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RIGHTS OF THE CHILD

**written statement* submitted by friends world committee for consultation (Quakers), a
non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 January 2005]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Children of Imprisoned Mothers

Friends World Committee for Consultation (Quakers) welcomes the Recommendations of the Committee on the Rights of the Child following its Day of Discussion on “Implementing Child Rights in Early Childhood”, which recognised the particular vulnerability of children living with mothers in prisons, and urged States Parties to guarantee such children’s access to comprehensive and continuous programmes in early childhood development.

The situation of babies and children in prison (or pre-trial detention) with their mothers, and of children left outside when their mother is imprisoned, should also be considered by the other UN human rights treaty bodies when they consider issues relating to detention and imprisonment, and by the country and thematic Special Procedures of the UN Commission on Human Rights, as well as by the UN Sub-Commission on the Promotion and Protection of Human Rights.

Background:

Around the world, thousands of children face daily problems because their mother is in prison or pre-trial detention. Many imprisoned women are the sole or main carer of minor children. In countries with indigenous populations, indigenous women tend to be disproportionately represented in the prison population, and they, and foreign nationals, and their children may face additional problems.

Far too little attention has been paid to these children of imprisoned mothers and their welfare, let alone their rights.¹

When a mother is imprisoned, her baby and/or young children may go into prison with her or be separated from her and left on the ‘outside’. Neither of these situations is satisfactory. As the Special Rapporteur on Prisons and Conditions of Detention in Africa stated:

*Prisons are not a safe place for pregnant women, babies and young children and it is not advisable to separate babies and young children from their mother.*²

Even within Europe, State practice varies in fundamental approaches from allowing children into prison with their mother up to the age of six to excluding all children except breastfeeding babies.

Children in Prison with their mother:

In many countries it is common for babies and young children to go into prison with their mother. This raises many issues about the facilities available to ensure the children’s mental, emotional and physical development even in the best circumstances, where special mother and baby units are provided. In many prisons the conditions are appalling, and do not provide circumstances for even safe physical development, with overcrowding, inadequate food, clean water, washing and hygiene facilities, etc. Too often male and female prisoners are not even separated, (or not properly separated) with consequent physical and sexual violence or exploitation between prisoners as well as by prison guards. The physical dangers make some of

¹ For more information and the background to this statement, see Rachel Taylor: *Women in Prison and Children of Imprisoned Mothers: A Preliminary Research Paper* (Quaker United Nations Office, Geneva, July 2004)

² Chirwa, V: *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa: Prisons in Malawi (17-28 June 2001)*, p 36

the mental and emotional dangers obvious as well. However, there are also the issues of the children's access to play, to education, to social interaction with other children and to an environment beyond the prison. Some research suggests that imprisoned babies suffer a gradual decline in locomotor and cognitive scores after four months, as compared to babies cared for in the community³. Furthermore, the mental, emotional and physical state of the mother also impacts on the children, as does the pre-natal care and circumstances during child-birth in relation to pregnant women prisoners. Finally, if babies and young children are allowed into prison with their mother, but then required to be separated, how can this be done in a way that minimizes the impact of the separation.

Children on the 'outside':

Not taking babies and children into prison with their mother raises a different set of problems. The first question is, of course, who will take care of the children. The father, grandparents or extended family may be able and willing to do so, but children may be separated from each other in order to lighten the burden of care, or they may be taken into State care institutions. What experience is there in seeking to maintain the best links between the children and their mother? How can the mental, emotional, physical and social impact of the mother's imprisonment be minimized for the children, both directly for them in continuing their daily lives, and also in maintaining their relationship with the mother during imprisonment and following her release (if any). Visiting prisons can be a daunting and frustrating experience for adults. Travelling a long distance, entering a grim building, being searched by a strange adult, to spend a short time with a mother that one cannot even touch may be distressing in the extreme to a young child. This in turn may make the child's substitute carer less inclined to undertake this arduous task. Furthermore, the new carers may have their own family responsibilities, as well as financial constraints, which put strains on taking in additional children (leading to children being moved from one carer to another) and in particular adding to the financial, time and emotional burdens of taking children to visit their imprisoned mother. Because there are fewer women prisoners (the global average is 4 percent), there are fewer women's prisons, and therefore women are usually imprisoned further from home than are male prisoners. This makes maintaining family contacts harder, and the imprisoned mother may find it particularly difficult to maintain effective communication with young children by means of telephone calls and letters.

Because of the increasing tendency in some countries to send women to prison for lesser, non-violent offences, the woman herself may not anticipate the possibility of imprisonment as the outcome of her trial. She may not, therefore, have made any preparations or provision for her children before being taken into custody. This can cause added distress to both the mother and the children, and indeed may leave children fending for themselves. Some States have a system which permits deferment of the start of the prison term for a short time in order for such a mother to make arrangements for her children.

Whatever arrangements are made, the impact of their mother's imprisonment affects every aspect of the children's lives and not only their relationship with their mother. It is similar to bereavement, but with added stigma and often less support from the new carer, teachers, and others. The impact will, of course, vary according to their age and the surrounding family and

³ Caddle, D: Age limits for babies in prison: Some lessons from abroad, Home Office Research, Development and Statistics Directorate, Research Findings No.80 (1998), p 2.

community response. What experience is there of how to provide the necessary mental, emotional and physical support to children in such circumstances? What are the rights of children in this position?

Recommendations:

Friends World Committee for Consultation (Quakers) welcomes the fact that attention is beginning to be paid to the situation of children of imprisoned mothers and requests the UN Commission on Human Rights to call on:

1. States to review their laws and practices in order to give greater consideration to the needs and rights of babies and children of detained or imprisoned mothers;
2. States to include information in their reports to the UN Human Rights Treaty Bodies, in particular the Committee on the Rights of the Child, on the situation of children of imprisoned mothers and their policies and practices in relation to them; and
3. Its country and thematic Special Procedures to give attention to the situation, rights and needs of babies and children in prison with their mothers when visiting or considering situations relating to prisons and other places of detention.
