answer for the question whether it is in the best interest of the child to stay with a parent in prison.** There should be **thorough consideration for each individual child** if it is the best for him/her to stay in prison. Consideration is depending on the arrangements during parent's imprisonment inside and outside prison (Enroos 2011, 17). Age is not the only determining factor for staying in prison, for some babies it might not be the best option and, on the other hand, for some toddlers it could be the best solution.
- At the moment there is information about different practices concerning children in prison, however, there is **a need to develop theoretical vocabulary concerning children in prison.** In order to take a stance to this issue in more general, **there should be thorough documentation, statistics (follow up) and research about the children in prison in different countries and prisons.** Children should be visible in prison practices and the children who have lived in prison should also be interviewed. This will be possible only with sufficient information and resources.

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