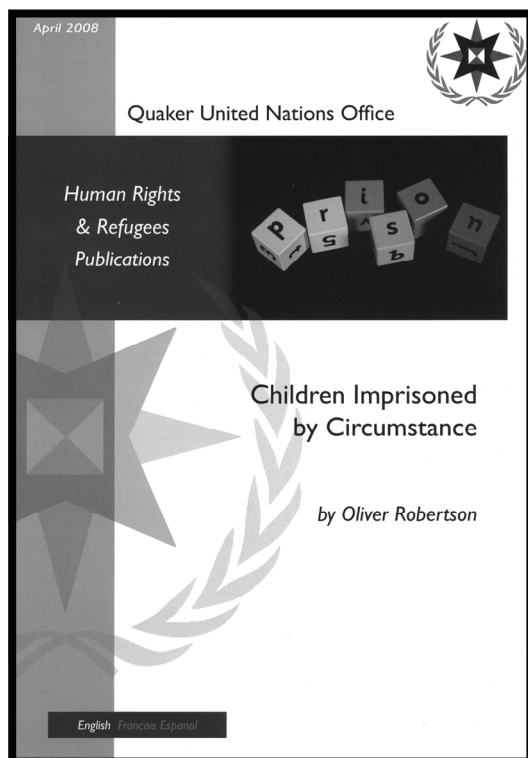


Briefing Paper

Quaker United Nations Office - Geneva

Behind Bars: Children Imprisoned by Circumstance

Should small children ever be put in prison, especially when they have committed no crime of their own? Should babies be separated from their imprisoned mothers, even if there is no-one else to look after them? Yes or no, life in prison is a daily reality for thousands of children around the world and the subject of QUNO's recent paper, *Children Imprisoned by Circumstance*.



Background

Most countries allow children, in limited circumstances, to live in prison with their mothers. There are always limits on how long this can be for, so that when children reach a particular age or developmental stage (such as when they finish breastfeeding) they have to leave. This age range varies widely, from a few days or months in some countries to four, five or six years in other cases. At one end of the spectrum there is Norway, which bans children living in prison altogether, and some US states, which have limits of thirty days; at the opposite end India, Mexico and Turkey are among the countries with six-year limits.

One thing you will not find in *Children Imprisoned by Circumstance* is a recommendation on which of these policies is best, both because imposing a rigid blanket figure on all children fails to take into account individual circumstances, but also – and more importantly – because we simply do not know. Countries agree that there is a point after which the negative effects of being in prison – restrictive environment, no/few other children, lack of contact with rest of family – outweigh the positive of staying with an imprisoned mother, but they do not agree when that age is. Sweden argues it is at one-year of age, Venezuela says three. The only known comparative study on this comes from European children of prisoners network EUROCHIPS, which suggested that the very different age limits imposed in Germany and England & Wales (six years and eighteen months respectively) may reflect the different environments children live in. Children living in English and Welsh prisons are far more restricted than those in German prisons, where the mothers take a large degree of responsibility for looking after the children and there is an emphasis on mothers personally caring for their children for as long as possible.

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The challenges

The conditions in which children live vary widely. Some states ban children from living in prison unless there are specialist child-friendly facilities; others allow children to live with their mothers in the 'regular' prison. Furthermore, in some countries the prison or child welfare authorities are involved in arrangements for children to enter

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prison; in others the arrangements are largely informal, with the mother or relatives bringing the children to the prison. In many cases children are not even recorded as being in the prison, meaning that they can 'fall through the gaps'. This may mean that they are not released when they should be or that they are not assigned (appropriate) food and have to share with their mothers.

Unless mothers complete their sentences before the children reach the statutory leaving age, they will at some point have to be separated. Sometimes there is a degree of flexibility built into the rules, so that children whose mothers have just a few weeks left to serve are not needlessly separated and then reunited, but not always. Sometimes there is support to help ease children into their new lives: this may include children meeting the people who will care for them outside before they permanently leave prison, or allow mothers to temporarily leave prison to help their children settle into their new homes. However, there are also cases where it is up to the mother and her family to collect the children; when this does not happen (because the family are unaware of the situation or have disowned the woman, for example) the child just stays in prison. In the most extreme case, one child in India had stayed in prison nine years beyond the legal maximum because nobody came to take him away.

However, whether or not children leave with their mothers, they still have to acclimatise to the world outside. For many children, especially those who have lived their entire lives in prison, the world can be very frightening. There are cases of children being scared of aeroplanes, trees, cars or men because they have not encountered them before. Some prisons try to avoid this by taking children out on trips or even just walking around with them outside so that they get used to traffic.

Solutions?

In most situations prevention is better than cure, but especially so here where there is no obvious best solution. You do not want to split up mothers and babies, but you do not want children growing up in prison. Thankfully some states do recognise this and take into account caring responsibilities when detaining or sentencing women. Kyrgyzstan and a number of other ex-Soviet states do not imprison women with children under fourteen, except for especially grave offences, Italy bans the imprisonment of pregnant women and South Africa had a recent (September 2007) Constitutional Court ruling stating that the best interests of any children had to be taken into account when sentencing someone with caring responsibilities.

Perhaps a first step is to make governments and prison authorities aware of the issue, to properly record and support children living in prison and to recognise that imprisonment of a mother affects more than just the woman herself. Then they can try to improve or, better, avoid the situation these children are in, children who have committed no crime and should suffer for none.

In addition, QUNO would like the Committee on the Rights of the Child to hold a Day of General Discussion on the whole question of children of prisoners to consider both the situation of babies and young children as well as older children who are affected by parental imprisonment. This would enable states to share their experiences, policies and practices in addressing these issues.

For Further Information

English, French and Spanish versions of the QUNO Publication *Children Imprisoned by Circumstance* are available both on our website (www.quno.org) and in hard copy.

Feel free to send an e mail to quno@quno.ch to request a hard copy of the publication, or to find out about how to access additional resources on this subject.